

Anti Corruption Initiatives and Human Rights: the Potentials

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Introduction

Here at the start of this chapter, consider first this rather vivid bouquet of findings.¹ In a survey done by the International Monetary Fund (IMF) on 37 countries, higher corruption levels correlated with more severe levels of income inequality, and corruption was measured to have a 10% impact on income differentials. A 25% rise in corruption-levels was also found to correlate with a reduction of average secondary schooling by 2.3 years.² Another study found that if Colombia's corruption-levels were simply to drop to those of the UK, Colombia's GDP would instantly be increased by 20%.³ Meanwhile, according to the Asian Development Bank, one Asian country is estimated to have lost \$48 billion through corruption over the past 20 years, exceeding its entire foreign debt of \$40.6 billion.⁴

Another survey, this time of 66 countries, found that corruption-levels fall in proportion to the numbers of women in the labour market and in employment, so that 'policies designed to increase the role of women (in public life) may help in lowering levels of corruption.'⁵ However, *Time* magazine, in a study on corruption in police forces in Latin America, found that young girls are often held captive by police there, and threatened with rape unless they are ransomed free with bribes.⁶ Meanwhile, a conference on the impact of corruption on women's development found that 'corruption is frequently associated with a rise in organised crime, drug trafficking and Mafia-type power, and under such circumstances, prostitution and pornography, harming women and girls, flourish.'⁷

That short taste of findings on corruption gives a glimpse of the ways in which the effects of corruption weave through the different strata of our society. This chapter introduces anti-corruption work, and attempts to identify the various levels of relationship between that work and human rights. Corruption here will be

¹ The views expressed in this chapter are those of the author only, unless otherwise attributed.

² Gupta, Davoodi and Alonso-Terme, 'Does Corruption Affect Income Inequality and Poverty?', IMF Working Paper No. 98/76, May 1998.

³ Lambsdorff, Johann Graf, 'The Impact of Corruption on Capital Productivity', unpublished paper, Göttingen University, 1999.

⁴ Beschel, R.P., 'The Costs and Consequences of Corruption in the Asian Pacific Region', paper at conference on Corruption and Governance in Asia: the role of the media, Manila, April, 1998.

⁵ Swaamy, St. Knack, Lee, and Azfar, 'Gender and Corruption', paper from the International Reform and the Informal Sector Centre, University of Maryland, 1999.

⁶ Hees, Roselyni, 'The Impact of Corruption on Women's Development', paper given at conference on Women in the Twenty-First Century: transcending boundaries of sustainable development in South Eastern Europe, at Sofia, Bulgaria, October 1998.

⁷ *Ibid.*

understood to mean the abuse of public office for private gain, which involves, for instance, public officials accepting bribes, unwarranted commissions or 'kickbacks' around processes of public procurement and service. But two caveats can be hedged around this definition. First, it must of course be noted from the outset that the private sector too, by offering and paying bribes, is often deeply implicated in the active corrupting of public officials, particularly in instances of 'grand corruption'. Secondly, and less obviously, it will be noted too later in this chapter that the international community's collective decisions about which economic behaviours and transactions are 'corrupt' and which are based on justice and integrity - these decisions are shifting ones, which will doubtless shift again in the decades ahead, and can also be encouraged to shift in particular directions.

So with all this in mind, the chapter doesn't only approach anti-corruption work from the mainstream neo-liberalist perspective that just wants to clean up corruption as an illegal financial behaviour that can inconveniently encrust onto capitalist transactions. Rather, the chapter is seeking ultimately to assess whether anti-corruption work has any potentials as an initial, corrective kernel within a much wider drive towards world economic justice - in other words, towards the full implementation of economic, social and cultural rights for the Majority World (perhaps a more accurate and useful descriptor for what are often referred to as developing countries). First, the paragraphs immediately below will outline the chapter's argument. Then the rest of the chapter will explore both anti-corruption work itself and the complex dilemmas of relationship between corruption and human rights. The conclusion will outline the various specific levels of collaboration that might be possible between the two movements.

A mainstreamed anti-corruption perspective now sits firmly enthroned within the good governance agenda of the world's currently most powerful players - team-players like the US government, the World Bank, the IMF, Northern donors, and many state-governments world-wide. This chapter offers an introduction to such anti-corruption activities, while also articulating questions as to the interests they ultimately serve. The chapter explores the manifold levels at which anti-corruption and human rights initiatives *can* overlap, and often do overlap, in the motivations of grassroots and NGO initiatives in the anti-corruption movement. But it cannot just be presumed that they *always* overlap in specific anti-corruption initiatives - whether in those of the most powerful actors on the world-stage, or in the national anti-corruption programmes of lone, specific countries.

We shall see that despite the extensive common ground between human rights and anti-corruption, rights can nonetheless either be skilfully ignored, or on occasion, even further diminished, by certain anti-corruption initiatives. This chapter overviews the very diverse actors that are implicated in and affected by the anti-corruption movement itself - from IMF leaders down to grassroots villagers in developing countries - and looks into the ideological malleability of the anti-corruption agenda. Who is anti-corruption work essentially to benefit? And will anti-corruption carry human rights initiatives along on its back every step of the way, or

will it neatly ditch them and hurry on unburdened by the full spectrum of human rights-concerns?

The chapter concludes by addressing these potential cleavages in anti-corruption agendas - cleavages that echo in other chapters of this book too, in terms of wider dilemmas around human rights and around movements of social reform. This chapter reframes such divisions and suggests a dual, coexistent approach that encompasses on the one hand, the concrete immediacy of pragmatic, bureaucratic measures, and on the other, a range of more ideologically farsighted approaches to corruption - approaches that can more directly address issues of social justice. So as a step towards containing the divisions between the profit-interests of neoliberalist elites, and the humanitarian needs of the Majority World or developing countries, the chapter describes a pluralist anti-corruption movement. This movement's multiple streams might well be wide and disparate enough to simultaneously contain reductive, pragmatic anti-corruption measures, as well as the ideological solidarity of the wider campaign for economic, social and cultural rights that the chapter itself espouses as the only genuinely humane context or 'home' for anti-corruption work. In other words, both of these poles *could* make skilful use of anti-corruption for their own ends.

The chapter's first section looks at similarities and differences between anti-corruption work and human rights work, while the second describes corruption's impacts on rights. The third section explores the aims of the anti-corruption movement, and the fourth looks at dilemmas of radicalism and pragmatism in anti-corruption work. The final section considers what might be the future potentials of the anti-corruption movement in coalition with human rights work.

2. Resonance and Dissonance between Anti-Corruption Work and Rights Work

There is no doubt that efforts against corruption and in favour of human rights have a number of things in common. From some angles, the two fields might be seen as cogs and wheels that interlock at points, and turn together. They turn as part of the larger apparatus which - through theory, activism and policy-changing - strives to remodel social, economic and political forms, with the intention of benefiting at least some of the people and resources affected by those forms. However, note that when viewed from another angle, there are also definite points where the two fields' mechanisms can fail to intersect, or can seem to actively grind in opposite directions, against each other's interests. As an introduction to the tangle of relations between rights and corruption, those points of dissimilarity - or of potentially conflicting interest - are briefly surveyed below.

First, the similarities. Both fields have made significant advances in the past decade, bringing governments to become signatories of international charters and conventions on human rights and on corruption. Yet both are very much still mobile, debated issues, perhaps now more intensively than ever, and both are open to a spectrum of more radical or more conservative definitions and implementations which could potentially serve either more elitist or more egalitarian interests. In any

case, endeavours both on behalf of human rights and against corruption tend to enjoy a certain level of 'respectability' and a (perhaps superficial or unexamined) sense of populist support in the public mind, where they can be represented as moral campaigns on behalf of the weak against the unscrupulously strong. Both can be media-friendly topics, able to offer stories and exposés with a strong 'human interest' flavour.

However, in order to get results, both fields must at least partly resolve or cohere to a forum of apparently antagonistic interests implicating the law and the individual, institutional control and private experience, and shifting concepts of criminality and of justice. What is more, definitions of both human rights and corruption are quite deeply involved with sets of actual and potential cultural norms and practices, which can shift according to attitudinal change. So both at this cultural, and potentially also at the legislative level, both fields 'interfere' in the 'privacy' of states. It is no coincidence that both have been active - perhaps to an unprecedented degree - in the past decade; a decade marked by globalisation and by efforts to normalise international responsibilities in general.

Another thing they have in common is that, if naively handled, both campaigns could mistakenly accuse Southern countries of having or of being 'the problem'. But if intellectually, politically and economically informed and honest, both must instead take the more challenging (and to Northern interests, perhaps less palatable) global-systemic approaches that expose the North's contribution to the problem, and hence call for deeper levels of change. In any case, human rights abuse and corruption are both relatively volatile issues on the international agenda just now: both could escalate (as corruption apparently has done) within the fertile conditions of globalisation, whereas globalisation might also provide both domains with new solutions, international standards and controls.

Finally, a crucial factor in common is the fact that the implementation of human rights and the prevention of corruption both depend on roughly the same apparatus of checks and balances comprised of the judiciary, the media, NGOs, public opinion, the police and free electoral processes. These, when democratic and proactive, can actively push in favour of the interests of civil society, against forces that may be forcefully imposing the interests of the state or of private capital. Finally, on top of this brief sample of some of the underlying principles common to the two fields, we might add one piece of data from the empirical evidence: namely, that high levels of human rights abuse and of corruption are often produced by the same regimes.

For instance, in Transparency International's 1998 'Corruption Perception Index', an international poll of polls, Colombia was perceived to be the seventh most corrupt country of the eighty-five surveyed, while Nigeria was found to be the fifth most corrupt.⁸ In the CPI of 1999, China emerged as the worst of the nineteen

⁸ Transparency International (TI), founded in 1993, is a prominent NGO campaigning against corruption world-wide. Its annual publication of an international 'Corruption Perceptions Index' and more recently, a 'Bribe Payers Index', which rank the countries and sectors perceived to be most and least corrupt, became a major event with very wide media reportage

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countries surveyed on that occasion. These three countries all have serious human rights problems too: the 1998-'99 Freedom House 'Index of Political Rights and Civil Liberties' ranks China low, as 'not free' and Nigeria as in trouble, being only 'partly free'. And back in 1994, Noam Chomsky could describe Colombia as 'having become the leading human rights violator in the hemisphere'.⁹

However neither those facts nor the wider, strategic comparisons above should be swallowed whole as evidence of a complete overlap or complementarity between rights and anti-corruption. In fact, the full span of empirical evidence shows that although there are definite, traceable correlations between incidences of rights-abuse and of corruption, the correlations are by no means entirely fixed. For instance, the CPI published by TI in 1997 showed Singapore to be relatively corruption-free, due to a successful national anti-corruption programme, yet it is not a country that is considered progressive in relation to human rights. Inversely, Italy has by current global standards a good human rights record, but was exposed in the 1980's as being systemically corrupt.¹⁰

Perhaps South Korea provides a good example of the recent, alternating and mixed paces at which states may be addressing the dual needs to fight corruption and to implement human rights. South Korea emerged in second worst position among the nineteen countries surveyed by the Corruption Perceptions Index in 1999, but the Freedom House Index of 1998-'99 can help to specify more precisely how the country's corruption problem is evolving across time, and can affirm that newly punitive steps are being taken against a corruption that will necessarily remain pervasive for a while yet. In 1997, for instance, a (South Korean) court sentenced then President Kim Young Sam's youngest son to a three-year prison term for bribery and tax evasion. Along with other recent, high-profile cases, this is an unprecedented development in a country in which rulers and their corporate patrons and families had been considered above the law. 'Anecdotal reports suggest corruption in politics, business and daily life has decreased in recent years, but is still pervasive'.¹¹

Alongside these anti-corruption efforts, the Freedom House report can also confirm that in South Korea electoral rights are respected and the judiciary is independent. However (seeing as civil and political rights throughout the world are

and considerable political influence. As a very limited analogy, just to illustrate the prominence of TI in the anti-corruption movement, its role might be compared to that of Greenpeace in the campaign for environmental action, or of Amnesty International in relation to political prisoners.

⁹ Chomsky, N., 'Democracy Enhancement Part II - The Case of Haiti', *Z Magazine*, July-August 1994. In the same sentence he adds that Colombia was at the same time 'the recipient of more than half of total US military aid and training'.

¹⁰ See Vannucci, Alberto, 'Politicians and Godfathers :Mafia and Political Corruption in Italy' in *Democracy and Corruption in Europe - Social Change in Western Europe*, Donatella Della Porta and Yves Mèny, (eds.), London, Cassel, 1997.

¹¹ Freedom House website, 'Country Ratings', entry on South Korea, at <<http://www.freedomhouse.org/ratings/>>.

not a single, monolithic package but a set of individual, exchangeable negotiables), it turns out that in 1998-'99, the country nonetheless still held 'hundreds of political prisoners', and that ordinary prisoners too were 'often beaten to extract confessions and generally do not have access to an attorney during interrogation'.¹²

The fact remains that far from being entirely synonymous with human rights work, anti-corruption work can itself in some cases directly impinge on certain rights, to the extent that 'some balance has to be found between the need to fight corruption and the need to sustain human rights'.¹³ Certain corruption-prosecutions, like those of the successful Independent Commission Against Corruption (ICAC) in Hong Kong, are empowered both to over-rule individuals' rights to privacy about their own wealth and activities, and to place the burden of proof of innocence on any defendant whose wealth seems to mysteriously surpass his income. Independent assessors have strongly commended this agency's anti-corruption effectiveness, which recently enabled one of the largest infrastructure projects the world has ever known - the Hong Kong Airport construction programme, costing over \$20.6 billion, to be completed with verifiably negligible corruption. But while recommending similar anti-corruption measures to others, the assessors' report does dryly remark that 'the very broad powers enjoyed by the ICAC could not possibly be employed effectively by a traditional police department, [and] remain somewhat controversial among lawyers and civil rights activists'.¹⁴

But there can be other, even more uncomfortable dissonances in the relations between corruption and the specifically civil rights of democratic societies. As crucial common ground between rights work and anti-corruption work, we already listed above the system of checks and balances constituted by the judiciary, the police, free electoral processes, the media, NGOs and public opinion. However, although these checks tend to be necessary both to curb corruption and to help uphold rights, the sad truth remains that they may often themselves be thoroughly corrupted. Like a preventive medicine that can turn to a deadly poison, at least some of these fundamental guardians of democracy are themselves by definition guaranteed to be corrupt in a highly corrupt society: without the connivance of at least some of them, corruption would falter. And of course this creates a vicious circle whereby those very means that are most necessary to fight corruption tend to be least available to the most corrupted societies.

On the basis of these observations, an interesting, rather extreme argument could be made. This is the contention that anti-corruption work is not just an equally-weighted or analogous 'partner' to rights work, and is not just one more feature in the wider landscape of good governance - but rather, that anti-corruption measures must precede and underlie like bedrock all other attempts at good governance and at

¹² *Ibid.*

¹³ Cockcroft, Laurence, 'Corruption and Human Rights: A Crucial Link', Transparency International Working Paper, Berlin, 1998.

¹⁴ Rooke, P. and Wiehen, M., 'Hong Kong: the Airport Programme and the Absence of Corruption', Transparency International Working Paper, Berlin, 1999.

creating a humane society by rule of law. To put it simply, in a hierarchical society (including in a hierarchical democracy), bribery retains the potential power to subvert the implementation of any law ever made. So could it be that until anti-corruption measures are understood to be, and implemented as, the very core of governance, then corruption will fatally remain the Achilles' heel of all attempts at law, rights and democracy?¹⁵

It is worth noting, however, that several of the other components of governance would make the same claim for themselves. Other chapters in this book show that different interest-groups hold different concepts of good governance. But of course the differences lie not so much in the governance-components that they name, as in the priority that they give them. Quite different concepts of good governance are produced, for instance, by prioritising bureaucratic efficiency, or the rule of law, or full civil rights, or economic rights or, as in the previous paragraph, anti-corruption. Each may contend that its own particular priority is the foundation-stone, the primary guarantor and the only sure sign of good governance, and each of these positions reflects, of course, a particular pattern of economic and political interests.

For instance, anti-corruption initiatives can in some circumstances be single-mindedly pursued as a purely fiscal efficiency-drive which does not even profess to serve - not to mention actually serve - humanitarian interests. And radical critiques have in fact protested that the sole aim of certain streams of the world-wide anti-corruption movement is to service and oil the wheels of global capitalism, thus actually consolidating, rather than challenging, the inequalities and the economic, social and cultural rights-abuse which, from a leftist point of view, sustain the neo-liberalist economy.¹⁶

Even Transparency International, whose constant stated mandate is on behalf of the poor, nonetheless do feel they must give anti-corruption advice and assistance to some countries that have poor human rights records, such as Nigeria and Tanzania. So should they withhold their anti-corruption help from countries whose rights-record is poor? Are they colluding in human rights' abuse by helping those countries to clean up their administrative and economic corruption-problems? Or are they correct in guessing that human rights, if they are to emerge at all, are destined only

¹⁵ This argument is from Fredrik Galtung of the Faculty of Social and Political Sciences, University of Cambridge, and was conveyed in conversation with the author. The imagery is added to it here.

¹⁶ See Noam Chomsky's detailed and devastating deconstruction of the US government's ruthless manipulation of 'better governance' measures - including anti-corruption - in Haiti and other vulnerable states, in 'Democracy Enhancement - Part II: The Case of Haiti', *Z - Magazine*, July-August 1994. Similarly, in 'Foreign Aid, Democratisation and Civil Society in Africa: A Study of South Africa, Ghana and Uganda', Discussion Paper No. 368 at the Sussex Institute of Development Studies, 1998, Dr. Julie Hearn makes a subtler but learned exposé of similar motivations behind certain donors' 'good governance' agendas.

ever to do so after a country's dysfunctional public economy and public service-system is first restored to accountability and transparency?¹⁷

There is yet one more twist in this spiral of paradoxes between rights and corruption - but this twist springs in the opposite direction, claiming that a little corruption can oil the wheels of rusty human rights! This view contends that while the ordinary public official in a developing country is enduring the seemingly endless wait for a healthier and more equitable economy, the petty corruption that he practices can from a human - even if not from an administrative or legal - point of view seem almost justifiable. There is no doubt that, as in the heroic old story of 'Robin Hood', who robbed the rich to feed the poor, a significant proportion of the bribes taken in developing countries do go straight to support the extended families of poor public officials on miserable wages.

One authoritative governmental study on corruption in Africa, while condemning corruption a priori, nonetheless had to acknowledge that those perpetrating petty corruption in Africa tend to take bribes 'as a result of their meagre incomes and low standards of living: and what they receive only helps make ends meet' - often for a large pool of dependants relying on a small, single wage.¹⁸ So it might well be argued that whatever the moral context of this sort of corruption, the pragmatic effect of it is that for some, it ever so slightly redresses the lack of economic, social and cultural 'rights' for people in developing economies.

2. How Does Corruption Impact Human Rights?

To answer this question, let's look at the spectrum of ways in which economic, social, cultural, civil and political rights can be infringed - both directly and indirectly - by both petty and grand corruption. Firstly, at the most grassroots level of the social and economic pyramid, access to basic social service rights can be

¹⁷ For instance, the infamous Zanzibar Treason Trial of 18 civil rights leaders was proceeding as recently as January 2000 in Tanzania, where TI have a national chapter. In terms of Tanzania's human rights reputation, this political trial caused 'profound concern' to international civil rights organisations such as the Unrepresented Nation and Peoples Organisation (whose leaders come from 52 countries and consider themselves to represent over 100 million civilians world-wide). Meanwhile, in Nigeria, TI's presence and activities had been rather more directly challenged by human rights-abuse. A former President of the country and a leading champion of integrity-standards, Olusegun Obasanjo -the valued Chairman of TI's overall, international Advisory Council - was jailed by a secret military tribunal in 1995. Here, anti-corruption impetus was being viciously suppressed by civil rights-abuse. TI could only campaign vociferously for his release, and rejoice at his relative release into mere house arrest in 1998, after three years' imprisonment under the military. And in 1999, TI chose to get on with anti-corruption 'business as usual' by supplying Nigerian public officials with a detailed and thorough 'TI Workshop on Public Sector Procurement', a standard TI programme of anti-corruption governance-training for civil servants.

¹⁸ Warioba, Joseph, Report of the Presidential Commission of Inquiry Against Corruption, Dar-es-Salaam, 1996.

blocked in the most cruelly direct way by a corrosive, daily culture of truly petty corruption whereby ordinary citizens in developing countries have to routinely bribe personnel at schools, hospitals and municipal offices in order to access the most basic education rights, health-care or civic services. As the African report just cited above puts it, 'corruption is demanded and given during the registration of children at schools; patients are forced to offer bribes at hospitals in order to be treated, x-rayed, allocated a bed in the ward or operated upon'¹⁹

These are the relentlessly direct effects of petty corruption. But the provision of basic social services in areas such as health, water, education, and environment as stipulated by the International Bill of Human Rights can be seriously obstructed also by the more indirect effects of relatively petty corruption. For example, 'a minister for health (...) knowingly, deliberately and corruptly purchases expired drugs, and when an epidemic breaks out, a whole community is wiped out. Or a senior official of the ministry of education purchases inferior materials for the construction of a school building, and the building collapses, killing hundreds of schoolchildren'.²⁰ The same rights to the infrastructures of basic social provision are being more massively, though less visibly, obstructed by the thieving effects of the grandest corruption. Huge public resources that should be financing social provision for citizens have routinely strayed out of national treasuries to fatten the private bank accounts of corrupt officials, in countries where the most basic rights to health, education and security are pressurised, or at times non-existent. Bankers' estimates have suggested that \$20 billion is held in the private Swiss bank accounts of African leaders alone.

And in those countries that are dependant on aid-donations from outside, social and economic rights can be hit all over again through the country's very reputation for corruption. The donor-community is becoming acutely aware that significant slices of donor aid have been routinely diverted into the private accounts of corrupt officials, and a study done in 1999 on donor attitudes found that Scandinavian countries and Australia now 'have a significant tendency to avoid providing aid to corrupt countries' (Alesina and Weder, 1999).²¹ And of course, apart from the donor community, potential investors from international industry will be even more intensely repelled by a country's reputation for corruption. As one empirical study put it in relation to private sector investment, 'there is strong evidence that corruption lowers a country's attractiveness for making investments. This reduces capital accumulation and lowers capital inflows. Also the productivity of capital suffers from corruption.'²²

¹⁹ Warioba, *supra* note 18.

²⁰ A statement from Olusegun Obasanjo in the year before his arrest and internment, when he contributed to 'Corruption, Democracy and Human Rights in West Africa - Summary Report of the Africa Leadership Forum Seminar', Benin, AFL Publications, Ibadan, 1994.

²¹ By an interesting contrast, however, the USA has more than once been criticised for at times distinctly favouring corrupt countries when it is distributing aid.

²² Lambsdorff, Johann Graf, 'The Impact of Corruption on Capital Productivity', unpublished paper, Göttingen University, 1999.

However, corruption in aid projects, in particular, has double consequences for the very poor: in the first instance, their own officials deprive them of the donations intended for them, and at subsequent stages, donor agencies feel increasingly obliged to threaten to cut off donor aid to regions where aid-projects are routinely corrupted, or at least to conditionally link subsequent aid to guarantees that the regime will correct itself with an effective anti-corruption strategy. As far back as 1996, James Wolfensohn, President of the World Bank, was stating that 'if we find official corruption in projects in which we are involved, we will cancel the project'.²³ But unfortunately, the ability to obediently produce a national climate of good-governance on command lies for the most part beyond the influence of the poor who are most in need of the aid programmes. They must wait patiently for their country's bureaucratic infrastructure to become corruption-free or - to put it another way - they must wait for the full implementation of their 'right to good governance'.²⁴

However, on top of corruption's tiered and compounded impacts on the human rights of the most needy, there also remain two even more crushing ways in which corruption can sweep away rights, like a great force sweeping away a fragile dam. Firstly, rights will often be suppressed with a very direct hit from corruption in instances where a benevolent hesitation over rights is the sole factor impeding the conclusion of a lucrative contract. Examples of such impediments might, for instance, be the right of a certain group of people to a homeland that will be damaged by a mining-contract, or the most minimal labour-rights of the Third-World workers of a First World corporation, or it might be a people's right to keep their territory and its unique flora and fauna ecologically healthy.²⁵

In such situations, rights aren't just being incidentally or indirectly eroded by a flow of routine bribes that secure an expected deal, or that just tip the balance in favour of one company getting the contract instead of its rival. Instead, in instances where, for instance, environmental rights hang fragilely but strategically in the

²³ Wolfensohn, James, *South China Morning Post*, 5 January 1996.

²⁴ Borghi, M. and Meyer-Bisch P., (eds.), *La Corruption: L'Envers Des Droits De L'Homme: Actes Du IXe Colloque Interdisciplinaire Sur Les Droits De L'Homme*, Editions Universitaires, Fribourg, 1998.

²⁵ For an example of the first sort, see the Indigenous People's Earth Council case-study paper on 'Mining concessions and indigenous peoples in Panama' by Atencio Lopez, published online at <www.ecouncil.ac.cr>. An example of a relevant labour-rights conflict might be Nike's 'sweatshops' in Indonesia - factories founded on guarantees from the Indonesian regime that their military police would prevent employees from demanding labour rights or a union, and would intimidate them into working for less than even the Indonesian minimal wage. See the press release from the Campaign for Labour Rights in 'Nike-Indonesia: Talks Fail, Troops Deployed' in September 1999. For an example of commercial forces overturning constitutionally-enshrined environmental rights (rights noted in twenty-six articles of the national constitution), see the Indigenous People's Earth Council case-study by Luis Antonio Ortega Miticaucyon on the devastation of Colombia's forests: 'Colombia: Deforestation within Indigenous Territories', published online at <www.ecouncil.ac.cr>.

balance - *getting in the way* of lucrative deals - corruption will tend to make a surgical strike to pay off those who can organise the suppression of the right, overlook the infringement, and carry the contract to conclusion. For instance, in 1982-'83, precious virgin forests covering an expanse larger than half of Switzerland were burned in Indonesia to make way for quick-cash rubber-plantations. Despite a government ban against this environmentally disastrous activity, the remainder of the forest was burning extensively again in 1997-98. Why? As the director of the Rubber Association of Indonesia succinctly put it in an interview, when asked what he does if a local official tries to enforce the ban: 'You just bribe him. Who will know? It's such a big area'.²⁶

Carrying that sort of surgical strike one step further, there remains the crushing, overarching fact that when under threat - almost like a living organism defending itself - grand corruption can scale up its resistance and adopt the whole apparatus of what one commentator describes as 'repressive state action', imposing a 'series of linked human rights abuses'.²⁷ In dictatorial regimes, elites can have a huge incentive to cling to power simply because of the grand-corruption opportunities that their governing position gives them - opportunities to enrich their own private bank accounts through a daily, institutional fabric of bribes, commissions, frauds and levies of all sorts.

Thus the practice of grand corruption can become in itself a core, proactive motivator, keeping such a regime intent on holding itself in place at any cost to its people. Under such conditions, the whole gamut of human rights can be chaotically thrown open to any degree of abuse in order to preserve the elite's opportunities for 'the abuse of public office for private gain'. Rights-abuses inflicted in order to sustain corrupt regimes can include elections being rigged, the military turning on its own people, freedom of information and of the press being severely curtailed, the banishment, imprisonment, torture or even execution of dissidents, the eviction of whole populations from territories bought up through corrupt deals, and the flouting of environmental protections.²⁸

A vivid example during the 1990's was General Abacha's obstruction of democratic elections in Nigeria. In that instance, the alliance between Shell oil corporation and the paid-off military of the Nigerian junta facilitated the oil company's ecological devastation of the homeland of half a million Ogoni people, as well as the deaths of thousands of Ogonis, and the execution - against the will of the world - of the famous writer and peaceful protester Ken Saro-Wiwa.²⁹ Nigeria's

²⁶ Interview with the director of Indonesian Rubber Association in *Far Eastern Economic Review*, 2 October 1997, p. 28.

²⁷ Cockcroft, *supra* note 13.

²⁸ Laurence Cockcroft's article gives accounts of examples from Nigeria, Kenya, Cameroon and, interestingly, Mafia Italy.

²⁹ Press release of 28 May 1999 by Dr. Owens Wiwa, brother of the executed dissident; Ken Saro-Wiwa, the most prominent protester executed by the corrupt regime, was Vice-chair of the Unrepresented Nations and Peoples Organisation, winner of the Right Livelihood Award

resulting suspension from the Commonwealth was clearly of little concern to those orchestrating - and privately profiting from - that national and subsequently international tragedy.

Across the whole sorry picture described in the previous pages, we have surveyed how corruption's damages can cascade both upwards and downwards throughout the socio-economic system. We have seen impacts both at the ground level (through corruption in the provision, or non-provision, of social services) and among the upper echelons (through thieving state-leaders and top civil servants, buttressed by a paid-off military). In surveying the hierarchy of corruption in this way, it is worth noting that the smallest bribe-takers simply do not get the chance to take bribes from the really big fish: that remains the preserve of their superiors, as they escalate in political power up the rungs of the national bureaucracy towards ever grander opportunities for corruption, especially those involving large, bribe-paying contractors from the Northern economy. Thus the perverse reality remains that the smallest bribe-takers are restricted instead to daily bribe-taxing of those who can least afford it: the grindingly poor around them, attempting to access the most basic public services.

But before we leave this overview of the dissonances between corruption and human rights, it is worth noting again that there might be one possible way to subvert and invert this whole pyramid of corruption, perforated as it is directly and indirectly, above and below, by infringements of diverse human rights. Although it remains as yet a purely theoretical and hypothetical option, the dissonances could possibly be turned to resonance by encoding - and of course, fully implementing - the right to corruption-free good governance as a basic human right.³⁰

4. Aims of the Anti-Corruption Movement and Complementarity with Rights Agendas

It may be useful now to step back and review in more detail the nature and progress of the anti-corruption movement itself. The 1990's saw the rise to prominence of a concerted international campaign against corruption, using strategies of awareness-raising, lobbying, new legislation and best-practice dissemination. In an international climate where corruption had long been helplessly accepted as unchallengeable, the campaign's initial aim, spearheaded to some extent by Transparency International, was to have corruption acknowledged and rejected as a systemic, multi-layered affliction that corrodes society in a cross-cutting way. One estimate from the World Bank sets the average cost of bribery among transnational corporations alone at \$80 billion per year. And a report in 1999 from the US Commerce Department estimates bribery to have occurred in 294 of US commercial

(often known as the 'alternative' Nobel Prize), a Nobel Peace Prize nominee, and an Amnesty International 'Prisoner Of Conscience'.

³⁰ Borghi, *supra* note 24.

contracts, worth a total of \$145 billion, although the estimate is described as 'the tip of the iceberg'.³¹

The initial goal of awareness-raising, at least, seems to have been amply met, with corruption (hitherto sidelined or 'tabooed') now regularly leading the agendas of organs such as the World Bank, the OECD, developmental donor agencies and individual governments.³² This new prominence for anti-corruption agendas is probably due to three factors - firstly, the mushrooming of corruption world-wide under the conditions of globalisation; secondly, the success of TI's awareness-campaign, helped along by the media's appetite for disclosures about corruption; and thirdly, the international proliferation of research and of remedial initiatives and programmes to cleanse governance and business of the newly-acknowledged blight of corruption.

TI's own strategy was from the outset to consolidate coalitions of anti-corruption solidarity among partners whose interests might in other contexts often be thought of as conflicting, and the anti-corruption movement has indeed become a wide coalition with cross-sectoral alignments upwards, downwards and sideways. It includes private sector business interests (particularly Northern exporters and multinational interests keen to cut the losses they make through having to pay bribes in developing countries), civil interests (keen to make governance in general more transparent, corruption-free and accountable, with more civil participation and proactive civil stakeholding), those concerned with development (who often name corruption as a major obstacle to development), and those, including TI itself, with a primarily humanitarian agenda (who lament that the effects of corruption hit the world's poor hardest).

By entering in partnership with the upper echelons of international business, government and civil society, using tailor-made arguments as to why the elimination of corruption would specifically benefit each of *those sectors*, as well as the poor, the campaign was able in four years to break some institutional taboos protecting international corruption and to bring about in 1997 an unprecedented international convention against bribery, signed by all the OECD countries, and by nine others.

However, genuinely sustainable corruption control also requires more pervasive systems of public integrity that are deeply embedded in the systemic functioning of a society. And at this level, several of the aims of the anti-corruption movement do coincide entirely with certain fundamentals of the human rights movement, because the full implementation of certain basic civil and political rights has been found to be indispensable to democratically sustainable corruption-control. We saw earlier that in order to remain corruption-free, a democratic society relies principally on the system of checks and balances provided by free and democratic elections, by reliable

³¹ 'Defence deals pervaded by bribery, says US', in *Financial Times*, 7 July 1999, p. 6.

³² The World Bank, for instance, has a prominent and proactive anti-corruption department which runs four distinct sectors entitled 'Preventing Corruption in World Bank Projects', 'Helping Countries Reduce Corruption', 'Mainstreaming Anti-Corruption in Bank Projects' and 'Supporting International Efforts'.

and impartial judiciary, police and military, by free and proactive media and NGOs, by a well-trained and professionally regulated civil service, and by a legally instituted culture of transparency, accountability and freedom of information. Clearly, this whole branching mechanism that is needed to keep corruption at bay is itself first and foremost the realisation and ongoing maintenance of a series of civil and political rights.

When Article 21 of the Universal Declaration of Human Rights demands 'periodic and genuine elections (...) by universal and equal suffrage and equal access to public service', and when Article 19 stipulates 'the right to freedom (...) to seek, receive and impart information and ideas through any media' - these create a deeply circular, mutually dependent relationship between rights and anti-corruption work. Earlier in this chapter, we surveyed half of that circular relationship, by showing the ways in which corruption can attack such rights. But viewed from a preventive perspective, the other half of the circle means that only the full realisation of certain rights can in turn fight back and eliminate corruption. Thus we can recognise corruption to be a shared enemy both for pro-rights and for anti-corruption initiatives.

Space does not allow for us to illustrate in turn the pivotal and circular role that is played in anti-corruption work by *each* of the basic institutions of civil and political rights, so let us take just two fundamental examples - first, the judiciary, and then, freedoms of speech and of information. Probably the single point that will emerge most strongly here, in passing, will be the marked *interdependence* of all the checks and balances described above. Like the parts of a healthy body or a well-functioning machine, none of these 'parts' of a deeply democratised society can be fully effective alone, while one of its sister-parts is ailing or absent. And of course this very interdependence is a daunting hindrance for societies who find themselves only part-way through their processes of democratisation.

If optimal elections, law-drafting, judiciary, law-enforcement, freedom of information, media, freedom of assembly, NGOs and public participation could all be magically instituted at once, installed like a spider's web around government, as if by a magic wand, that might perhaps be ideal. However, the process of creating or growing these institutions from scratch can never be simply an organic accretion or accumulation, like piling up money in the bank or gradually learning an array of progressive new skills. Rather, weakness in *any* of these facilities of transparency and accountability can hamper or even nullify the effects of the other facilities. So the challenge of getting them all to adequate, co-operative functioning, if they're not there already, is quite a conundrum.

And this conundrum does constantly emerge when the theoretical paradigm or 'complete package' of good governance is simply required of developing countries - from a certain height or distance, however well-intentioned - by donor governments and the major international organisations. It may well only be in the more applied, context-specific measures involved in anti-corruption and human rights work that one really gets to appreciate how deep a challenge this interdependence of the organs of good governance is.

So with this caveat in mind, let us consider the judiciary as an anti-corruption arena. For instance, the first corrective step may be for an independent media to point out that a judicial system is actually corrupted. In 1998, for example, the *Financial Times* reported that ten Venezuelan judges had taken bribes in exchange for case-rulings in favour of powerful drug traffickers, and that 'the judicial system in Venezuela has been converted into a machinery of corruption and trafficking of interests'.³³ Clearly, this sort of destruction, through corruption, of the right to a fair and independent trial is not only in itself unjust, but also swings the door wide open to further impunity both in the realm of corruption and abuses of human rights.

To prevent this sort of occurrence, the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders published a code of 'Basic Principles on the Independence of the Judiciary', which includes guidelines to assist judicial systems in rooting out and refusing corruption. Such preventive codes and positive re-education, directed at reforming and strengthening the public organs of civil rights, are important parts of the 'best-practice' approach to corruption-control. It was no coincidence that this UN Congress was held in Italy, whose judiciary had during the 1980's so courageously battled Mafia corruption, with its attendant violence and disdain for the rule of law.

However, the next step, which forges ahead to implement such 'best-practice' re-training, can itself, ironically, pose a whole new threat to the very functioning of the judiciary: their efforts to prosecute for corruption may make them the object of either criminal or state-based persecution that impinges on their own civil rights, as professionals, to do their jobs with full integrity. For instance, a press release from Transparency International in November 1999 expressed 'deep concern' over the arrest and detention of the Comptroller-General of Nicaragua.³⁴ With a reputation for fearless integrity, he had been bravely spearheading corruption-prosecutions against individuals in positions of power. TI pointed out that his arrest was part of a recent, international and 'disturbing pattern of false accusations against officials who fight corruption in high places', and took the opportunity to clarify again that 'a strong and independent Auditor-General, as well as a judiciary fully independent from pressure by the executive, is vital for any national integrity system'.³⁵

But there is yet another round to this circle of interdependence between judicial integrity as a civil right on the one hand, and on the other, as a means of corruption-control. Here the particularly global perspective of the anti-corruption movement may be able to contribute to advancing not only the integrity but also the humanisation and standardisation of corruption-prosecution procedures across different countries. A TI report on corruption and the rule of law reveals that 'anti-corruption strategies can vary quite dramatically from country to country, and many are carried out without regard to the rule of law. In Vietnam and China, trial and

³³ *Financial Times*, 12 March 1998, quoting Anti-Narcotics Chief of Police, Carlos Tablante.

³⁴ Transparency International Press Release, Berlin, November 1999; full text available on TI Website at < www.transparency.org >.

³⁵ *Ibid.*

conviction for corruption have been followed by summary execution'.³⁶ So at one extreme, even a sound judiciary will be ineffectual against corruption unless there is already good anti-corruption legislation in place, upon which to prosecute. But at the other extreme, anti-corruption must never rely alone on law and law-enforcement. Rather, it must rely on a holistic and civil culture of transparency and accountability values, to which the state itself very actively surrenders, too. Otherwise, an emphasis merely on severe, state-led investigations and punishments can lead, as TI puts it, 'to repression, abuses of enforcement power, and the emergence of further corruption'.³⁷

Nevertheless, rather than becoming yet another instrument of oppression in the hands of a brutal bureaucracy, the anti-corruption movement can challenge these sorts of punishments by demanding anti-corruption strategies that are humane enough to be willingly accepted by the general population. TI's international research project on corruption prosecutions, for instance, aligns with human rights perspectives by pointing out that 'experience has shown that corruption can be effectively and systematically contained only when anti-corruption strategies are contained by the Rule of Law. Moreover, these strategies must command the respect and support of the public at large. If they are seen to be arbitrary and unfair, they will fail to win support'.³⁸

There is a need therefore to move anti-corruption away from the punitive, state-controlled model and towards the civil values of a society with high levels of trust and self-regulation. This move away from state-led *punishment* and towards civil-led *prevention* means that the anti-corruption impetus becomes *owned* by the society as a whole. The motivation for this shift is not just a misty-eyed populism, but is very practical. From its experience in advising national anti-corruption strategies, TI can affirm that those anti-corruption impetuses 'owned' or dominated by government, the law, law-enforcers or the elites of public, private or voluntary sectors have all failed. As TI's voice of experience simply concludes: 'anti-corruption campaigns cannot succeed unless the public is behind them'.³⁹

To put it very simply, it does seem that the freest circulation of information, along with an appropriate legal framework to prosecute on that information, probably constitutes the foundation and 'balancer' of a healthy anti-corruption culture. However, viewed through the lens of anti-corruption, freedom of information refracts into a complex, interdependent and mobile component of governance. It interlocks with individual freedoms of expression and, in the case of anti-corruption initiatives, can require special protections to be constructed around the brave individuals who may be the first to take up these rights and become 'whistleblowers'.

³⁶ 'The Rule of Law Project', a four-year international project launched by Transparency International, outlined on the TI website.

³⁷ Transparency International Source Book, Executive Summary, available online at <www.transparency.org/documents/source-book/summary.html>.

³⁸ *Ibid.*

³⁹ *Idem.*

Certainly the implementation of freedom of information laws is indispensable to sustainable corruption-control. Such laws must give the fullest possible access to information and documentation about governmental processes of procurement, funding, service-provision and contracting. But they must also ensure this access both to private citizens and to professionals, such as journalists, lawyers and social workers. Yet if the information is strictly speaking available, but the press is nonetheless muzzled or the individual citizen hovers in a culture of public intimidation, then the information will remain safely inert in government archives; it will not travel through the channels required for it to begin circling back to interrupt corruption. Inversely, an otherwise free press will nonetheless remain ineffectual in this area unless it enjoys the legally protected right to go in and acquire key governmental data for discussion in the media. Once access to governmental data does become a legal right, then legally-protected rights to freedom of expression and of assembly will, equally, be indispensable in order for concerned civilians, journalists and NGOs to carry that information outwards and disseminate it to a concerned, debating public.⁴⁰

Even at this stage, there can still be subtle but effective legal impediments to anti-corruption initiatives. For instance, anti-defamation laws may be so daunting as to make it too risky for an individual or organisation to make allegations about suspected corrupt practices. In India, for example, where the judiciary is widely distrusted as being corruptible, rulings of contempt of court are used disproportionately often to fend off attempted criticisms of the court-system. By contrast, in a democratically anti-corruption culture, the legal environment would be emphatically disposed to allow reasoned criticism against public institutions and officials (while at the same time delicately balancing that permission with protection of the civil rights and reputations of those accused of corruption!). However, even after the establishment of all these layered legal rights that are needed to facilitate anti-corruption work, freedom of speech around corruption still remains particularly potent and volatile in a way that freedom of speech around other social issues (like for instance lifestyle, sexuality, religion or political affiliation) may not always be.⁴¹

In effect, even within the encouraging legal environment described above, individuals speaking out against specific instances of corruption - as much in Northern as in Southern countries - are often likely, as 'whistleblowers', to need not only legal, but also professional, social and even physical protection. Thus

⁴⁰ It may be no coincidence that the Scandinavian countries, which according to TI's international polls seem less prone to corruption than other regions, tend to have a particularly robust freedom of information culture.

⁴¹ A recent example is the colossal effect caused in Irish politics and society by the whistleblower James Gogarty. As a lone 81-year old witness, his damning evidence about systemic corruption in Irish construction-planning and in parliamentary parties launched the investigatory Flood Tribunal in the late 90's. His testimony occupied it full-time for an entire year, causing the expensive, national-scale Tribunal to be greatly extended in scope, and is, three years later, still toppling establishment figures and politicians - apparently with worse indictments yet to come.

'information' about actual corruption remains an explosive substance which, in the short-term contexts of prosecutions, may require special handling through hotlines, clearing-houses, amnesties and police-protection. But in the longer-term, creating a freedom of information culture in relation to corruption means evolving an employment-culture where line-management has no coercive power to threaten or silence the employees below it, nor to force them into a choice between turning a blind eye to dishonest practices or losing their jobs with little prospect of gaining employment elsewhere.⁴² Just like whistleblowers' protection, this need to redistribute or invert the hierarchies of authority both in public and in private sector organisations clearly applies as much to Northern institutions as to Southern ones.

We need to remember that corruption's suffocation of civil expression is by no means limited to developing countries. In 1998, for instance, *The Times* in London reported an outcry amongst French book publishers against a crushing new form of censorship whereby French courts were imposing record fines on certain books of investigative journalism that scrutinised questions of corruption in ongoing business tribunals.⁴³ As the French book editors put it, 'this could destroy attempts to investigate the seamy side of business tribunals'.

5. Humanitarian Versus Efficiency Agendas: The View of the Anti-Corruption Pragmatist

Despite all the common ground just described, it is also crucial to recognise that far from being single, coherent agendas, the anti-corruption, human rights and good governance movements are each in themselves a spectrum comprising a whole rainbow of different interests and intentions. We know that some anti-corruption work targets fiscal inefficiency, but has no humanitarian agenda; some human rights work pursues civil and political rights, but does not push for the economic, social and cultural rights that might threaten neo-liberal economists; and some good governance initiatives aim for greater administrative and fiscal efficiency, but undertake no real changes for the poor and disempowered.

Yet despite these differences, we saw that the anti-corruption movement opted for coalition approaches. The movement has even been analysed in a recent case study to see how it managed to orchestrate such a novel and powerful set of coalitions, uniting them around a single issue by convincing them that the issue hurts them all - even if in different ways - and that its elimination would benefit them all, albeit differently.⁴⁴ So this general drive towards coalition in anti-corruption work

⁴² See the UK NGO Public Concern At Work (<www.pcaaw.demon.co.uk>) for an example of an organisation working to make employment-conditions free from pressures and controls instituted by corruption.

⁴³ *The Times*, 11 May 1998.

⁴⁴ Van Ham, Wernet, *Transparency International - The international NGO Against Corruption: Strategic Positions Achieved and Challenges Ahead; A Case Study*, unpublished MBA Dissertation, Anglia University, England, 1998.

would seem to concretely open doors for collaboration with the human rights movement. However, we have seen that the anti-corruption movement does involve deeper dilemmas that might well cause human rights thinkers to pause before joining certain parts of it. Among these dilemmas is the subtle question of whether, despite its frequently humanitarian language, the anti-corruption movement doesn't actually, albeit unwillingly, come to serve elitist, neo-liberal interests better than humanitarian ones.

Critical observers have argued that the calculated strategy of 'sleeping with the enemy' must mean that the movement's values will have been hijacked while collaborating with enormously influential partners like the world's most powerful multinational corporations and international organisations. The movement's civil society kick-start certainly did come originally from the corruption-crushed cries for help on the part of administrators in developing countries. But via TI's insider connections in prestigious circles, that cry was immediately addressed towards elites - and particularly towards those of Northern countries. This bridging, advocacy and balancing-act between grassroots and elitist interests - essentially between humanitarian and fiscal agendas - has brought successes, but has not been without its critics and warnings.

The OECD, since 1997 the host and leading protagonist of the world's first major international anti-corruption convention, 'is perceived as a club of the richest nations whose essential objective is to pursue their own self-interest'.⁴⁵ Their interest in transnational bribery might be perceived as a means of curtailing the expansion of the Asian exporters whose performance has appeared to challenge the role of many OECD exporters in specific markets'.⁴⁶ So the central question for human rights thinkers, in turning towards the anti-corruption movement, is to judge whether anti-corruption work can be practised hand-in-hand by partners with such different end-motives - one humanitarian, on behalf of the poor, and the other a purely fiscal sort of efficiency-drive, for greater eventual profits?

Can the anti-corruption movement be fairly accused of just servicing and greasing the wheels of global capitalist exploitation, much in the same way that a mechanic services a car to make it run better? Precisely what is the movement's relationship to good governance agendas, and what, in turn, is the real motivation of those agendas? One solid defence to the allegation of servicing capitalism might be found in the fact that most of the anti-corruption movement does sit squarely within the agenda of good governance championed in recent years by the World Bank, the

⁴⁵ To envision how economic rights could be handled in such a way as to actually reduce poverty, see 'The Use of Human Rights Instruments in the Struggle Against Extreme Poverty' Willem Van Genugten at the Comparative Research Programme On Poverty (CROP), University of Bergen, 1995. Published online at <<http://www.svf.uib.no/helsos/>>.

⁴⁶ Cockcroft, Laurence, 'A Note on the Relevance of the WTO', paper given at conference on Strengthening Integrity: the Challenges for Asia, published as Transparency International Working Paper, Berlin, 1998.

international organisations and the donor community, and their governance agenda at least claims to have at heart the interests of the poor in developing countries.

However, some recent critical research suggests that this agenda too may have less than humanitarian motives. One empirical and comparative study of the donor-behaviour of twenty of the largest donors to African countries reveals the aim of the donors as being to strengthen the national treasuries of developing countries, certainly, but only by encouraging them towards intensely neo-liberalist economic behaviour. For example, the study points out that the American agenda of developing 'civil society' in Africa includes initiatives such as donating nearly \$1 million in 1997 to the 'Free Market Foundation of South Africa', in exchange for activities promoting market-oriented economic policies in the South African parliament and administration.⁴⁷

This behaviour may boost parts of the Southern private sector in ways that will enhance Northern - and especially American - trade-interests, but it includes little structural plan or intention to actually hand over economic and social power to the working-classes, to impoverished women, to the unemployed, to trade unions or to any sort of radical agenda in African society. So how does the anti-corruption movement relate to the resolute neoliberalism of the type of good governance activity just described and to its implicit but steely divergence from any campaign for the fullest realisation of economic, social and cultural rights?

Granted, anti-corruption theorists are right when they say that 'the fight to improve the lot of the majority of the world's population depends on recognising that the fight for economic and social rights is often intimately linked to the fight against the monopolising of resources by networks of patronage.'⁴⁸ However, it must be recognised that the particular 'networks of patronage' operated by corruption merely run like a decorative lace down through the tiered hierarchy of neo-liberalist economics. Corruption may intensify that structural inequity, feeding on it like a parasite and caricaturing the inequality in a particularly obscene way. But a radical argument could point out that to take away the parasite or the caricature does nothing to alter the basic, deliberately structured inequalities of our present economic distribution.

After all, anti-corruption work only attacks that minority who hoard enormous stockpiled wealth gained illicitly through corruption - in defiance of the world's majority who live below poverty-lines. It has as yet no critical or theoretical apparatus against that other minority who legally stockpile enormous wealth through free-market enterprise - again, in defiance of the world's majority who live below the poverty-line. So a rather extreme critique of the relations between anti-corruption work and human rights might well argue that any anti-corruption initiative that doesn't widen its discourse enough to reject severe economic inequality is still falling short of promoting full human rights, which have, after all, the aim of 'achieving progressively the full realization' of the rights defined in

⁴⁷ Hearn, *supra* note 16.

⁴⁸ Cockcroft, *supra* note 13.

article 2 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR, entry into force 1976).

However, an anti-corruption pragmatist will retort that while corruption goes unchallenged, the poor at the bottom of the global pile definitely do suffer even more acutely in this corruption-riddled neo-liberalist system than they would suffer in a neo-liberalist system that was at least corruption-free - even if it were otherwise unimproved. As the pragmatist sees it, bringing an anti-corruption campaign to success now will bring immediate relief from all those extra infringements of rights described earlier in this chapter as the tiered, particular impacts of corruption. Beyond that point, the pragmatist may or may not privately nurture further ideological demands against our economy's more structural inequities, but his anti-corruption movement does not - at least to date - particularly articulate such ideology, nor integrate it with concepts of corruption.

So let's glance now over the range of improvements that this anti-corruption pragmatist *would* expect to see yielded by a successful anti-corruption campaign within our present economic order. While scanning them, the reader may try to gauge at the same time the degree to which these changes would effect the implementation and growth of human rights, either directly or indirectly - and indeed any effect they might have that could infringe or further decrease human rights.

Firstly, companies contracting with and investing in developing countries would no longer have to pay bribes to get contracts, so multinationals' profit margins would rise distinctly. Companies might be keener to relocate and further invest in those countries, thus increasing the presence and stake-holding of Northern corporations in the South's ecologies and societies. This might perhaps bolster developing economies. There would be one degree more pressure on companies to respect ecological protectorates, where those exist and have been encoded in law: in other words, companies could no longer just bribe their way around them. And public money hitherto wasted on bribe-takers' private accounts would instead flow back to the public treasuries of their countries. Basic services such as primary healthcare, water and education, once freed of the obstacles of corruption, would become a few degrees less inaccessible to the poor of developing countries.

Individuals and families in poorer countries would not be barred at the gates of hospitals, schools and municipal services for not being able to pay the small, persistent bribes demanded of all users of those services. (They might only be barred now because the services just aren't on offer at all, or because they can't pay the small, legitimate fees charged for them.) But donor aid would flow closer to where it is meant to go - to projects benefiting ordinary people in developing countries - rather than being diverted into fraud and corruption. Minor public servants in poorer countries would lose their 'Robin Hood' ability to boost their inadequate wages with the small, persistent bribes of petty corruption.

6. Some Possible Futures for Anti-Corruption Work

The past decade's innumerable 'Codes of Conduct', integrity standards, anti-corruption programmes and its OECD convention against corruption have established new boundaries and consensus about what is now considered an appropriate allocation and distribution of public resources. The anti-corruption movement's contribution to that consensus is of course intertwined with a wider gestalt or landscape of other, parallel preoccupations in the international mind - preoccupations with Majority World poverty, crises in the development paradigm, ecological threats, and concerns for social justice. Over time, the proven mobility of consensus on corruption, as on those other issues, makes it logical to assume, especially under the twenty-first century's rapidly-changing global conditions that in the relatively near future, concepts of corruption may well shift again to include aspects of social and economic life that aren't yet being tackled as 'corruptions' today.

This chapter will leave to the reader the important task of imagining how future decades might radically redefine what is a corrupted misallocation of public resources, and what is a publicly sane and just allocation of such resources. Here, in the shorter term, this final section of our chapter will consider instead four specific examples of some immediate next directions that parts of the anti-corruption movement might take. These are, respectively, coalitions with economic, social and cultural rights-work, the hand-over of anti-corruption paradigms to specialised areas, whole-society approaches to preventive education and finally, the strategy of the strategic strike.

To take the first and most long-term, ideologically-based example: theorists of economic, social and cultural rights, for instance, could gradually work together right now with anti-corruption thinkers to start shifting definitions and cultures towards recognising the centrality of economic, social and cultural rights for all. The anti-corruption agenda, with all its undeniable pragmatism and centrist appeal, could become a substantial, irrefutable subset of those rights, requiring corruption-free public representation and transactions as a partial expression of the economic, social and cultural rights of all citizens. Such a coalition could work towards encoding and eventually implementing legislation that would produce such rights as a norm, just as say, votes for women became a norm despite being unthinkable a hundred years ago. In fact, one small specific instance of a collaboration with wider economic issues occurred at the most recent world-wide gathering of the anti-corruption movement - the 9th International Anti-Corruption Conference in Durban. There 1,600 mainstream delegates from the world-wide anti-corruption movement declared the movement's resolve to 'support debt cancellation in the framework of Jubilee 2000, where the benefits flow to the poor and not to the corrupt elites in the societies involved'.⁴⁹

⁴⁹ See 'Durban Commitment to Effective Action Against Corruption', issued by the 9th International Anti-Corruption Conference, Durban, October 1999.

As another next direction, the anti-corruption movement's willingness to pause and re-anchor its theoretical and ideological underpinnings - for instance through dialogues like the one in this book - could also help take anti-corruption thinking much deeper and more systemically into our understanding of society as a whole. Thus, far from being a fixed, reductive paradigm wielded by self-interested fiscal elites, anti-corruption thinking could instead become part of the constant effort to reshape and restate our societal norms, our legislative codes of conduct, and our parameters both of social ethics, and of implementation and compliance around those ethics. And an important step towards this more whole-society approach is to start *handing over* the basic anti-corruption paradigm to disparate industries, social sectors and academic disciplines. This takes the exclusive intellectual and political 'ownership' of anti-corruption models out of the hands of fiscally-minded, centralised elites and instead empowers those already expert in more diverse aspects of society to now start gauging, describing and challenging the particular, holistic effects of corruption in their own fields.

This work is already afoot, for instance, on corruption in the arms industry and in aid-projects, and on issues like corruption and gender, and corruption and citizenship. But particularly in very specific areas such as the arms trade, development or donor-aid - where the consequences of corruption in terms of raw human suffering are so much more direct than in many other manifestations of corruption - the anti-corruption movement probably needs the precise help of human rights theorists and lawyers to develop discourses that fully gauge, describe and outlaw these impacts of corruption in terms of sheer human suffering.

Another possible approach is to infuse society with a preventive anti-corruption education that is more holistic and systemic, and for this too, a partnership with the insights of rights-thinkers seems indispensable. For instance, the sort of third-level anti-corruption courses currently being developed could teach theoretical and applied modules not only on economics, law, compliance, corporate finance and public management, but also on the social science of anti-corruption thinking, which deeply implicates issues like gender, social power, social capital, citizenship, human development, and applied organisational change. This whole-society approach would counter the imbalances of good governance programmes whose zeal to reform is reductively bureaucratic and fiscal. And how does this holistic approach 'justify' itself to bureaucrats and to funders? Simply by pointing out that the superficiality of a solely bureaucratic or economic approach is destined to fail, as it fails to address either the systemic causes of, or systemic solutions to, the problem.

However, in its efforts to reach the students and public officials of developing countries, whole-society anti-corruption education will first have to correct certain global inequities in the way that tertiary education in general is currently provided. At present, the provision of third-level education to students from the developing world is a lucrative service industry with multiple benefits for the Northern host-countries who host these students: 65-80% of them are funded entirely by their own well-off families - members of the establishment in their country of origin - and pay

fees two to five times higher than those of Northern nationals.⁵⁰ So, without suggesting that wealthy families are necessarily corrupt, it is nonetheless not difficult to see how self-serving networks of elites can sustain cronyist regimes across the generations in developing countries, regardless of Northern good governance agendas calling for the democratisation of governance in those countries.⁵¹

Finally, another quite contrasting approach that can work alongside the holistic one is that of the 'strategic strike', where a more radical (though perhaps even unspoken) agenda can underlie an apparently mainstream, economic attack on corruption within a particular industry or sector. Here the apparatus of anti-corruption work - the potential investigation, exposure, publicising and prosecution of fiscally corrupt practices - can be turned like a weapon on companies or industries whose *other* offences in some way disrespect the quality of life of civil society. Such offences might include global and local, chronic and acute environmental degradations; disregard for fair labour-conditions, particularly in developing countries, and for impacts on public health, even in Northern countries; and in extreme cases - as in certain particularly distorted sectors of the arms industry or the diamond industry - partial responsibility for large-scale death, torture and injury.

Against such powerful actors, the anti-corruption tool can function as a small and specific but potent lever working in support of a much larger - and perhaps unmentioned - coalition of general rights work, in environments where straight humanitarian advocacy would be ineffectual. Note that this notion of leverage inverts some of the terms used earlier in this chapter, where we saw how corruption

⁵⁰ 'Changing International Aid to Education: Global Patterns and National Contexts', UNESCO Report, 1999.

⁵¹ While the North perpetuates the educational cycle just described, with the very expensive, privately-paid education of students from developing countries constituting the US's fifth largest service sector export, Northern calls for democratisation and wider public participation in Southern societies ring a little hypocritical. To reverse these unhelpful trends, this chapter would suggest that education in democratic governance and anti-corruption:

- be more intensively supplied to Sub-Saharan Africa and to Latin America, who currently access less than 5% each of the tertiary studies abroad being accessed by the developing world as a whole;
- be holistic, rather than purely bureaucratic;
- be taught from a rights-perspective, rather than as a gift or a conditionality from Northern donors; and
- be delivered locally through distance-learning formats to poorer students, civil servants and community leaders who could never access it abroad.

Meanwhile Northern universities' business courses (by far the most popular subject of study for developing-world students there) should also routinely include modules of anti-corruption training both for the Northern students and the Southern elites who can afford to attend those courses with them. For the statistics cited above and further information, see UNESCO's 'World Declaration on Higher Education for the Twenty-First Century', 1998; its 1997 Report on 'Open and Distance Learning: Prospects and Policy Considerations' and the 'Open Doors' Report published annually by the Institute of International Education, New York.

- like an acid - 'sprays' rights-abuses throughout the social and economic system. But by reversing those terms, anti-corruption work can itself also strategically 'spray' exposure and a culture of accountability back into industries and sectors that cause rights-infringements of any sort. Like a standard-bearer forging ahead into a company, industry or sector and planting her flag there, the anti-corruption apparatus can haul in an irreversible culture of accountability, transparency, media exposure, civil stake-holding, rule of law, and potential prosecution into sectors that hitherto felt themselves immune to the protests of the public interest.

To fully perceive this strategic potency of anti-corruption work, we must remember that corruption by its very nature tends to be an international and cross-sectoral issue, running like a thread or a chain of links through the economic transactions that connect North to South, and public to private sectors. Precisely because of this interdependence and corruption's impact as a blight on the international economy, we have seen that campaigns against bribery and against specifically *economic* abuse in a given company, industry or sector do attract the quite proactive support of the international financial institutions (the World Bank, the IMF and the OECD), of the major international organisations (the UN), and of specific government departments (foreign ministries and development agencies of European countries). Clearly, such major actors are much more acutely motivated to curb corruption than they are to curb, say, the carcinogenic pollution of rivers in Brazil by a Dow Chemicals factory being exposed by Greenpeace, or the current severe loss of women's civil rights in Afghanistan as documented by Amnesty International, or the practice of the death-penalty in the US, as attacked by Amnesty.⁵²

But in order to further human rights by making strategic use of certain powerful agents' interest in anti-corruption work, one needs first to have genuinely internalised a sense of the unity of the whole culture that is presently making efforts towards greater civil stake-holding, better governance, improved human rights, a protected environment and a saner, more collectively ethical way of life on earth for the twenty-first century. When practised in that spirit, anti-corruption work can function like an ice-breaking ship, making the first infractions where the ice is thickest. Around institutions and practices that hitherto may have felt themselves to be above the law and beyond the concerns of ordinary citizens, strategic anti-corruption initiatives can open the way for fleets of follow-up vessels to come behind, using similar lobbying-pathways, though subsequently on issues of rights-abuse.

This sort of strategy is, again, pragmatic rather than idealist. It doesn't claim for a moment that the elimination of corruption guarantees that rights-abuse will be eliminated as a corollary. On the contrary, companies and whole industries might well in the next decade - under the pressure of increasingly stringent and enforced international legislation against corruption - become almost entirely corruption-free.

⁵² See the press release on pollution in Brazil at <www.greenpeace.org> and those at <www.amnesty.org>.

But they *could* do so without in any way interrupting their processes of environmental degradation, labour exploitation, collaboration with repressive regimes, and so on. Granted, earlier parts of this chapter showed us how corruption can directly and indirectly cause rights-abuses - but there are, unfortunately, many other ways to abuse or suppress rights too, unassisted by corruption.

So, rather than being naively over-hopeful, this use of anti-corruption measures as a strategic attack on industries that seem otherwise invulnerable to accountability on rights is more like the old prosecution-strategy used in a court of law: when faced with a defendant who seems legally invulnerable, though he is known to be the perpetrator of persistent but unprovable crimes, a temporary, pragmatic solution can be to at least prosecute him on some relatively minor, unrelated technicality. Although he will soon walk free, this prosecution can at least make him feel the pressure of the rule of law, perhaps disrupt or interrupt his other abuses, expose him to the glare of publicity, give him a criminal record, and forcefully assure him that he will be the object of wary, preventive surveillance from the law from now on. However, in order to successfully develop this radical, though not obvious, potential of the anti-corruption movement, clear-sighted alliances with a coalition of other disciplines and lobbies are crucial, in order to preserve the integrity and ideological effectiveness of this sort of strategic anti-corruption work within the minefield of enormous power-interests that it seeks to penetrate.

In conclusion then, this chapter has found that although corruption almost always diminishes human rights, nonetheless only part of the anti-corruption movement is really suited to full collaboration with the human rights movement. The varying extents of this overlap, too, can be tiered according to the depth of rights-change being pursued. For instance, the basic civil and political rights required both for sustained anti-corruption control and for the maintenance of civil freedoms could for the most part be pursued together by the mainstreams of the two movements, as a common goal. However, a deeper alliance would lie behind initiatives where certain streams of the anti-corruption movement might make strategic anti-corruption attacks on industries who were on other fronts causing abuses of human rights. And a yet more profound shared impetus or ideology could unite the no doubt smaller sector of the human rights movement that is willing to seriously pursue the implementation of full economic, social and cultural rights for all, with that part of the anti-corruption movement that might be willing to extend anti-corruption thinking into a wider vision of full implementation of rights.

Such tiered and partial complementarities seem feasible, so long as there is a clear-eyed understanding of the contextual ideologies and long-term motives behind them. Yet our survey of all these careful potential co-operations still hasn't answered this chapter's disturbing earlier question of whether corruption isn't in fact the single Achilles' heel of *all* levels of governance, thus making anti-corruption the absolute and necessary core of all successful governance-systems. To answer, then: it may well be true that corruption, like a disease, can (and if allowed to, will) debilitate whatever political system is established. Therefore anti-corruption probably must be a primary feature of the *administration* of whatever governance-system is chosen

from the wide range available. But as a 'core' aspect of administration, anti-corruption could in fact be used to help enforce *either* neo-liberalism, or a totalitarian economy, or the exploitation of developing countries, or a re-balancing of Northern wealth towards the South. Thus, seeing as it addresses in itself merely the efficiency of an administration - of *how* things are done rather than *what* is done - anti-corruption work must never be used to obscure what is likely for the foreseeable future to remain the actual, even if usually unacknowledged, core question of all governance-systems: in other words, 'who is this system designed to benefit - the Majority World, or the planet's tiny minority of financial elites?'

For various reasons, it does seem likely that the international anti-corruption movement will continue to grow over the years ahead, and will continue to be installed and cultivated in developing countries in particular. So this chapter concludes by suggesting that the movement will probably work to steer the ethos of governance in one of two quite opposite directions (unless the anti-corruption movement itself splits in two to support these opposite poles). On the one hand, the movement is particularly well-placed to assist the international power-houses of neo-liberalist economics to deepen their grasp on the economies and societies of the Majority World. Anti-corruption must in that sense stay very wary of being used as a sort of 'Trojan horse', projected into developing societies as a spearhead for intensely neo-liberal values.

But on the other hand, as a movement that teaches civil society to critique and oppose the disappearance of collective assets into the pockets of a privileged, self-serving elite, anti-corruption work could certainly present itself too as a first, educative step towards full economic justice. Indeed, not only a first step, but a permanent partner: anti-corruption would have to stay very active every step of the way as a crucial watch-dog protecting any future economic system that will reorient stockpiled wealth towards the Majority World and towards collective civil interests. It is on this long, 'rehumanising' journey that it will need the companionship of an assertive human rights movement.

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