

The TI Source Book 2000

The first version of this Source Book (now translated into over 20 languages) argued the case for a “National Integrity System”, an holistic approach to transparency and accountability and embracing a range of accountability “pillars”, democratic, judicial, media and civil society. The expression has since passed into common usage in development circles, and the argument for an holistic approach to anti-corruption efforts has similarly achieved a widespread consensus. But anti-corruption success stories remain largely elusive.

In part the answers will lie with civil society. If activists remain active, inventive, determined and decisive, the issue can be kept at the forefront of national and international attention even after the battle may appear to have been won. For the potentially corrupt will always be with us, and even those whose National Integrity Systems seem to be in reasonably good shape can find themselves grappling with the unexpected as the determined exploit whatever gaps they can find.

The fight against corruption is not wholly a moral one, in the sense that it is a struggle against the intrinsic “evil” of corruption. Certainly there is a moral element – one which cuts across all major religions and societies throughout the world – but the compelling reason for the struggle is the suffering and deprivation corruption brings to whole societies, and to the world’s most poor. It is concern for the latter, rather than a distaste for the corrupt and their deeds, that rightly drives the global movement against corruption.



This edition of the TI Source Book seeks to combine the ease of the printed word with the immediacy of the Internet. With many initiatives being taken in many different parts of the world, emerging best practice is a rapidly growing area. Readers will find references to the Best Practice documentation, and this is available on the Internet. A summary of the Best Practice material compiled at the time of going to press appears as Part Five of this book.

The Internet version of the Source Book will be kept amended and up-to-date in the light of emerging developments. Additional material is available on the TI web-site, where a searchable bibliography will be found. The TI website is: <http://www.transparency.org>. Comments on the Source Book are welcome and may be sent by email to: jeremypope1@compuserve.com.



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In retrospect, ages seem to have spirits, which historians identify. But is it possible to identify the spirit of a present age, and if so, what if anything should we do as a result? Talk of the spirit of the age in the twentieth century has often been used by tyrants and bureaucrats to suppress criticism from those who object to their vision of the age. We should remember that individuals create their ages, and that individuals of genius transform them.

Karl Popper¹

¹ Quoted by Justice David Baragwanath, Third Annual Administrative Law Conference, Wellington 25-26 March 1998.

TI Source Book 2000

**CONFRONTING CORRUPTION:
THE ELEMENTS OF A NATIONAL
INTEGRITY SYSTEM**

JEREMY POPE



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CONTENTS

Author's Note	vii
Foreword by <i>Oscar Arias Sanchez</i>	ix
Preface by <i>Peter Eigen</i>	xv
Executive Summary	xvii
<i>PART I: The Analytical Framework</i>	
1. The Challenge of Renovation	1
2. The Anatomy of Corruption	13
3. Developing Responses	21
4. The National Integrity System	31
5. Building Political Will	41
<i>PART II: Institutional Pillars of the National Integrity System</i>	
6. An Elected Legislature	47
7. The Role of the Executive	59
8. An Independent Judicial System	63
9. The Auditor-General	75
10. The Ombudsman	83
11. Independent Anti-Corruption Agencies	95
12. Public Service to Serve the Public	105
13. Local Government	115
14. An Independent and Free Media	119
15. Civil Society	129
16. The Private Corporate Sector	137
17. International Actors and Mechanisms	153
<i>PART III: Rules and Practices for the Institutional Pillars</i>	
18. Free and Fair Elections	165
19. Administrative Law – Judicial Review of Official Actions	169
20. Public Service Ethics, Monitoring Assets and Integrity Testing	175
21. Conflict of Interest, Nepotism and Cronyism	195
22. Public Procurement: Where the Public and Private Sectors Do Business	205
23. Good Financial Management	221
24. The Right to Information – Information, Public Awareness and Public Records	235
25. Giving Citizens a Voice	247
26. Competition Policy and Containing Corruption	259
27. Laws to Fight Corruption	269
28. Surveys as Tools – Measuring Progress	287
<i>PART IV: Lessons learned</i>	
29. Lessons Learned – A Progress Report	295
<i>PART V: Appendix</i>	
Emerging Best Practice in Containing Corruption	305
Selected Bibliography	337
Index by Subject	351
Index by Country	361

Author's Note

The first version of this Source Book established the concept of the “national integrity system” in the vocabulary of anti-corruption activists throughout the world. In defining this framework, the Source Book advocates the need to adopt an holistic approach to any anti-corruption reform programme. It also recognises that every society, in whatever stage of development, has evolved a series of institutions and practices that collectively serve as its national integrity system. Few have been consciously developed as such – and most will be in need of repair. Country “Integrity System Audits” are now being developed by Transparency International to this end.

The ultimate goal of establishing a national integrity system is to make corruption a “high risk” and “low return” undertaking. The priority should be to minimise the possibilities for corruption occurring in the first place, but in ways that do not impose unwarranted costs or needless restrictions that might obstruct people from doing their jobs effectively. The quest for integrity ought not to render government dysfunctional.

The first section of the Source Book looks at the challenges and sets out the concept of the national integrity system, providing the framework within which the various approaches to salient issues are discussed.

The second section deals with the institutional “pillars” of the national integrity system, and examines them in terms of their roles and the necessary preconditions of independence and accessibility that enable them to discharge their functions effectively. The “pillars” are not limited to the official structures of the state. They include the media, the private sector and civil society. Any functioning integrity system must be rooted in the broad field of public attitudes and expectations. It has to be able to contend with the activities of the general public (both as a source condonation of corrupt practices, and as a giver of bribes).

The third section looks at the “tools” – the rules and practices which the “institutional pillars” need to have at their disposal. It discusses not only bureaucratic practices and the enforcement of laws, but also the need for more broadly based reforms. Each institutional “pillar” has critical requirements, and these are discussed in turn.

A fourth section gives a short overview of the lessons learned to date in the global fight against corruption. A fifth section provides a compilation of emerging “best practice”. This is too bulky to permit full text publication in paper form. Instead, it is being made available on the TI web site and on CD-ROM. The compilation is being added to continuously, as best practice continues to evolve.

In addition, a number of specialist studies have been prepared and these, too, are being made available in full on the web. They will be added to progressively as the project proceeds.

As the initiative is rapidly gaining ground, and the concept is being progressively redefined and

applied, this book deals with Transparency International's "Integrity Pact" only in general terms. Detailed briefings on this particular development are being given through the TI web site.

The book is being placed in full on the TI web site (<http://www.transparency.org>) where it will be kept under continuous review as a "living" electronic "book". Those wishing to keep abreast of developments should register with the TI web site so that they are advised by email when changes and additions are made.

The reaction to the first TI Source Book has been so positive, that the task of completely rewriting and further developing the original would have been an intimidating task but for the help received from a number of those active within the TI movement. These include (in no particular order) Angela Gorta, Barbara Hayman, Bertrand de Speville, Charles Sampford, D.J.D. Macdonald, Dani Kaufmann, Denis Fitzgerald, Drew McKay, Frank Vogl, Gerry Parfit, Gesner José de Olivera Filho, Guy Dehn, Hansjorg Elshorst, Howard Whitton, Inese Voika, Jeffry Tan, Jim Wesberry, John Feneley, John Githongo, Jude Carey, Justice Michael Kirby, K. Gopakumar, Kevin Ford, K.P. Joseph, Kim Barata, Lance Lindblom, Mark Pieth, Michael Hershman, Michael Lippe, Michael Waller, Michael Wiehen, Murray Petrie, Nancy Zucker, Olusegun Obasanjo, Pam Nadarasa, Peter Eigen, Peter Rooke, Petter Langseth, Piers Cain, Pushpa Nair, Richard Allen, Ross Jones, Sir John Robertson and Tunku Aziz. Anne Lyons prepared the index. The staff of the Berlin, Washington and London offices responded to many and varied queries, whether for documents or for experience in the field and Nihal Jayawickrama prepared the "Best Practice" summaries. Shahzrad Sedigh again edited the manuscript and Czeslaw Doniewski exercised infinite patience in putting the final work together. There are others too numerous to list here, and I can only hope that they are adequately acknowledged in the text.

The illustration is by Daniela Bigošová (17) from Spiske Podhradie, who is a student at a High School in Levoca, Slovakia. It was a prize-winning entry in a competition organised by TI-Slovakia for young students to portray "Transparency, morals, ethics – how I see it". The winning posters are being used as the symbol of the National Programme for the Fight against Corruption in Slovakia.

I must again record my gratitude to Susan Rose-Ackerman, the founder of the recent political-economic literature on corruption, who with infinite patience helped see the original edition through from vague outline to finality. Fritz Heimann has also been a staunch ally throughout.

The Ford Foundation, who have encouraged the project from the outset in 1995, was again instrumental in making this further development possible through its generous financing.

Many have assisted, but I must bear sole responsibility for all expressions of opinion.

Jeremy Pope
London
September 2000

Foreword

*by Oscar Arias Sánchez*¹

I am grateful for the opportunity writing this Foreword affords for me to comment on one of the most compelling issues of our time: the need to rally individuals, communities, and nations to the cause of combating corruption. Corruption will always flourish in the obscurity of totalitarianism, authoritarianism, and dictatorships—regimes that limit power to an unaccountable few. By definition, absolutism and dictatorship are bound by fewer ethical exigencies than is democracy.

Under totalitarian regimes, corruption is often directly linked to human rights violations. In Latin America, many dictators justified their governments for years by pointing the finger at corrupt regimes of the recent past. These same dictatorships were often fronts for thieves and embezzlers. And in each of these cases, citizens and journalists were deprived of the legal resources necessary to expose the presumptuousness and corruptness of their government to a competent and credible judicial system. But, at the same time, corruption is best exposed, and best attacked, in a democracy. Corruption can only be examined and eradicated in an environment of pluralism, tolerance, freedom of expression, and individual security—an environment that only democracy can guarantee.

This is not to say, however, that democracy is immune to corruption. Let us not be so ingenuous as to believe that corruption only pervades organizations that operate outside the law. Nor is corruption limited to the arena of international espionage. It is undeniable that such criminal activities often invite the talons of corruption. But these talons have also penetrated the power structures of governments from both the developed and developing worlds, from Europe to Latin America. Large private organizations have also taken advantage of a respectability gained from the formal legality of their activities. They violate the public trust by relying on bribery as a standard and accepted business strategy. It is a strategy that wins them an unfair financial advantage. We must also remember the near-constant diversion of public funds to the private bank accounts and estates of government and military officials.

Also common is the misappropriation of foreign aid and donations meant for development and the alleviation of suffering provoked by war or nature; at least a portion of these funds is often dedicated to the financial enrichment of corrupt officials. One of the saddest faces of corruption appears in the poorest countries, where misery and socio-economic inequality abound. And yet, the corruption of public office continues to thrive. In these nations, the bribery of public officials is also a theft from the poor. The immediate effects of corruption include not

¹ President of Costa Rica, 1986-1990. Nobel Peace Prize Laureate, 1987. Dr. Arias is a founding supporter of Transparency International and a member of its Advisory Council.

only the further impoverishment of the people, but also the weakening of democratic institutions. When Latin America was ruled predominantly by dictators, the soldiers of democracy aroused public resistance by arguing against the corruption prevalent in the autocratic regimes of the time.

The fall of many Latin American dictatorships was due in large part to the public's fury over the corruptness of their regimes. But, on occasion, the same people have been so disenchanted with the prevalence of corruption in democratic regimes, that they have even welcomed a new dictatorship. In fact, many of these dictatorships were installed as a result of palace coups or military rebellions hypocritically claiming the corruption of democratic regimes.

A nation emerging from repression may be unaware of the extent of corruption in past regimes that did not permit investigation and public information. At the same time, the novelty of democracy may be overshadowed by scandals exposed by a free press. The lack of transparency in antidemocratic regimes has given citizens the mistaken impression that democracy is fundamentally vulnerable to corruption. Democratic leaders are faced with the responsibility of addressing, and correcting, this misperception.

Democracy must be characterised by transparency, and by dedication to transparency. But the most effective guardianship of transparency must be in the hands of the citizens organised themselves for this purpose. Their organizations must raise awareness and argue for transparency both within and across borders. Powerful financial organizations have globalised corruption as an accepted tool of business; the fight against corruption must be globalised as well. If the people do not act to preserve their democracy, if they lack civic virtue and commitment to their government, then democracy will certainly fall prey to the vulture of corruption.

The majority of nations maintain their commitment to repudiate any attempt to depose a constitutionally legitimate government. Gradually, we are solidifying our internal and external peace. Legitimate governments are now able to initiate the institutional reforms necessary for the modernisation of our societies, and to stimulate human development. Unfortunately, the continued scandals of corruption are discouraging our people.

Expectations of popular uprisings or coups d'état are about to re-emerge in some countries. Political parties, the traditional strongholds of the democratic system, are being shattered by disrepute, increasingly condemned by the citizens who are distancing themselves from political decision-making. As the political parties are abandoned, democracy runs the risk of becoming an ambivalent and impotent formality.

Modern technological culture places an inordinate value on consumption and the possession of goods. More and more, personal success and prestige are measured by material wealth, rather than by an individual's contributions to society. This leads our civilisation to an ethical deficiency that can only be remedied through education. We must awaken the spirit of civic duty, especially in the young people. In classrooms and board rooms, we must teach the responsibilities of citizenship and cultivate the dedication to be socially useful. Material wealth must be presented to the young as a value subsidiary to the wealth of citizenship. Social capital must overcome financial capital, for a culture dedicated only to the accumulation of material wealth is fertile ground for the weed of corruption.

In many places, courageous leaders are providing the vision and dedication necessary to channel public demands into organised action, calling out for open, accountable government. Praise and active support must be lent to those who struggle for open and honest government,

often against powerful and established elites. Somehow, they seem powerless Davids fighting against overwhelming Goliaths. But, as have been shown recently in many countries, David's spirit and will continues to triumph over Goliath's intimidating might. When citizens call for a more accountable and decent government, they are expressing their anger about corruption, a practice that humiliates the poor by forcing them to bribe minor officials to do their job; that bankrupts the honest trader; that empowers the partnership of unscrupulous captains of commerce and dishonest officials, and spreads like a cancer to infest all that is decent in society.

We must not despair of arresting the cancer of corruption. As much as we speak of the globalisation of corruption, we must also welcome the global tidal wave of public demands for good government. Today, national leaders are beginning to accept that corruption must be discussed on the domestic and international stages. After the end of the Cold War aid flows are more closely watched and humanitarian assistance is now meant to help people, rather than to buy friends—even corrupt ones—in the Third World.

But our most important weapon in the war against corruption will be the growing number of democracies and, consequently, free presses around the world. Without the freedom to ask questions, or to effect change, people are not empowered—they are, instead, caught in a system of superficial democracy. One of the most important freedoms in a democracy is the freedom of the press. When the voice of one man or woman is suppressed, all voices are in danger of being silenced. When even the smallest part of truth is hidden, a great lie may be born.

Every right of citizenship, though guaranteed by law, can be violated by incompetent or corrupt leaders. But the protection and restitution of rights is much more likely where there is a free press to denounce such leaders, and open a debate on their competence. Freedom of the press is the “eternal vigilance” of which Thomas Jefferson spoke—the endless duty to guard our government against corruption.

Our future directions must include a struggle for transparency, truthfulness, and ethics in our political and economic leaders. But let it be clear that corruption is not just the use of political power for personal gain. It is much more than the collusion between public servants and business people in order to gain illegal or immoral advantages. Corruption has many other dimensions that are not subject to legal sanction and which are not always, in every place, subject to the scrutiny of public opinion.

For one thing, there is corruption in the failure of political and governmental leaders to carry out the educational function that falls to them in a democracy. Double talk, telling people only what they want to hear, and not calling things by their name for purely electoral reasons, are practices that corrupt and degrade individuals, societies, and the democratic systems.

But double talk can be heard too in the realm of international relations. And that means corruption in a wider sense. There is a kind of corruption by means of which confidence among nations is weakened.

It is corrupt to gauge the success of a political career on elections won, when those elections are won only by hiding the truth or holding it back until the electorally opportune moment. There is corruption when officials and politicians use the distribution of privileges and sinecures to divest political parties and other organizations of their ethical principles and intellectual vigour. It is corrupt to forget that participation in politics or in government demands preparation, selflessness, the willingness to serve others, and consistency between what is practised and what is preached.

But we must not forget that elected officials are not the only ones guilty of corruption. There are forms of corruption arising from misunderstood loyalty, from extreme acquiescence, and from the opportunism of subordinates. We must ask ourselves about the possible consequences of the corruption found in secrecy and in false loyalty.

It must be recognised that there exists a voter's responsibility to seek in a future government official honesty, aptitude, capability, veracity, and respect for those attributes. For one who lacks values, but not political ambition, will always be willing to pervert the tools of democracy in his or her thirst for power. Not all destroyed democracies were buried by coups d'état or insurrection.

Voting is a right, but many citizens forget their obligation to exercise that right with responsibility. In the parliamentary elections held in March 1933 in the homeland of Beethoven, Goethe, and Thomas Mann, the National Socialist Party legitimately obtained a crushing majority, thereby opening the door for Adolf Hitler to the most corrupting of powers, absolute power.

In seventeenth-century Mexico, one of that country's great poets, Sor Juana Ines de la Cruz², asked:

Whose is the greater blame in a shared evil?
She who sins for pay, or he who pays for sin?

The poet meant to expose the hypocrisy of men who scorned the moral character of the women with whom they sinned. I believe her words ring true even today, in a world where sinners often retreat into havens of wealth and power. Corruption requires two parties—the corrupter and the corruptee. When industrialised leaders condone bribery in other nations while condemning bribery at home, they are guilty not only of corruption, but of the application of a double standard for the developed and developing worlds. The existence of this double standard is dangerous to all parties involved—to the rich nations who reserve ethics for the domestic stage, and to the poorer nations whose institutions are subject to a process of corrosion through corruption.

The perpetrators of corruption in developing nations are not always citizens of the Third World. During the past few decades, several industrialised countries have interfered with the political processes of countries in the developing world by supporting, maintaining, and even installing corrupt leaders. Many wealthy nations have followed a double standard in their foreign policy, promoting democracy at home and autocracy abroad. This double standard is also manifest in the tendency of Western nations to ignore the anti-bribery laws of developing countries, even allowing their corporations to make the payment of bribes tax deductible. Such actions blatantly disregard the needs of fragile new democracies to prove the value of the democratic system to people who have lived for years under totalitarianism.

Double talk—another type of double standard—can be heard in the realm of international relations. And that means corruption in a wider sense, a type of corruption that weakens confidence among nations. When governments of powerful states offer moral arguments to justify acts which are in reality dictated by self-interest, they commit an act of corruption. There is corruption when democratic governments, very often declared pacifists, permit their countries' industries to supply arms to repressive governments that violate human rights or to countries embroiled in civil wars or international conflicts.

² A Mexican nun, not only was she one of the greatest poets and playwrights of her time, she was also the first person in Latin America to argue for the rights of women to receive an education.

Transparency International has taken important steps to combat double standards of corruption. I applaud these actions. But we must still do more. This Source Book will, without question, be an invaluable tool in this further work, helping to build standards and providing civil society no less than policymakers and implementers with a host of examples of best practice that any country will ignore at its peril.

As well as building an alert and empowered civil society, we must fight corruption by educating our children against abuse of power. We must fight corruption by becoming champions of civic virtue, that quality of citizenship that seems to have been lost with the passing of the years. As we approach the new millennium, we need the help and support of every one of us in order to reach this goal. We must remain confident that we can stop the cancer of corruption. As much as we speak of the globalisation of corruption, we must also welcome the global tidal wave of public demands for good government. Today, national leaders are beginning to accept that corruption must be discussed on the domestic and international stages. Since the end of the Cold War, aid flows have been more closely watched and humanitarian assistance is now meant to help people, rather than to buy friends—even corrupt ones—in the developing world.

In the mind of any student of politics, Europe evokes images of the age of Enlightenment—of great philosophical debates about the merits of democracy, the constitution of liberty, and the obligations of citizenry. Let us see the dawn of a new and global enlightenment. Let us work for a renaissance of the ideas that gave birth to our democracies and shaped our governments, for our futures will only be secure by a sustained commitment to these same ideals.

If we can rediscover our passion for liberty, truth and justice, we will realise our dreams and surpass our goals. The hour has arrived for us to live up to our potential and to shun the temptations of corruption. Let us then be true to our history and begin to prepare for the future.

*San José
Costa Rica*

Preface

by Peter Eigen¹

Corruption is one of the greatest challenges of our age - a challenge that must and can be confronted. There are no short cuts, and no easy answers. The scourge of corruption will, to some degree or another, always be with us. As we enter a new millennium, we are conscious that corruption, to a greater or lesser extent, poses a threat not only to the environment, human rights, democratic institutions and fundamental rights and freedoms, but it also undermines development and deepens poverty for millions the world over. If it is allowed to continue to provoke irrational governance, one driven by greed rather than by the people's needs, and to disrupt the development of the private sector, corruption will even deny that most fundamental of human needs - hope.

Fortunately, world-wide concern for improved levels of governance and accountability has never been higher - be it in the public or private sector, or within international or non-governmental organisations. The belief that increased transparency can achieve not only more meaningful levels of accountability, but can do so in a highly cost-effective fashion, is now expressed universally. There is also a widespread recognition that fundamental and enduring changes in attitudes and practices can only be brought about by harnessing the energies of all of the points of a society's triangle of forces - the state, the private sector and civil society - and not only within countries, but also trans-nationally.

There is also a deepening recognition of the fact that the democratic gains of the past decade stand at risk if the explosion of corruption the world has witnessed is not contained. If large numbers of people in the emerging democracies become disillusioned with the democratic experiment and start to yearn for times of greater certainty, then the chances are that the old and failed remedies will be tried once more, and further impoverish their lives.

A thesis of partnership and coalition-building underpins Transparency International's approach to containing corruption. As such, this Source Book represents a methodical "drawing together" of the various strands and actors that collectively comprise a nation's integrity system - an expression first used in the first version of this Source Book but one which has passed quickly into the lexicon of reformers.

By adopting an holistic approach and by co-opting all the principal actors into the process of anti-corruption reform, a country or community can enhance its capacity to curtail corruption to manageable levels. But none of this can be tackled without enlightened and determined

¹ Peter Eigen is Chairman of the Board of Directors of Transparency International, the organisation which he founded in 1993.

political leadership, without high levels of public awareness and support, and without a motivated and well-led private sector. In many countries, the most difficult element in the equation is that of developing a vibrant civil society willing and able to play a meaningful role in shaping its environment.

This Source Book should, in large measure, contribute to an empowering of leaders within civil society by providing both a rationale for, and examples of, good practice. TI believes that for too long the role of civil society and the private sector has been understated, and it will be working with its national chapters towards achieving progress in this area. When today's developed economies were themselves in the stage of evolving, and had features that resembled those of many of today's third world economies and economies in transition, it was just such action by civil society and the private sector that confronted and successfully contained the corruption that was then threatening their economic development. We believe that history can, and must, repeat itself in this regard.

As anti-corruption efforts evolve, it is important to note that this book, rewritten and fully revised as it is, continues to be a work in progress. Now translated into some 20 different languages, the earlier version has been adapted into various regional and national settings, taking account of differing national, juridical and governmental traditions.

It is our hope that further constructive criticism will lead to further development of the text and to improvement of the models available in the accompanying Best Practice documentation available on the TI web site. This Source Book itself will be placed on the Internet, and regularly revised and updated there.

Berlin

September, 2000

Executive Summary

A major achievement of the past decade has been the shattering of the taboo which for a generation or more had shrouded any discussion of corruption in polite company, least of all in diplomatic circles and in intergovernmental institutions. From this debate has emerged a potentially powerful global coalition, uniting many peoples from the North and South, East and West, industrialised and developing countries and countries in transition. Opinion, expertise and resources have been mobilised. Most accept that the time for talking has past; it is time for action.

At the heart of this coalition lies the recognition that civil society's involvement is crucial in any country. Governments alone cannot hope to contain corruption. They need, and must win, the support and participation of an active but independent civil society. What else has emerged from this global debate?

Corruption is endemic and everywhere. It is not just a case of public officials abusing their positions, but of people abusing their positions wherever there is easy money to be made.

- Large private companies target public officials to win hefty export contracts.
- Officials of the International Olympic Committee have been “influenced” to choose particular venues to host the Olympic Games.
- Allegations abound in professional sport of match-fixing - soccer referees have been publicly warned against taking bribes.
- “Ghosts” have emerged in many countries, including within the French army.
- Fraudsters pose as religious leaders to conduct huge scams on their followers, particularly in the United States.
- Bogus “charities” and non-governmental organisations are established whose running costs absorb virtually all the funds raised.
- Radio show hosts take secret payments from interests keen to see their products mentioned favourably by credible personalities.¹
- Financial journalists tip the public to buy shares in companies they themselves have already invested in - and then take profits when the prices rise.
- Previously internationally-respected auction houses secretly rig their fees so as to defraud their customers, vendors and purchasers alike.
- A President's security chief is filmed making a cash pay-off to an opposition politician to buy his defection.²
- Children in Italy are blindfolded to reassure ticket-holders while they draw winning numbers for multi-million dollar lotteries, but are trained to select balls which have been rendered slightly smoother and slightly larger than the rest.³

1. The Weekend Australian, 4/5 December 1999.

2. BBC World Service, 17 September 2000 announcing that Peru's

President Fujimori was to stand down.

3. Guardian (UK), 15 January 1999.

Commonly recognised forms of corruption

The most commonly recognised forms of corruption are:

- Treason; subversion; illegal foreign transactions; smuggling
- Kleptocracy; privatisation of public funds; larceny and stealing
- Misappropriation; forgery and embezzlement; padding of accounts; skimming; misuse of funds
- Abuse of power; intimidation; torture; undeserved pardons and remissions
- Deceit and fraud; misrepresentation; cheating and swindling; blackmail
- Perversion of justice; criminal behaviour; false evidence; unlawful detention; frame-ups
- Non-performance of duties; desertion; parasitism
- Bribery and graft; extortion; illegal levies; kickbacks
- Election tampering; vote-rigging; gerrymandering
- Misuse of inside knowledge and confidential information; falsification of records
- Unauthorised sale of public offices, public property and public licences
- Manipulation of regulations, purchases and supplies, contracts and loans
- Tax evasion, excessive profiteering
- Influence peddling; favour brokering; conflicts of interest
- Acceptance of improper gifts, fees, speed money, and entertainments, junkets
- Links with organised crime; black-market operations
- Cronyism; cover-ups
- Illegal surveillance; misuse of telecommunications and mails
- Misuse of official seals, stationery, residence and perquisites

Adapted from Gerald E. Caiden, "Toward a General Theory of Official Corruption". Asian Journal of Public Administration, Vol. 10, No. 1, 1988

There seems to be no end to human ingenuity when it comes to circumventing systems designed to protect the integrity of institutions and processes.

This would be cause enough for concern, but the impact of corruption on poverty has come to the fore. By distorting development decision-making and regulatory frameworks, the poor are denied both the effectiveness of aid flows and the hope of advancement through private sector development. For rich and poor alike, the stakes are high.

Left alone and not contained, corruption is likely to increase - it has been likened to a cancer, and rightly so. Just one example is the country which sacked its Auditor-General when he reported corruption in the Cabinet, and later witnessed the spectacle of a Cabinet Minister being shot and two of his colleagues being sentenced to death for having arranged his murder.⁴

Corruption can take place where there is a combination of opportunity and inclination. It can be initiated from either side of the transaction: a bribe being offered to an official, or the official requesting (or even extorting) an illicit payment. Those offering bribes may do so either because they want something they are not entitled to, and bribe the official to bend the rules, or because they believe that the official will not give them their entitlements without some inducements being offered. Poverty may feed inclination, but realistic strategies can and have been devised which limit opportunities.

The strategies to contain corruption, therefore, should address both elements. Opportunities can be minimised through systematic reform, and inclination reduced through reversing a "high profit, low risk" scenario into a "low profit, high risk" one, through effective prevention, enforcement and deterrent, accountability mechanisms. Both the bribe "giver" and the bribe "taker" must be addressed.

More than this, to be successful a strategy needs to address not only enforcement and prosecution, but also prevention and community education.

Accountability mechanisms, when designed as part of a national effort to reduce corruption, comprise an "integrity system". This and the concept of "horizontal accountability", a way of describing modern systems of government, are discussed in chapter 4 of this Source Book. This system of checks and balances is designed to achieve accountability between the various arms and agencies of government, manage conflicts of interest in the public sector, effectively disperse power, and limit situations conducive to corrupt behaviour.

However, combating corruption is not an end in itself; it is not a blinkered crusade to right all the wrongs of the world. Rather, the struggle against malfeasance is part of the broader goal of creating more effective, fair and efficient government. Reformers are not just concerned with countering corruption per se, but with reversing its negative impact on development and society as a whole. In this way the reforms help to raise standards of living for the poor and greater respect for the human rights of all.

The wise reformer knows that corruption can never be entirely eliminated. Under many real-

4. Western Samoa.

istic conditions, it will simply be too expensive to do so. A single-minded focus on corruption prevention can also have a negative impact on personal freedoms and fundamental human rights. Corrupt programmes and services may be difficult to eliminate entirely; bureaucratic discretion (which often opens the door to corrupt decision-making) may continue to be necessary for effective administration; and stronger enforcement and deterrence is anything but cheap. Thus, the aim is not to achieve complete rectitude, but to realise a fundamental increase in honesty - and so the efficiency and fairness - of government.

So where should anti-corruption efforts begin? The obvious point of entry is to gain an understanding of the underlying causes, loopholes and incentives which feed corrupt practices at any level. If not informed by understanding, any reforms are unlikely to succeed.

Any understanding of corruption begins by dispelling the myth that corruption is a matter of “culture”. In most cultural contexts, public gifts are made openly and transparently; the Swiss numbered bank account is not a part of any country’s traditional culture; the people who live in societies where corruption is supposedly a “part of the way of life” generally bitterly resent the practice; and, bribes and payoffs are almost invariably illegal and criminal under the laws of the “cultures” involved. No-one has yet identified a sustainable social order in which a society believed that its leaders should prefer to promote their own private interests at the expense of the group. In those countries where popular belief has been that this is the case, the degree of public outrage that has accompanied the fall of such leaders surely indicates their outright rejection of such conduct.

The next step is to ask the question - what are the main types of corruption occurring within the public domain?

The first type is “petty” or “survival” corruption practised by public servants who may be grossly underpaid and depend on small rents from the public to feed their families and pay school fees. There are some who would argue that this type of corruption helps both companies and individuals circumvent government requirements - reducing delays and avoiding burdensome regulations and taxes. This view sees payoffs as nothing more than the “grease” needed to operate in a difficult environment, although surveys are now suggesting that those who identify themselves as “cash cows” waiting to be “milked” may in fact find that the system operates even more slowly, as gate-keeper after gate-keeper exacts his or her dues. Such small-scale corruption may be illusory, and in fact be indicative of much more damaging forms - with lowly-paid civil servants (who may even have purchased their jobs) obliged to generate returns for their supervisors, or to produce revenue for a ruling party. The impact of small bribes, too, can be radically disproportionate, as in the case of the customs officer who, for a few dollars, waves through containers of high-cost dutiable goods.

Small-scale it may be, but if not vigorously attacked, small-scale, facilitating bribes can feed on themselves to produce a corrupt spiral. Frequently too, petty corruption is simply a downwards projection of much more damaging forms of corruption at higher levels. The “grand” corruption of high public officials often involves large, international bribes and “hidden” overseas bank accounts. It is frequently fostered by exporters from countries (in particular, the industrialised countries) which may (knowingly or unknowingly) offer tax breaks for the bribes paid and refuse to regard the trans-border corruption of public officials as being criminal behaviour.

This is not to say that corruption is limited to situations where the rules are either inefficiently restrictive or overly lax. Incentives to make and ask for payoffs occur whenever a government

official has economic power over a private firm or individual. It does not matter whether the power is justified or unjustified. Once a pattern of successful payoffs is institutionalised, corrupt officials have an incentive to raise the size of bribes demanded and to search for alternative ways to extract payments.

Officials may refuse to serve clients unless a bribe is paid. They may design a major procurement project on too large a scale and with too much specialised equipment as a way of generating large bribes and keeping them hidden. They may prefer expensive new infrastructure projects, which can carry large bribes, to lower-priced, labour-intensive projects which do not. They may accept payments to reveal secret information on privatisation projects and to favour insiders. And once paid, a bribe may have to be recouped by a contractor, if not in over-pricing, then in providing lesser value. None of these examples represents the efficient use of pricing mechanisms in the public sector. All of them involve poor public and private choices and risk imposing large costs on society - costs which are often shouldered by those who can least afford to bear the burden.

As such, governments and private citizens should not respond with tolerance. Instead, they must move vigorously to strengthen their national integrity systems. The policy response to combating corruption has several elements common to every society: the reform of substantive programmes; changes in the structure of government and its methods of assuring accountability; changes in moral and ethical attitudes; and, perhaps most importantly, the involvement and support of government, the private business sector, and civil society. The challenge cannot be met simply through institutional and legal responses. Everyone must be involved. The alternative - of doing nothing - is simply not an option. Left uncontained, corruption can only fester and grow. Ultimately it has the capacity to terminally undermine the legitimacy of a government, and ultimately of a state.

This Source Book emphasises accountability measures and attitudinal change over the reform of substantive programmes to reduce corrupt incentives. Why? Because an integral part of the holistic approach to combating corruption is the concept of service delivery - bringing the public service closer to the “customer” (the public) and enhancing its cost-effectiveness through mechanisms of transparency and increased accountability. Accountability measures can often be put into effect relatively quickly and can help create a situation where corruption is no longer tolerated by most officials and citizens. Secondly, the techniques for introducing greater accountability are relatively well-understood and appear to be transferable between nations.

By contrast, substantive policy reform, involving such tasks as reform of the regulatory and tax systems and the elimination of unjustified bribe-generating programmes, is likely to be a more difficult and time consuming task. It is not a “quick win” situation upon which a series of reforms can be built. It is also an undertaking that must be geared to the particular needs and problems of each individual nation state - an undertaking which cannot be fully addressed within the confines of a single generic book.

Successful anti-corruption reform efforts have been all too rare, and the failures numerous. This should not be viewed as discouraging, but rather as a learning process.

Some of the main lessons learned within the pages of this Source Book are that anti-corruption efforts can be derailed by:

- the limits of power at the top (an incoming administration may wish to tackle cor-

ruption effectively but inherits a corrupt bureaucracy that impedes efforts for change);

- an absence of commitment at the top;
- overly ambitious promises leading to unrealistic and unachievable expectations and a loss of public confidence (short-term achievable goals or “quick wins” are often necessary to buoy public support);
- reforms that are “piecemeal” and uncoordinated, so that no-one “owns” them and no-one is committed to see that the reforms are implemented and kept up to date;
- reforms that rely too much upon the law or too much on enforcement (leading to repression, abuses of enforcement power and the emergence of further corruption);
- reforms that “overlook” those at the top and focus only on the “small fry” (if the law is applied unfairly and unevenly, it soon ceases to have any legitimacy or deterrent effect);
- the failure to establish institutional mechanisms that will outlive the leaders of the reforms; and,
- the failure of government to draw civil society and the private sector into the reform process.

The elements of a serious and concerted reform effort must therefore include:

1. a clear commitment by political leaders to combat corruption wherever it occurs and to submit themselves to scrutiny (revisiting the need for immunities and privileges which may shield some from legal process);
2. primary emphasis on prevention of future corruption and on changing systems (rather than indulging in witch-hunts);
3. the adoption of comprehensive anti-corruption legislation implemented by agencies of manifest integrity (including investigators, prosecutors, and adjudicators);
4. the identification of those government activities most prone to corruption and a review of both substantive law and administrative procedures;
5. a programme to ensure that salaries of civil servants and political leaders adequately reflect the responsibilities of their posts and are as comparable as possible with those in the private sector;
6. a study of legal and administrative remedies to be sure that they provide adequate deterrence;
7. the creation of a partnership between government and civil society (including the private sector, professions, religious organisations);
8. making corruption a “high risk” and “low profit” undertaking (i.e. increasing both the risk of being detected and the likelihood of appropriate punishment thereafter);
9. developing a “change management scenario” which minimises the risks to those who may have been involved in “petty” corruption and which wins the support of key political players (whose participation may be crucial) yet which is seen by the public as fair and reasonable in all the circumstances (blanket amnesties can trigger riots in the streets; equally, a blanket imposition of legal penalties can lead into the quicksands of political oblivion).

Bearing all of these points in mind, the development of a coherent, comprehensive strategy must involve an attack on several fronts. Most countries, however, will not be able to do everything at once. Dedicated reformers need to decide where the greatest problems lie and what kinds of policies will be most effective. They also need to recognise the interconnections between different strategies: removing controls on the freedom of the press will have little impact if reporters do not have adequate access to government data, as will anti-corruption laws if law enforcement is weak and corrupt.

This Source Book flags six main areas of reform which can help implement an overall anti-corruption strategy:

- leadership;
- public programmes;
- government reorganisation;
- law enforcement;
- public awareness; and,
- the creation of institutions to prevent corruption.

Important though enforcement undoubtedly is, a strategy that focuses only on enforcement is almost certain to fail and is unlikely to yield a sustained ethical environment that is alien to corruption. Carrots are needed as well as sticks.

The discretionary power of public officials, and the corresponding opportunities for abuse of power, can be reduced through a broad set of reforms targeting the reorganisation and reform of public programmes. These changes will not simply diminish the incentive to pay bribes but also streamline business transactions of all sorts and improve people's access to public services generally. Reforms may include eliminating corrupt programmes which do not enjoy a strong public policy justification - some programmes may have little to recommend their continuance beyond their ability to produce personal benefits for officials! Another option is to simplify programmes and procedures to make them more efficient. Eliminating, for example, "gatekeepers" who are in a position to collect illegal tolls from users, or streamlining the steps required to gain government approvals, serves to reduce the opportunities for delay and discretion - the breeding ground of corrupt practice.

What are the other options for the reform of specific programmes? When payments by the public would actually help to improve efficiency and would not violate distributive justice norms - one can consider legalising the sale of government services, either on a "user pays" basis or to the highest qualified bidders. Likewise, areas of bureaucratic discretion can be minimised. When discretion must be retained, officials should be given clear, written guidelines on the exercise of their duties. Privatisation of state enterprises can also reduce corrupt opportunities within government (but the process itself must be transparent to avoid becoming ensnared in corruption and any resulting private monopolies well-regulated to prevent abuse). The "monopoly power" of bureaucrats can be reduced by providing rival sources of supply - let people apply for a driver's licence at any motor vehicle office, or let businesses obtain operating licences from any of several officials or offices. Conversely, police forces can be given overlapping jurisdictions so that no official can guarantee a lawbreaker that he or she will not be arrested. The list of potential reforms to government programmes is a long one...

Quite apart from reforming specific programmes, attention needs to be given to preventing corruption through government reorganisation. This involves changing the way the government actually does business. How can this be achieved? By paying a living wage to civil servants and politicians so that an honest career in government is a reasonable choice for qual-

ified people. By demystifying and depersonalising government - opening up information, informing citizens of their legal rights in dealing with government, publishing staff manuals which are easily accessible to department users and contractors, and minimising face-to-face contact by introducing random elements (such as staff rotation) so that users cannot predict the officials with whom they may be dealing.

The range of options for changing governments' *modi operandi* is extensive. A few suggestions include:

- developing and implementing strategies which create a firm ethical basis for public administration;
- opening up government to make most official information accessible to the public, and fostering positive and open relationships between government agencies and the press when the press asks for information and comment;
- developing internal financial management systems that ensure adequate and effective controls over the use of resources;
- establishing other types of internal oversight mechanisms to provide speedy and effective review of contentious decisions;
- assuring the adequacy of judicial review of agency actions;
- making managers at all levels responsible for the activities of their subordinates;
- increasing the effectiveness of supervision to enable superior officers to check and control the work of their staff;
- conducting surprise checks on the work of officers;
- requiring officials at management levels to certify that those they supervise comply with civil service regulations and laws;
- purging payrolls to eliminate "ghosts" and make their reappearance more difficult;
- implementing effective monitoring of the assets, incomes, and liabilities of officials with decision-making powers;
- introducing appropriate restrictions on post-public employment in the private sector;
- providing complaints channels to enable junior officials to complain about their superior's corruption;
- ensuring that the press is both itself free and free to expose corruption;
- rewarding good behaviour;
- establishing mechanisms for civil society to be involved in a continuous process of government review;
- polling the public periodically on its perceptions of government service delivery;
- establishing an open, genuinely competitive and transparent system of public procurement;
- examining present practice against "best practice" and the rules in place in the most transparent systems;
- ensuring that choices are not captive to departmental advice and interests;
- involving "outsiders" (i.e. independent individuals who are not part of "the system");
- forcing speedy decision-making in order to eliminate delay during which corruption can take place;
- encouraging professional bodies (accountants, auditors, lawyers) to declare that participation in corrupt activities (including money-laundering) is unprofessional conduct and that corrupt members will be liable to disbarment;
- requiring all gifts, hospitality etc. received by government officials and all political donations to be reported and recorded;
- reviewing and enforcing appropriate "conflict of interest" regulations (including the introduction of ethics programmes and periodic group discussions of real-life ethical dilemmas drawn from their own experiences); and,

- building coalitions of interests in support of corruption prevention, drawing on the private business sector and civil society.

No matter what the options are, reform within public programmes and procedures cannot occur in isolation. Credible legal constraints must exist to back up administrative reform. Yet, in many countries neither the prosecutors nor the judiciary are well-respected, and the underlying laws are weak and ineffective. Several types of reforms need to be considered to strengthen the enforcement of anti-corruption incentives.

Independent investigators, prosecutors, and adjudicators can be established in such a manner that they perform their professional duties in a transparently independent fashion and enforce the Rule of Law against all who breach it. Adequate powers of investigation and prosecution (consistent with international human rights norms) should also be provided for, including access to all government documentation, international mutual legal assistance arrangements with relevant countries, and a re-examination of the laws of evidence and the penalties for corruption to determine if they are appropriate to modern realities.

Transparent mechanisms which lift any immunities which high public officials enjoy by reason of their office can also be integrated into the reform of enforcement measures. So can the development of channels for effective complaint-making, whether internally with the public service or by a member of the public. Procedures for punishing those involved in corruption within the state but who are outside the jurisdiction of the state should also be seriously considered in the anti-corruption reform effort. Civil penalties, black-listing of corrupt firms, extradition arrangements, and other legal provisions which enable the profits of the corrupt to be seized and forfeited, inside or outside the country, are all powerful disincentives for the would-be corrupt.

A common factor to all anti-corruption efforts, whether these efforts involve reforming public programmes, reorganising government, or strengthening enforcement, is that they must enjoy public support. Anti-corruption campaigns cannot succeed unless the public is behind them. If ordinary people and businesses at all levels of society are used to dealing with the state through a system of “payoffs”, it will be difficult to change attitudes. Yet such changes are essential if fundamental change is to occur. People need to understand the seriousness of the corruption problem and what can be done about it - civil society groups (religious leaders, business organisations, professional associations and ad hoc groups), in partnership with government and the private sector, have an important role to play in raising public awareness of the harm done by corruption.

Several steps can be taken. One of the first should be to ascertain what the public perception is regarding existing levels of corruption and where corruption takes place in order to provide a baseline against which the progress of anti-corruption reform can be measured. Secondly, the legal and administrative environment should provide an enabling environment for a free press. The freedom of the press will be aided by several measures, such as passing Freedom of Information laws giving private citizens, including journalists, access to government information (and, it follows, ensuring that government record-keeping is efficient and effective); repealing or revising anti-defamation laws and “insult” laws to ensure that these cannot be used to threaten and fetter the press; ending press and media censorship; raising the professional standards of journalists; ending government discrimination (such as controlled access to newsprint, advertising) of certain media; and, ensuring that state-owned media employees can maintain professional standards of independence and responsibility

In addition, the environment in which civil society operates should be appropriate to a free and democratic society. Nongovernmental organisations and other civil society institutions should be easy to establish, (subject to concerns for the fraudulent use of the non-profit format) and registration provisions should be simple and inexpensive. Registration of a civil society group should be a right, not a privilege.

A nation that is serious about fighting corruption may also need to establish new institutions or strengthen existing ones to specifically carry out some functions in the anti-corruption mandate. Although a number of different models exist, each must ensure that the institution is adequately staffed and funded. Otherwise, the long list of ineffective anti-corruption show-pieces common throughout the world will only get longer. The options include establishing an Independent Commission Against Corruption, such as the one that exists in Hong Kong, with broad investigative and prosecutorial powers and a public education mandate. Such a Commission must be genuinely independent of the country's rulers but subject to the Rule of Law or it risks becoming a force for repression in its own right. These agencies have, however, been largely failures, usually because of a lack of independence has prevented them from investigating major corrupt figures and they have been starved of resources, either through ignorance of their need for adequate capacity or to trim their sails. It is axiomatic that a law enforcement approach is likely to work only where there is already a functioning and independent judicial system.

Another option is to strengthen the Office of the Auditor-General and the Office of the Ombudsman (and if necessary, to create the Office of Ombudsman - an institution which is uniquely placed to improve the performance of officials whilst at the same time providing a quick and cheap remedy to members of the public). The office-holders must be appointed in a way that ensures the independence and professionalism of the office and reports stemming from these Offices must be given widespread publicity, and the government must act to implement recommendations. Ombudsman offices are being established in many countries and they afford an opportunity to introduce administrative accountability while the judicial system adjusts to its new role, or reduces the inefficiencies and corruption that obstruct its performance of its duties. Establishing an Office of the Contractor General would provide independent oversight of government contracting and performance.⁵

An Elections Commission may be needed to ensure independent and impartial review that does not favour any political party or group. The Commission would require transparency in all aspects of the elections system (except, of course, the casting of individual ballots), foster public participation in the monitoring process to build confidence, and provide for training political party officials to ensure their familiarity with the system and enable them to monitor it professionally. In addition, strengthened legislative mechanisms for accountability such as a Public Accounts Committee is required to ensure public access to oversight proceedings.

In a situation of systemic corruption, more often than not the courts - and with them the Rule of Law - fall into disrepute. Their utility as part of the engine of a reform programme can be highly questionable. These institutions must be prepared to accept much more open criticism than they are accustomed to bearing, and not resort to contempt of court charges to silence their critics, however misguided these may be. The judiciary's leadership must become a key part of the coalition for change, and make the necessary changes to their own practices. Simply to deny a truth which the populace at large recognise as being true, only confirms the pub-

⁵ This has been tried in Jamaica, but although the office has performed well, the political class has shown itself to be unenthu-

siastic about taking appropriate action to stem political interference in government contracting.

lic's view that high judicial figures are reluctant to provide a lead and to frankly acknowledge the fact that they have problems. Civil society can help by building coalitions of court users to help overcome the obstacles which would-be judicial reformers face.

Nor can the public interest in containing private sector corruption be ignored. It is, of course, relevant in the context of the private sector's interface with government as a provider of goods and services. But today the private sector is much more than this. Increasingly, public assets are being privatised and strategic public interests placed under private ownership and control. The public therefore have a greater interest than ever in the achievement of good ethical standards. More than this, in many developing countries the private sector is looked upon as the principle engine for development. Government-led efforts have largely failed, and the theory is that the private sector, through the market-place, may be able to achieve that which governments have not. However, if that market-place is marred by corruption; if it is a market in sleaze and not in the arms-length pricing of goods and services, then that market-place will be unlikely to produce what it should for the benefit of the wider community.

This Source Book is only a stepping stone towards containing corruption - it examines programme reform, government reorganisation, enforcement, institution building and more. What is one to do with all of this information? When a group of individuals in a country seeks to put the reduction of corruption on the policy agenda, how should they actually proceed?

The sources of political power and policy influence will differ from system to system, but there are some suggestions which may be applicable to many differing scenarios.

One way to begin is by establishing a "national integrity working group" which draws together all the stakeholders within government (executive office, public service, investigation, prosecution, judiciary, education, information and key vulnerable departments such as customs, procurement, revenue collection, local government) together with coalition partners from outside government (civil society, religious leaders, private sector, relevant professional bodies - law, auditing, accounting, health and education - and groups representing consumer interests). This group could:

- Gain agreement that corruption is too important an issue to be dealt with on a party political basis, and win the support of all major political groupings to work to a commonly-agreed objective. Then, analyse the existing framework and identify areas for reform in order to develop an overall plan which includes short-term, medium term and long-term goals (including a public awareness-raising programme), and assign responsibilities for follow-up action and reporting back to the working group.
- Publicise the establishment of the working group and its overall plan and solicit inputs from the wider public. Continue by seeking endorsement of the plan by the political leadership.
- Hold regular meetings of the working group and give appropriate publicity to its work, paying particular attention to achieving some "quick wins" to build public confidence.
- Post the "national action plan" on a web site and generate local media interest in covering the progress made, and the success stories, without simply wallowing in corruption scandals.

- As reform programmes involve various ministries and a variety of actors, have the government appoint an influential Minister as “Minister for Governance” so that there is a political figure who is clearly responsible and who is well placed to keep an eye on the variety of balls that are in the air.
- Work to generate both “top down” and “bottom up” pressures on corrupt elements within and outside the public sector.
- Ensure that all involved appreciate that the task is long-term; and that while there may be some “quick wins” to be had, in countries where the problem is at its greatest, the time-frame cannot be shortened. Many anti-corruption strategies have foundered on a lack of understanding of this simple fact.

But such a scenario presupposes both a readiness and an ability to act on the part of a political leadership. In many countries there is an absence of will, and an attachment to a comfortable - and corrupt - status quo. In such an environment is it naïve to think in terms of starting an anti-corruption movement? This Source Book argues that it is not. Even in such unpromising territory there is likely to be space in which to start informed discussions among opinion-leaders as to how a society wishes to be governed; to identify potential “champions” of reform within the administration and to assure him or her of support; and to develop “islands of integrity”, be it in a single act of procurement, a single privatisation or a single government agency. There are few, if any, administrations that are wholly corrupt, and the elements that are not, or are unwilling to be, can be the bricks and mortar with which to fashion sustainable change.

In the drive to implement anti-corruption reform - with all its processes and procedures, choices and options - it is important to remember that it is a long-term process. It is one which must be openly supported from the top and one in which ethical attitudes and conduct must be nurtured and reinforced at all levels. Initially reform should only tackle issues where it can be most effective or where there is the most added value, bearing in mind the importance of timing and sequencing, and of building the public’s confidence in the transparency and accountability of the State. The anti-corruption campaign must be made the business of all.

