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## The Long War Against Corruption

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Summary: Corruption is widely acknowledged to distort markets, undermine the rule of law, damage government legitimacy, and hurt economic development. The global anticorruption movement has gained ground since the mid-1990s, but its key agents -- developed and developing countries, international organizations, and MNCs -- must do more to prevent and punish misbehavior systematically.

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### A WAYS TO GO

Since the mid-1990s, the issue of corruption has gained a prominent place on the global agenda. International organizations, including the Organization for Economic Cooperation and Development (OECD) and the UN, have adopted conventions requiring that their members enact laws prohibiting bribery and extortion. International financial agencies, notably the World Bank, have announced programs aimed at ensuring fair and open contracting for their projects and stopping misappropriation by government officials. Most nations have enacted some type of anticorruption law. International business groups have promulgated model codes of behavior, and multinational corporations (MNCs) now claim to be implementing antibribery programs. The leading nongovernmental organization (NGO) in this area, Transparency International, has conducted analysis and advocacy through chapters in over 90 nations. The international media report instances of corruption in high places virtually every day (often at great risk).

Underlying these changes in rules, rhetoric, and awareness is the growing recognition that bribery and extortion have demonstrably deleterious consequences. Gone is the day when some pundits seriously argued that corruption was an efficient corrective for overregulated economies or that it should be tolerated as an inevitable byproduct of intractable forces. The true impact of corruption is now widely acknowledged: corruption distorts markets and competition, breeds cynicism among citizens, undermines the rule of law, damages government legitimacy, and corrodes the integrity of the private sector. It is also a major barrier to international development -- systemic misappropriation by kleptocratic governments harms the poor.

Although it is difficult to quantify global corruption, there is little question that huge problems exist. For example, the World Bank estimated in 2004 that public officials worldwide receive more than \$1 trillion in bribes each year (and that figure does not include embezzlement). A 2005 survey by the Russian think tank Indem found that more than \$300 billion in bribes is paid in Russia annually (a ten-fold increase since the last survey, in 2001) and that more than half of all Russians have at some point been asked for a payoff. According to the 2005 Volcker report (a report on the UN's former oil-for-food program by an independent committee headed by the economist Paul Volcker), more than 2,000 companies participating in the oil-for-food program -- almost half of the total -- may have been involved in kickback schemes. And the drumbeat of scandals continues, with events in China, Indonesia, Kenya, Russia, and the United States leading the news during the past year.

Given vast, continuing problems, the anticorruption movement will maintain its credibility and momentum

only if it can translate its rhetoric into action and prevent and punish misbehavior in a more focused and systematic manner. In the near term, the implementation of anticorruption measures must come in important part from international organizations, developed nations, and MNCs. Developing nations also have a critical role to play. But their legal, political, and economic systems vary greatly -- they are failed or failing, fragile or rising -- and so anticorruption initiatives in the developing world will have to be a part of, and dependent on, each country's broad, complex, and often lengthy state-building process.

## POLYMORPHOUSLY CORRUPT

Corruption takes many forms. It has a supply side (private bribers) and a demand side (public officials). There is grand corruption, involving high-level officials with discretionary authority over government policy, and petty corruption, involving lower-level officials who control access to basic services such as education and electricity. There is the dynamic between the developed nations that are a main source of the funds and the developing nations that host the majority of the officials who extort and misappropriate. Ultimately, addressing all aspects of the issue is vital because they feed into one another.

Tackling this multifaceted problem, and understanding how near-term priorities fit into long-term approaches, requires pursuing four types of measures. First is enforcement, which seeks to deter future misconduct by investigating and prosecuting existing corruption. Second is prevention: the enactment and implementation of legislation and administrative regulations that choke off corrupt practices (such measures should include ombudsman systems, whistleblower protection laws, transparent rules of procurement and accounting, freedom-of-information laws, auditing and internal-control requirements for public and private entities, and anti-money-laundering regimes). Third is the much more complex process of state building, which consists of institutional reforms designed to create a society of laws, not men, and to build a transparent, accountable, and durable legal, economic, and political foundation. Finally, there is the cultural dimension of anticorruption, which involves transmitting positive values and norms that can strengthen the enforcement, prevention, and state-building measures.

A comprehensive anticorruption program must encompass all four of these approaches. But for now, a sharper, narrower focus is one key to progress. The forces that perpetuate the problem -- money, greed, power, and institutional weakness -- are potent. International organizations, key developed nations, and MNCs have the means to counter them if they can end the hypocrisy of adopting high-toned rhetoric without taking much real action. To do that, they need leaders who can fight institutional inertia and complicity and can mobilize those on the inside who already are steadfast proponents of integrity. One area of near-term emphasis must be the implementation of enforcement and prevention measures by developed nations, where bribery of foreign officials can be more readily exposed and prosecuted. The enforcement of the U.S. Foreign Corrupt Practices Act, for example, has had an important impact on the behavior and culture of many U.S. and foreign corporations covered by the law. A second important near-term measure is to embed anticorruption practices in international financial agencies and reduce bribery and misappropriation in their most visible development programs.

## LEVERAGING FINANCE

It is now widely recognized that corruption has undermined international development programs. In *The Fate of Africa*, Martin Meredith notes that out of the more than 50 countries on the continent today, only South Africa and Botswana are better off than those African countries freed from colonialism were four decades ago, despite hundreds of billions of dollars in foreign aid. Massive embezzlement and extortion by officials in recipient countries, weak financial administration, and lack of oversight have limited the effect of international assistance. Corruption by officials in international financial institutions has also hurt. Developed countries may be wary of financing new programs, such as the next round of the UN Millennium Challenge Account or the \$50 billion program to aid Africa proposed by the group of eight highly industrialized states (G-8), unless they are credibly assured that effective corruption controls are in place.

Former World Bank President James Wolfensohn ended decades of studied silence on the subject by making corruption the centerpiece of his address at the 1996 World Bank annual meeting. Since then, the World

Bank has done excellent work analyzing the problem's dimensions and dynamics. Now, anticorruption must be made a priority at the operational level. This will require overcoming several obstacles. The power of the World Bank president is hampered by the organization's decentralized administration and many entrenched fiefdoms. Some staffers consider lending and granting money their primary role, and so for them, holding up funds because of corruption concerns goes against the grain. Recipient governments may refuse to cooperate with reform or pay lip service to new policies while continuing illicit practices.

In order to achieve real change, the World Bank and other international financial institutions, including regional development banks, the UN Development Program (UNDP), and bilateral aid agencies, will have to establish effective controls both within their own organizations and in the projects they fund. As part of its routine due diligence, the World Bank should identify a project's corruption risks before committing to fund it. Bidders on World Bank projects should be required to have effective antibribery compliance programs, and procurement should be conducted under transparent procedures. Full disclosure of any financial support for a project and of any agents used by the parties involved should be made in both recipient and donor countries. All international financial institutions should develop and exercise strong auditing, investigative, and sanctioning powers and develop procedures to terminate projects and blacklist parties when warranted.

Although applying anticorruption rules to specific programs is increasingly necessary to sustain support for international financing, there is also the more complex and contentious issue of what to do about governments so corrupt that no safeguard will prevent graft in them. In the case of humanitarian crises brought on by a tsunami, an earthquake, or an epidemic, aid may be provided through third parties outside government structures, such as the International Committee of the Red Cross or Doctors Without Borders. But because they have limited funds and face unlimited demand, international financial institutions might have to conduct a form of economic triage, disbursing money only to those needy nations where it is less likely to be stolen. Doing so might be a sensible and necessary approach to foreign assistance, but it creates a problem: one ignores corrupt states that are failed or failing at one's peril, because they are incubators of terrorism, the narcotics trade, money laundering, human trafficking, and other global crime -- raising issues far beyond corruption.

## CONVENTIONAL WISDOM

A major achievement of the past decade has been the adoption of several international treaties designed to fill gaps in existing national anticorruption laws, including an OECD convention that applies to industrialized countries; three regional conventions covering Europe, the Americas, and Africa; and, most recently, the UN Convention Against Corruption (UNCAC). Ensuring compliance with these treaties is critical. Because the bodies overseeing the conventions have no enforcement powers, follow-up monitoring programs are essential to determine whether governments fully enact and implement the conventions' provisions. Such monitoring, which would involve disclosing governments' failures and calling for corrective action, thus creating publicity and peer pressure, is the only tool available to hold member states to their undertakings. And it could be conducted with small staffs and modest budgets.

The scope of the OECD convention -- which criminalizes the bribery of foreign public officials -- is narrow, but the document is important nonetheless, because the 36 states that have signed it are home to most of the major MNCs. The OECD's Working Group on Bribery runs a strong monitoring program that involves country visits by experts from peer governments and meetings with local prosecutors and representatives from the private sector and civil society. Reviews probe OECD states to determine whether their governments have legal loopholes (such as short statutes of limitations), whether they provide sufficient resources for enforcement, and whether local corporations have adequate compliance programs. Over two-thirds of all OECD parties, including the group of seven highly industrialized states (G-7), have been reviewed, and the working group has demonstrated its credibility by criticizing the convention's inadequate implementation in major countries such as France, Japan, Italy, and the United Kingdom. It is essential that OECD monitoring continue beyond 2007, when current funding is scheduled to end. The working group's monitoring budget should also be increased so that the group can promptly perform follow-up visits to noncompliant states and build momentum for greater enforcement.

The OECD should also strengthen its coverage of the foreign subsidiaries of MNCs -- a need made clear by the Volcker report, which raised issues about many foreign subsidiaries of companies incorporated in OECD countries. It should also broaden its coverage beyond the bribery of public officials to include the bribery of officials from foreign political parties. Both changes can be achieved without amending the convention; the OECD working group need only publish an "interpretative commentary," a technique it has used for other issues.

In contrast to the OECD convention, UNCAC can create a truly global framework for combating corruption because its 140 signatories include both developed and developing nations. It also covers a much broader scope of issues: extortion in addition to bribery, payoffs to the private sector as well as to public officials, and both domestic and foreign corruption. UNCAC also includes a wide range of preventive measures, including the establishment of anticorruption agencies, anti-money-laundering rules, conflict-of-interest laws, legal assistance among states for the extradition of suspects and for evidence-gathering abroad, and the means to recover funds deposited by corrupt officials in foreign banks.

But UNCAC is still in an early phase of its evolution: it entered into effect in December 2005 and has so far been ratified by just over a third of its signatories. A priority is to push for ratification in more states, particularly industrialized nations. The White House has submitted the treaty to the Senate for ratification. Although there is no organized opposition to ratification in the United States, some U.S. lawmakers doubt the effectiveness of the UN overall, especially now that the organization's credibility has been damaged by the Volcker report. Still, lawmakers should recognize that responsibility for UNCAC is assigned to the UN Office on Drugs and Crime, which has a good reputation for professionalism.

Another key challenge with UNCAC will be to establish an effective monitoring program. The breadth of the treaty and the large number of parties to it make monitoring UNCAC both more important and more difficult than monitoring the OECD convention. In addition, monitoring is more controversial among the parties to UNCAC than among the parties to the OECD convention. Two obstacles, in particular, will have to be overcome at the Conference of States Parties to UNCAC scheduled for December 2006. First, many developing-country governments are concerned that monitoring would expose deficiencies they cannot correct. To meet such concerns, the UNDP, the World Bank, and other international financial institutions should promise technical assistance to nations that are willing to enact and implement the treaty's provisions. Second, some industrialized countries are concerned that UNCAC monitoring would duplicate similar efforts under the OECD convention and regional anticorruption conventions. To reassure them that this will not happen, cooperation and coordination among the different programs must become a priority beginning in 2007. It will take the UN Office on Drugs and Crime, committed governments, and engaged stakeholders years of hard work to make UNCAC effective. But the importance of creating a worldwide anticorruption framework justifies the effort.

The Council of Europe, the Organization of American States, and the African Union have also adopted broad anticorruption conventions. The Asian Development Bank, in cooperation with the OECD's Development Assistance Committee, has launched an anticorruption initiative in Asia. The G-8 is promoting a similar effort for the Middle East and North Africa. The Council of Europe, in particular, has done excellent work helping to strengthen anticorruption practices in central and eastern Europe, illustrating the value of regional conventions. But regional programs also need adequate funding and follow-up monitoring. And as the implementation of UNCAC progresses, overlaps with regional conventions must be eliminated through a clear division of responsibilities.

## BEGINS AT HOME

The most effective, immediate way to fight global corruption is to accelerate the enforcement of national anticorruption laws in all 36 states that have signed the OECD convention. As the enforcement of anticorruption laws in the United States shows, companies respond to the threat of prosecution by changing their programs and culture. Much still needs to be done. A March 2005 study by Transparency International -- covering 24 OECD countries during the time since they ratified the OECD convention -- showed that the enforcement of antibribery measures had begun in only 15 countries; that there had been no enforcement action in nine countries; that only seven countries have two or more serious investigations under way; and

that France, South Korea, Spain, and the United States are the only four states to have brought more than one prosecution.

Improving enforcement at the national level requires overcoming misdirected "industrial policies." When governments fight international trade battles on behalf of their national champions, they often are reluctant to crack down on the bribery of foreign officials, which can help their companies secure deals. But trade promotion and anticorruption need not be antithetical; governments should insist on compliance with anticorruption norms before giving trade-promotion support. Failing to do so may be politically expedient, but it is indefensible from a public policy perspective. It is also contrary to accepted values and actions regarding other transnational criminal activities, such as drug trafficking, intellectual property theft, money laundering, organized crime, and terrorism.

Effective anticorruption enforcement also requires proper organization and resources. Investigating and prosecuting cases can be expensive and time-consuming because they often require specialized forensics in, for example, accounting and money laundering. A centralized national office -- or at least some sort of national coordination -- is critical to such efforts. Although 13 of the 24 countries examined in Transparency International's 2005 report have centralized enforcement, some major players, such as Germany, Italy, Japan, and the United Kingdom, have not.

To complement formal enforcement measures, developed nations must also take preventive actions, for example, by instituting whistleblower protection laws, government hot lines, and new accounting and auditing requirements. Another important change would be to encourage corporations to voluntarily disclose evidence of bribery that they uncover during internal audits or through ombudsman activities. In exchange for reporting both supply- and demand-side corruption issues, corporations at fault (although not culpable individuals) should receive more lenient sanctions in settlements. Although more lenient, the sanctions could require that the corporations set up internal controls subject to court supervision. Additionally, leading nations should agree to issue standardized annual reports disclosing the number of anticorruption investigations and cases under way, as well as the progress that has been made on preventive measures. States that failed to do this would expose themselves to questions and criticism.

## THE CORPORATE CARD

Effective compliance programs within MNCs, which often are the sources of bribes and the targets of extortion, are a fundamental building block of the anticorruption movement, and they could be a model for emerging global companies based in developing nations. Such programs must start with an anticorruption policy that prohibits both public and private bribes and extortion in all relations (procurement, transactions, sales) and in all forms (political "contributions," improper travel or living expenses for business partners). Effective compliance also requires robust systems that can educate and train staff, detect problems through internal auditors and an honest ombudsman system, investigate allegations of corruption quickly and thoroughly, sanction guilty parties regardless of where they are on the corporate ladder, and fix the practices that caused the problem. Beyond such measures, corporate leaders must create a culture of compliance that brooks no winks and nods and no double talk and that fosters the desire to "do the right thing." They must communicate three basic propositions to their staffs: that bribery corrodes the internal culture of a company; that corruption can injure, sometimes fatally, management, the company, and its stakeholders; and that bribery undermines the processes of globalization on which growth depends.

Increasingly, corporations are disclosing their compliance policies and procedures on "integrity" Web sites or in "citizenship" reports, which shareholders and other stakeholders can review. To allow verification of the information corporations supply, an independent organization should be developed to conduct detailed surveys of compliance programs in the top 500 to 1,000 MNCs. The reports would ask these corporations detailed questions about their anticorruption policies and seek supporting documentation -- a practice similar to the now-familiar evaluations performed by corporate-governance watchdogs. They would indicate the extent of each company's anticorruption program and identify the companies that chose not to participate. Such a project could be shaped and endorsed by the MNCs that are leaders in anticorruption compliance programs today; they have the credibility to explain why such programs are in the best interest of MNCs and how they can create a competitive advantage rather than be a drag on commercial activity.

International companies should also participate in forums to discuss problems of compliance with the officials and business leaders of developing countries, and especially with the leaders of those enterprises seeking to become global players. To promote anticorruption measures, they should also participate openly and honestly in the policymaking process in both developed and developing countries. These measures, if properly conceived and implemented, would help create a level playing field for both foreign and local competitors -- a key goal of globalization.

## POLITICS AND POLICIES

The most important question facing the anticorruption movement today is how to create a politics that can make the policies of enforcement and prevention effective and change the mindset of international institutions, developed nations, and MNCs. Each institutional actor will have to overcome its long-standing internal cultural problems. To make financial discipline operational, international financial institutions must change the perspective of those staff members who, eager to push money out the door, oppose conditioning loans or grants on securing commitments from beneficiaries to fight corruption. The OECD working group and other entities that are charged with implementing anticorruption conventions but that have no enforcement power must use monitoring to goad their member states into compliance while continuing to secure needed budgetary support from those states. Developed nations must show the political will to investigate and prosecute their national corporations when they engage in bribery abroad, even in the face of intense global competition. Finally, MNCs must overcome short-term economic pressures and old ways of doing business so as to create and sustain an anticorruption culture and effective corporate compliance procedures.

All of these changes will require new pressure from below and new leadership from above. The media and NGOs must continue to keep anticorruption high on the global agenda. In this age of instantaneous communications, it has become harder to hide wrongdoing: corrupt officials and businesspeople are now exposed by private whistleblowers, government leakers, aggrieved competitors, and investigative reporters. Publicity is an important deterrent because corruption can terminate careers. During the past year alone, scandals have brought down the prime minister of Ukraine, the deputy president of South Africa, the leader of Brazil's ruling party, key Kenyan government ministers, and the majority leader of the U.S. House of Representatives. But systematic changes are necessary to ensure that corruption scandals stop repeating themselves like a prurient TV show on rerun.

When effectively carried out, individual actions can be mutually reinforcing: Monitoring the implementation of international conventions could stimulate enforcement by national prosecutors. More prosecutions could persuade MNCs to conduct more rigorous corporate compliance programs. The curbing of corruption among MNCs could promote support for international monitoring -- and needed prevention programs -- thus bringing lagging governments and their companies into line. This chain of events could accelerate change in the culture of key corporations, government agencies, and international institutions -- and become an important cornerstone for broader state building in the developing world.

But virtuous cycles are difficult to start. Part of the challenge is the size and complexity of the anticorruption agenda. Leaders must set achievable goals in order to mobilize their organizations. Leadership changes have occurred or are about to occur in key entities: the World Bank, the OECD, the UN, Transparency International, and the International Chamber of Commerce. The resulting set of new leaders should get together with NGOs and leaders from other key organizations, such as export-credit entities and international law-enforcement agencies, to map out a broad anticorruption strategy and develop a consensus for near-term and middle-term action. Attempts at high-level consensus building might, of course, yield merely platitudes or equivocation. But it is also possible that the exercise could launch the new politics necessary at this crossroads in the development of the anticorruption movement.

Ultimately, the most potent force for change is the idea that corruption is morally repugnant and inimical to competition, globalization, the rule of law, international development, and the welfare of citizens around the world. During the past decade, many public- and private-sector actors have paid lip service to the idea that fighting corruption is in both their own interest and the interest of the global good. Now they must act.

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