

FIGHTING CORRUPTION:

A NON-CORPORATE PERSPECTIVE

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Capitalism is a gentleman who does not like to be
called by his name

Bertold Brecht

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I. Introduction

The pictures and table below show heads of government and the amount of funds they are estimated to have embezzled over the last three decades.¹



Head of Government	Estimated Funds Allegedly Embezzled
Mohamed Suharto President of Indonesia, 1967-98	US\$ 15 to 35 billion
Ferdinand Marcos President of Philippines, 1972-86	US\$ 5 to 10 billion
Mobutu Sese Seko, President of Zaire, 1965-97	US\$ 5 billion
Sani Abacha President of Nigeria, 1993-98	US\$ 2 to 5 billion
Slobodan Milosevic President of Serbia/Yugoslavia, 1989-2000	US\$ 1 billion
Jean-Claude Duvalier President of Haiti, 1971-86	US\$ 300 to 800 million
Alberto Fujimori President of Peru, 1990-2000	US\$ 600 million

What's wrong with this picture? We have no quarrel with the selection of the scoundrels—money stolen having a smaller value than the lives of the thousands murdered under their regimes. The report's compiler, Transparency International, is the premiere international nongovernmental network working against

¹ Compiled by Transparency International, *Global Corruption Report*, http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2004

corruption, although its mandate is not limited to the South, or to accusing individuals. The problem is not the authorship but the mainstream anti-corruption perspective it represents. The selection raises some of the fundamental questions that are the subject of this work:

- Why do all those selected come from outside the North? Are no such crimes committed in the North?
- Why only individuals? Are we to infer that corporations and institutions are above malfeasance?
- Why is the nation state taken as the unit of analysis? Are the North-dominated international financial and trade regimes free of corruption?
- Why is corruption so associated with the public sector? Is the private sector so pristine that it merits no scrutiny?

One need not become head of state in a developing country to engage in grand corruption. Or does this have something to do with the way corruption is defined? The dominant definition of corruption—which then informs the ways to address corruption—is the abuse of public power for private gain. This, in our view, is much too narrow a definition and entirely inadequate to address the abuse of power as it presents itself today in the world. This, of course, is not to deny the seriousness of public sector corruption, but the selectivity is troublesome. On the other hand, the definition provided by most dictionaries also presents analytical problems, namely being too broad: impairment of integrity, virtue or moral principle: depravity.² The same is true with the definition offered by Wikipedia—Corruption is a general concept describing any organised, interdependent system in which part of the system is either not performing duties it was originally intended to, or performing them in an improper way, to the detriment of the system's original purpose. According to Wikipedia, specific types of corruption include political corruption (corruption of a political system where public officials seek illegitimate personal gain through actions such as bribery, extortion, cronyism, nepotism,

² Webster's Seventh New Collegiate Dictionary.

patronage, graft and embezzlement), police corruption, data corruption, language corruption of Metroid Prime 3: Corruption, the third video game in the Metroid Prime series for the Nintendo Wii.

The problem of how to define and address corruption is not new. Stiaan van der Merwe, the founding Chief Executive Officer of Transparency South Africa, explains how “the word ‘corruption’, as explained in a dictionary, can be used to refer to anything unethical or for whatever is wrong in the world. However, for strategic purposes, legislation and procedures in organisations, some parameters of or limitation in meaning need to be agreed to. If everything bad constitutes corruption, the word becomes meaningless for all practical purposes and we could face a situation in which nothing is eventually done about it.”³

We could of course throw out the word corruption and call a spade a spade: exploitation, larceny, crime, etc. But ours is a global justice perspective and our objective is to place corruption in the contemporary context of corporate globalisation. We wish to reach important constituencies outraged about corruption and help channel that energy into a broader movement that tackles corruption at the root and structural level, and not simply in a few limited expressions. We view corruption as a process facilitated by institutions and social groupings, and not simply single acts by single individuals. With this in mind, we articulate a broader and more contemporary understanding of corruption that can help people, victims in particular, account for many of the daily economic injustices suffered. People's understandings and experiences must form part of the analytical framework of corruption, independent of how the dictionary, the law and publicity-loving pundits view corruption.

Our intention has been not to take the wind out of the present anti-corruption movement and consciousness but to invite it to review its course and destination. This entails an effort to broaden the consensus on the understanding of corruption and how to fight

³ Stiaan van der Merwe, *Combat Corruption Collectively, Mobilizing South African Civil Society on Corruption, governance and Ethics*, (Transparency South Africa, Pretoria: 2001), p. 8. Much of the theoretical discussion presented here draws on this important study.

against it in a more holistic manner. There is no single blueprint, but in all cases its strategies can be linked to broader struggles to create new spaces for democratic discussion and new forms of decision-making.

Our perspective welcomes the inclusion of moral and ethical considerations derived from the contemporary workings of the global political economy. Specifically, to explore the corruption inherent in the relationship between the marginalisation of the majority of the world's inhabitants and the historically unparalleled global concentration of power and wealth. We propose an understanding of corruption as the use and abuse of public or private power for private or institutional enrichment.

Evidently definitions are crucial as they inform strategy, struggles and therefore material outcomes. As van der Merwe and others have argued, a broader, deeper and more coherent understanding of corruption is required precisely to contrast the possibilities of transformation as opposed to the reinforcement of the broad status quo by those who defend narrow definitions and often resist any attempt to broaden the scope of anti-corruption consideration and action.

If we are serious about eradicating corruption, let us do so coherently. And let us look to see who our real allies are in this struggle. Are we to depend on external forces that have their own agenda or biases? Or should we approach the task from a domestic mobilisation perspective linked it to the construction of economic justice and self-determination? This essay is a brief preliminary effort, sponsored by the International Initiative on Corruption and Governance (IICG)⁴, to scrutinize the issue of corruption and the action of anti-corruption governance reforms, and to point the way to people-centered strategies to make real development and sovereignty possible.

Understandings of corruption are influenced by different visions of anticipated outcomes. Ideology is at the core of perspectives, particularly as to how markets and societies should interact and how nations should and can develop. Here we will explore therefore how the ideology of the dominante anti-corruption

⁴ For further information on the IICG see www.peoplesgovernance.org

campaigns purposely focus on narrow not broad definitions, the nation-state and not the capitalist international power structure as the prime framework of analysis, on the public sector and not the corporate sector, on illegal individual acts of corruption and not on forms of legalized, corporate-induced corruption that is at the heart of the net outflow of resources from the South to the North—that is, the greatest economic crime of our time.⁵

⁵ An earlier version of this study appears in *International Initiative on Corruption and Governance, The People Speak on Corruption and Governance*, Vol. 7, (IBON Books, Manila, 2007).

II. Taking the Lid off Corruption: An Incomplete Process

The mainstream definition of corruption is summarised in a simple formula:

Corruption (C) = Monopoly (M) + Discretion (D) – Accountability (A)

The formula helps account for the stellar selection of individuals presented at the beginning. That picture reflects and seeks to reinforce the view that corruption is almost exclusively found in the public sector. That is, government departments, civil servants and politicians who abuse their alleged “monopoly” of public power are powerful enough to insure “discretion” or secrecy and are not democratically or legally “accountable.” Virtually all international conventions, resolutions and national legislation, as well as Transparency International and the World Bank, take this view.

The conservative approach only deals with certain forms of corruption, principally individual acts of bribery and extortion in the public sector (or where it intersects with the private sector, as in the case of contracts and procurement). Under this legalistic framework, fighting corruption is chiefly the task of state agencies, increasingly with support from civil society, the World Bank and the lively fiction called the international community (chiefly “donors”). Auditor-generals, public prosecutors, district attorneys, the justice system and legislative bodies are tasked to pursue anti-corruption within the state, promulgating legislation, supervisory bodies or commissions, and other procedures aimed at addressing corruption and enhancing transparency in government. Most of the attention is focused on the actions, prosecution and punishment of politicians and government officials involved in bribe-taking, kickback schemes, favouritism, embezzlement, etc. Media and civil society groups are mobilised to play watchdog and whistle-blower roles while “donors” pressure governments to implement administrative and technical procedures to deal with the problem.

Our critique of the predominant conception in no way precludes or denies the importance and dimension of corruption in the public sector. It is real and growing. Given the expanding dimensions of international crime networks, much work is also necessary to enhance governmental abilities to collectively combat patently illegal activities. Recognition is due to watchdogs and corruption-fighters who risk their own security and to the various successful efforts by Transparency International to put the corruption issue on the international agenda. Under the Presidency of James Wolfensohn, the World Bank took on the dreaded “C-word,” winning praise for having lifted the lid on the discussion of corruption in a development context. Critics, however, insisted that the Bank also look at itself. In 1996, the World Bank finally introduced a new provision into its procurement guidelines to address fraud and corruption, with penalties for firms found to have acted fraudulently.

But the lid was not removed completely and the discussion remained safely circumscribed. Writing for Corner House in 2000, Susan Hawley noted how “Most commentators on corruption—and on the “good governance” initiatives instigated to combat it—dwell on developing countries, not industrialised ones. Most scrutinise politically-lax cultures in the South, not the North. Most call attention to the petty corruption of low-paid civil servants, not to the grand corruption of wealthy multinationals. Most focus on symptoms such as missing resources, not causes such as deregulation of state enterprises. Most talk about bribe-takers, not bribe-givers.”⁶ Van der Merwe, then with Transparency South Africa, stated presciently in 2001, “The suspicion is that a limited view of corruption is promoted and maintained by design. As a result, the problem is being cut in such a way that it fits those in power. The need to broaden the understanding of corruption is explicitly ignored and/or even actively suppressed by very powerful players and concerns in countries or internationally, since dealing with it may just be too cold for comfort. As such, these role-players in the anti-corruption drive become part of the overall problem and need to be cited as such.”⁷

⁶ Susan Hawley, “Exporting Corruption: Privatization, Multinationals and Bribery,” *Corner House Briefing No. 19*, <http://www.thecornerhouse.org.uk/item.shtml?x=51975>

⁷ Van der Merwe, *Combating Corruption*, 12

Power and power relations are no doubt also at play in the shaping of anti-corruption campaigns, placing strict limitations on areas of inquiry, even though the inquiry itself pointed in directions that made some uncomfortable. A shift in focus remains necessary if for no other reason than to show the ongoing linkage between anti-corruption and the broader struggles for liberation, independence and democracy in the South. There is a need, for example, to pay due credit to historical struggles for independence or liberation, as from apartheid, where corruption was embedded in the very nature of the regime. A narrow anti-corruption campaign against the ruling regimes in South Africa, Indonesia, the Philippines or Argentina in the 1970s or 1980s would have made little political sense. Indeed they may have been considered distractions from the broader agenda to uproot the regimes. Most of the corrupt individuals cited at the beginning were chased out of office by popularly-driven movements propelled by indignation over the corruption and abuses practiced by the dictators. As van der Merwe argues, "These systems are forms of corruption per se and not only the different corrupt acts of persons or groups that take place in a system. We should not forget that it was not only the corrupt behaviour of people in colonialism and apartheid that finalised the picture of corruption. These were indeed massive forms of corruption in themselves.... Structural corruption, in the sense of organisational structures and economic and political systems, must be put squarely on the table for local and international anti-corruption discourse and strategy developments."⁸

A peoples' understanding of corruption is not divorced from history, not solely focused on government, and not limited to the demand for punishment of official wrong-doers. The understanding is fundamentally political as evidenced in abuses of power, both political and economic, by both national and international entities.

Another linkage conveniently ignored by the conservative anti-corruption movement is the ongoing connection between governing elites and transnational corporations (TNCs) and International Financial Institutions (IFIs) in order to extract

resources from peoples, including national natural resources. Pillage and looting is a form of corruption as old as the empires that practiced them. Incalculable riches in the form of resources and human lives—from gold to rubber to oil—were taken from peoples and continents that have yet to fully recover, let alone forget, the advent of the private/public colonial onslaughts. During the Cold War, a number of kleptocratic regimes enjoyed full support from their Western patrons with considerations of corruption and democracy conveniently set aside. None of the development agencies showed much concern for corruption during this period.

The massive growth in the volume of international trade and finance in the post Cold War period brings with it the need to reframe the anti-corruption agenda. It needs to take account of the parallel shift in power from the public to the private sector supported by rich country governments interested in the "privatisation" of development and aid. But the huge international capital flows from North to South fuelled corruption in unprecedented ways and amounts. Enticed by the new demand for investment expansion, goods and services once provided by the state were sold out to private firms under various "privatisation" arrangements. With the ongoing shift came a growing awareness of the public impact of corporate activities—for example the environmental dimension—calling for increased public scrutiny and disclosure. Thus, just when most has been said (although not necessarily done) about transparency in government, transparency in the profit-making world remains in denial—private-sector disclosure is haphazard at best.

Privatisation of the public area or commons constitutes a form of systemic corruption even where governing elites went through the appropriate World Bank-advised steps to legalise the transfer of resources and abdication of regulatory powers. Systemic corruption occurs where governments and organisational procedures are compromised in a way that permits or even feeds the individual and state-sanctioned transfer of public property and resources to private hands. Shrinking government capacity to control and prevent corruption (regulation) forms part of the systemic picture, reflecting and interpreting the grip of international structures and

⁸ Van der Merwe, *Combating Corruption*, p. 19-20.

entities on national ones. Regulation and control of corruption is still, in principle, a governmental matter, but that principle is weakened when government is ideologically and functionally stripped of supervisory power. While there is still a degree of regulation in the rich countries and some developing ones, this is not the case for most poorer countries where, as part of the same neoliberal privatisation phenomena, the already limited state capacities are further circumscribed by politicians and ideologues with a radical laissez-faire critique of the state and by the mandates of the IFIs.

Evidently the now-dominant neoliberal understanding of the role of government dovetails perfectly with the dominant view of public sector corruption that can be cured by privatisation. Empirical evidence notwithstanding, neoliberal partisans insisted that the market was the best regulator. In fact, however, we witness monopolistic power imposing itself on the market. TNCs were served and rewarded by an ideology that packaged corporate expansion as a legitimate free market phenomenon. If a government is serious about enforcing minimal environmental and labour standards on corporate operations, then corporations feel free to move to other countries with little or no standards, but eager to attract investment.

Under the guise of globalisation, market sovereignty is overtaking national sovereignty; markets are shaping politics and political behaviour. Power flows to unelected institutions, be they private corporations or entities such as the World Bank and the International Monetary Fund, which are also immune to democratic political processes. This dimension is virtually ignored by the narrow anti-corruption perspective. Instead there is a feeding of an anti-public sector ethos and the natural distrust that so many citizens have for their government in general, particularly in the South. Corruption touches the lives of so many people in the South that it becomes too important to be left in the hands of market-centered and the World Bank in particular, where the interests of rich country bankers and corporations, and their business/government associates in the South, are embedded in the “deep structure” of policy and outlooks. It clashes with the goal of enhancing democratic control over public resources, goods and services, which is the best guarantee against corruption.

Capitalist ideology defends privatisation, deregulation and liberalisation, notwithstanding mounting evidence of the harm that multinationals and national monopolistic entities can cause to the lives of ordinary citizens, their environment and their right to self-determination. Water, health services, transportation, waste collection, telecommunications, financial services and even security are being absorbed by an unaccountable “for profit” sector. Restoring accountability does not entail a return to Soviet-style “public” bureaucracies. Rather, it calls for democratic creativity with new forms of public supervision or control of critical services and areas of the economy that need to respond to social needs and not a pure profit motive.

The point is to take account of new dimensions of corruption in the discussion and action plans. That being said, recognition must be given to agencies such as Transparency International and other bodies for having opened the debate in the first place. Now we need to go beyond the proverbial tip of the iceberg—individual acts of graft or embezzlement of a public treasury. Not shifting at this point can become counterproductive for the entire anti-corruption movement, as the insistence on public sector surveillance becomes a convenient smoke screen behind which much greater frauds can take place.

Some would ask why waste time dealing with the symptoms of a problem—corruption—instead of the root causes, be it poverty or corporate greed. The response is that we are forced to look at both for analytical reasons but also for strategic ones, principally the need to reach those for whom corruption is their introduction to politics and mobilisation. We are likely to be hearing more, not less, about corruption as visible disparities of wealth, contradictions in the international economic order, displacement of employment and control of scarce natural resources all continue to increase. Inequality, dishonesty, unfairness, injustice and exploitation must all form part of a broader anti-corruption discourse and mobilisation. At the same time, it becomes imperative to underscore the contradiction of a discourse by donors or IFIs pushing poverty-producing policies that says corruption hurts the poor.

The problem must be addressed both politically and ideologically.

We need to contest the assumption that the public sector is inherently and inevitably corrupt—and that the private sector and privatisation or outsourcing are the solution. Resistance entails recognition of the role played by entities such as the World Trade Organisation and Free Trade Agreements that demand that corporations have rights equal or superior to those of sovereign states and societies.

Under the rules of neoliberal globalisation, legality and justice seem to be moving in different directions, and the anti-corruption movement must choose. The evident injustice of an international system that enhances poverty is also a question of corruption—the injustice and corruption that characterise the transfer of resources from poor to rich, from the global South to the global North. No matter how legalised, there is a fundamental lack of integrity and morality in any system or mechanism that enforces this extraction. It is a matter of record that there is a net extraction from the South—call it exploitation or surplus extraction—in amounts significantly larger than the inflow generated by trade, aid, direct investment and even remittances. If the current anti-corruption discourse does not want to lose its credibility, a first step is to acknowledge the absence of a level international economic playing field. That field is not divinely-ordained by the “market” but has been constructed by particular actors and is defended by the most powerful governments in the world.

A persistent bleeding of resources from the South to the North, from poor to rich, constitutes perhaps the most perverse form of modern corruption—it demands identification, quantification, advocacy, adjudication of individual responsibilities and reparations. Corporate power, as any form of power, fabricates its own discourse to neutralise opposition, or better yet to allow opposition within “safe” confines. Given the global configuration of economic power, it is not surprising that notions of exploitation are banned so that the crudest forms of corruption/exploitation are considered normal and certainly not illegal. Yet corporate power has rigged the international financial and trade regime. Far from reflecting a legal compact of the equality of sovereign states, the economic regime is distinctly and purposely tilted against the majorities in the poor countries, which explains why

the disparity in wealth distribution continues to grow. It is unfair, dishonest, unjust and corrupt—as well as illegal, if one is to judge by international human rights instruments.

Ending corruption would entail the construction of resource redistribution mechanisms such as the Tobin tax and other measures being proposed. Ostensibly, international bodies should be in the forefront of development through redistribution. But the “donors” and IFIs seem more committed to redistribution in an inverse sense, from the poorer to the rich. Evidently the IFIs and the World Trade Organisation have no interest in broadening the definitional and ethical discussion around corruption, excluding an elementary appropriation of resources that could help insure elemental human and economic rights and public services.

Some may argue that the concern for justice and honesty only forms part of a national compact between society and its government, but that is not the case internationally, where governments pursue *realpolitik* in defence of competing national interests. This begs the question of who determines what is national interest—indeed a measure of democracy itself, if and when highly concentrated economic power is held in check by a human rights-grounded social compact. In the longer term, a true anti-corruption struggle would work to make such international private and institutional practices illegal and punishable. For now, it is important to challenge the corruption discourse along with the interventionist apparatus it has created—the latest instalment in the history of *mision civilizatrize*. How does that theory and practice face up to alternative non-capitalist understandings of both national and international development, enrichment and impoverishment?

Unsurprisingly, there are vested interests that resist any expansion of the debate on corruption. Actors such as the World Bank and Transparency International—the two focal points of the anti-corruption “movement”—insist on focusing on public sector officials and the need to “reform” governments according to donor-provided manuals and of course with the involvement of expatriate consultants and specialists. At the level of civil society, the appropriate NGOs are selected or created to push for change according to a zealously kept procedure.

Corporations wrote the first chapter of the corruption/governance manual insisting that corrupt public officials unfairly “tax” foreign (and domestic) direct investment. Their argument goes on to declare, almost axiomatically, that private investment must be protected against graft because investment means economic growth and growth benefits the poor. No room is given to those expressing doubts about the effectiveness of the holy trinity of private investment-economic growth-poverty reduction that insists that privatisation and liberalisation will allow poorer countries to better “compete” in what is considered the inevitable and desirable integration into the global economy. In this win-win scenario the poor are supposed to benefit, but one might be tempted to ask how much the poor received of the US\$16.2 billion in Christmas bonuses paid out by the New York investment firm of Goldman Sachs in 2006?⁹

Does foreign direct investment lead to economic growth? Does any economic growth translate into social development? How are the poor as a whole to benefit by their countries’ insertion into the global neoliberal economy? The discussion would be a substantive one, but in the following pages we can only make a small contribution by reviewing how neoliberal corruption takes place in a series of practices, transactions, processes and structures.

Antonio Tujan, Jr. of the IBON Foundation in Philippines . states, “The issues of corruption and bad governance are of genuine concern to the people not only in the sense that they siphon off precious resources for development and social services, but more so because the problem of corruption and the issue of undemocratic governance is also at the heart of the problem of mal-development, poverty and injustice.... The issue of corruption and governance cannot be comprehended purely on a national level. Rather international factors and forces have historically played a role in perpetuating the problem up to the present, just as much as it is an international problem operating through relations of dominance and neo-colonialism.”¹⁰

⁹ American Broadcasting Network (ABC) News, December 15, 2006.

¹⁰ Antonio Tujan, Jr., editor, *The People Speak on Corruption & Governance*, (International Initiative on Corruption and Governance/IBON, Manila: 2005), v.

III. Corporate Corruption

In Latin America there is a debate about whether, in real value terms, the “Golden Age of Pillage” took place with the looting of gold and silver in 16th and 17th century, or whether that amount is exceeded by what has been extracted in the last 40 years. According to one scholar, in the most recent period “immense legal and illegal transfers of property, wealth, profits, interests and royalty payments flowed from Latin America to the US and the EU. The most lucrative public enterprises, valued at more than US\$350 billion, were privatised without any of the constitutional niceties and eventually ended up in the hands of US, Spanish and other European multinational corporations and banks. Presidential decrees bypassed congress and the electorate and dictated a privileged place for foreign capital. Protests by Congress, the electorate and national auditors were ignored.”¹¹

Kleptocratic regimes, whether dictatorial or liberal democratic, acted as accomplices manifesting loyalty to the “free market” and sometimes justifying the property transfers in the name of fighting state corruption. Wholesale transfer of ownership of vital resources and entities to foreigners that began in Mexico and Chile during the 1980s were followed by the selling off of most of the region’s public enterprises—banks, power plants, telecommunications, roads, water and transport services—to foreign entities. Total private takeovers rose to US\$360.5 billion by 2001—a full 150 billion more than the next most “attractive” region, the East Asia Pacific. More firms were sold and more money was raised in Latin America than in almost any other part of the world. The result was not only a decrease in economic policy autonomy but also an increase in poverty, unemployment and inequality:

- In Argentina, 150,000 workers were dismissed due to privatisations between 1987 and 1997;
- About 50 percent of all employees in firms privatised in Mexico lost their jobs;

¹¹ James Petras, “Is Latin America Really Turning Left?,” (June, 2006), www.globalresearch.org

- In Brazil, there was a reduction of more than 90,000 jobs in the privatised railways;
- In Nicaragua, privatisation resulted in the dismissal of 15 percent of the total labour force.¹²

By 2005 Latin American populations had deposed no less than ten neoliberal Presidents. Corruption was cited in every case, and was interpreted as inseparable from the blind pursuit of neoliberal policies.

In Africa, the privatisation drive proceeded at a slower pace. Fewer African governments adopted explicit divestment policies than in Latin America. Calculations are that state production still accounts for over 15 percent of GDP in that region.¹³ But the push for liberalisation and privatisation-friendly “good governance” is underway. With the support of the World Bank, South African President Thabo Mbeki is leading a G8-supported effort to introduce rapid liberalisation and governance “reforms” as part of the New Economic Partnership for African Development (NEPAD).

African civil society critics claim that NEPAD “rejects the multitude of alternative African development strategies that have emerged from civil society and academic movements over the past two decades.... Included in these policies are commitments, among others, to fully participatory democratic policy-making, rejection of the privatisation of public services, redirection of resources from the private to the public sector, debt repudiation, increased exchange controls, protection of vital infant industries, greater regional cooperation and mobility of people across Africa, and meaningful environmental sustainability that fully comprehends that the wealth of so-called developed nations was gained at a huge environmental cost.”¹⁴

¹² Center for Global Development, Policy Brief, “Privatization in Latin America,” www.dgdev.org.

¹³ Alberto Chong, Florencio Lopez de Silanes, “The Truth about Privatization in Latin America,” Inter-American Development Bank, <http://www.iadb.org/res/publications/pubfiles/pubr-486.pdf>

¹⁴ Antonia Juhasz, “NEPAD: Foothold for Corporate Globalization in Africa,” Interim Report, Intrinsic Consequences of Economic Globalization on the Environment, International Forum on Globalization, <http://www.thebushagenda.net/article.php?id=89>

“Corruption by western multinationals is a disease all over Africa,” says Churuchill Maqutu of Lesotho’s High Court. Maqutu was a public prosecutor who sued some of the world’s largest engineering companies for fraud in a World Bank-promoted water project, the largest of its kind in Africa. Funders of the Lesotho Highland Water Project included the World Bank; the European Investment Bank; the German, British and French bilateral aid agencies; and the UK Commonwealth Development Corporation. Participating commercial banks included Banque Nationale de Paris, Dresdner and Hill Samuel; and a number of export credit agencies (including Germany’s Hermes, France’s COFACE, South Africa’s SACCE and Britain’s ECGD). The ECGD’s support amounted to £66 million and went in loan guarantees to five UK companies: Balfour Beatty, Kier, Stirling, Kvaerner Boving and ABB Generation’s UK subsidiary.

Apparently, not one of the donor funding agencies scrutinized the 11 multinationals charged with paying bribes to influence bidding for contracts, even though many of the firms were not first offenders. About two million pounds sterling in bribes were paid into Swiss and French banks accounts opened by the companies themselves. Leaked correspondence between the World Bank and the Lesotho government suggests that the Bank knew of corruption allegations against Masupha Sole, the former director of the Lesotho Highlands Development Authority charged with taking bribes as far back as 1994. But the Bank’s reaction was to berate Lesotho government authorities for having suspended Sole, arguing that the dismissal would interfere with project construction timetables and could lead to costly overruns.¹⁵

Botswana’s lead prosecutor took the case directly to the donor governments and funding agencies only to be met with “considerable scepticism and even arrogance,” according to a United Nations official who followed the case. Testifying before the US Foreign Relations Committee that same year, Penzhorn warned that “there is a lingering impression in Lesotho, as well as in South Africa, that the interest of first world countries in the

¹⁵ Nicholas Hildyard, “The Lesotho Highland Water Project,” <http://www.globalpolicy.org/nations/corrupt/lesotho.htm>

present prosecutions lies not so much in the successful outcome of these prosecutions but rather in protecting the interests of its companies that are involved.” Indeed donors failed to come through on earlier promises of financial assistance to help pay the huge legal bills, further straining the budget of one of the poorest countries in the world and one suffering an HIV-AIDS epidemic.¹⁶

Until recently, the rich countries, including France, Germany, Switzerland and Japan, allowed companies to deduct bribes to foreign public officials as legitimate expenses. In the case of Japan the metaphor was “entertainment and social expenses.” Weeks before the terrorist attack against the US, the Bush Administration vetoed an Organization for Economic Co-operation and Development (OECD) initiative to limit secret bank accounts. Subsequently the US government modified its position on bank secrecy for those suspected of terrorism, but less so for those guilty of bribery or corporate money laundering. According to the US Department of Justice, between 1994 and 2001, “the US government learned of significant allegations of bribery by foreign firms in over 400 competitions for international contracts valued at US\$200 billion.... The practice is global in scope, with firms from over 50 countries implicated in offering bribes for contracts in over 100 buyer countries during the seven-year period.”¹⁷ According to an OECD study, “There has been widespread Western opinion that foreign-owned enterprises are more ‘clean’ than domestic ones in very corrupt environments, which appears not to be true.”

That report claimed that while the US governments’ 1977 Foreign Corrupt Practices Act, “together with other influences, has resulted in more comprehensive codes of conduct and enhanced scrutiny of standards of corporate governance, it has not had a significant positive impact on actual standards of international business conduct of American corporations collectively, at least with respect

¹⁶ Quoted in Sebastian Levine, former Senior Economist with UNDP, “Taking on the Goliaths of corruption”, Eldis Document Store, <http://www.eldis.org/cf/rdr/rdr.cfm?doc=DOC23233>

¹⁷ Mathew McClearn, “African Advantage: The Lesotho Highland Water Project,” *Canadian Business Journal*, September 2, 2003, Halifax Initiative website, http://www.halifaxinitiative.org/index.php/PressResponses_World/ART3f42a005b3778

to the bribery of foreign public officials.”¹⁸ A former US Federal Reserve Chairman warned that “corporate greed [had] exploded beyond anything that could have been imagined in 1990.” Former US Treasury Secretary Paul O’Neill claimed that the corporate world lived in an “an ethical vacuum space.”¹⁹

Indeed, the Enron fraud was not an isolated phenomenon. A New York Times columnist noted how “the Enron case will forever stand as the ultimate reflection of an era of near madness in finance, a time in the late 1990’s when self-certitude and spin became a substitute for financial analysis and coherent business models. Controls broke down and management deteriorated as arrogance overrode careful judgment, allowing senior executives to blithely push aside their critics....”²⁰

A Management professor at Boston University commented: “Enron is one of the great frauds in American business history. But it is also a symbol of a particular era of management practice. The excesses of Enron point pretty clearly to what was going on in mainstream companies across the business landscape in the 1990’s.... That may go a long way toward explaining how corporate America became infused in the late 1990’s by what appeared to be a near endless amount of greed and criminality, leading to scandal at an array of corporate giants, from Enron to WorldCom, from Adelphia to Healthsouth.”²¹

There is no dividing line between corruption at home and the corruption practiced abroad by the same corporations. A World Bank-co-sponsored study on Transnational Corporations (TNC) and corruption in resource-rich “transition economies” concluded that “it is suggestive that FDI (foreign direct investment) originating

¹⁸ DAC Network on Governance, *Synthesis of Lessons Learned of Donor Practices in Fighting Corruption*, DAC/DAC?GOVNET (2003)1, 23 June, 2003. p. 24.

¹⁹ Quoted by Robert H. Wade, “Questions of Fairness: In Search of a Just International Economic Order,” *Foreign Affairs*, (September/October 2006), Vol. 85, No. 6, p.136.

²⁰ Kurt Eichenwald, “Verdict on an Era: Arrogance and Recklessness at Enron,” *The New York Times*, May 26, 2006 (full text of article in Annex 1).

²¹ *Ibid*.

in the United States—which has been governed by the Foreign Corrupt Practices Act for more than 20 years—does not appear to be characterised by higher standards of corporate ethics than domestic firms or FDI originating in other countries....”²²

One difference between corruption at home and corruption abroad was that the international operations of many of the same corporate culprits received explicit government and multilateral support. The International Financial Institutions (IFI), including the World Bank, the Inter-American Development Bank and the Asian Development Bank, among others, operate programmes specifically designed to promote private investment as part of the neoliberal development formula. A study by the Washington-based Institute for Policy Studies detailed how Enron’s rise to global prominence came to depend upon a close financial relationship with various government institutions and the World Bank itself. It turns out that some 21 agencies representing the US government, multilateral development banks and other national governments helped leverage Enron’s global expansion by providing \$7.2 billion in public financing approved for 38 projects in 29 countries.²³

Much the same corruption-prone institutionalised collusion is standard practice in the Asian Development Bank (ADB). In line with Anglo-American neoliberal ideology that holds sway in the World Bank and the IMF, the ADB glorifies private sector development and private capital flows as development alternatives to official aid and, conveniently, the “supply” side to the “demand” for privatisation instigated by the IFIs. Focus on the Global South, a Bangkok-based advocacy and research centre, revealed how the international corporate sector was a principal beneficiary of ADB lending, with 37% of ADB contracts related to service and civil works as well as 69% of consulting contracts going to companies from donor countries, particularly Japan, the US, Australia, Canada and Germany. Indeed, many of the consulting companies bidding for ADB contracts were established in the 1970s and 1980s

22 Joel Hellman, et. al., “Are Foreign Investors and Multinationals Engaging in Corrupt Practices in Transition Economies?,” *Transition*, (May-June-July, 2000), p. 7.

23 IPS’ new report, *Enron’s Pawns: How Public Institutions Bankrolled Enron’s Globalization Game*, <http://www.seen.org/pdf/pawns.pdf>

precisely to benefit from the ideologically driven privatisation and deregulation processes pushed by the US, Britain, Canada and New Zealand.²⁴ Apparently advice on alternatives to privatisation was not a service provided by the same “development” banks, which are more about banking than development.

In Washington, as elsewhere, the longstanding and lucrative revolving door relationships between government and corporations has reached unprecedented levels, according to observers. A study by an intrepid New York Times reporter in 2001 revealed the dealings of the Carlyle Group, a \$12 billion private equity company whose roster included former top officials from the Bush and Reagan administrations, including George Bush Sr. and his former Secretary of State, James Baker 3rd, and Frank Carlucci, former secretary of defence under Ronald Reagan, as chairman and managing director. Also on the adviser roster were former British Prime Minister John Major, along with former president of the German Central Bank Karl Otto Poehl, the former President of Philippines Fidel Ramos, former President and Anand Panyarachun, former Prime Minister of Thailand.

“In a new spin on Washington’s revolving door between business and government, where lobbying by former officials is restricted but soliciting investments is not, Carlyle has upped the ante and taken the practice global. Private equity involves buying up companies and reselling them to very rich investors at a high profit.” The Carlyle empire spans three continents and includes investments from and in numerous countries. According to this report, Carlyle owned so many companies that in effect it had become one of the biggest US defence contractors and a force in global telecommunications. Obviously the firm benefited greatly from the contacts of many former government officials. “The steady flow of politicians to lucrative private-sector jobs based on their government contacts is a familiar Washington tale.. But in this case, it is being played out for more dollars, on a global stage, and in the world of private finance, where the minimal government

24 Chris Jones, “The Asian Development Bank, Capital Flows and the Privatization of Infrastructure Projects in the South,” in *Focus on the Global South, Profiting from Poverty: the ADB, Private Sector and Development in Asia*, (Bangkok: 2001).

rules prohibiting lobbying by former officials for a given period are not a factor. These rules say nothing about potential conflicts when former government officials use their connection and insights for financial gain."²⁵

In the light of corporate collusion in the North, it is not surprising that the World Bank and the corporate-dominated international and national boards of Transparency International remain tightly focused on South government public sector "supply side" corruption. Prosecuting illicit bribery is still the chief priority and there is no significant inclination to look critically at FDI as a whole with its legal and illicit linkages to political power. This is in keeping with the G8 neoliberal market fundamentalism that dictates that FDI (i.e., TNCs and finance capital) is the virtual silver bullet that will deliver development. That message came out clearly from the UN-sponsored Finance for Development conference held in Monterrey, Mexico, in March, 2002. Fifty heads of state or government and more than 200 ministers heralded the replacement of development assistance by private investment, i.e., the privatisation of development.

Officials promised a \$5 billion increase in assistance, but that increase was, as one commentator put it, "totally overshadowed by two other haunting statistics: the \$800 billion spent on military budgets worldwide in 2002, and the \$200 billion net transfer of financial resources from the South to the North. UNCTAD corroborated the fact that the flow of net resources was the largest ever from the world's poorer nations to the rich. UN Secretary General Kofi Annan pointed out that funds that could be promoting investment and growth in developing countries or building schools and hospitals or supporting other steps towards achieving the Millennium Development Goals (MDGs) are instead being transferred abroad: "If what we say about financing for development is not to ring hollow, if financing for development means anything, we must reverse this negative balance sheet and fix the system so that all countries, and all people, especially the poorest, can benefit."²⁶

²⁵ Leslie Wayne, "For the Old Bush Team, A Whole New Ballgame," *International Herald Tribune*, March 6, 2001.

²⁶ Thalif Deen, "Rich Nations Broke Aid Pledge," *Third World Network*, http://www.choike.org/nuevo_eng/informes/1428.html

More aid cannot fix the corrupt system that Annan signalled. Rich country orthodoxy sustained that the system did not need fixing other than for governments to get out of the way of investors and corporations. Attracting and protecting foreign investment almost becomes an end in itself, setting aside social and humanitarian development components, and instead emphasizing liberalisation, deregulation and privatisation becoming central to the generation of an "attractive" climate for investment.

Government itself must be attractive to investors, according to market fundamentalists. At Monterrey and at subsequent conferences, South governments meekly accepted the assumption that they, not history or international context, were responsible for the sorry state of their countries. Donors claimed they were suffering from "aid fatigue," telling stories of South government corruption and demanding new "governance" that could make the countries worthy of aid and, more importantly, of corporate investment with corollary guarantees for profit remittances.

"Advancing investor opportunities"—a core feature of "good governance"—is itself fraught with new opportunities to cheat and extort. Concern for malfeasance was limited to the public sector, leaving the TNCs and others with a wide-open door to enjoy and abuse the benefits of liberalisation and privatisation. In the race to compete for Foreign Direct Investment (FDI) and World Bank approval, poor countries tripped over each other to provide enhanced benefits for investors even at the expense of social rights and environmental sustainability. Governments themselves proved incapable of controlling many TNCs and subjecting them to national laws and regulations, including appropriate supervision in order to arrange proper tax collections. Transnational corporations, including banking firms, use their multi-country operations to hide and shift profits to tax havens or to countries where tax rates are lower.

Studies by UNCTAD and others indicate that opening up developing country economies to foreign entities can be a double-edged sword. The same policies that attract investment almost by their very nature lend themselves to abuse. Corporations and investors,

including national ones, demand and receive tax holidays and breaks, subsidies, guarantees, exemptions from regulations, including environmental and labour standards—all in the spirit of countries becoming “competitive” in their race to the bottom in social terms. A recent Botswana government advertisement boasted that “Botswana has reduced corporate taxes, which at 15 percent for manufacturing entities are among the lowest in the region, abolished exchange controls, and introduced tax holidays. These have proven to be inviting incentives for foreign investors. Since 2003, the World Economic Forum rates Botswana as one of the most economically competitive operations in Africa.”²⁷

Because some 60 percent of total international trade is now intra-firm trade (among subsidiaries), creative bookkeeping practices mean that losses ranging between 200 and 350 billion yearly leave developing countries.²⁸ Corporate deposits can take place in tax havens protected by secrecy laws or countries with very low rates of taxation for non-domestic enterprises. Setting aside notions of transparency and fairness, corporations engage in deliberate mis-pricing of their products and services to escape national tax collectors or even to claim further subsidies or concession improvements. There are also “loans” from parent companies at exaggerated costs, or conscious false invoicing of the quality and quantity of imports and exports.

Fraudulent operations are the standard of international finance and trade. While the cost for rich countries in lost tax revenues can also be significant, the benefit in political terms is greater. Not so with the South, where costs may be greater than benefits not only in balance of payments terms but, more importantly, in a grave undermining of national capacities to apply laws and standards in the country at large, as many foreign operations claim to be above the law. In a non-contentious scheme, the question remains whether short-term gains from investment are offset by revenue losses stemming from overly-generous incentives. The theory states that foreign investment generates employment, integration

²⁷ Paid Advertisement: “Botswana, Africa’s Gem,” *Foreign Affairs*, September/October, 2006. Vol. 85, No. 5, p.51

²⁸ Unpublished research by Sony Kapoor.

into the local economy and transfer of know-how. In practice, the reality, particularly for the poorer countries, can be much different. In short, the benefits of FDI are not self-evident, as claimed by neoliberal development and anti-corruption thinking.

By the same token, the lowering of import tariffs and trade and investment liberalisation—as demanded by “free” trade agreements, the WTO, the IFIs and “aid” conditionalities—can have a negative effect on governmental revenues and hence on social policy expenditures, making countries even more dependent on lending and assistance. That the rich countries can maintain subsidies and protective policies while the poorer countries cannot speaks volumes about trade unfairness and international power relations. Yet the weaker countries are the ones targeted by anti-corruption campaigns, led often by the same bodies and North governments engaged in self-serving hypocritical practices. Unfair competition is not only sanctioned, it is rewarded, notwithstanding talk of “universal” trade liberalisation.

One quarter of all international trade is controlled by the top 200 corporations. As TNCs increasingly dominate world trade, they have gone beyond evading regulations and into crafting them to their purposes and profit, at the cost of billions to countries in tax revenues. This affects rich and poor governments alike, but impacts the weaker ones disproportionately as state prerogatives are steadily negotiated away through bilateral but also global legal frameworks. A series of trade negotiations under the old General Agreement on Tariffs and Trade and subsequently under the World Trade Organisation in 1995 entailed huge concessions and losses for many if not most of the “developing” countries. Legally enforceable agreements now bind the WTO members to ever-deeper liberalisation of investments and trade in both merchandise and services. Predictably, the WTO is gripped by the governments that control the decision-making processes in the IMF and the World Bank—governments of countries in which transnational corporations engaging in a wide range of economic sectors are based and wield enormous influence.

Small wonder that the pro-corporate anti-corruption bodies are reluctant to speak about structural corruption, i.e. the abuse of corporate power for private gain at the expense of the poor, North and South alike. Northern TNCs and financial institutions, abetted by accounting and legal firms, have all been complicit in fomenting the illicit export of capital. Meaningful development will be impossible until that corruption under the public sector tip of the iceberg is stopped.

Under the title *Bribe Britannia*, *The Economist* slammed the British Government for its lack of resolution in the fight “against corporate backhanders.” British delegates to the inaugural conference of the UN Convention against Corruption in Jordan in December 2006 “were piously denouncing sleaze and promising to tackle corruption ‘wherever we find it—whether here or abroad....’ At home, meanwhile, their colleagues were busily quashing a two-year investigation into allegations of bribery in connection with the country’s biggest-ever defence contract, the Al-Yamamah deal with Saudi Arabia.” The UK, according to this report, “has long turned a blind eye to the bribery of foreign officials (until recently such business costs were even tax-deductible), but of late it has been trying to polish its public image.”²⁹

While the British government ratified the OECD convention against bribing foreign officials in 1998, the commitment to the treaty was “half-hearted,” according to that report. Not until the anti-terrorism act of 2001 did the government explicitly ban the bribing of foreign officials by British citizens and companies, no matter where the offence took place. Yet in March of 2005 the OECD formally complained that Britain was dragging its feet in implementing the convention. It was no secret that British arms and oil dealers are among the largest in the world and conducted their business with official blessings and encouragement.

A scandal erupted in December, 2006, however, when the Serious Fraud Office called off its investigation into a massive corruption case involving Britain’s biggest military contractor and members of the Saudi royal family. BAE Systems, the British arms merchant,

²⁹ “*Bribe Britannia*,” *The Economist*, December 19, 2006.

is also one of the top 10 US military firms. Its director, Phillip Carroll, is a former chairman of Shell Oil and was tapped by the Bush Administration to be the first “Senior Adviser to the Iraqi Ministry of Oil” in 2003. Allegations were that a BAE-administered slush fund supplied the supposedly ascetic royals with lush apartments, holidays, cash, Jaguars, Ferraris and at least one gold-plated Rolls Royce. All in return for a huge contract to supply and train the Saudi air force for the paltry sum of \$84 billion.³⁰

According to investigative reporter Chris Floyd and the daily *Observer*, the Saudi King sent a message through US Vice President Richard Cheney—then in Riyadh to raise billions for Iraq—that it would stop sharing its extensive intelligence on terrorism and kick out all British military personnel if Prime Minister Blair did not kill the probe. In addition, the Saudi government threatened to cancel a follow-on order for 72 Eurofighter Typhoon jet fighters. Blair claimed the investigation was halted because it threatened “security and foreign policy interests.”³¹ “Every time a government minister goes abroad and tries to lecture a corrupt dictator they are going to see this thrown back in their face,” stated Neil Cooper, of Bradford University’s peace studies department.³² Slush funds, oil sheiks, prostitutes, Swiss banks, kickbacks, blackmail, bagmen, arms deals, war plans, climb-downs, big lies and Dick Cheney—it’s a scandal that has it all, corruption and cowardice at the highest levels,” said an investigation by the *Baltimore Chronicle & Sentinel*.

On February 14, 2008 the High Court in London finally heard the the judicial review brought by The Corner House and Campaign Against Arms Trade (CAAT) contesting the legality of the Serious Fraud Office’s decision to terminate its investigation into alleged bribery by BAE Systems to secure a huge arms deal with Saudi

³⁰ *Ibid.*

³¹ “We appear to be giving businessmen carte blanche to do business with Saudi Arabia, which may involve illegal payments or illegal inducements. We have been leaned on very heavily by the Saudis,” said Eric Illsly, a Labour member of Parliament’s Foreign Affairs Select Committee quoted by Chris Lloyd, “Corruption and Cover Up: War Profits Trump the Rule of Law,” <http://baltimorechronicle.com/2006/122206Floyd-2.shtml>

³² Quoted in “*Bribe Britannia*,” *The Economist*, December 19, 2006.

Arabia. The petitioners argued that the decision to discontinue to corruption investigation was unlawful because it was “based on considerations of potential damage to the UK’s relations with Saudi Arabia, in particular, damage to UK/Saudi security, intelligence and diplomatic cooperation. This is unlawful because it contravenes Article 5 of the OECD’s Anti-Bribery Convention, which prevents signatories from terminating an investigation because of “the potential effect [of an investigation] upon relations with another State.” Further, the same decision was taken on the basis of “tainted” advice received from government ministers government ministers (including the Prime Minister) concerned over “the risk of the UK not being able to sell Typhoon aircraft, and other commercial, economic and diplomatic matters.” For its part, the Blair government, having failed in its effort to stop the investigation, later denied any breach of the OECD Anti-Bribery Convention but declared that it would have taken the decision to terminate the investigation, regardless of international law, on the grounds of “national security.”³³

Much the same self-interest and hypocrisy explains how corrupt dictators’ funds continued to find safe haven in British banks. Blair acknowledged in March 2005 that the UK had to change its banking laws to speed up the return of funds stolen from Africa by dictators. Under the UN Convention against corruption, assets would have to be returned, albeit with complicated legal procedures. This was also a demand of the Africa Commission report, sponsored by the Prime Minister himself, which fingered UK trade liberalisation and privatisation policies as part of the problem, along with a British government reluctance to crack down on corporate corruption.³⁴ Nonetheless, some hope was raised when, in February 2007, the European Bank for Reconstruction and Development decided to blacklist the German consulting engineer Lahmeyer International based on evidence of fraud relating to a project financed by one of the other development banks, the World Bank. The EBRD, however,

³³ Research by Susan Hawley, Nicholas Hildyard, Sarah Sexton and Larry Lohmann in <http://www.thecornerhouse.org.uk> or Control BAE in <http://www.controlbae.org>.

³⁴ Patrick Wintour and Ashley Seager, “New bank law to help return of stolen cash,” *The Guardian*, March 12, 2005.

issued a ‘cross-debarment’ directive that, in principle, could lead to companies found guilty of fraud on projects financed by one

multilateral development bank being routinely blacklisted by all the other entities as well. Standard practice held that companies banned from doing business with one development bank could carry on dealing with all the others as if nothing had happened, the *Financial Times* noted, but the EBRD decision could signal a change in business as usual: multiple bank blacklistings could become the new trend.³⁵

³⁵ German group put on graft blacklist, *Financial Times*, February 26, 2007.

IV. Free Trade Imperialism

In the period since the establishment of the World Trade Organisation (WTO) in 1995, the number of transnational corporations operating worldwide rose from 7,000 to 40,000. Corporations demanded and required an international trade regime tailored to the volume and nature of its operations, particularly in intellectual property, agricultural goods and services. That regime is being crafted by the WTO, beginning with accords on Agriculture and Non-Agricultural Market Access and moving to agreements on services and intellectual property rights. As a result, huge corporations gain even greater leeway to expand at will and dictate further requirements that then translate into WTO rules along “free trade” agreements. Although there is nothing particularly free about the oligopolistic rule-fixing, “free trade” handsomely insures “free markets” for global corporations in agriculture, services, finance and industrial products without corresponding reciprocities.

There is something corrupt about an international exchange shaped by corporations through the WTO, yet that same body being also tasked to police the entire regime. Perhaps it can be no other way: internal corporate corruption is complemented, protected and legitimised by WTO-dominated corrupt rule-making practices. That the same regime hypocritically promises to deliver development should also be tasked as corruption.

The notion that “development” flows from “liberalisation” of trade, market access, the WTO and Free Trade Agreements is still a widely-promoted myth. The opposite is closer to the truth. For example, liberalisation of agricultural trade now carries with it obligations for governments to change national laws related to land and seeds—in a word, to facilitate and uphold foreign corporate control over seed supply and agriculture. Such monopolistic practices, aside from the human toll and farmer suicides it entails, are also corruption. While prosecuting “anti-competitive” behaviour, the WTO assumes a colonialist task to uphold the “free trade” global empire and punish those that do not submit. Governments

in the South and elsewhere feel compelled to accept the free trade credo: its rejection would spell immediate trouble with the World Bank and the IMF who, along with “donors,” demanding greater “convergence and coherence” at the level of national policy. Convergence is insured by “cross conditionality” where disagreement with the principles or any of the official bodies can spell retaliation from the others. But force is seldom necessary; the neoliberal credo is being accepted by business-minded governing elites who profit handsomely from partnerships or “facilitation.”

As powerful as they appear, however, international organisations, including the IFIs and the WTO, are instruments and not sources of power. The real power lies with the rich country governments who are the real decision-makers at those institutions instructed to uphold and promote the neoliberal “structural reforms/liberalisation” credo. Those governments, in turn, take their principal cue from the giant corporate conglomerates in their own countries or region. Trade interests dictate government trade policy, which then shapes “cooperation” policy as well as diplomacy, all reflecting the philosophy that what is good for business is good for everyone. The Seattle to Brussels Network (s2bnetwork), an NGO coalition, has researched how European corporations dominate the European Union’s trade policies which, it claims, are good for neither the poor in Europe nor the poor in the developing countries. In a report titled “Corporate Power over EU Trade Policy,” the network shows how the EU’s internal and external policies are shaped by the strong corporate lobbies, which “have allowed business to take control of the power ‘in Brussels.’ A business-first agenda serves the interests of a small elite of large European corporations ‘at the expense, and in breach, of European treaties’ fundamental objectives of sustainable development, environmental protection, social cohesion and democracy.”³⁶

The Europe Inc. strategy—also known as the Lisbon agenda—translates into a negotiation strategy with third countries that gives priority to securing markets for European goods and

³⁶ Myriam Vander Stichele, Kim Biazaarri, Leonard Plank, *Corporate Power over EU Trade Policy: Good for Business, Bad for the World, Seattle to Brussels Network*, www.s2bnetwork.org

financial services, while maintaining the right to dump subsidised agricultural surpluses. Like its counterparts in the US, Canada or Japan, the EU corporate agenda undermines any attempt by developing countries to protect their markets from the dumping of agricultural imports. And this in turn jeopardises the livelihoods of millions of small farmers who cannot compete in either domestic or foreign markets, whilst fostering environmentally unsustainable and socially irresponsible agricultural practices. What is patently unfair should also be regarded as corruption—very much in consonance with the widely criticised absence of transparency and excessive corporate influence over politicians that characterises not only EU headquarters but governments in general in the EU. Embassies and aid agencies are thereby instructed to support corporate demands for less regulation, more market freedom and support for national corporate bids for local infrastructure contracts and privatisation opportunities.³⁷

For its part, the US government is just as open about protecting and promoting the interests of US-based corporations. In December 2002 then-US chief trade negotiator Robert Zoellick laid out an agenda for a new world trade order in an article published in *The Economist* titled “Unleashing the Trade Winds.” “The debate,” he wrote, “is now over how—not whether—the United States is advancing free trade.” Zoellick went on to say that “America has stated its intentions plainly. We will promote free trade globally, regionally and bilaterally, while rebuilding support at home. By moving forward on multiple fronts, the United States can exert its leverage for openness, create a new competition in liberalisation, target the needs of developing countries and create a fresh political dynamic by putting free trade on the offensive.”³⁸

“Free trade” has become a euphemism for corporate expansion. Even invaded war-torn Iraq does not escape it. Recommendation 62 of the US bipartisan Iraq Study Group report calls for the commercialisation and privatisation of that country’s oil industry.

³⁷ See the comments by Spanish corporation chiefs at a recent Madrid fair trade in *Boletín OMAL* (*Observatorio de Multinacionales en América Latina*), No. 16, December 2006 in www.omal.info

³⁸ “Unleashing the Trade Winds,” *The Economist*, December 7-12, 2002.

In complementary fashion, the report calls on the IMF (against that body’s charter) to assist in the removal of government subsidies to maintain low domestic oil prices, while the World Bank is summoned to apply its “good governance” manual. Finally, the great overseer, the US government, would provide the technical assistance to draft laws defining government rights and creating the “necessary foreign investment framework.”³⁹

Reflecting its distrust of the Baghdad regime, but probably also any other South government, the Study Group report insists that “to combat corruption, the US government should urge the Iraqi government to post all oil contracts, volumes and prices on the Web so that Iraqis and outside observers can track exports and export revenues.... The US should support the World Bank’s efforts to ensure that best practices are used in contracting. This support involved providing Iraqi officials with contracting templates and training them in contracting, auditing and reviewing audits.”⁴⁰ In other words, US companies cannot suffer discrimination—the flow of profits must be guaranteed whatever the form of US military disengagement in Iraq.

Bad enough that the Iraqi people have to pay Saddam’s corrupt loans and compensations for the first war against Kuwait. Although suffering a war and economic collapse, Iraqis have paid some US\$1.8 billion since Hussein’s ouster in April 2004. Interspersed among the legitimate and illegitimate Kuwaiti claims are demands filed by US multinational corporations, which have succeeded in seizing about 78 percent of Iraq’s reparation payments. Britain and the US shamelessly collected “reparations” running to hundreds of millions of dollars. They were reportedly awarded to Texaco (\$505 million), Halliburton (\$18 million), Bechtel (\$7 million), Mobil (\$2.3 million), Shell (\$1.6 million), Nestlé (\$2.6 million), Pepsi (\$3.8 million), Philip Morris (\$1.3 million), Kentucky Fried Chicken (\$321,000) and Toys R Us (\$189,449). In most cases, these corporations did not claim that Saddam’s forces damaged their property in Kuwait—only that they had “lost profits.” In the case of American Express, they

³⁹ *Iraq Study Group Report* in www.uisp.org/isg/iraq_study_group_report/report

⁴⁰ *Ibid.*

experienced a “decline in business.”⁴¹ Being forced to pay these reparations, the now “free Iraq” had to take a \$437m emergency loan from the IMF, further mortgaging its economy to external creditors.

“What makes these reparations so deplorable,” said the Nestlé Boycott Campaign, “is that the people of Iraq are in desperate need of resources. The country is without adequate infrastructure in key areas such as sanitation and health. It is the people of Iraq, not companies like Nestlé, that are the greatest victims of Hussein’s regime, and if anyone deserves to be compensated it is the Iraqi citizens. But now their money is being siphoned from their own government to line the pockets of the world’s richest companies, while they are left struggling to survive in a ruined country.”⁴² The inhumanity of the international power system reveals itself.

Nestlé has no problems declaring itself the rightful inheritor to Saddam’s treasury, and it is not the first time the corporation has tried to expropriate the funds of an impoverished nation. In 2002, the company tried to collect \$6 million from Ethiopia—whose impending famine would end up affecting 11 million people—on the ludicrous basis that the country’s long-since toppled military government nationalised a company in 1975 that Nestlé would later come to own.⁴³

Examined closely, the Iraq reconstruction template is not qualitatively different from that being applied to post-war and post-disaster scenarios. What Shalmal Guttal of Focus on the Global South calls the US “vertical integration model” even applied to the aftermath of Hurricane Katrina. Following the disaster, a select group of private companies with long-standing relationships with key US federal agencies were offered no-bid contracts for rehabilitation and reconstruction in the New Orleans area. Former senior US government officials were called in by the big companies as highly paid consultants to help win contracts for

those same corporations, including Bechtel and Halliburton, also at work in Iraq. An NGO watchdog group, Project on Government Oversight, stated that in the case of Katrina, “You are likely to see the equivalent of war profiteering—disaster profiteering.”⁴⁴

In a break with the corporate-friendly anti-corruption school, new organisations such as Global Witness and Publish What You Pay are demanding greater corporate accountability in its dealings in the South. In December 1999 Global Witness published a path-breaking expose of the complicity of the oil and banking industries in the plundering of state assets during Angola’s 40-year civil war. Major multinational oil companies aided and abetted the mismanagement and embezzlement of oil revenues by Angolan elites. What became clear from the report was the need to challenge corporate refusal to release financial information.

The report concludes with a public call on the oil companies operating in Angola to “publish what you pay.” Global Witness has been joined by the Christian charity CAFOD, Open Society Institute, Oxfam GB, Save the Children UK and even Transparency International UK to mount a worldwide campaign calling for all natural resource companies to disclose their payments to governments for every country of operation.⁴⁵ “All well and good, but incomplete, as emphasising illegal bribe payments needs to be accompanied with the still illegitimate extraction of a country’s wealth; that is, the difference between what should be paid for a country’s resources and what is in fact paid, taking into account external capacities to fix the price of key resources. In other words, publish what you really earn.

In this context, one would ask why more scrutiny is not paid to tax havens, veritable sources and symbols of global money laundering. Transparency International (TI) came under fire by Norwegian jurists and NGOs for not including tax havens in its survey. The

41 Naomi Klein, “Why is war-torn Iraq giving \$190,000 to Toys R Us?,”

The Globe and Mail, October 2004.

42 http://www.infactcanada.ca/nbu_Oct1504.htm

43 Ibid.

44 Mike Davis, “The Predators of New Orleans,” *Le Monde Diplomatique*, (October 2006), quoted by Shalmali Guttal, “Reconstruction’s Triple Whammy: Wolfowitz, the White House and the World Bank,” *Focus on the Global South*, December, 2006. www.focusweb.org

45 <http://www.publishwhatyoupay.org/english/background.shtml>

Norwegian Tax Justice Network (TJN) called on Transparency International to rate tax havens as high as, if not higher than bribery in terms of impact because developing countries lose more in revenue this way than from bribery. TJN director John Christens claimed that Transparency International's Corruption Perception Index (CPI) distorts the published perception on corruption because it only looks at one side of the equation. For example, said Christensen, the CPI "consistently identifies Africa as a nexus of corruption" while 40 per cent of the countries ranked "least corrupt" are offshore tax havens. Eva Joly, a French magistrate and high-profile corruption fighter, agreed. She believes tax havens are "one of the biggest problems the world faces today.... The system is such that the really rich people manage to evade a large share of their tax payment (which should go to rich countries) by locating their activities in tax havens. As a result, the tax burden becomes heavier for most people," adding that there is also the additional concern these "secret structures" pose in regard to security because terrorists can use them to hide funds.⁴⁶ TI claimed its index cannot be extended or revised to include tax haven issues.

Citigroup, the US-based financial conglomerate, is the largest financial services conglomerate in the world, operating in some 100 countries with 1 trillion in assets, reporting 120 billion in revenues and nearly 25 billion in net income in 2005. It describes itself as "private bankers" who "act as financial architects, designing and coordinating insightful solutions for individual client needs, with an emphasis on personalised, confidential service." Investigative journalist Lucy Komisar looked into Citi's operations and uncovered how services included setting up shell companies, secret trusts and bank accounts to assist in laundering drug money, hiding stolen assets and tax cheating. Argentina's 2001 financial breakdown was in no small part the product of the government's inability to pay debts as a result of a massive evasion of taxes with the flight of some \$127 billion in capital—a sum nearly equal to the country's foreign debt—to secret offshore havens over the course of a decade, according to the Investigative Commission on

⁴⁶ "Transparency International should highlight tax havens," (original report appeared in the *Norwegian Journal Development Today*), *Odious Debts Online*, March 22, 2007, www.odiousdebt.org

Capital Flight set up by Argentina's House of Deputies. A Citibank official in Argentina was caught by a TV journalist offering to help a "businessman" cheat on taxes, wiring money in a false name to a transit account at Citibank New York and moving it from there into an International Personal Banking account. As a non-resident, the client would then not need to pay taxes on foreign soil.

Offshore tax haven systems are fundamental to conducting accounting frauds, as the centres protect their clients from the country's law enforcement officers and tax collectors. Indeed, there are more than 70 offshore centers that hold individual foreign funds and in which Citigroup also maintains offices. According to Komisar, customers include leading businessmen, politicians, government and military officials as well as the widow of Colombian drug trafficker Pablo Escobar. Citibank officials acknowledged that they use the offshore system to help clients avoid taxes. Komisar explains that "the use of 'avoid' rather than 'evade' is a legal nicety that occurs when the wealthy and powerful use their power to legalise non-payment of taxes and hobble enforcement agencies to prevent justified investigation and prosecution."⁴⁷

Disclosure is not an end in itself. What also needs to be challenged is the fact that investments, especially in sub Saharan Africa, earn returns as obscenely high as 30% per annum. Governments are also responsible for that fact and officials may be taking their "cut," but the cut becomes legalised and institutionalised as countries compete to offer "incentives" in order to keep and secure investment.

Corporations and governments also need to publish what they earn as the product of reduced tax rates, tax holidays and in general the induction of policies such as financial liberalisation that put foreign investors' interest over domestic development goals and encourage capital flight through both legal and illegal channels

⁴⁷ Lucy Komisar, "Citigroup: a culture and history of tax evasion," *The Public Eye on Davos, Tax Justice Network*; <http://www.taxjustice-usa.org>; "Hank and Citibank—A Case in Point," *The Nation*, www.thenation.com/doc/20010618/komisar1; "Confessions of a banker," *New Internationalist*, August 2006, <http://thekomisarscoop.com>

in the banking system. While very important, concentrating on the extractive industries is not enough; the pattern is much the same in other industries, services and banking. Researchers estimate that about half of developing country trade is controlled by multinational firms that are able to manipulate the prices on trade and financial transactions using related subsidiaries in tax havens and other countries to shift hundreds of billions of dollars out of poor countries. Taken together, such leakages cost developing countries more than \$500 billion in illegal and corrupt outflows.⁴⁸

In Latin America, the golden age of privatisation induced most Latin American countries to shift almost overnight to a deregulated, denationalised low-tax model favored by the multinationals. Of late, the tendency is to shift to higher tax models and convert firms to joint ventures. Related processes include so-called “public-private partnerships” (PPP) and “contracting-out” or “outsourcing” services. The bottom line is that corporate capital from richer countries must expand and advance, no matter what the costs or modalities, preferably by insuring the cooperation of corporate-friendly governance subject more to international legal regimes than to national ones.

The WTO and many FTAs make reference to “trade-related infrastructure”; this can include the privatisation of energy and water services, highways, ports and airports and what many refer to the “Walmartisation” of retail. Linking “aid” to trade, the IFIs can use their economic power to demand trade liberalisation and privatisation in what is termed “conditionality.” It all forms part of the neoliberal ‘development’ model that covers up and rewards essentially unfair and corrupt transactions intended to insure domination.

As Rosa Luxemburg argued, colonialism is a constant necessary condition for capitalist growth. Colonies and colonisation are indispensable to capital accumulation. We are led to believe, though, that “development” is also the product of that accumulation and expansion, however much it is based on patriarchy and the concomitant subjugation of people, nations and the environment,

⁴⁸ Research in progress by Sony Kapoor.

along with the destruction of cultures. Real development would imply democratic sovereignty and a nation’s capacity to determine its own development.

Vandana Shiva, an activist and scholar from India, correctly insists that it is not a matter of fair trade but of honest trade, as today’s trade, particularly in agriculture, is dishonest and has become a virtual war against farmers, leading to what she terms genocide, symbolised by the hundreds of suicides by farmers driven to bankruptcy in India due to seed monopolising practices such as Monsanto’s.

Shiva writes: “The partnership between corporations and governments is leading to the emergence of a corporate state—with the state using its political power to help corporations appropriate the wealth and property of citizens and corporations using their economic power to help politicians who have helped them crush democratic dissent. This gives a few people such power that they can rob people of all freedoms. Monopoly markets lead to quasi-military authority. The corporate state becomes a fascist state. Fascist dictatorship is an inevitable outcome of market dictatorship.... Every village is being made a concentration camp. Every home is being turned into a torture chamber.”⁴⁹

⁴⁹ Vandana Shiva, “Corporate Rule=Fascism,” *Znet commentaries*, August 6, 2006, <http://www.zmag.org/sustainers/content/2006-08/08shiva.cfm>

V. Social Bribery: the Privatisation of Public Property and Policy

As we have argued, reducing anti-corruption engagement to issues of individual bribe-making or bribe-taking does not advance us very far in our understanding of corruption and how best to tackle the phenomenon. One misses the forest by focusing on the tree. There may less a role for individual bribery when influence and power wielded by a corporate entity can clearly attain much more and in a legalised manner, particularly where the “public” sector is now engaged in soliciting investment. Governments, particularly but not exclusively in the South, take to bribing foreign and domestic investors in what one analyst has termed “social bribes”—extending the concessions or favours demanded by corporations in return for undertaking investments. Those privileges can take various forms, such as a guaranteed rate of return, “viability gap financing” (grants under so-called public/private partnerships), tax exemptions and holidays, exemption from import duties, provision of communications infrastructure, free land for investment projects, including the right to sell that land at a profit, immunity from local land and environmental laws, extended tax holidays and unimpeded remittance of gains from speculation.⁵⁰

While the demand for government subsidies (social bribery) is as old as capitalist transactions themselves, the tendency under neoliberal capitalism has been fuelled by the discrediting and dismantling of the public sector in itself and as a potential competitor. Prabhat Patnaik describes the process as one that entails the “systematic, deliberate and entirely unjustified vilification of the public sector, which was seen earlier as providing an alternative agency to the capitalists.” Arguing that massive investments are needed and that the state cannot compete, neoliberal officials come to the unwarranted conclusion that the private sector must account for the bulk of the investment and therefore investors must be

enticed in various ways through social “bribes.”⁵¹ The argument is more ideological than empirical—it is also circular insofar as the auctioning off of the public sector enterprises also deprives the state of income to effectively concentrate the capital required for modernisation.

Yet corporate-dominated entities such as Transparency International, as well as the principal international conventions against corruption, prefer to maintain a narrow view of corruption. Indeed, it took some effort for the World Bank to even recognise and address corruption. Until the presidency of James Wolfensohn, corruption was off limits and too political for the Bank to handle given its need to maintain good relations with its “client” governments. TI developed as an offshoot of the Bank, only with a clearer mandate for why TI could call on the World Bank to ensure greater integrity in its projects and procedures, although carefully avoiding any mention of Structural Adjustment Plans (SAP) which capped wages on bureaucracies in many countries, leading to the soliciting of petty bribes.

Along with other agencies, TI and the Bank define corruption as “the abuse of public office for private gain.”⁵² USAID’s definition is more sophisticated: “the abuse of entrusted authority for private gain,” implying that corruption involves more than public office abuse because it “may be undertaken not only for immediate personal gain but also for any ‘private gain,’ including that of family or political contracts, long-term rather than immediate payoffs, and the siphoning of public funds to finance an incumbent’s re-election campaign... not all illegal activities are corruption, and not all forms of corruption are illegal.”⁵³

USAID intentionally broadens the definition to encompass political and development objectives, given that corruption would undermine both development and democracy, and increasingly security. Its strategy document admits that the anti-corruption focus is chiefly a public sector one, but it does recognise and extend

⁵⁰ Prabhat Patnaik, “An Aspect of Neo-Liberalism,” *Ideas* (December, 2006), No. 18. http://www.networkideas.org/news/dec2006/news18_Neo_Liberalism.htm

⁵¹ *Ibid.*

⁵² World Bank, *Helping Countries Combat Corruption*, (World Bank, 1997).

⁵³ USAID *Anticorruption Strategy*, (Washington, D.C., January 2005), p. 8.

to the field of public and private sector interaction. For its part, the WB identifies corruption as “the single greatest obstacle to economic and social development.” Corruption undermines development by “distorting the rule of law and weakening the institutional foundations on which economic growth depends,” according to the Bank.

Both the OECD and the World Bank adhere to what social scientists term the “principal agent client” framework. We are presented with the “rational” behaviour of an agent [i.e., the public employee] who takes possession for itself of some public benefit, either financial or of another nature, diverting it from the principal, which is the national state. Under this scheme, reducing corruption is a matter of increasing the sanctions or risk of sanctions, thereby sparking a subsequent rational decision not to commit corruption.⁵⁴

But corruption cannot be reduced to isolated exchanges: it is also the product of a structure of relationships and networks that can subvert or capture bureaucracies so as to obtain the “social bribe.” Here we suggest shifting attention towards the international private entities known as corporations, which are becoming no longer just bribe-givers but bribe-takers. The social bribe takes the form of benefits derived from rules under which the corporation will operate.

Corporations are not altruistic organisations but profit-making ones—and matters of public interest have a way of cutting into profit margins or jeopardising their security against government intervention. Hence the need to attain juridical guarantees—legal protection, legal recourse, fixed rules of the game, profit repatriation, etc—that will protect their investment against the state itself. Where the state behaves appropriately—“good governance”—there will be no need for bribes in the old-fashioned term, but rather open transactions stressing cooperation and profit-sharing with local elites who are all too happy to act as go-betweens for the acquisition of concessions. As bribery has also been the focus of major international conventions and agreements—UN, OAS,

⁵⁴ Robert Klitgaard, *Controlling Corruption*, (University of California Press, 1991).

OECD—the benefit/costs of engaging in bribery is diminishing, although by no means is it ended.

While corruption flourishes under the cover of privatisation, the old anti-corruption school wastes its time trying to measure the phenomenon. The best known instrument is the TI annual corruption index, which does not measure corruption per se but perceptions of it (which may or may not coincide). If corruption is a matter of perception, one must ask whose perception? The Transparency Index Corruption Report tends to gather the perceptions of private sector leaders and business associations. Obviously, they will not be talking about themselves but about the local government.⁵⁵ Ordinary citizens, on the other hand, would probably be the first to associate corruption with privatisation of public services and infrastructure. The media in many countries would also corroborate the tendency while taking electoral campaign-induced accusations with a grain of salt.

So while businesspeople judge and monitor the government, who judges these monitors? And by the way, who scrutinises the very entities that preach transparency and accountability? In fairness, credit should be given to the campaign efforts, along with the zeal and resources that have been expended to elevate the corruption issue on the international agenda. But after nearly two decades of important work, the dominant anti-corruption “movement” seems to be spinning its wheels, having perhaps accomplished a great deal by way of international conventions and influencing national legislation. Investors benefit from improved legal and institutional frameworks, but then doubts arise as to the certainty of the much-touted equation between investment and poverty reduction.

Some have taken to blaming the culture and continents for the absence of progress, declaring entire regions and societies to be

⁵⁵ According to its authors, “The 2006 Corruption Perceptions Index is a composite index that draws on multiple expert opinion surveys that poll perceptions of public sector corruption in 163 countries around the world, the greatest scope of any CPI to date. It scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption.” http://www.transparency.org/news_room/in_focus/cpi_2006

hopelessly corrupt and arguing that corruption is a manifestation of some deep cultural disorder and character flaw that practices and tolerates abuses.⁵⁶ The point is not to make corruption a matter of cultural post-modernism, let alone something a citizenry should tolerate. Others explain it away through a sometimes racist, patronising dismissal of corruption in a given setting because "it is part of the culture."

While the debate on public sector corruption grows sterile, the pace of privatisation is accelerating in the real world. This is no coincidence. Corruption is the reason privatisation is important, coming as a heaven-sent solution that would also allow the industries and countries to be "competitive." Joseph Stiglitz, who while at the World Bank helped shape the anti-corruption thrust, upheld the connection while employed by the Bank, but later commented somewhat apologetically that "I'm not sure these private sector advocates quite had in mind the abilities that American corporate capitalism has demonstrated so amply recently: corruption on an almost unfathomable scale. They put to shame those petty government bureaucrats who stole a few thousand dollars or even a few million. The numbers bandied about in the Enron, WorldCom and other scandals are in the billions, greater than the GNP of many countries," he claimed.⁵⁷

Simply pointing to the existence of corruption in the North does not advance us very much the construction of popular anti-corruption strategies. Enron-like episodes have an impact on the South usually with some form of linkage to public officials in the various countries in which the corporation operated. There should be no denying the real problem of corruption in the public sector. But it is one thing to criticise corruption with a view to strengthening the state and the public sector, and quite the opposite to fight it in order to shrink the public sector and relegate the state to an

observer position (from a regulator to a referee, as the World Bank says).

According to the dominant development/anti-corruption model, national governments would limit themselves to insuring legal systems based on private property (as opposed to those based on communal tenure). The point is to offer the most conducive conditions to corporate investment and a furious multi-dimensional privatisation process driven by the needs of the TNCs and the dynamics of global capitalism, sweeping up water, energy, public services, health, education, technology and intellectual property. If there is a role for the state under this scheme of affairs, it is one of advancing private sector interests through free trade and investment agreements, all in the belief that it will advance economic growth and allow their own private sectors to expand and profit.

Unfortunately, the dominant corruption school has no place for examining the links among privatisation, the growth of poverty and social inequality and ecological degradation. Nothing is said about irreparable damages caused by privatisation/liberalisation on small-scale producers and retailers ("Walmartisation"), and on economically and socially vulnerable sectors, including indigenous communities and women. In this context, Transparency International joins the international entities that are central to the privatisation drive, including the corporations themselves, the World Bank and the Asian and Inter-American Development banks. Also joining the group is the United Nations due to its defence and promotion of a financing-for-development paradigm that in effect assigns the development promotion task to private capital. Comfortably looking on are the TNCs, which enjoy the benefits of the global system of economic governance and continue to elude any significant global regulation.

⁵⁶ Chabal, Patrick & Chaloz, Pascal, *Africa Works - Disorder as political instrument*. (Oxford, 1999).

⁵⁷ Joseph Stiglitz, *Corporate Corruption, The conflicts of Interest Driving US Financial Scandals are being Replicated on a Global Scale*, *Guardian* (London), July 4, 2002, available on <http://www.commondreams.org/views02/0704-02.htm>

VI Governance and Corruption

Making the (Mis)connections

Governance is first and fundamentally a question of democracy and democratic institutions, or their lack. Good governance should be described as a process of deepening democracy through forms of institutional development that allow citizens to make decisions and determine their future. However, placed in the hands of the IFIs and the “donors,” good governance means something else for somewhere else. From the hegemonic perspective, governance is not for deepening democracy, but rather for further tailoring the state (i.e. modernisation) to meet the demands of capital. Which is to say, weakening public capacity to regulate economic enterprise and protect the weakest, as stipulated in so many Constitutions.

In what Harvard Professor Dani Rodrik calls the Augmented Washington Consensus, the World Bank and the big corporations are pushing for political reforms to complement the economic ones demanded earlier.

Original Washington Consensus	“Augmented” Washington Consensus (the previous 10 items, plus):
1. Fiscal discipline 2. Reorientation of public expenditures 3. Tax reform 4. Financial liberalisation 5. Unified and competitive exchange rates 6. Trade liberalisation 7. Openness to DFI 8. Privatisation 9. Deregulation 10. Secure Property Rights	11. Corporate governance 12. Anti-corruption 13. Flexible labour markets 14. WTO agreements 15. Financial codes and standards 16. “Prudent” capital-account opening 17. Non-intermediate exchange rate regimes 18. Independent central banks/ inflation targeting 19. Social safety nets 20. Targeted poverty reduction

Taking “structural adjustment” into its third decade in areas such as Latin America, the IFIs and the “donors” pushed for more

private sector-friendly “reforms” to make countries adjust to the increasing requirements of corporate investors—with much of the zeal wrapped up in the discourse of anti-corruption, good governance and institution-building. Rodrik argues, “Taken to its logical conclusion, the focus on institutions has potentially debilitating side effects for policy reformers. Institutions are by their very nature deeply embedded in society. If growth indeed requires major institutional transformation—in the areas of rule of law, property rights protection, governance and so on—how can we not be pessimistic about the prospects for growth in poor countries?”⁵⁸ To which one should add, how can we not be pessimistic for the poor themselves as poverty reduction and social policies were at the bottom of the list and clearly conditioned on the macroeconomic and macro-political priorities?

To its credit, the mainstream anti-corruption discussions have accepted that anti-corruption (state) practices are best addressed within the framework of governance—“good governance” as the “donors” term it. But good for whom? Like “reform” and “transparency” or “accountability,” the words are bandied about as something not only inherently desirable but also intrinsic to the content of mainstream reform: liberalisation and privatisation. Corruption fighters are supposed to make this huge leap.

Leading the new western crusade is none other than the World Bank, today bent on becoming the global anti-corruption standard bearer, probably because if it does not stand as judge it would surely be in the defendant’s chair. In May 2004 the US Senate Foreign Relations Committee opened a hearing on corruption in multilateral development banks. Senator Richard Lugar, an Indiana Republican who chairs the Committee, cited experts who estimate that \$26-130 billion of World Bank lending since 1946 has been misused. The World Bank rejected this figure and vigorously defended its anti-corruption efforts.⁵⁹

⁵⁸ Dani Rodrik, “Good Bye Washington Consensus, Hello Washington Confusion?,” [http://ksghome.harvard.edu/~drodrik/Lessons of the 1990s review_JEL .pdf](http://ksghome.harvard.edu/~drodrik/Lessons%20of%20the%201990s%20review_JEL.pdf)

⁵⁹ Bretton Woods Project, US lawmakers scrutinise World Bank record on corruption, 28th May 2004, <<http://brettonwoodsproject.org/art.shtml?x=51232>>

What the senators did not look into was the evidence that IFI- and “donor”-supported privatisation and liberalisation was itself generating corruption. Data are mounting steadily that liberalisation can actually magnify existing corruption and illegal practices; that privatisation in many cases has entailed a concentration of resources in private and corporate hands often superior to that of government itself. Greater public regulation is required, but much of it would run against the current of World Bank-induced state “reform” programmes. In defence of its framework, the Bank has tried to establish empirical linkages between anti-corruption (governance) reforms and economic growth, but even internal Bank evaluations describe the link between corruption and country performance as “more varied and diverse.”

Nonetheless, the introduction of governance into the debate obliges us to look at corruption in the context of power within and outside government and at national economic policy decision-making as it relates to democracy and corporate globalisation. There can be no denying that the use of the state and its resources is a historical form of consolidating power in any country, although campaigners in the North seem to think it only applies to Africa.

Colonialism’s essence was and is to insure regimes that can assist in the management of exploitation in return for a few privileges. Enter “donor-sponsored reforms” to governance that, on the one hand, threaten to curtail the opportunities of local politicians to sustain their regime, but on the other open opportunities for business to make profits. Externally-induced structural adjustment programmes may reduce the scope and size of government but, as will be discussed, this curbs the possibility of both patronage and regulation, or forces government budget curtailments that entail wage caps on public employees, including teachers and police, which in turn generate unwarranted solicitations.

But the opposite is also true. A study on Uganda indicated that the large amounts of financial assistance provided by donors to implement structural adjustment and governance reforms also allowed the regime to increase its patronage practices. Uganda’s creditors proved reluctant to press the government to confront

corruption precisely because all other conditionalities related to liberalisation and privatisation were being successfully carried out. The study concluded that “by giving large amounts of aid to a corrupt and quasi-authoritarian government, as well as being reticent in their public criticism of abuse of power and corruption, donors have abetted the actions of Uganda’s leaders in weakening those bodies that could hold them responsible for abusing their public positions.”⁶⁰

Much the same “good governance” logic drives contemporary “free trade” agreements and the workings of the World Trade Organisation norms. The fundamental issue is insuring that governmental institutions adopt and protect open markets, liberalisation and “non-discriminatory” treatment for the transnational corporate entities and foreign direct investment in general. For all the talk of governance and anti-corruption actions, market considerations remain dominant, even overruling social demands and citizen participation in decision-making. Or as the 2002 World Bank’s World Development Report clearly mandates: Building Institutions for Markets.

In its version of good governance, the International Financial Institutions employ their power—i.e., conditionality—to push corporate-friendly “institution-building” and policy “advice” on banking law, contract law and company law, and on the role of the judiciary and arbitration mechanisms modelled on US jurisprudence. The “reforms” get “institutionalised” or locked in through national laws and the threat of sanctions. Departure from the governance norms can deprive the offending government of the IMF seal of approval, which for “donors” is a precondition to further lending. In similar fashion, according to one study, “The World Bank’s understanding of good governance continues to reflect a concern over the effectiveness of the state rather than the equity of the economic system and the legitimacy of the power

60 Tangri, Roger & Andrew M. Mwenda (2006): “Politics, donors and the ineffectiveness of anti-corruption institutions in Uganda” *The Journal of Modern African Studies*, vol. 44, pp.101-124; Mwenda, Andrew M. & Roger Tangri (2005): “Patronage politics, donor reforms and regime consolidation in Uganda,” *African Affairs*, 104/416, pp. 449-467.

structure.”⁶¹ To which another analysis adds, “Much of the content of the good governance agenda... is concerned with a very narrow set of issues and interests: state accountability for business, less so for citizens: strengthening of property rights, but not land redistribution or attention to criminal justice. It is not surprising, then, that many critics ask, ‘Where are the poor?’ in the Bank’s governance agenda.”⁶²

According to Remy Herrera, to the World Bank, “good governance consists essentially of ‘deregulating the exchange, trade and price systems,’ of ‘limiting ad hoc decision-making and preferential treatment of individuals and organisations’ and of ‘eliminating direct credit allocation’ by the state. It is clear that reaching these is indissoluble from pursuing neoliberal economic policies and the social model that is the ultimate purpose of their implementation.”⁶³ Stated differently, the rights of capital are locked in, thereby locking out democratic control over key aspects of the political economy.

But governments are also locked in through close Bank oversight and deep involvement in “national” policy-making to make governments examples to each other of splendid macroeconomic capital-friendly institutions. The “good example” of a good pupil allows the Bank to claim that its massive intervention is welcome, productive and justified. Graham Harrison at the University of Sheffield examined the role of the World Bank in constructing “governance states” in Africa. Harrison argued that the “intimacy of the Bank’s intervention allows it to represent its actions not as external intervention but as a ‘partner’ within sovereign states.” “The fragility of governance states and the largesse of external agencies produce the ‘grease’ that allows African elites to embrace

61 Santiso, C., ‘Governance Conditionality and the Reform of Multilateral Development Finance,’ G8 Governance no.7, at <http://www.g7.utoronto.ca/g7/governance/santiso2002-gov7.pdf>.

62 Bretton Woods Project, *Good Governance and the World Bank*, www.brettonwoodsproject.org, p.26.

63 Remy Herrera, “Good Governance v. Good Government” in *International Initiative on Corruption and Governance, Governance and Corruption, Towards a Democratic Approach*, (Managua, 2005), www.peoplesgovernance.org

the governance model as part of their own desires for enrichment and social ascendance,” according to Harrison.⁶⁴

But one must return to the big picture of why power and democracy are critical factors, as external actors weigh heavily upon “national” decision-making at the expense of the citizenry, yet claim to do so in order to lower corruption levels. No doubt there is a cultural and even racist element involved as, in their non-diplomatic moments, Northern government and corporate officials hold that governments and societies in the South, particularly Africa, are “inherently” and almost irreparably corrupt and that governments are guilty of corruption until proven innocent. There follows a justification for enhanced intervention in all areas of government policy and institutions, demanding accountability to the colonialist officials. At stake in all of this is not simply the issue of corruption, but the critical right of a people to forge their own governments for themselves, without the pro-corporate tutelage of many foreign agencies. Financial dependence on aid, loans and investments, however, insure governmental compliance with the dozens of conditions attached to IFIs’ seal of approval and disbursements. There is nothing wrong with instituting environmental and social impact assessments; what is wrong is the imposition process that then de-legitimises any product. Small wonder that African countries are looking to China, or Latin American ones to Venezuela as sources of financing with fewer strings attached.

The problem is not juridical but ethical and economic, in terms of the illegitimate (not necessarily illegal) way resources are transferred from the many to the few, from the public to the private, from the South to the North, from the national to the external, and/or from citizens turned consumers to corporations.

Yet most of the time we hear about corruption it is in the context of national or local personalised power struggles, one candidate for office against the other, where accusations of being corrupt are bandied about. Such accusations of corruption become corrupt themselves. Few political entities escape the dynamic of what in the United States would be termed “pork barrel” politics—the use

64 Bretton Woods Project, *Bank constructs ‘Governance States’*, July 27, 2004, <<http://brettonwoodsproject.org/art.shtml?x=62983>>

and/or misuse of political authority and influence. Citizens feel, or should feel, cheated—that their resources (taxes, environment) are being siphoned off for private benefit. In the media and electoral scuffles, less attention is paid to institutionalised and global components of corruption.

Local campaigns against corruption become isolated and the broader connections are not made—the justified sense of anger and shame does not go on to become a more organised sustainable effort that looks at and mobilises around the roots of the problem rather than simply its political-electoral manifestations. Politicians will mount campaigns of a personal nature, believing that looking at broader external aspects will undercut the opportunist immediate objective. Worse still, the real corrupt entities will remain unscathed—in fact, they too help shape definitions and export ways of “safely” fighting globalise corruption and indeed the corrupt dynamics of the prevailing international order.

Of late one detects increasing acknowledgements as regards the conventional definition and analysis of corruption. Daniel Kaufman, head of the World Bank Institute (WBI, which is part of the WB Group), admits that “this analysis has been mainly founded on bureaucratic/public sector corruption, emphasising particular manifestations such as administrative bribery... for private gain.”⁶⁵ Reflecting experiences of post-Cold War Eastern Europe and elsewhere, the Bank and recent Anti-Corruption Conferences are slowly making a distinction between legal and illegal forms of corruption, and paying more attention to patterns of corporate corruption (which also affect public corruption).⁶⁶ A political economy approach is also being insinuated, attributing an important role to inequality, and in one paper the WBI goes so far as to speak of legal corporate corruption, but unfortunately, or perhaps unsurprisingly, the research degenerates into a series of incomprehensible formulas and equations.⁶⁶

A potentially useful notion of legal corruption is circumscribed as a phenomenon “arising when the elite prefers to hide corruption

⁶⁵ Daniel Kaufmann and Pedro C. Vicente, “Legal Corruption” (October, 2005), <http://www.worldbank.org/wbi/governance/pubs/legalcorporatecorruption.html>

⁶⁶ Ibid.

from the population,” usually by way of red tape. Other specialists, such as Robert Klitgaard, talk of systemic corruption, but only where the system refers to the public sector: i.e. when those parts of the government that are supposed to prevent corruption have themselves become corrupted—budgeting, auditing, inspection, monitoring, evaluation and enforcement. “This makes the anti-corruption task much more difficult,” he admits, because “we cannot simply call for capacity building in these anti-corruption parts of government, because their capacity has been bought off and directed away from their ostensible mission.”⁶⁷

There is a Catch 22 situation that requires pushing the envelope. Slowly mainstream anti-corruption punditry is coming to accept that a) corruption may arise through other less obvious forms, which may involve collusion between parties typically from both the public and private sectors, and b) that collusion may be legal in many countries. Of course, there is nothing new, or even particularly “southern,” about legalistically lobbying contributions by the private sector in exchange for passage of particular legislation biased in favour of those agents. The recent Abramoff influence-peddling scandal in the US Congress testifies to that: the US Secretary of the Interior is tainted and resigns—and she goes to work with Shell.

Corruption in this context is of course still an abuse necessitating action (illegal or “legalised,” but still illegitimate) from government office. The focus is still on the public sector and the traditional definition would not be seriously contested: the IFIs and TI, among others, would acknowledge that there is corruption in the private sector, but their attention and strategy is still public sector oriented. That reflects a common ideology but also institutional lending mandates, “since the Bank lends primarily to governments and supports government policies, programmes and projects.”

The perpetuation of bribe-taking and bribe-making as the principal form of corruption is analytically unsound, but more importantly it is politically problematic. Behind the image of a bribe-seeking

⁶⁷ Robert Klitgaard, “Leadership beyond Systemic Corruption,” (December 2004), Claremont Graduate University, http://www.cgu.edu/include/Leadership_Under_System_Corruption_12-04.pdf

public servant lies a conception of the state as a parasite that only extracts resources for the sake of a few bureaucrats and politicians. That conception of course is also at the core of the neoliberal concept of the state and the need for government to simply “get out of the way” and “remove layers of red tape” for large and small business to prosper and everyone to gain.

One of the many problems of the neoliberal anti-corruption ideology is how it influences discussions not only on how to measure corruption but where to look for it, setting a basis for the further weakening of the state in the face of domestic and international corporate interests and the proper regulatory role that government should play on behalf of the citizenry, particularly its most marginalised segments. A basis is thus set for reducing the discretionary authority of public employees, even where that authority is required and can be effectively exercised. You do away with bribery by getting rid of potential bribe-takers, who are guilty before proven innocent.⁶⁸ Again, if the diagnosis is partial or limited, so too will be the prescriptions at which we arrive. It is time therefore to seriously, and not only symbolically, open up the discussion to alternative ways of looking at corruption, anti-corruption and the locus required to tackle the phenomenon in all its manifestations.

⁶⁸ Joel Hellman y Daniel Kaufmann, “La captura del Estado en las economías de transición,” www.worldbank.org/wbi/governance

VII. Global Corporations and Global Governance

Joseph Stiglitz figures among the many who now will admit that the international market forces have simply become too powerful to allow them to shape nations and societies in an unbridled manner: “What we need to do is to discover policy and institutional changes that will install checks on the market.... There are rules of governance or enforcement that check the activities of people working in the market... but the absence of a world governance framework in the trade and investments carried all over the world is a profound deficit that need to be addressed,” says the Nobel Prize winner and former World Bank CEO.

Evidently the market forces are not shapeless entities but rather organisations directed by human beings who have concentrated unprecedented amounts of economic power. And it is societies and sometimes governments, particularly but not exclusively in the South, that become the victims of economic liberalisation policies, particularly privatisations, which account for massive amounts of resources transferred to private, largely unaccountable hands. Corruption in many of these contexts is fed by an ineffective or complicit bureaucratic environment. However it is not technically illegal since that same power insures influence to shape the laws that protect and promote the devastating flow of resources into international corporate hands.⁶⁹

Governance is brought into the picture as corruption cannot easily be divorced from policy and institutional environments—which can either promote or prevent. Unfortunately much of the discussion over governance, including good governance, has taken on a technical and managerial character, an endless experimental search for the “right” combinations of institutions and policy that will insure “effectiveness.” Daniel Kaufman, director of global programmes at the World Bank Institute in Washington, calls for new, more forceful levels of Bank and other external involvement in developing country policy-making.

⁶⁹ “Foreign Direct Investment - High Risk, Low Reward for Development,” http://www.blue21.de/PDF/FDI-Report_High_Risk_Low_Reward.pdf

According to Kaufman, there is a need to go beyond the initial development agency insistence on anti-corruption commissions and campaigns: "second generation institutional reforms" are required to support accountability and transparency. "One does not fight corruption by fighting corruption," he told the International Herald Tribune; "one has to instead go to the tougher, more systemic weaknesses and implement the appropriate political and institutional reforms."⁷⁰ But who decides what is appropriate, and is there space for discussions and definitions of alternative appropriate policies, particularly as linked to questions of poverty and autonomous development?

It is not incorrect to make an analytical linkage between corruption and governance and from governance to development and "development assistance." This, however, begs the critical question of the nature of the development model. Led by the World Bank, development agencies evade the issue of protecting corporations and instead attribute development shortcomings to inadequate governance and high corruption levels, a "cancer" on the global economy and a measurable impediment to poverty reduction, according to the World Bank and others. Corruption is one manifestation of the failures in the dominant neoliberal model (which is not to imply that other development models do not or might not have corruption problems); the trouble is that the model's shortcomings are blamed on corruption and bad governance, not on the model itself.

Over the course of the late nineties, that logic came to be expressed in the increasing number of conditions agencies placed on aid recipients attempting to "fix" governance and stop corruption. According to one observer, "Governance experts at the Bank and elsewhere outfitted themselves with a dazzling array of tools to measure whether the programmes worked."⁷¹ Typically, the Bank deliberately confuses the political with the technical, as political criteria do not escape Bank policy and programming.

⁷⁰ "Anticorruption drive: Bark or bite?," *International Herald Tribune*, April 6, 2006, p. 17

⁷¹ *Ibid.*

In an article titled "Corrupting the Fight against Corruption," Joseph Stiglitz commented why: "Those who criticise the Bank's stance on corruption do not do so because they favour corruption. Some critics worry about corruption in the corruption agenda itself: that the fight will be used as a 'cover' for cutting aid to countries that displease the US administration. Such concerns have found resonance in the seeming incongruity of the Bank's tough talk on corruption and simultaneous plans to expand lending to Iraq. No one is likely to certify that Iraq is corruption-free—or even ranks low on corruption."⁷² Still, Stiglitz believes that the World Bank must play a role: "It's fine for the World Bank to deliver anticorruption sermons. But policies, procedures and institutions are what matter."⁷³

But profit is more important than policies and procedures. In Iraq and other post-war reconstruction or disaster settings, the White House calls on the World Bank to play its part in the grand US strategy, going beyond the usual imposition of economic and financial conditions on investment-hungry regimes. As Shalmali Guttal explains, "When called in to coordinate the reconstruction of a war-torn country, the Bank will continue to defend the interests of the US and its allies, rather than the needs of the people in the affected country."

"The Bank will first lay down the rules and policies under which aid for reconstruction is to be solicited and used, then it will bring in private sector actors to implement these rules/policies while heaping costs (including debt repayment) on the occupied, and when things go wrong—as they inevitably would under such circumstances—the Bank will declare the affected country to

⁷² Joseph Stiglitz, "Corrupting the Fight against Corruption" (November, 2006). <http://www.project-syndicate.org/commentary/stiglitz75>

⁷³ To which one blogger acidly commented: "And of course, the nomination of Paul Wolfowitz at the World Bank was the perfect example of such good procedures we want to develop in those countries. He is surely the most competent guy around in development and institution building issues. As a key architect of the war in Afghanistan and Iraq, he showed how invading countries is a much more efficient technique for imposing democracy, good institutions, security and development than are traditional long-term strategies of the World Bank." http://economistsview.typepad.com/economistsview/2006/11/links_stiglitz_.html

be a failed [corrupt] state that is in need of even more stringent application of the same rules and policies that keep it a state of continuing failure."⁷⁴

What Naomi Klein terms "disaster capitalism" is riddled with state-protected corruption: "The first step was the government's abdication of its core responsibility to protect the population from disasters. Under the Bush administration, whole sectors of the government, most notably the Department of Homeland Security, have been turned into glorified temp agencies, with essential functions contracted out to private companies. The theory is that entrepreneurs, driven by the profit motive, are always more efficient (please suspend hysterical laughter).... Where has all the money gone?," ask desperate people from Baghdad to New Orleans, from Kabul to tsunami-struck Sri Lanka. One place a great deal of it has gone is into major capital expenditures for these private contractors. Largely under the public radar, billions of taxpayer dollars have been spent on the construction of a privatised disaster-response infrastructure... built almost exclusively with money from public contracts, including the training of its staff (overwhelmingly former civil servants, politicians and soldiers). Yet it is all privately owned; taxpayers have absolutely no control over it or claim to it. So far, that reality hasn't sunk in because when these companies are getting their bills paid by government contracts, the Disaster Capitalism Complex provides its services to the public free of charge."⁷⁵

Under these increasingly frequent circumstances, corruption will reach dizzying heights. The US can set up the government—engineering a coup, evicting an elected President as in Haiti, or simply invading a country—and the World Bank, led by war planner Paul Wolfowitz, places laws into effect that favour US commercial and political interests, while handing out choice contracts for "rebuilding" and "rehabilitation." According to Guttal, "everyone

⁷⁴ Shalmali Guttal, "Reconstruction's Triple Whammy: Wolfowitz, the White House and the World Bank," *Focus on the Global South*, December, 2006. www.focusweb.org

⁷⁵ Naomi Klein, "Pay to be Saved," *The Nation*, (August 29, 2006), <http://www.thenation.com/doc/20060911/klein>

comes away with a good chunk of the post-war reconstruction pie, except of course local residents whose homes, families and lives are destroyed by the endless war that the model results in."⁷⁶

The blueprints are comprehensive, multidimensional and pre-planned. Military components are not excluded. This was most evident in the case of Haiti, when the Clinton Administration decided to re-install the deposed President Aristide in power. Or at least a mediated power. As Aristide was to recall after his second ousting in 2004, Washington insisted that Aristide agree to pay the debts accumulated under the Duvalier dictatorships, slash the civil service, open up Haiti to "free trade" and halve import tariffs on rice and corn. "It was a lousy deal," Aristide told Naomi Klein, "but I was out of my country and my country was the poorest in the Western hemisphere, so what kind of power did I have at that time?" Aristide, however, refused to accede to the sale of Haiti's government enterprises, including telecommunications and electricity. Turning state monopolies into private enterprises amounted to enrichment of an already corrupt oligarchy. "Washington was very angry at me. They said I didn't respect my word, when they were the ones who didn't respect our common economic policy."

In the months that followed, Washington cut off loans and aid, severely undermining the government, while USAID provided millions to opposition groups. In February 2004, US officials placed Aristide on an aircraft and transported him forcibly into exile. Klein asked what had changed since the overthrow of Aristide: "Corruption? Violence? Fraud? Aristide is certainly no saint. But even if the worst of the allegations are true, they pale next to the rap sheets of the convicted killers, drug smugglers and arms traders who ousted Aristide and continue to enjoy free rein, with full support from the Bush Administration and the UN. Turning Haiti over to this underworld gang out of concern for Aristide's lack of 'good governance' is like escaping an annoying date by accepting a lift home from Charles Manson."⁷⁷ Since then, and in

⁷⁶ *Ibid.*

⁷⁷ Naomi Klein, "Aristide in Exile," *The Nation*, (August 1, 2005), <http://www.thenation.com/doc/20050801/klein>

the wake of continued support for Aristide inside his country, US-funded groups are ardently at work hurling accusations of corruption against the exiled President.⁷⁸

While the World Bank takes a more technocratic approach, flooding developing country governments with consultants and toolkits, the bilateral agencies tend to put direct political pressure on the same governments for the same objective. All this further feeds the fallacy that a combination of pressure and policy advice would bring about “good governance,” sidestepping questions of democracy and whether the real source of “good” government is not civil society rather than external agencies and bureaucrats with toolkits.

Unfortunately, the so-called War on Terror is being taken as justification for a more multi-faceted intervention against patterns of “grand” corruption that supposedly entails risks to the rich countries’ national security. According to USAID, corruption undermines government effectiveness and legitimacy, thereby posing problems for state stability. Led by the US, many North governments stress the importance of preventing or pre-empting the emergence of fragile, failed or failing states. The USAID Strategy document is clear about the need for a more forceful intervention: “A strategy of high-level diplomatic pressure combined with investments to increase political and economic competition will be most appropriate in countries with high levels of grand corruption and limited evidence of political will for reform.”⁷⁹

Under the heading “Develop innovative interventions to address grand corruption,” the Strategy Document argues that “bilateral donors, rather than multilateral banks, may need to lead in this area given the highly political nature of grand corruption, and thus the necessity for anticorruption efforts to reach well beyond the executive branch of government.” A specific recommendation reads: “Harness external sources of pressure for reform through

⁷⁸ See the website of the “Haiti Democracy Project”
<http://www.haitipolicy.org/articles/corruption/government/>
⁷⁹ Op. Cit. USAID Anticorruption Strategy, p. 8.

strategies such as donor consultative groups and interagency efforts. Coordinated diplomatic efforts can serve as the ‘stick’ while donor agreements act as a ‘carrot.’⁸⁰

What is clear is that anticorruption and governance promotion are increasingly being linked to security objectives and the North’s determination to “prevent” failed states. If state-sponsored corruption is perceived to be a path to state failure and therefore a threat to security, then the pursuers of the “War on Terror” will have one more “justification” to pursue their aggressive interventions.

For their own accountability purposes, international aid agencies are pushing the same governance-corruption conjunction if for no other reason that it also conveniently justifies greater agency micro-vigilance of projects, policies and local institutions, all couched in the rubric of aid effectiveness. Setting aside for the moment the reluctance of “donors” to review their own loop hole-filled procedures, one first needs to ask if aid flows are indeed necessary to achieve economic and social progress in the South. And second if there isn’t something corrupt about the fact that, according to the World Bank’s own figures, there is a net flow of resources from the poor countries to the rich ones. Third, “aid” has its purposes and impact as it heavily conditions both public policy and national capacities to present alternatives to development paradigms emphasising privatisation and the displacement of national regulatory institutions to the benefit of foreign investors and local associates.

Often the reality is that of “donors” who push poorly devised projects that lend themselves to abuse. In these cases, the responsibility for graft must be shared. In Nigeria, “18 projects costing 836 million were never completed; another 44 either never operated or were quickly shut down, the Nigerian Finance Ministry reported. Of 20 other projects started between 1985 and 1992 in Nigeria, more than half had little impact or were unsustainable, according to the World Bank.”⁸¹

⁸⁰ Ibid. p. 18, 19.

⁸¹ “Africa Tackles Graft, with Billions in Aid in Play,” *The New York Times*, July 6, 2005.

In July, 2002 the International Rivers Network reported how World Bank staff and management misled the Bank's executive directors in their decision to approve the Bujagali dam project in Uganda, manipulating figures on economic viability. One report suggested that the World Bank's persistent support for the project was because the contractors were one of the biggest clients of the International Finance Corporation, the Bank's investment arm. In Kenya, another Bank official was brought to trial after being sacked for receiving kickbacks from two Swedish companies in exchange for steering certain bank contracts to those firms. Observers argued that the World Bank and other donors "see what they want to see," sometimes compromising the Bank pledge to fight corruption—the "micro" is overlooked when the "macro" (liberalisation/privatisation) is showing "good performance."⁸²

By the same token, rich country governments have official or quasi-official export credit agencies tasked with providing private firms with "export credit guarantees" (subsidies) that are then charged to the recipient country, with little regard to evidence of corrupt behaviour on the firm's part. Such "insurance" against non-performance by the developing country counterpart is accompanied by the extraction of a guarantee from that government to pay if the transaction fails. Investment-desperate, or debt-dependent, or profit-minded local intermediaries agree to pay in the event the transaction goes wrong, even though this all took place within the private sector.

According to Export Credit Agency Watch, an NGO monitoring network, "In recent years Export Credit Agencies (ECAs) are estimated to have supported US\$50 - \$70 billion annually in what are called 'medium and long-term transactions,' a great portion of which are large industrial and infrastructure projects in developing countries. Many of these projects have very serious environmental and social impacts. For example, ECAs finance greenhouse gas-emitting power plants, large-scale dams, mining projects, road development in pristine tropical forests, oil pipelines, chemical and industrial facilities, forestry and plantation schemes, to name

⁸² "Bank's pledge to fight corruption put to test," *Bretton Woods Update* No. 29, (July, 2003) www.brettonwoodsproject.org/topic/governance,

a few. Because most of these projects are high risk due to their environmental, political, social and cultural impacts, most would not come to life without the support and financial backing of ECAs. Hence, ECAs are strategic development linchpins that play an enormous part in the harmful impacts of corporate globalisation."⁸³

Even Transparency International has felt obliged to blow the whistle, not on the ECAs but on the bribery that takes place in similar transactions: "Bribing foreign officials in order to secure overseas contracts for their exports has become a widespread practice in industrial countries, particularly in certain sectors such as exports of military equipment and public works. Normally these contracts are guaranteed by government-owned or -supported Export Credit Insurance schemes (HERMES in Germany, COFACE in France, DUCROIRE in Belgium, ECGD in the UK)."⁸⁴ No small amount of private debt has become public debt through this sorry mechanism. In fact, according to ECA Watch, such credits account for the single biggest component of developing country debt, consisting in 1996 some 24% of total debt and 56% of debt owed to official agencies.

Why not speak of the need to also insure corporate "good governance" and corporate transparency, or of the public's right to secure information from corporate entities? There is increasing acknowledgement of the "supply dimension," but again limited to individual malfeasance. Thus, at the Bank's Spring meeting in May 2006, President Wolfowitz admitted that "for every bribe-taker, there's a bribe-giver, and often that comes from a developed country.... We need to do more to address the issue and to hold private corporations accountable for exporting corruption to emerging economies."

According to some observers, Wolfowitz was responding to criticism for focusing too much on how to improve governance among World Bank aid recipients. Several rich-country governments had indeed grown wary of on-again off-again Bank aid suspensions to a number of countries. In a report titled "The World Bank weeds

⁸³ A number of examples can be consulted on www.eca-watch.org

⁸⁴ www.eca-watch.org

out corruption: will it touch the roots?," the Bretton Woods Project, a European NGO monitoring and advocacy group, said that despite "high-profile moves" by Wolfowitz, "the root causes of corruption—underpaid civil servants, acceptance of bribery by big business and dirty money—remain largely unaddressed."⁸⁵

In the final analysis, the heart of the good governance debate is the issue of responsibility: responsibility both for creating the problems and for solving them. The two aspects cannot be separated lest the people who caused the problem now come back with a manual on how to fix it. Looking in 1997 at the record of post-independence Africa, Ugandan political scientist Yash Tandon asked, "Who has made such a mess of Africa? 'The corrupt leaders,' say the people, 'leaders who are self-serving and power hungry.' 'Lazy people,' say the leaders, 'people who just wait for the government to give them jobs and to feed them.' 'Bad governments,' says the World Bank and the transnationals, 'governments that have not followed correct fiscal, monetary, pricing and trade policies, and governments that are not accountable to their population.' 'The market,' say the left intellectuals (African and non-African), 'the invisible forces that work in favour of those who own capital and who exercise state power.'"

"Out of these four possible explanations," Tandon continues, "it is the World Bank-TNC analysis and prescriptions that dominate the ideological realm. They have so much human as well as financial resources at their command that to challenge them is an uphill struggle. In the battlefield of competing ideas, the playing fields are not level."⁸⁶

⁸⁵ *Financial Express*, May 24, 2006 quoted in *Odious Debt Online*, June 5, 2006, www.odiousdebts.org/odiousdebts/publications/WorldBankWeedsOutCorruption.pdf

⁸⁶ Yash Tandon, "Reclaiming Africa's Agenda," in Yash Tandon, ed., *African Conceptions of Democracy and Good Governance*, (International South Group Network: Harare, 1996), p. 28.

VIII. Private Global Power for Private Northern Gain

There is a need to refocus the struggle against corruption—and by implication for better governance—so as to take account of many issues that hinder institutional development. The theft of public resources obviously hinders institutional strengthening, but resources are also stolen in other ways and must similarly merit the study of anti-corruption campaigners. Perhaps there is no greater corruption than that which year after year extracts national savings and resources from poor countries. The result is dependency, a decrepit public service and inability to alleviate chronic poverty—all of which generate the petty-corruption and abuses described earlier. In short, national and internationalised corruption combine to hinder development

Hundreds of billions of dollars, far in excess of aid inflows, are moved out of poor countries and into the rich ones yearly, in the form of debt repayments, private sector transfers and existing commercial trade and financial flow patterns. North to South aid, loans and private capital investment feed rather than offset the imbalance: "aid" arrives with strings attached that place clear limits on national policies to escape dependence and mobilise national resources. Instead, the strings perpetuate a corrupt and crippling depletion of national resources. Unfair trade should also be considered a form of corruption, as are the credits tied to purchases from lender countries, or various forms of direct foreign investment geared to the extraction of resources and exploitation of labour (export processing zones or maquilas) with little or no contribution to long-term development.

Small wonder that many in the South feel that a fairly standard colonial demand for privileged access to a country's resources is at the root of much of Northern "anti-corruption" patronage, and behind the export of good governance. Public institutions are asked simply to get out of the way or, more recently, to actually facilitate the extraction. But neoliberal "aid" and "investment" promotion discourse would have us believe that the capital

flows from North to South are necessary and indeed even acts of kindness.

What International Financial Institutions and bilateral “donors” call “Official net transfers” is actually less than what developing countries pay back in principal and interest to creditors, according to the World Bank’s own 2006 Global Development Finance report. What is worse, the “resource flows” do not take account of South losses resulting from Northern protectionism and the dumping of products on the world market. Nor, of course, is there an interest on the part of the IFIs to look into Northern corporate promotion of capital flight, tax evasion and fraud against the countries of the South. A genuine anti-corruption and development concern would target such practices and call for cessation of the financial drain. There is a need, therefore, to take the anti-corruption campaign into the international debate on aid, debt and capital flows.⁸⁷

Fortunately, civil society groups North and South are working together to help control corporate abuses. The European Coalition for Corporate Justice, a network of organisations across Europe, pursues such goals based on “a vision of a sustainable world in which corporations’ drive for profit is balanced by the interest of society at large, and respects human, social and environmental rights.” The EECJ believes that “regulatory measures are required to insure that all corporations abide by national and internationally agreed standards, whichever provides the highest standard.”⁸⁸

But it is more than a question of transparency—it is a matter of stopping the illicit wealth transfers. And this begins with leaving behind conceptions of corruption as a public sector bribe or tax of sorts, instead of the absence of a tax paid on unfair transactions entailing huge profits in a world rife with poverty and disease. One has to look, conceptually and arithmetically, at the far greater “drains” on public resources than those commonly signalled by corporate friendly anti-corruption campaigners, including the World Bank.

⁸⁷ “Foreign Direct Investment - High Risk, Low Reward for Development,

” http://www.blue21.de/PDF/FDI-Report_High_Risk_Low_Reward.pdf

⁸⁸ EECJ, *Corporate Social Responsibility at the EU Level, Advocacy Briefing* (November, 2006), p.2

IFIs and private financial corporations are part of the problem, not of the solution. These entities in fact oversee and uphold the larger capitalist corporate global network, fostering the proliferation of illegitimate money flows. Laundering is but the tip of the iceberg. Examples usually cited are Nigerian President Sani Abacha, who is estimated to have stolen some \$4.5 billion. But the Tax Justice Network estimates that over the past three decades some \$5 trillion has flowed from the poorer countries into tax havens in the North—or in the South controlled by Northern financiers. Wealthy members of the national elites, North and South, are not shy about exploiting bank secrecy practices for their own benefit, taking full advantage of the privileges offered to corporations to further loot the country.

Money from developing countries deposited in UK banks surged from 115 billion pounds in 1995 to about 385 billion by 2004. A study by the New Economics Foundation found that the rise in deposits since 2000 from just one country, Nigeria, was greater than the growth in UK aid over much of the same period (4.5 billion to 6.2 billion pounds). Since September 11, 2001, US authorities have cracked down on money flows and legal havens utilised by organised terror, but the same zeal is lacking when it comes to corporate or individual transactions. “Different factors are likely to be at play in each country but, generally, both the creeping removal of controls over the movement of money around the world, and capital flight are probable factors.”⁸⁹ And the IFIs stand out in the defence of freedom for capital movements and freedom from South capital controls.

Then there is the critical issue of “clean” money exported from developing countries back to the North. Clean would be a misnomer, since—over and beyond what may be considered legitimate profit remittances—a massive and chronic net resource outflow from the South takes place, depriving hundreds of millions of people of a decent livelihood if not life itself. There are a number of ways in which funds are extracted illicitly but not illegally, at least not yet, but a salient one takes the form of privatisation of public goods or public services companies, as describe earlier.

⁸⁹ Andrew Simms, *The UK Interdependence Report*, <http://www.neweconomics.org/gen/uploads/f2abwpumbr1wp055y2110s5514042006174517.pdf>, p. 3

What is important to note in an anti-corruption context is that the same institutions upholding the anti-corruption banner are also behind the privatisation drives. Data on corporate capital extraction are difficult to obtain, particularly because citizen demands for transparency and information from private corporations tend to fall on deaf ears. For their part, inquiring governments are told they should get out of the regulation and supervision business, at least in the South. And the IFIs prefer not to take up these flagrant cases of corporate “mal-governance” or malfeasance since the neoliberal economic growth model assigns private investment the role of saviour and chief engine of the global economy. Unsurprisingly, neoliberal power was able to abolish the UN Commission on Transnational Corporations and censor UNCTAD’s South-sensitive analysis and monitoring.

At the national level, regulatory legal regimes are also weakening. Even where more nationalist-minded authorities come to office pledging to insure control and transparency, their hands are tied by legally binding investor “protection” provisions enshrined in free trade regimes and related agreements policed by the World Trade Organisation. At other moments, revenue shortages on the part of governments already saddled with debt servicing obligations feed privatisation. In Peru, this meant selling off public electricity firms in 2002 and other state assets because the IMF demanded cuts in the fiscal deficit and the raising of revenues. The government raised US\$9 billion through mass privatisation, triggering mass discontent, job losses and higher utility rates,⁹⁰ all with the complicity or complacency of the Fujimori government officials, who shared in the transaction profit.

Yet we are reportedly told by the neoliberal authorities that privatisation and liberalisation are synonymous with good governance and with the need to promote economic growth via the private sector. Over the course of the last two decades, unrelenting drives toward privatisation have meant that fundamental services once provided or at least heavily directed by the state are in the hands of private firms, under new rules of

90 “The Politics of Privatisation: Arequipa’s Anger, Peru’s Problem,” *The Economist*, June 22, 2002.

the game. Services often deteriorate but official anti-corruption bodies applaud rather than scrutinise.

Somehow one is supposed to believe that corporations will always behave responsibly. But in a report on the very powerful and highly concentrated pharmaceutical industry, Consumers International found “a staggering lack of transparency from drug companies about these practices” [thinly veiled marketing ploys dressed up as Social Responsibility initiatives]. It claimed that “consumers are being misinformed about the benefits and applicability of pharmaceutical products.... Efforts to create a global standard on Social Responsibility are being blocked, notwithstanding the fact that accessible, transparent information is an essential part of the principle of Social Responsibility, as well as a core consumer right.”⁹¹

Rich country governments and the IFIs are not innocent bystanders. They are explicitly on the side of their companies and the respective national investors. This should not be surprising—the overlap is both ideological and financial, as parties and candidates often depend on corporate contributions to their campaigns and causes. By the same token, “development assistance” is increasingly geared to help create “efficient markets” and tailor institutions to the needs of markets and big investors. In practice, deregulation and aid/debt dependence means leaving poor country governments in an equally poor position to control corrupt private sector behaviour in their own countries.

Over the course of the past decade, rich country governments have gradually arrived at agreements to insure that competition amongst corporations is “fair” and that bribery would be penalised. However the dominant anti-corruption focus places chief responsibility on the countries of the South, invoking considerations around development, governance and poverty almost as afterthoughts. As the 2003 DAC study admits, “Much—although certainly not all—of the drive behind reducing corruption

91 Consumer International, “Old Habits Die Hard: A Consumer Perspective on Corporate Social Responsibility, Drug Promotion and the Pharmaceutical Industry,” www.consumersinternational.org

is related to international economic considerations and creating a level playing field internationally.”⁹²

Governments in the North keep finding ways of providing direct assistance to their national corporations to secure contracts or a dominant presence in a developing country.

The British NGO War on Want reviewed its government’s role in relation to privatisation in the power sector, finding that Globelec—a publicly owned company of the UK government’s Department for International Development (DFID) set up to promote the private sector in the developing world—has operations in 16 countries in Africa, Asia and Latin America, Globelec promotes itself as the “the fastest growing power company in the emerging markets,” utilising US\$1 billion of UK aid money to US power companies wishing to exit those markets. War on Want concluded that energy distribution privatisation resulted in a) lack of access to electricity in poorer communities hardest hit by ensuing tariff increases b) a foreign exchange risk—weakening local currencies means consumers must pay more in order for companies to maintain constant revenue in dollar terms, and c) falling profitability, employment and capital investment by private electricity companies as well as rising debt and stagnating sales. This report called on the UK government to review its policy of using aid money to promote privatisation of public services in developing countries.⁹³

For its part, the US government provides hundreds of millions of dollars in subsidies to oil corporations’ international operations. The subsidies are provided directly through US development assistance and export credit agencies, but also indirectly through the World Bank. In a letter to the Speaker of the House of Representatives, a group of NGOs and citizens’ organisations complained how “the US-funded World Bank Group has provided more than \$5 billion to oil extraction projects since 1992, while devoting only five percent of its energy budget to clean renewable resource development. Moreover, in the oil sector, 82 percent of the World

⁹² DAC Network, *Synthesis*, p. 26

⁹³ War on Want, *Globelec: the alternative report*, <http://www.eldis.org/cf/rdr/rdr.cfm?doc=DOC23004>

Bank’s approved finance goes to projects that export to the North. These projects are not about alleviating energy poverty. They are about corporate welfare for Big Oil and feeding oil addition in the US and Europe.”⁹⁴ This at a time when the same oil companies were registering record profits. Corruption?

In the face of such realities and trends, genuine anti-corruption efforts must go beyond dealing with bribes and illegal payments that are now the subject of international conventions. Influence-peddling is also a form of corruption and it is practiced by private national and international actors. With developments in Central and Eastern Europe in mind, the World Bank admits the possibility of “state capture” when elites effectively take control of legislation, institutions and policy-making as economic and political interests intertwine. Describing the takeover phenomena in Russia, a Financial Times correspondent wrote: “The oligarchs were so called because they had real power, state power. They wrote the laws. They appointed ministers, often entire cabinets, and made sure that their interests are served. They corrupted the new governing legislative and bureaucratic class of Russia, in the centre, into regions and abroad....”⁹⁵

But state capture can also be initiated by external corporations and facilitated by the international financial institutions. Corporate interests and multilateral rule-making and rule-enforcing institutions can constitute a form of state capture that the World Bank and others conveniently do not recognise as such. The result is much the same—profiteering through privatisation of state assets and deregulation, with the added injury of denationalisation in many cases.

An unclassified study for the OECD’s Development Assistance Committee admitted that “privatisation, particularly in some of the transition countries, has been accompanied by serious corruption. Crony privatisation has skewed wealth distribution, asset stripping has left banks bankrupted, unemployment has

⁹⁴ Sign-on letter, December 12, 2006, *Oil Change International*, <http://www.priceofoil.org/oilandstate/>

⁹⁵ John Lloyd, *Financial Times*, August 5, 2000.

increased, and social services have declined. To what extent all of this was caused by privatisation alone is a matter of judgment and perception. Some would argue that the alternatives to privatisation, e.g. doing nothing, would be worse...; the potential impact of liberalisation and privatisation efforts is so large that donors need a better understanding of lessons learned...."⁹⁶ Quite conveniently, a World Bank-supported research finding insinuated that the problems of state capture made possible by liberalisation could be remedied by further liberalisation: "The data suggest that state capture appears to thrive in such an environment of only partial economic and political liberalisation."⁹⁷

The World Bank and others will only go so far as to admit to an "inequality of influence," an understatement of the first order. It is capital and power that drives policy, and even World Bank researchers admit that such unequal access to power becomes a source of "legal" corruption.⁹⁸ Inequality, however, is accentuated by the transfer of public resources to the private sector, i.e. by privatisation, de-regulation (and pro-corporate re-regulation) and liberalisation, which are at the core of World Bank and IMF insistence. The result is a heightened capacity of corporate capital (domestic and/or foreign) to manipulate political, legal and regulatory institutions so as to preserve and extend privileged positions.

Interestingly enough, researchers from the World Bank Institute are beginning to admit the limitations of the conventional definition of corruption as the 'abuse of public office for private gain'⁹⁹ This is further evidence that more attention needs to be paid to corporations and corporate patterns of corruption, which also affect public sector corruption.

⁹⁶ DAC Network on Governance, *Synthesis of Lessons Learned of Donor Practices in Fighting Corruption*, DAC/DAC?GOVNET (2003)1, 23 June, 2003. p. 22

⁹⁷ Joel Hellman, "Beyond the 'Grabbing Hand' of Government in Transition: Facing up to 'State Capture' by the Corporate Sector," *Transition*, (World Bank/William Davidson Institute), 2000.

⁹⁸ Joel Hellman and Daniel Kaufman, "The Inequality of Influence," *Presentation at Stanford Corruption Workshop*, Jan 30-31, 2003.

⁹⁹ Daniel Kaufman and Pedro C. Vicente, *Legal Corruption*, [www.worldbank.org/wbi/governance/pubs/legalcorporate corruption.html](http://www.worldbank.org/wbi/governance/pubs/legalcorporate%20corruption.html)

It stands to reason that corporations cannot be above anti-corruption scrutiny when they constitute more than half of the world's 100 biggest entities, of which less than half are countries. Five huge firms—General Motors, Daimler Chrysler, Ford Motors, Wall Mart and Mitusi—had sales in 1998 that totalled over \$708 billion, more than double the GNP of the 100 poorest countries in the world (338 billion in 1997). Collusion between corporations and public officials is commonplace and usually legal, principally in the form of lobbying influences and contributions by private sector agents in exchange for passage of particular legislation or allocation of procurement contracts—often at the expense of employees and the wider public welfare.

State capture is defined by these researchers as the appropriation of public office/policy for private purposes, and more specifically the "direct sale of public policy" (the accepted definition of state capture). But control over an allocation mechanism, for example rigged biddings for government procurement contracts, is one thing and the institutionalised legal corruption and state influencing embedded in the political economy of the global capitalist economy is another. Where key actors are corporations and equally powerful regulating entities such as the IFIs and the World Trade Organisation set unequal rules of global financial and commercial intercourse, governing elites simply opt to submit to, or better yet associate with the powerful, and even finance political campaigns in order to shape institutions and policy in a corporate-friendly manner. Neoliberal ideology cannot admit that corruption is inherent in the fundamentalist creed that "development" is the product of private investment and that private investment requires the "appropriate" market-friendly institutions and policies, i.e., "good governance."

But the "good governance" recipes for the South are vague as regards influence peddling—notwithstanding or perhaps because of the inability to deal with the same phenomenon at home in the North. Should a "lobbying" function be considered corruption if the objective is to change the way existing legislation is implemented and enforced, away from the public interest for the benefit of private gain? The answer should be yes. In fact, there

are cases where external agents, including corporations and the IFIs, actually draft pro-corporate legislation (and implementation norms) for governments to approve. Both the product and the process should be considered corrupt, as illegitimate practices are not only legalised but also now protected by law enforcement. Here, therefore, we are no longer looking at a form of corruption different from the administrative corruption that takes the form of bribes to bureaucrats to alter the implementation of rules and regulations, or of kickbacks on public procurement contracts. The “purchase” of laws and policies by corporations is quite different; it is a form of legalised corruption or “state capture.”—when the outlaws write the laws they are no longer, technically at least, outlaws.

Mainstream researchers hit a roadblock at this point as the data and capitalist dynamics continue to feature interlocking interests between corporations and state officials. Terms such as legalised corruption and state capture strain the conventional definition of corruption, and in consequence the overly-narrow scope of mainstream anti-corruption strategies. Bank researchers believe that legalised corruption thrives where economic power is highly concentrated, when forms of collective representation are weak and “the market for political influence is thus monopolised by dominant firms.”¹⁰⁰ The World Bank is quick to point out that the tendencies belong to that select group of countries said to be “in transition,” but it is clear that corporate and capitalist behaviour is not region-specific, as similar practices are carried out in most countries under the guise of lobbying or financing the electoral campaigns of political authorities.

In the context of the South and weaker countries in particular, more attention needs to be paid to legal corruption and corporate-led corruption patterns, which intertwine with the private, business and class interests of the “host” country. This is legal corruption, which the Bank itself admits as an empirical category but resists applying to describe corporate patterns of expansion elsewhere

100 Cheryl Gray, Joel Hellman and Randi Ryterman, *Anticorruption in Transition 2: Corruption in Enterprise-State Interactions in Europe and Central Asia 1999-2002*, (Washington, D.C.: World Bank, 2004), p. 11.

in the world.¹⁰¹ For example, the Indonesian government is pursuing a civil case against the former dictator Suharto and his sons to recoup up to \$700 million kept in seven so-called foundations—cash cows that allegedly sucked money out of state-owned enterprises, banks and above all private corporations that benefited from his policies. But for many critics, focusing on the foundation is not really the issue.

More important, they say, is looking at how he used his power to pursue policies that served his interests and those of people around him—and just how much the World Bank itself condoned. The difficulty here is that those same policies—and the laws that emanated from them—were approved by the Peoples Constituent Assembly and a docile House of Representatives.... Can legal action be taken against Suharto’s children when the policies that led to their enrichment were all government-sanctioned? Only, it would seem, if it can be proven that the state incurred losses as a result.¹⁰² And what of the World Bank’s own role, providing an almost automatic \$1 billion a year to the Suharto regime that later could “legally” turn up in Suharto-controlled accounts?¹⁰³ No one believes the IFIs were ignorant of what was taking place in Indonesia, but apparently the agencies did not wish to upset relations with the government.

A similar case arose in Peru under the government of the democratically-elected dictatorship of Alberto Fujimori. He and his top collaborator, intelligence chief Vladimiro Montesinos, took to creating new institutions where corrupt transactions could be “normalised,” benefiting a number of political, entrepreneurial, media and judicial figures.¹⁰⁴

101 Daniel Kaufmann and Pedro C. Vicente, “Legal Corruption” (October, 2005), <http://www.worldbank.org/wbi/governance/pubs/legalcorporatecorruption.html>

102 “Yudhoyono’s Dilemma,” *The Straits Times*, (Singapore), May 25, 2006.

103 Following the fall of General Suharto in 1998, the loans dropped to about 400 million a year until 2004. “World Bank Again Giving Largo Loans to Indonesia,” *The New York Times*, December 2, 2003.

104 Luis Moreno Ocampo, “Corruption and Democracy,” *ReVista*, Harvard Review of Latin America, http://drclas.fas.harvard.edu/databank/Userfiles/3/29/revista_ss06_web.pdf

If the oligarchs have indeed captured the state, then the government itself conveniently becomes the legitimate “client” of the International Financial Institutions. But it would be difficult for the World Bank and other agencies to admit to their own role in fostering corruption in, say, Indonesia through 30 years of lending to the Suharto dictatorship. If the regime was corrupt, does that not mean that the loans provided are also corrupt and illegitimate, and therefore should not be paid back, as Indonesian debt activists demand?

IX. Looting and Lending: The Illegitimacy of Debt

The international debt crisis erupted only a little more than two decades ago. It came as a consequence of unilateral increases in interest rates following a period of aggressive loan peddling by Northern banks and governments to Third World governments, which took on the loans for both public and private ends. By the 1980s the debt of developing countries had reached some US\$567 billion. The question that needs to be posed is whether those debts are legitimate—i.e., whether they were contracted against the interest of the people of the country, without their consent and with the full awareness of the creditor and the IFIs.

But this was not a question that the vast majority of governments in the South chose to pose. Instead they took to accepting new loans to pay the old ones, and with this the stage was set for extortion and entrapment by way of the so-called structural adjustment policies (SAPs). Aimed at building up state capacities to service their debts, SAPs also required reshaping countries’ financial and economic systems. This included adopting export-led growth models, making stringent budgetary cuts (largely in services), devaluating, imposing new taxes, privatising state-owned enterprises, raising interest rates, devaluing the currency for export competitiveness, and liberalising finances and trade.

Closer scrutiny of the original loans, however, reveals that many were a) the product of collusion between the loan provider and loan receiver, b) used for unviable projects, c) contracted by dictators or illegitimate regimes and/or d) diverted for private gain. From a comprehensive perspective, therefore, all three categories are examples of corruption. Nonetheless, subsequent governments were legally and politically compelled to “honour” the debts.

For many countries, debt dependence forced the acceptance of trade liberalisation measures. During the early 1980s, countries were told to “integrate” into the global economy, export or perish by stepping up the production of cash crops for international markets. Colonial

terms of subjugation and exploitation seemed to come back full force with South economies providing cheap raw commodities and cheap labour as demanded by Northern economies. Export market dependence now followed and reinforced debt domination, provoking mal-development and mounting levels of poverty.

In social, financial and ecological terms, the outcomes of imposing export-oriented and trade-liberalisation policies on the South have been devastating. According to the UN, more than 500,000 children under the age of five died each year in Africa and Latin America in the late 1980s as a direct result of the debt crisis and the trade conditions imposed by SAPs. Trade liberalisation is estimated to have cost sub-Saharan Africa alone some US\$275 billion over the past two decades. South debt stocks rose to more than a trillion dollars in 1986 and are currently estimated at well over US\$2 trillion.

In 2005, under pressure from international debt cancellation campaigns, the World Bank and the IMF proposed a multilateral debt cancellation. The campaigns have argued that the proposal, backed by the G8, falls way short of any development objective, not only because it is extended to only 38 of 160 debt-burdened countries, but also because it excludes debts claimed by other major financial institutions. From the anti-corruption and debt-illegitimacy campaign perspectives, the G8 proposal evades accountability for the debt burdens accrued on account of politically repressive dictatorships, among others. Nor does it address the odious and illegitimate debt mechanisms. Instead of offering unconditional cancellation, the proposal is contingent on other debt repayments and the fulfilment of old SAP prescriptions of the IMF-World Bank for privatisation, financial and trade liberalisation. Not surprisingly, the proposal was immediately accepted by the IFIs in their annual meetings later that year.

Africa's debt burden today amounts to US\$300 billion, with over US\$15 billion being spent annually on debt repayments to wealthy nations and institutions. Debt campaigners insist that the debt should be repudiated because of its illegitimacy and corrupt origins. To them, it is morally wrong to pay debt at the expense of government capacity to spend on basic social

services, environmental security, food security, or of diversifying its economic production and reclaiming its sovereignty. Debt campaigners insisted that Africa's debt was illegitimate because:

- "Historical inequalities arising from slavery, slave trade wars, colonial legacy and unequal trade relations framed the structure for imperial domination and control of our economies and the resultant debt crisis;
- The international financial institutions and northern industrialised governments used the deepening cycle of indebtedness as a tool of domination to create favourable conditions for predatory corporate expansion to further loot and plunder Africa's human and natural resources.
- In this cyclical process Africa has repaid this debt several times over and no longer do we just shout – WE DON'T OWE, WE WON'T PAY, but declare that AFRICA IS THE CREDITOR."

Campaigners went on to demand full unconditional cancellation of Africa's debt, along with reparations for damage caused by debt devastation and a comprehensive audit to determine the full extent and real nature of Africa's illegitimate debt, the total payments made to date and the amount owed to Africa.¹⁰⁵

At the 4th World Social Forum, a coalition of debt campaigns and movements organised a Peoples' International Tribunal on Debt Illegitimacy. At its concluding session held in April, 2002, the Tribunal declared all external debt illegitimate and, thus demanded its immediate repudiation and cancellation.

Judge Dumisa Ntsebeza, former chief investigator of the South African Truth and Reconciliation Commission and one of the four members of the Tribunal Presidium officiating in the session, had the judgment read: "In return for the wealth illegitimately

¹⁰⁵ *Africa Jubilee South Declaration at the Illegitimate Debt Audit Workshop, June, 2004, <http://www.jubileesouth.org/news/EEpEuuEVAuBwgaUCpB.shtml>*

transferred to the North from the South, the countries of the South should be provided reasonable compensation, to determine the magnitude and manner of payment of which a Global Commission on Debt should be constituted....”

The prosecution also demonstrated proof through numbers that service on the external debt results in a net transfer of resources from the South to the North. In 1980, the South owed US\$567 billion dollars, yet since then it has paid US\$3,450 billion, which is over six times the amount of the actual debt. Moreover, the creditors continue to claim that they are still owed over US\$2 trillion—three and a half times more than in 1980.

In the course of its deliberations in Porto Alegre in January, 2002, the Tribunal received testimony from 21 victims and expert witnesses from countries in Africa, Asia, Latin America and the Caribbean. Key testimonies built the case on the accusation of debt illegitimacy based on the impacts of debt service and the consequence of redirecting funds away from state social service obligations. Particularly compelling were the African witnesses who documented the consequences for the region of having to pay US\$13.4 billion annually to its external creditors between 1990 and 1993, which was more than its combined spending on education and health....

Illegitimacy was spelled out based on an examination of the nature of the contracting parties, processes, terms and usage: testimonies covered cases of stolen wealth, the public assumption of private debts, usurious interest rates and odious debt. Following the testimonies, the Tribunal came to the following conclusions, among others:

- On the accusation of debt illegitimacy based on the use of the debt to impose conditionalities and the use of debt relief as leverage for more conditionalities, witnesses presented their experiences and evidence of the use of the Structural Adjustment Programs as conditionalities and eligibility criteria for different types of loans;

- On the accusation of debt illegitimacy based on the impact of projects and policies financed by debt, witnesses spoke of lender-financed projects and policies that have resulted in enormous ecological and social damage. This included natural resource extraction that is destroying the means of survival for Southern communities, contamination of the atmosphere through excessive greenhouse gas emissions, the erection of mega-projects geared to profit generation, the appropriation of traditional knowledge and seeds, the dumping of toxic wastes in the South, and the consequences of Northern financial and political support for armed conflict;
- On the accusation of debt illegitimacy based on the nature of the contracting parties, processes, terms and usage, testimonies covered cases of stolen wealth, public assumption of private debts, usurious interest rates and odious debt.¹⁰⁶

In a historical and justice context, a great part of the debt owed by poor countries is odious or illegitimate in origin. Indeed, much of the debt should be considered already paid. For all but three years since 1970, the poor countries have paid more money in the form of interest, repayments, penalties and fines on old debt than they have received as new loans. Something is very corrupt in a system whereby almost all poor countries have repaid more than they borrowed yet their debts continue to mount and divert resources toward Northern corporations and banks. An immediate cancellation of illegitimate debts is in order, and where that does not take place, governments in the South should feel secure in their right to repudiate those corrupt debts.

In the Americas, the case for corrupt contracting of debt in Haiti is compelling. More than half the country's debt was contracted by the Duvalier family dictatorship (1957-1986). Independent economists came to calculate that Jean-Claude Duvalier stole \$900 million from the Haitian treasury. The lending was an act of corruption, but Haitians are now forced to pay the corrupt loans.

¹⁰⁶ People's Tribunal declares external debt illegitimate, calls for the decommissioning of IMF-World Bank, (April, 2002), <http://www.jubileesouth.org/news/EpklEpEEVVGwDpZvZd.shtml>

What is more, the World Bank and IMF insist that Haiti comply with economic policies such as privatisation of basic services or increased trade liberalisation before obtaining full debt cancellation.¹⁰⁷

A study by the New Economics Foundation documents how Indonesia overpaid its recorded debt by US\$151 billion, which in fact translates into a cumulative net transfer to the North of 138 billion to date. The same study found that the Philippines had overpaid its debts by 35 billion and Argentina had overpaid by 77 billion. According to the study's author, "people in these—often desperately poor—countries end up paying three times for loans ostensibly taken out in their name.... First they are oppressed by the regimes propped up and enriched by these loans; secondly, they are impoverished by the cost of servicing the loans; and thirdly they are oppressed yet again by the penalties imposed if the odious regimes default."¹⁰⁸

An analysis of third world debt and of the unjust power relations that produced it led organisations such as Jubilee South to insist that South countries were not debtors but in fact creditors. Citing the historical, moral and environmental damages incurred by Western colonialists, including their support to dictatorships and regimes such as Apartheid, Jubilee South assumed the position of "Don't owe, won't pay." In essence, organisations in the South and some in the North set aside the IFI and "donor" references to "debt relief for the poorest countries" and instead demanded unconditional cancellation and repudiation of all debts for all South countries.

The assumption for Jubilee South and others was that debt was an ideological construct; that it did not exist in fact but was being used as an instrument of oppression. From the beginning, there was insistence on the corrupt nature of the contracting that made

¹⁰⁷ Debayani Kar and Tom Ricker, "IDB Debt Cancellation for Haiti" (Silver City, NM and Washington, DC: Foreign Policy in Focus, December 7, 2006).

¹⁰⁸ Steve Mandel, "Odious Debt: Debt Relief as if Morals Mattered" (September, 2006), <http://www.neweconomics.org/gen/uploads/v3gdvw45bflbyn55gy1fwr4514092006174700.pdf>

the debts illegitimate, which meant that addressing mass poverty could not be separated from the process of mass enrichment. Unsurprisingly, most governments in the South will not accompany such an analysis for fear of lowering their international credit rating and being punished by the "donors", the World Bank and the IMF.

Extensive work by NGOs and analysts shows how repayment of illegitimate debts, new indebtedness, profit repatriation by foreign investors, structural trade deficits, price manipulation by commercial oligopolies in trade transactions and capital flight all contribute to corruption that underscores the removal of scarce resources from the poor countries. For example, non-payment and/or non-collection of tax resources surely erode a country's capacity to finance development and build key institutional facilities. But while tax evasion is a crime, there are also tax avoidance and tax privileges often entailing important public revenue losses that should also be prosecuted as a form of corruption.

Corrupt transactions that take place outside the state's jurisdiction, such as tax competition, price manipulations and the increasing use of tax havens, also amount to illegitimate (although not necessarily illegal) resource extraction. Privatisation run amok has led to cases where the public sector is called upon to subsidise foreign investment by offering a range of "incentives" that many times signify more losses than eventual gains for the country.

What needs to be stressed, according to William Robinson, is the fact that the phenomenon of corruption in the public sector is a logical consequence of the privatisation and liberalisation model. The opportunities for enrichment are many and the internal surveillance functions are overwhelmed. Robinson argues that "corruption is a rational response to the conditions generated by the transnational project.... That a ruling group comes to constitute a transnational fraction linked to the emergent global system does not mean that such groups are honest, clean and democratic in their governing conduct;"¹⁰⁹

¹⁰⁹ William Robinson, *Transnational Conflicts, Central America, Social Change and Globalization*, (Verso: 2003), p. 117.

A particularly despicable, yet entirely legal form of corruption affecting the poorest countries takes the form of companies that buy up the debt of poor nations cheaply and then sue for the full value plus interest. Because the holders never expect to collect on these debts, they sell them at a very low price to the vultures, which then resort to political muscle, bribery or lawsuits against the country whose debt it was to try to get back not only their investment but the full face value of the debts plus interest and legal costs. Fortunately this form of financial piracy has captured the attention of campaigners and some mainstream media. A BBC Newsnight report narrated how in 1979 Romania lent Zambia 15 million to purchase tractors, and when by 1998 Zambia could no longer make payments, Romania offered to write off the entire debt for just 3 million. Before the deal was final, Donegal International swooped in (like a vulture), and snatched up Romania's cheap debt offer. It then filed suit against Zambia not for the 3 million it had paid, but for the original debt plus interest, or \$42 million. In a London courthouse, the Zambian government alleged that the vulture firm had paid a \$2 million bribe to the "favourite charity" of the previous Zambian President, Frederick Chibula, by then on trial for wide-ranging corruption charges. The chief figure in Donegal is Michael Sheehan, who was reported to be a sizeable contributor to the Bush presidential campaign. Sheehan and associates remain active in US courtrooms asking for hundreds of millions of dollars from severely poor countries—notwithstanding the fact that it is against US law to bribe a foreign official.

US billionaire Paul Singer is the founding father of the vulture profiteering business through his firm Elliot Associates, with offices on Fifth Avenue in New York City. According to investigative reporter Greg Palast, Singer bought up some of Peru's debt for \$11 million in 1996, then threatened to bankrupt Peru's government if it didn't give him \$58 million. He got the \$58 million. Singer also bought discounted debt from Congo Brazzaville for only about \$10 million, which his company turned into \$127 million by suing the Congo. But not even that was enough: Singer claimed the Congo government was corrupt and was hiding assets from creditors. The US courts agreed, allowing him to seek tripled damages under the AUS racketeering law. Congo was counting

on George Bush to use his legal authority to stop the court action, but Singer is the number one donor to Bush and the Republican Party in New York City, having provided \$300,000 during the 2000 elections and \$1.2 million in 2004. Singer expects to collect 400 million from Congo.¹¹⁰

On 15 February 2007, a London court rejected the size, but not the nature, of Donegal's claim, lowering the "award" to 20 million. The ruling provides legal cover to one of the most predatory banking practices in existence, but more importantly undermines governmental capacity to spend on social services. Zambian presidential adviser and consultant to Oxfam, Martin Kalunga-Banda, believes the 42 million was equal to all the debt relief received in 2006: "It means 30,000 children who would have benefited from going to school free will not be able to do so."¹¹¹

To his credit, Britain's then-Chancellor of the Exchequer Gordon Brown told the United Nations in 2002 that this form of cynical profiteering was perverse and immoral. "We particularly condemn the perversity where vulture funds purchase debt at a reduced price and make a profit from suing the debtor country to recover the full amount owned—a morally outrageous outcome." Its continued legality, however, makes a mockery of G8 "debt relief," which works for the benefit of bankers instead of the South.¹¹²

Sameer Dossani, Director of 50 Years is Enough, sums it up well: "The Donegal case in Zambia shows just how skewed the current financial system is towards the interests of the wealthy. Before reaching a debt cancellation agreement, an impoverished country must borrow from the international financial institutions in order to repay wealthy creditors and those same financial institutions. Dependence on aid money means that the terms of lending are set completely at the whims of the creditors, who set conditions not just on the how the money they lend is to be spent, but on the

¹¹⁰ "Vulture Fund" Company Seeks \$40 Million Payment from Zambia on \$4 Million Debt, <http://www.democracynow.org/article.pl?sid=07/02/15/1528209>; <http://jubileeusa.typepad.com/>

¹¹¹ Greg Palast investigation on BBC News in <http://news.bbc.co.uk/2/hi/business/6365433.stm>

¹¹² Ibid.

nature of the country's economy itself. Not surprisingly, the country's economy is shaped by these conditions to benefit international investors who make money from deregulated financial markets, transnational corporations that make money from privatisation policies and buyers of commodities who make money from trade liberalisation. All these policies, which further enrich these elites in Europe and North America, further impoverish the country in question and condemn it to a never-ending cycle of debt."¹¹³

X. Anti-Corruption: Why the World Bank should not lead

The World Bank has set itself the goal of becoming the lead agency on issues of anti-corruption and governance. In many respects, as we have seen, such "leadership" would make the Bank judge and jury of its own actions. There are a number of reasons why the Bank is ill-placed to lead global anti-corruption: first, by virtue of the Bank's own charter, governments are its "clients" and political matters are, nominally at least, outside its mandate. Second, any WB strategy is predicated on neoliberal economic growth formulas and macro-economic frameworks that take precedence over all else. Civil society anti-corruption campaigns, particularly community and trade union-based ones, have no reason to subordinate methodology, analysis and actions to the Bank's framework.

According to the Bank, "corruption sabotages policies and programmes that aim to reduce poverty, so attacking corruption is critical to the achievement of the bank's overarching mission of poverty reduction."¹¹⁴ However, poverty reduction is in most cases in the South also a question of reducing inequality and thereby insuring resource and power redistribution by contesting the dominant development model defended by so-called donors, multilaterals and the status quo in general.

In addition, the Bank suffers from an overwhelming lack of legitimacy and credibility with many civil society groupings (engaging in anti-corruption is indeed an intended path to re-legitimise itself). Campaigners North and South have pointed to the following factors, among others:

- a. The lack of transparency and accountability in the Bank's own governance structures and in the way the Bank does business;

¹¹³ Sameer Dossani, "Investors Aim to Profit from Zambia's Poverty," *Foreign Policy in Focus*, <http://www.fpif.org/fpiftxt/4013>

¹¹⁴ See Bank Website www.worldbank.org and "Debt briefing for Eurodad corruption, debt and aid meeting," June 2006, www.eurodad.org.

- b. The overriding focus on economic liberalisation;
- c. The level of corruption being found in Bank projects;
- d. The divorce between the Bank's conception of governance and democracy.
- e. The mistaken attention directed to "the poor" as victims by Bank-shaped donor consensus around poverty reduction, which is also a category enshrined outside the larger power structure and inequalities.
- f. The tendency of Bank analysis to deflect attention from the enduring inequalities and injustices at the international level, including rich country trade and investment promotion policies

In short, the Bank is already too powerful to be assigned yet a new sphere of influence and too pro-corporate finance to assure an even-handed public/private approach. Taking the task to heart, however, the WB has, in the eyes of some donors, gone too far by imposing new conditionality on several of its "clients" by freezing or cancelling loans or delaying debt cancellation because of alleged corruption. Writing about the tensions over the issue between Wolfowitz and some of his executive directors, *The New York Times* reported, "The backlash at the bank against Mr. Wolfowitz's approach centers not on his intentions or goals, but on the widespread fear that countries will be categorized in the future as corrupt or not corrupt, and that lending will be shut off in a selective way."¹¹⁵

A report by CIDSE, a European coalition of development NGOs, stated in clear terms that the World Bank "should not take on a role as central arbiter of governance or corruption standards, or be seen to take on such a role." It may be too much to ask that it instead "significantly step up [its] response to the supply side of

¹¹⁵ Steven Weisman, "Wolfowitz Corruption Drive Rattles World Bank," *The New York Times*, September 14, 2006.

corruption, where Northern corporations and banks are complicit in the illicit draining of resources from Southern countries."¹¹⁶

In addition, the World Bank has a narrow operational-managerial-engineering conception of governance and anti-corruption, based largely on its own institutional mandate, its economic growth formula and the ensuing policy prescription agenda. It pretends that governance standards are non-ideological or political, because the Bank is not supposed to be involved in political matters. Looking to the WB for guidance in this regard, as donor agencies and NGOs including Transparency International often do, is to accept, tacitly or not, the neoliberal corporate-driven development growth model that the Bank upholds and propagates.

In a letter addressed to the World Bank President, a number of nongovernmental organisations stated that Wolfowitz's corruption and governance strategy takes

"a top-down, interventionist approach, which appears to be based on the belief that the Bank is both capable of and mandated with fixing governance systems without recognition of democratic processes. It portrays governance as a problem that can be fixed by changing institutions and championing the private sector whilst paying scant regard to the crucial issues of the fulfilment of human rights and broad-based development.... The World Bank has neither the mandate, the legitimacy nor the capacity to become a global arbiter on corruption. Whilst corruption is a concern in many developing countries around the world, recent events in the UK (cash for peerages) and the US (Enron, Katrina relief) illustrate that it is far from being a 'poor country problem.' The problem needs to be seen in the context of other challenges that countries face in building democratic developmental states and combating poverty.... The World Bank should focus its energies on its own operations and not move into the role of 'global policeman' on corruption. It cannot be both judge and jury of its own actions

¹¹⁶ CIDSE Background Paper, *The World Bank's Strategy on Governance and Anticorruption: A civil society perspective*, August, 2006, <http://www.cidse.org/docs/200608231619535230.pdf>

and is not a legitimate actor to lead the charge on issues of anti-corruption and much less in the field of governance."¹¹⁷

Much the same should apply to the International Monetary Fund, which is busy at present seeking new roles to justify its existence. However, the dividing line between the IMF and big corporations is even thinner than the one prevailing at the World Bank. Stiglitz lamented that "there seems to be no such rule on revolving doors in place at the IMF; its first deputy managing director moved from his senior public sector job to the vice-chairmanship of one of America's largest financial institutions. The IMF is widely viewed as reflecting the ideology and interests of the financial community, of responding more to its concerns than those of the developing countries it is supposed to be helping. In Indonesia, there were billions of dollars to bail out foreign creditors, but paying out far smaller sums to provide food and fuel subsidies for those thrown out of their job or who saw their wages plummeting was viewed as a waste of money. Western banks benefit from such bail-outs."¹¹⁸

In sum, good governance for the Bank means establishing market economy with the "appropriate macroeconomic stability," stable property rights, enforceable contracts, transparency, trade liberalisation, repatriation of profits, privatised or public/private partnerships for service deliveries and mechanisms to fight official corruption. As one study concludes, "the Bank's faith in market mechanisms underestimates the significant challenges posed by institution-building and the need to protect the vulnerable."¹¹⁹

The need to create "effective institutions" is seen as a mechanism to block proposals for the "populist" altering of state structures to bring them closer to citizenries. From the Bank's perspective, fighting corruption is an institutional and administrative task, not

117 CIDSE, Eurodad, Afrodad and Latindad letter to Paul Wolfowitz on the World Bank Governance and Anti-corruption Strategy, August 7, 2006, <http://www.cidse.org/docs/200608071455354490.pdf>

118 Joseph Stiglitz, *Corporate Corruption*, "The conflicts of Interest Driving US Financial Scandals are being Replicated on a Global Scale," *Guardian* (London), July 4, 2002, available on <http://www.commondreams.org/views02/0704-02.htm>

119 Vivian Collingwood, ed., "Good Governance and the World Bank," www.brettonwoodsproject.org

part of democratising governance. For its part, the IMF is taking on governance issues by increasing the range of non-macroeconomic issues it addresses in its operations through the heavy influencing of public policy. As with the Bank, many South governments feel they cannot effectively challenge the IMF because of their financial dependence or because of the "gate-keeper" role played by the IMF in giving the green light for financing.¹²⁰ The state-market relationship is at the core of the IFI and "donor" agenda needing to be enshrined through "good governance" practices but the emphasis is on the market and not the state, on providing assurances for capital at the expense of society.

Conditionality is needed on the IFIs and on the operations of corporate and financial combines of the North. Instead, the WB and IMF continue to push their versions of good governance, and use sticks to get there. Taking advantage of a developing country's dependence on loans, the Bank employs conditionality as an instrument of power, taking advantage of the venality of governing elites and debt/assistance dependence to shape governments and civil society initiatives into the neoliberal governance formula. In this sense, any new governance and anti-corruption strategy led by the Bank is bound to increase the burden of conditionality. This externally driven process would invariably discredit the content and product, not least from the standpoint of proper—bottom up—democratic process in which concerns of sovereignty and self-determination are fundamental core elements.

World Bank researchers came up with the notion of "state capture" unsuspecting perhaps that, in the post 9/11 security-obsessed world, corruption also become synonymous with "state failure" and threats to big power "national security". If a corrupt state is unable to live up to US "security" standards, it could become not simply an inconvenience for corporate profit-making but, in the context of the so-called war on terrorism, a threat to international peace. For historical reasons (a drawback to gunboat diplomacy), this "securitisation" of governance should give rise to concern that

120 Daniel Bradlow, "IMF Identity Crisis," *Foreign Policy in Focus*, December 12, 2006, www.fpif.org

it will become a further pretext for “aid selectivity” at best and external intervention at worse.

But one must of course look further and deeper for the causes of state fragility/corruption. As this paper has strongly suggested, it may be the liberalisation and privatisation model itself that generates the very weaknesses the US and its allies are now complaining about. As US political scientist Susan Woodward argues, “The policy promoting privatisation as a reform of the state (with both economic and political objectives) assumes the public and private sectors are distinct, but this is not true in much of the world, where the public and private realms are intermeshed. The consequence of this mistaken assumption is that privatisation programmes tend to legitimise the privileged sector and further exclude the rest of the population from the formal sector, pushing them into informal, marginal and frequently illegal activity.” In this light, she adds, “the primary cause of the state fragility and even failure may be the models of governance that external actors such as development banks and ministries of foreign affairs have been pushing on countries of the global south since the early 1980s and, secondly, that the problem is not the kinds of states that model was aimed to change but the kinds of states that resulted from those models.”¹²¹

By the 1990s, in the face of mounting evidence that a liberalised world economy was failing to deliver development to the poorer countries, the search began for other explanations. That search, however, did not set aside the earlier premises of neo-classical free-market economics, but rather focused on supplementary ways to set the market’s magic free. The World Bank and mainstream economists now introduced governance factors: getting institutions and governance “right” so that the right combination of policy and institutional reform would deliver “results.” This theoretical fantasy went on to attribute poverty to the stifling of “entrepreneurship” by poor governance and public sector corruption. On June 11, 2005, the G8 finance ministers, reflecting the new consensus, stated, “We reaffirm our view that in order to make progress on

¹²¹ Susan Woodward, “Fragile States: Exploring the Concept,” paper presented to the “States and Security” Learning Group, November 29, 2004, www.fride.org

social and economic development, it is essential that developing countries put in place the policies for economic growth, sustainable development and poverty reduction: sound, accountable and transparent institutions and policies; macroeconomic stability; the increased fiscal transparency essential to tackle corruption, boost private sector development and attract investment; a credible legal framework; and the elimination of impediments to private investment, both domestic and foreign.”¹²²

That consensus misses many of the fundamentals, chiefly the political nature of governance and, in many cases, of corruption itself, as they are embedded in wider social, political and global structures. Nongovernmental development advocates such as CIDSE argue that “deep social inequality and elite capture of power and state resources perpetuate grand corruption and unaccountable governance. Powerful political and economic interests resist change and indeed are often abetted by the economic policy work of donors (e.g. creating an investment climate conducive to foreign investors but from which only the elite gain locally, further entrenching their power). Neo-patrimonial politics, usually with roots in colonial power structures, institutionalise corruption and poor governance.”¹²³ Part of the conceptualisation problem (or objective) is the linkage the Bank and most “donors” increasingly make between the governance or state-failure agenda and the commitment to economic liberalisation.

How convenient that privatisation, or more accurately corporatisation, emerges as a stellar way of fighting corruption in state-owned enterprises and utilities—all on the dubious assumption that the market is better at self-regulating against corruption than the state itself. As the CIDSE study argues, “an automatic assumption that a better governed state is one in which government’s scope to regulate is reduced, markets are liberalised and public services are contracted out to private providers is

¹²² G8 Finance Ministers’ Statement on Development and Debt, G8 Finance Ministers’ Conclusions on Development, London, 10-11 June, 2005.

¹²³ CIDSE, “The World Bank’s Strategy on Governance and Anticorruption—a civil society perspective,” *A CIDSE Background Paper*, (August, 2006), p. 5. <http://www.cidse.org>

both deeply problematic and profoundly political.”¹²⁴ The bias is ideological as well as institutional self-interest, as the Bank and “donors” also see corruption as a threat to their own resources and reputation and to the survival of the aid industry itself, often complicit in lending to governments that lacked democratic legitimacy and, as we have already discussed, were known for corrupt practices.

As at other times in history, saving the natives against themselves (mal-governance and corruption) assumes the status of a civilising mission. And ideology remains at the centre of that mission by way of the hegemonic perspective that sets aside the private sector’s role as a corruptor in corporate-dominated governments while proceeding to flagellate the public sector, particularly under left-oriented governments. Transparency International, founded by a former World Bank official, allows the private sector to largely define the “corruption index” for their respective countries.¹²⁵ Yet transparency in information in the profit-making world is itself suspect: the focus on the public sector leaves out large amounts of key information increasingly held by private entities, not least thanks to the massive trend toward privatisation.

As public services are placed under private control or ownership in varying degrees and forms, or under so called “public-private partnerships” (arrangements), the landscape of public access to information shifts, as indeed does the landscape of public power and public control. Investor/state disputes acquire a new dynamic under such PPPs, leaving general public interests as considerations secondary to investor rights. No one can ignore the fact that North/South international financial transactions are usually conducted in the context of grossly unequal power relations. Powerful parties drive processes and shape agreements and therefore carry more of the responsibility for the political and economic consequences of the transactions. Giving more power to international bodies and “donors” is not the answer, which is

¹²⁴ Ibid., p. 7.

¹²⁵ “Transparencia Internacional: ¿Movimiento Anticorrupción o Instrumento Hegemónico?,” *Inforpress Centroamericana, Informe Especial*, November 24, 2006.

why it is unacceptable to a number of movements and groups in the South to advocate the use of aid, loan or debt cancellation conditionalities to ensure “good governance” or “fight corruption.” In addition, only ignorance or arrogance would lead one to believe that the donor governments and IFIs are genuinely serious about wanting to achieve these goals.¹²⁶

Nonetheless, the fact remains that business must also be subject to international human rights standards and that the state cannot delegate its legal responsibilities. There is growing recognition of the lack of effective legal regimes and institutions for holding companies accountable. The UN’s Office of the High Commissioner for Human Rights has named a Special Representative on Human Rights and Transnational Corporations and other Business Enterprises with the mandate to strengthen the protection and promotion of human rights in relation to business. A large NGO coalition writing to the Special Representative underscored that “while states are the primary duty-holders under international law, including human rights and humanitarian law, it should not be forgotten that businesses also have responsibilities under these legal regimes. Indeed, as part of their obligations to protect human rights under their jurisdiction, states are under a duty to ensure that business acts accordingly... calling for recommendations as to how states can effectively regulate transnational businesses with regards to human rights, including through international cooperation.”¹²⁷

Although more efforts are being made to insure minimal corporate accountability, and the public sector is reassuming its essential functions in countries such as Ecuador, Bolivia or Venezuela, this continues to be more the exception than the rule, as democratic control of public resources, goods and services remains, for now, ideologically unfashionable. As a reflection of the ideological hegemony, the international system does not have mechanisms to stand up to human rights and environmental damages caused

¹²⁶ Lidya Nacpil, “Discussion Notes on Principles of “Responsible” Financing, Conditionalities v. Terms and Mutual Obligations,” unpublished.

¹²⁷ Joint NGO response to interim report of the Special Representatives on Human Rights..., <http://web.amnesty.org/library/ENGIOR500032006>

by transnational companies. There are a number of guidelines (namely OECD Guidelines for multinational enterprises, ILO Tripartite declaration of principles on multinational enterprises, UN Global Compact), but these are merely “voluntary,” lacking in judicial structures for ensuring their enforcement. Even the World Bank was forced to recognise how, in some “transition” countries, a process of what it terms “state capture” has taken place, perpetrated by the corporate sector acting in collusion with politicians.¹²⁸

¹²⁸ State capture is defined as the “purchase” of law and policies by corporations. Joel Hellman, Geraint Jones and Daniel Kaufmann, “Beyond the ‘Grabbing Hand’ of Government in Transition: Facing up to ‘State Capture’ by the Corporate Sector,” *Transition*, World Bank/William Davidson Institute/SITE/BOFIT (2000).

XI. Conclusions and Recommendations: Toward an Alternative Anti-Corruption Strategy

There is no agreement on what constitutes corruption, let alone how to analyse and contest it. The answer to what are the causes of corruption depends a great deal on the paradigm or ideological preference employed by the inquisitor. To date, perspectives from the neoliberal school dominate analyses and discussion—that is, corruption as a manifestation of imperfect or black markets, in turn generated by excess state intervention. The more the state intervenes and the more bureaucratic procedures it sets down, argues this view, the greater the propensity for “informal” parallel markets and illicit parallel channels—the seedbed for corruption and other illegal activities—to appear. The acclaimed French political scientist Yves Meny states: “Those who are not convinced of the intrinsic perversity of the state or of some self-evident merits of the market will emphasise the other aspects: the weakening of public ethics, the de-legitimisation of the state as the incarnation of the public interest, the dissolving of collective values in favour of profits and the defence of selfish and private interests.”¹²⁹

One gets back to definitions—corruption as typified in national and international legal codes. Jurists seem to have won the debate with a more sociological/ political economy school that probably had a more realistic grasp on the phenomenon. Perhaps this was inevitable given the contemporary demand for precision that only codes can provide, instructing, say, the public official on what he/ she can or cannot do. It’s a shame that the same insistence on precision does not by and large apply to the private sector where, as we have argued, there are huge and still-growing manmade loopholes.

Sadly the entire discussion presupposes the weakness of private and public ethics. Albert Camus probably had it right: “When there

¹²⁹ Yves Meny, “Corrupción ‘fin de siglo’: Cambio, crisis y transformación de los valores,” www.unesco.org/issj/rics149/meny149.htm

are no principles, rules are needed.” Yet rules and laws will seldom be up to the standards of ethics—and rightly so. If corruption is more a matter of ethics than of legal custom then it follows that existing laws will never be able to criminalise unethical public or private behaviour. A strictly juridical approach, argues Yves Mény, has the problem of leaving aside principles and ethical values, which are the basis of the laws themselves. The forest is lost for the trees, opening up considerable leeway, as for example the common European practice of political party financing, deemed not illegal by politicians who argued that since parties are necessary for democracy, so too are contributions. Thus when a party came to power it stood to reason that its procurements would lean towards the contributing businesses. In this way personal corruption could be condemned but corruption for the good of the party was acceptable.¹³⁰

As neoliberalism penetrates the ideological and moral spheres, the result is private and public codes that today will equate corruption with the legal and nothing more. As Karl Polanyi pointed out decades ago, the historically specific “great transformation” (because it was not always like this and does not have to be like this) took the form of the market imposing its own logic and justification on society, where ethics and the social have become subordinated to economics and the “free” market. How convenient from the standpoint of private profit-making and powerful profit-makers: if they can control rule-making—laws, definitions—then the limit for “non-corrupt” activities is the sky!

Contemporary corporate globalisation has magnified the divide identified by Polanyi. Emboldened and driven by the possibility of enhancing profits, the private practice of corruption is leaving behind even the meek public attempts to codify and outlaw it, particularly at the international level. What is clear today, after at least a decade of experience, is that global neoliberal rules of engagement, far from being the panacea for ending corruption as the ideologues and the G8 would have us believe, is leading precisely in the opposite direction. Globalisation is not guilty by

¹³⁰ See the examples cited by Yves Mény, “Corrupción ‘fin de siglo’: Cambio, crisis y transformación de los valores,” www.unesco.org/issj/rics149/meny149.htm

omission but by commission. There is no reason to give it the benefit of the doubt—it was never a situation of transnational forces moving into uncharted lawless waters, but rather of deliberately and purposively shaping the external environment to the needs and interests of globalised corporate capital.

Therefore, corruption-laden globalisation is not impersonal or inevitably development. New corruption-friendly rules continue to be created by new actors (albeit upheld by the same powerful states) with only meagre advances in global regulation and penalisation from a non-market anti-corruption perspective. There are now massive “opportunities” to practice corruption, as corruption demand and supply have also become global. National regulatory frameworks, already inadequate, are increasingly unable or unwilling to contain the activities of the international crime network and/or deal with illegitimate international economic practices. With even fewer law enforcement resources, poorer countries are in an ever more disadvantageous position vis-à-vis powerful corrupt global actors, made worse by a North demand for deregulation and a diminished role for the state. While the national public sector and public ethics are rolled back, its global counterforces seem to be in their infancy in what is a huge imbalance of forces that only powerful campaigns can hope to alter.

Some will claim that corporate behaviour can be influenced towards more socially-sensitive behaviour by ethical considerations; Bill Gates’ foundations or Kofi Annan’s Global compact come to mind. But even impartial academic specialists are not convinced. With respect to transnational corporations, Susan Rose Ackerman argues that “the persistence of corruption involving such important economic actors suggests that their managers and owners believe that it is economically beneficial, in spite of the costs to host countries and the costs to the reputation of global businesses.”¹³¹

Heavy public relations campaigning aside, the reality seems to be that neither short- nor long-term corporate profit-making

¹³¹ Rose-Ackerman, Susan, “‘Grand’ Corruption and the Ethics of Global Business” (October 1999). Yale Law School, Program for Studies in Law, Economics and Public Policy, Working Paper No. 221. <http://ssrn.com/abstract=191352>

is concerned with avoiding corruption as an ethical issue, any more than it seriously addresses environmental or human rights considerations voluntarily. Despite some legal advances and campaigning around corporate social responsibilities, current international efforts to reign in corruption are still inadequate—and the inadequacy is in no small degree related to the primacy given to an ideological insistence on the “need” to remove “external” constraints on business.

Ironically, our understanding of the grand globalised corruption and the question of what is to be done leads us down a path similar to that suggested by the conventional anti-corruption campaigners. We agree there is a need to understand the incentives for making and accepting “payoffs,” be they institutionalised or personal, legalised or not. To change this one must proceed in two directions, one of which is to legally reduce the spaces and “opportunities” that allow for illegitimate financial gain at the national and global level. The pious concern of donors for improved governance for nation states in the South should be matched with an equal effort to end global mal-governance. An “enabling environment” is just as crucial to generating genuine reform as it is to generating honest investment. Democracy is that environment, particularly democracy as a process that shapes and is shaped by social movements. Peoples’ organisations, by their very nature, will tend to expose and deal with the causes of corruption—as opposed to advocacy groups proposing policy measures to deal with symptoms of that phenomenon.

The second parallel and reinforcing avenue is to engage in sustained education in order to shift the attitudes of citizens and politicians away from corrupt relationships, be they personal or institutional. Public intolerance and hence involvement more likely to grow out of people’s recognition that corruption, ill-conceived privatisation and profit-mongering help explain why they don’t have decent public services. Unfortunately, countries North and South (and particularly formerly East) continue to pay dearly for the implementation of Washington’s early pro-privatization biases fundamentalism.

Removing incentives and policies that favour corrupt transactions is only a first step. Thereafter comes the reconstruction of public attitudes toward the exercise of state power through the formation of honest and trustworthy democratic representatives and public sector officials. Countries such as Cuba and Venezuela, where gross abuses by the private sector have been curbed, are still battling continuing manifestations of corruption in the public sector. Leaders of these countries had the courage to state that public sector corruption is one of the main domestic problems if not the main one. Clearly the battle against corruption is ongoing and in many senses must incorporate the need to continually build and renew relationships of trust and democracy between citizens and officials. Organised public efforts to combat corruption in this sense are central to the task of deepening the practice of democracy. Creating a state whose citizens expect and receive fair treatment, not only from officials but from each other, constitutes a core part of any project for democratic social transformation. A strong anti-corruption ethos, fully contextualised in national and global realities, is a key to turning power into positive social change.

The struggle against corruption and for clean government is part and parcel of an ongoing struggle to deepen levels of democracy and accountability at both the political and economic levels. Today, the vast increase in the power of fewer and fewer corporations is the greatest threat to democratic governance and democracy. Corporate power, upheld and protected by the international financial and trading order and represented by the IFIs and the WTO, is bent on capturing and corrupting not only governments but also societies.

More whistle-blowing is required on the ways the poorer countries are forced to engage with the rich ones on a highly tilted (corrupt) playing field that renders the game dishonest. There is no form of corruption worse than exploitation, and that includes the ways in which corporations and rich countries secure access to cheap raw materials and labour. Exploitation by the rich through their economic and military superiority negates the possibilities

of fair redistribution and achieving equitable environmentally sustainable development, if not democracy itself. Corruption is embedded in the very structures and processes where nations and people interact or, better said, exploit and are exploited.

Our vision of the anti-corruption struggle accepts the notion that corruption is also a matter of governance, but we conceive of governance as a political matter, not a managerial and administrative one—which is to say that we place social and economic power relations, both within and outside of nation states, at the core of the discussion, strategy and action for fighting corruption, as an empowering and transformational framework. For these reasons, anti-corruption initiatives should begin by examining the fundamental dishonesty, not to mention injustice, of the multiple mechanisms of exploitation that rob people of the South of their much needed resources.

Only sustained democratic participation, with full accountability and authority, can build and organise consciousness to the point where it will confront public and private, national and systemic, illegal and legalised corruption.

Linking up with both national and international social movements will be critical in challenging the international corporate dimension that weighs so heavily and with full impunity upon governments and citizens, particularly in the poorer countries. Only new alliances can effect changes in the global balance of forces to attack corruption in its economic, social and environmental manifestations. Changes in the balance of power between governments North and South, but also between organised popular movements and their own government forms part of a strategy that will strengthen accountable democratic political entities vis-à-vis unaccountable corporate power.

Tackling systemic global corruption also means reducing corruption in the North and dealing with patterns of corporate control of governance and decision-making there in order to make a substantive global contribution that would help further empower initiatives in the South. Corporate power needs to be contested at home.

On a research level, there is a need to scrutinise the nature of local elites, how they are formed and what role corporate and external agents—colonialism—play in fostering “national” patterns of corruption. In the final analysis, it is not a matter of simple transparency or good governance, or even of replacing venal government officials, but of demanding sustainable justice in the broader global context, recognising the inherent inequalities in the international trade and financial system.

A peoples’ development agenda would begin by exposing that “trade liberalisation” is in fact corrupt and anti-development, entailing many times the loss of control over local resources, capital and indeed sovereignty. In South America we are witnessing the repudiation of corrupt illegitimate debts, re-nationalisation of resources and strategic services, along with the reclaiming of rights to land, water, seeds, natural resources, livelihoods and culture. The rules of trade should flow from such sovereignty, not the other way around. Bolivia’s current attempt to reclaim its nation and relate its development to the local indigenous cultures is important in this regard, as are the Commercial Peoples Agreements signed with Venezuela upholding trade concessions based on solidarity.

Action is urgently required to plug the leaks by which capital is flowing from South to North. South governments need to be pushed (by their own people, not by expatriate NGOs) to repudiate debts, better control and reverse the liberalisation of capital accounts and re-impose domestic performance requirements and profit repatriation restrictions on foreign investment. Campaigns need to work for the elimination of bank secrecy, the closing down of tax havens, and actions against financial institutions, accountancy & law firms and multinational businesses that facilitate the leakage of these resources. Action also needs to be taken to identify and repatriate the huge amounts transferred by South elites to tax havens and financial centres in the North, much of it illegal. Reversing the flight of capital and reigning in TNCs should be key anti-corruption concerns.

Further, if people link corruption to their own hunger and impoverishment, an anti-corruption campaign must do so also. This

is precisely why an effective strategy would go beyond a simple manipulation of anger for electoral reasons or mobilisation for mobilisations' sake. The point is to conceive and work not simply around programmes and politics, but to change the realities of life. For people to react not only to the petty corruption that so often surrounds them, but also to make the connections with the macroeconomic and global foundations of corruption and impoverishment.

For that mobilisation to take place, more work needs to be done to connect and build consensus among the different civil society groups working on development finance, debt, governance, transparency and corruption issues. This is a necessary step in the direction of elaborating joint political strategies. The issues are structural but also ethical—if anti-corruption work teaches us anything it is to ask what values underpin personal, social and institutional behaviour.

An anti-corruption ethos must also oblige us to look at ourselves, our civil society organisations, reviewing our own levels of transparency and integrity. Then and only are we morally and organisationally equipped to identify and act upon more fundamental questions, i.e. to ask what drives individuals to commit, partake in or tolerate acts of corruption, and what motivates others to take action, to demand good government and partake in it. How does the presence of the chronically impoverished and disempowered shape our consciousness, our analysis and our subsequent behaviour? How did things get this way, how did such a small percentage of people in the world come to get all the wealth and power they now have? How were corrupt structures constructed? How will they be dismantled? What will they be replaced by? Where do you fit in this picture?

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The dominant definition and framework for the analysis of corruption – which then informs or misleads the ways to address corruption -- is much too narrow a definition and itself a construct of the systemic abuse of economic power as it presents itself today in the world. Ours is a global justice perspective and our objective is to place corruption in the contemporary context of corporate globalization. We wish to reach important constituencies outraged about corruption and help channel that understanding into a broader movement that tackles corruption at the root and structural level, and not simply in a few corporate-friendly limited expressions.

We view corruption as a process facilitated by institutions and economic interests, and not simply single acts by single individuals chiefly in the South. With this in mind, we articulate a broader and more contemporary understanding of corruption that can help people, victims in particular, account for many of the daily economic injustices suffered.

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