Corruption, Democracy
and
Human Rights in East and Central Africa

Entebbe, Republic of Uganda
12 – 14 December 1994

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Complied and Edited
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A Seminar on Corruption, Democracy and Human Rights in East and Central Africa was held at the Lake Victoria Hotel, Entebbe, Uganda, from 12 – 14 December 1994. It was organized by the Africa Leadership Forum in collaboration with Transparency International and supported by the European Commission.

The Seminar was chaired by H.E. General Olusegun Obasanjo (Chairman of the Africa Leadership Forum and former President of Nigeria) and H. E. Pierre Buyoya (former President of Burundi). It was attended by participants drawn from Uganda, Kenya, Tanzania, Ethiopia, Sudan and Ghana, Burundi, Nigeria, and a number of other countries.

The Seminar was formally opened by H.E. Mrs. Specioza Kazibwe, Vice-President of the Republic of Uganda, who presented an address on behalf of H. E. Yoweri Museveni, President of the Republic of Uganda.

The Seminar discussed the cause and effect of corruption in Africa, the ways in which businessmen from developed countries deepen the crisis, and the way in which civil society in particular might mobilize to combat it effectively.

Among the conclusions of the Seminar were that corruption across the board is systemic world-wide and in many African countries, arising from the corruption of leadership inducing a collapse of institutions designed to contain corruption. In most African countries this has contributed to a grinding poverty which has driven those on the margins to engage in petty forms of corruption simply to survive. In the absence of a living income the people are victimized twice over: they are denied development and then forced to lower personal standards of honesty.
A major element in corruption at the higher levels is massive corruption in international transaction. This distorts decision-making, creates white elephant projects and drives up the costs of necessary projects, thereby adding further to the impoverishment of the people. It contributes in a major way to the African external debt crisis.

In this context, the Seminar expressed strong disapproval at the fact that the bribes paid by most foreign businesses from the North are tax deductible in their home countries, and that most developed countries refuse to recognize the bribery of foreign officials as being a criminal offense.

It therefore called on all African leaders to make the voice of Africa heard loudly in all international fora, at the UN, at the European Union and the OAU and to initiate reform. This should include an international convention against corruption and effective laws in both the North and the South which will deter illicit international payments. They must include provisions which will enable victimized countries to recover the corrupt gains made by African leaders which have been sent abroad. In this respect the Seminar gave full support to the current recommendation by OECD members states to make transnational bribery illegal, and it proposed that African governments should associate themselves with the initiative.

The Seminar further urged governments in the North to acknowledge the well-established linkage between corruption and other forms of serious crime such as drug-trafficking, money-laundering and terrorism. They should formally recognize that international corruption poses a threat to all members of the world community so that the mechanisms used to counter, in particular, drug-trafficking and money-laundering must be applied to international corruption. The Financial Action Task Force established by the G-7 and supported by many other countries throughout the world, should extend its mandate in this way.
It also called on African leaders to follow the excellent example set by the leaders of the Americas at the initiative of Ecuador at their Hemispheric Summit in Miami last week, by being prepared honest and openly to face up to the problem of corruption, and without trying to hide it under the carpet or pretending that it is under control. Only in an environment of honest and frankness can effective international instruments be developed and enforced.

The Seminar recognized the central importance of civil society in supporting the evolution of the organs of a democratic society. These include a free media serviced by a cadre of professional, courageous and responsible practitioners; independent judges, magistrates and lawyers determined to uphold the rule of law; an efficient, effective and adequately remunerated public service; and an independent and transparent parliament, democratically elected and with a cadre of parliamentarians who are honest and prepared to demonstrate their own integrity through a readiness to make full disclosure of their personal finances and business interests, and those of their immediate family.

Civil Society, Political leaders and the public service also have a role in developing a public awareness of corruption as being a practice which actively impoverishes the nation and cripples development. The public should understand that the politician who offers bribes for votes is likely to be one who accepts bribes for favours and will end up stealing their money. It must also contribute to providing role models of honest persons of integrity, and an environment in which those who prosper illegitimately are regarded as criminals, not models to be emulated by the young. This needs to be done within the family, as well as at the national level. Honest service to society and within the public service should be recognised and rewarded.

The media occupies a special role in any society that aspires to be democratic and accountable, a role which it must discharge honestly, fearlessly and in an objective manner. It must expose corruption wherever it occurs and whoever may be involved. It must not become
captive to political point-scoring. To develop such a media, standards of professionalism must be set by journalists themselves, and not by the imposition of controls by parliaments. The conference saluted the impressive achievements of a number of outstanding journalists in several countries on the continent and declared its solidarity with them. The publicly-owned media must be open for the dissemination of all points of view in an even-handed way, and growth in the private electronic media should be encouraged.

It appealed to developed countries to spare no effort in assisting processes of reform against corruption, in particular by encouraging and supporting those administrations who demonstrate genuine commitment to reform. Companies in the industrialized countries as elsewhere who bribe to gain business should be blacklisted and excluded from future international and national public procurement exercises.

The Seminar noted with interest the initiative of the Government of Uganda to make its future debt forgiveness and aid inflows conditioned upon a continued self-imposed and tightly-audited and monitored policy of full transparency and accountability, and will follow this development closely.

The Seminar was deeply impressed by the national anti-corruption strategy being developed and implemented in Uganda, to address the raising of public awareness, more effective enforcement and improved prevention of corruption. It encouraged Uganda to continue to set the pace in strengthening its national integrity system to the point where corruption in the host country is successfully contained.
Summary Report

The Africa Leadership Forum in collaboration with Transparency International organised a three-day seminar to discuss the topic *Corruption, Democracy and Human Rights in East and Central Africa* from 12\(^{th}\) – 14\(^{th}\) December, 1994 at The Lake Victoria Hotel, Entebbe, Uganda.

The seminar which is the second in the series was sponsored by the European Commission and was attended by thirty seven participants drawn from about thirteen countries in East and Central Africa, as well as other parts of Africa and the international community. Participants at the Seminar included two former Presidents and the Vice-President of the Republic of Uganda as well as eighteen observers including members of the Diplomatic Corp in Kampala and the media.

The Seminar was formally declared open, by H. E. Mrs Specioza Kazibwe, Vice President of the Republic of Uganda on behalf of H. E. President Museveni who was unavoidably absent, while General Olusegun Obasanjo, former Head of State of Nigeria and Chairman, Africa Leadership Forum gave an Opening Remark.

With the two addresses setting the scene and the tone of the seminar, participants proceeded to examine the organic linkage between corruption, human rights violation and undemocratic practices in Africa. Thereafter, participants focussed discussion on the effects of corruption on development, on democracy and on human rights, the role of the North in the spread of corruption in Africa as well as the expected roles, duties, obligations and responsibilities of the civil society in the drive and crusade to end such negative practices in preparation for the challenges of Africa in the 21\(^{st}\) century.

Analysing the consequences of these negative practices, it was pointed out that corruption thrives most in undemocratic environments. Such a situation, it was pointed out, provides the setting and serves as the
precursor for widespread violation of human rights and similar unwholesome practices. It was observed that corruption in Africa has grievous damaging effects on the development process and remains one of the strongest motivators of human rights abuse and undemocratic practices. The organic linkage between the three concepts was recognised and it was pointed out how the effective resolution of one must be organically linked to the rest.

It was further observed that over the years in Africa the state has proven to be the main channel for personal wealth accumulation and securing privileged position in society.

The seminar reasoned that at all times. African leaders must bear in mind that the authority of government derives from the will of the people and may be exercised only in accordance with that will. It follows therefore that it is the right and responsibility of the people, not the government, to determine what constitutes the public good. This is fundamental to the principle that the authority of government derives from the will of the people. Government is an instrument of the people, created by the people to serve their will. Those government officials whose actions reveal an underlying belief that their positions confer on them a superior wisdom and a right to regulate the behaviour of others by their personal definition of the public interest engage in a misuse of government’s coercive power, violate the public trust that has been vested in them, and demonstrate that they leave a lot to be desired to be fit for government service.

Participants noted that the position and activities of most countries in Europe, Asia, and North America in this respect are most times if not always characterised by varying and differing forms of contradictions. Hypocrisy and double standards. It was observed for instance, that while drug trafficking and international terrorism are seen and promoted as central global issues requiring the support of all decent members of the global community, corruption has not been placed on the same pedestal. In consequence, corrupt African leaders who are more often than not perpetrators of human rights abuse and despots
usually find a safe haven in the countries of the North. Such a situation it was noted has tended to serve as the required inducement for African leaders with a knack and tendency for corruption to soldier on. It was also pointed out that while in most countries in the North bribery is a serious crime that is equally frowned at by members of the society, businessmen from the North are permitted by law to make off-shore briberies in the name of business in Africa. These were identified as some of the major contradictions that characterize the activities of Northern governments and business men. It was observed that this practice has been encouraged over the years because countries of the North profited immensely from such an unwholesome state of affairs.

In this respect, the concept and practice of “aid for trade” also came sharply under focus. It was pointed out that the mechanisms of effectuating this scheme is such that it serves as a breeding ground for corrupt practices. Participants however expressed hope in the future given the current constellation of global events. It was noted in particular that with the re-emergence of serious ethical considerations in international business negotiations and the general concern for more decent business practices the global environment seems more prepared to accept high ethical standards and consideration in business practice.

The effects of corruption, especially grand corruption on development, democracy and human rights and also the role of the North in the spread of corruption in Africa are particularly pernicious because prudence and rational considerations in decision making as well as judicious utilisation of the available limited resources by a principled leadership is more often than not a rarity and an exception to the general rule and practice in Africa. In consequence, there is an increased impoverishment of the African people through capital flight, largely unrepayable debts and a depletion of the capacity of effectively pursue sustainable development.
Noting that the change of climate in the international community provides Africa with a time honoured opportunity to seek an effective and instructive modality of confronting its current challenges in this respect, the seminar observed that while certain other actors within the international community may jointly and severally be partly responsible for the current state of affairs in Africa, Africa especially its leadership cannot escape the collective blame for the current turn of events. At the same time it was recognised that institutions and members of the civil society cannot be absolved from the blame. It was pointed out that the NGO community in particular have a share of the blame as well as a crucial task in snatching victory from the jaws of defeat.

Redressing the situation it was agreed is a major task which is nonetheless surmountable and achievable. As a root and branch cure, civic education and the identifications of the parameters of a just social order must be accepted as fundamental. In this respect, the various segments and components of the African society must wake up to its responsibility. The seminar took the view that in building for the future and even in the present the family must be seen as the proper starting point for the inculcation of a durable and sustainable anti-corruption culture and respect for human rights as well as democratic practice. The relevance of Africa in the next millennium was seen as particularly contingent upon her ability to face up to its own practical realities.

The role of the military as a major contributory agent in the truncation of democracy as well as a catalyst in the virus-like spread of corrupt practices also came up for mention. It was noted that the military in Africa, contrary to its professional training and outlook, have through incursion into politics as well as through the military contracts exacerbated the spread of corruption in Africa. It was argued that the modalities for awarding military contracts may need to be democratised to reduce the tendency for officials to corrupt the system.
Commenting on the roles of various segments of the African society, it was observed that certain fundamental steps were crucial: these were identified to include the change in the concept of development to incorporate and rest on a state that is liberalised and with a firm commitment to democratisation of access to the institutions of state and economic institutions. In addition, a radical change in economic structure was advocated. More importantly principles of accountability, transparency, openness, respect for rule of law, periodic change of elected leaders based on meaningful choices, popular participation in government and an efficient, less corrupt civil bureaucracy functioning on identifiable rules of operation were seen as some of the crucial steps in the concretisation of efforts towards the empowerment of the people against corrupt leaders and despots on the continent. African women as mothers, wives and sisters were also identified as critically placed to speed up the process of effectively combating the spread of corruption in the society.

Reviewing the role of the legal system and the judiciary in this crusade against corruption and despotism, it was remarked that most African laws were wither archaic or at variance with different aspects of African culture. In addition, to this the judicial process has in certain instances displayed a serious structural and procedural rigidity to the extent of denying justice in cases of corruption and human rights abuse often time through long-winding delays before a case is decided. Participants recalled the dictum that justice delayed is actually justice denied and remarked that in Africa judges appear unwilling to make laws but are merely willing to interpret extant laws, thereby denying the legal system of the required dynamism necessary for progress and stability. This lack of activism, is further reinforced by the quality of some of the judges in Africa. It was however pointed out that in the midst of all of these there are judges in Africa who have managed to remain of impeccable character and above board.
Corruption across the board is systemic in many African countries, arising from the corruption of leadership inducing a collapse of institutions designed to contain corruption. In many countries this has contributed to a grinding poverty which has driven those on the margin to engage in petty forms of corruption simply to survive. In the absence of a living wage the people are victimised twice over: they are denied development and then forced to lower personal standards of honesty.

A major factor in corruption is that at the higher level there is massive corruption in decision making, which creates white elephant projects and drives up the costs of those necessary projects and contributes further to the impoverishment of the people.

The Seminar recognised the central importance of civil society in supporting the evolution of a democratic society.

Civil society also has a role in developing public awareness of corruption as a practice which actively impoverishes the nation and cripples development, and that the politician who offers bribes for votes is likely to be one who accepts bribes for favours. It must also contribute to providing role models of honest persons of integrity, and an environment in which those who prosper illegitimately are regarded as criminals, not models to be emulated by the young. This needs to be done within the family, at school, within communities and at the national level. In this light, openness of our democratisation process can be understood as a dynamic two-way operation of generic forms on particular contents and particular in which the deployment of the conceptual and institutional machinery of democracy is at the same time the representation of specific needs, interests, motivations, claims, rights and obligations by individuals and groups. Going beyond structuring or rearranging African political actors and institutional activities in their spontaneous, often turbid reality, this operation should result in their transformation into forms of transparent agency and practice within a democratic political system.
Assessing the role of the parliament in the movement against corruption and despotism in Africa it was observed that although as an institution it is strategically positioned to curb the excesses of the executive and to facilitate and deepen the institutionalisation of transparency and accountability, however it was noted that the members of parliament must as a starting point be willing to be transparent in their personal lives as well as the lives of their immediate families.

It was also pointed out that in there is no African country that legitimise or legalizes corruption. In effect, corruption remains an illegality in Africa as its is in the North. In the case of Africa in particular, it was noted, that there are sufficient laws in the statue books to deal with cases of corruption, what has been lacking has remained the political will, the personal courage of the leaders to enforce the laws to the letters. In this respect it was also pointed out that the NGO community as the vanguard of the civil society must realise its responsibilities and challenges demand that like Caesar’s wife she must be above board and beyond reproach at all times.

Participants agreed that Africa does not need any loan or donations because her funds illegally acquired and deposited in offshore account alone are enough to pay of her debts and service her development programmes if brought back to the continent.

The Seminar learnt with great interest of the national anti-corruption strategy being developed and implemented in Uganda, and hopes that Uganda will continued to set the peace and complete its accountability and transparency reforms to the point where corruption in the host country is successfully contained. Participants were equally briefed about the core activities of Transparency International. TI was seen as one of the major vehicles which has arisen out of the understood need on the part of both countries of the North and the South to clean up the system and provide a more level playing field for all actors within the system. The point was made that within the NGO community in Africa it is very difficult to identity any African NGO as solely
concerned with battling corruption. While this was seen as an indictment of the African NGO community, it was equally pointed out that effective linkage and networking with some of the existing mechanisms within the international community is crucial. The media, it was argued, occupied a special role in any society that aspires to be democratic and accountable, a role which it must discharge honestly, fearlessly and in a non-partisan manner. It must expose corruption wherever it occurs and whoever may be involved. It must not become captive to political point-scoring. To develop such a media, standards of professionalism must be set by journalists themselves, and not by the imposition of controls by parliaments. The conference saluted the impressive achievements of some journalists in several countries on the continent and declares its solidarity with them.

The media was enjoined to adopt a more responsible outlook while eschewing sensationalism as it undermines the confidence of everyone in the veracity of their reports. It was argued that such untoward practices detracts from the worth of media practitioners. Participants took due cognisance of the limitations in the operational milieu of the media in Africa in terms of the campaign against corrupt practices, despotism and human rights abuse. It was however noted that the role of the media remains crucial and fundamental in the process of civic education.

**Recommendations:**

After an exhaustive discussion of the issues identified above participants made the following recommendations charging the international community, African governments, the Organisation of African Unity (OAU) and the Africa Leadership Forum (ALF), Transparency International (TI), the media and other institutions and members of the civil society in Africa with specific responsibilities:
OAU and the International Community:

1. The Chairman of the ALF, H.E. General Olusegun Obasanjo was specifically requested to formally present the recommendations and report adopted at this seminar to H.E. President Museveni and request him on behalf of the participants and Africa to present it at the next OAU Summit. In addition, President Museveni was implored to request the OAU secretariat to push for the adoption of a motion calling for an international convention against corruption.

2. It also called on African leaders to follow the excellent example set by the leaders of the Americas at the initiative of Ecuador at their Hemispheric Summit in Miami last week, by being prepared honestly and openly to face up to the problems of corruption, and without trying to hide it under the carpet or pretending that it is under control. Only in an environment of honesty and frankness can effective international instruments be developed and enforced.

3. Members of the international community especially countries of the North were implored to examine as a matter of urgency the need to repatriate the monies stolen from different African countries’ treasury to these countries as investment funds.

4. It appealed to developed countries to spare no effort in assisting processes of reform against corruption, in particular by encouraging and supporting those administrations who demonstrate genuine commitment to reform. Companies in the industrialized countries as elsewhere who bribe to gain business should be blacklisted and excluded from future international and national public procurement exercises.
At the national level:

1. It was suggested that as a means of encouraging accountability and transparency in public service, declaration of assets by public office aspirants and holders should not only be limited to the individuals involved, but also to their immediate relations considering the family reality in Africa who are most often instrumental to the perpetration of corruption.

2. The state in Africa needs to be restructured, particularly its institutions such as the civil service. It should be made open, with a machinery for evaluation of planned or executed projects by the state by its own citizens.

3. In addition, policy conceptualisation, formulation and implementation should not be entirely left to the ministers but should also be the responsibility of the entire citizenry. The civil service should also be adequately remunerated.

4. Non-Governmental Organisations concerned with the development of the continent, particularly the crusade against corruption should network to ensure a continuous flow of information among them for better results.

5. Efforts should be intensified to realise the initiative of the World Bank on standard living wage and the service Delivery Survey as part of the promotion of openness and accountability in governance, by which it would be possible to evaluate the type and quality of service provided by the government and to set new standards and targets as could be necessary.

6. Economic policies such as the structural adjustment programme embarked upon by some African countries should be reviewed with the view of absorbing the sharp effects of the programme such as devaluation and inflation with serious negative impact on the lives of people in Africa, a situation that may favour but not justify corruption.
7. Development programmes in Africa should be based on available internal resources without unnecessary dependence on donations from outside, though external resources could be used to build her development capacity and process.

8. Consumption pattern in Africa should be reconciled with the level of productivity. Individuals should be encouraged to develop creativity to overcome economic limitations without resorting to corrupt means.

9. Transparency International should constitute itself into a pressure group before international policy organisations such as the United Nations, while NGOs like ALF should exert situation pressure at the OAU for resolutions to be adopted against illegal transfer of capital from Africa and mandate the repatriation of already transferred capital to the continent.
Priming State and Public Administration: Corruption, Human Rights, Democracy And Development in Africa Articulation Of Issues and Processes

By Costantinos Berhe-Tesfy

Section I

Introduction:

At the climax of the drive by African Peoples’ Movements for independence and self-reliant development, Africa was set to become the source of hope and inspiration to the many new generation of Africans. The prospects for popular participation and accountable governance were never brighter and encouraged the hopes of many that the ‘dark’ continent would after all become the beacon of new hopes for the oppressed and dispossessed. Alas! Those high hopes soon were replaced with a general acknowledgement that it had lost the capacity to deliver the identity that the African community had held self-evident and instead bred a socio-entity that has wildly spun off their axis. Africa entered the Nineties with:

- a rapidly-growing population largely dependent on traditional agriculture;

- an environmental crisis;

- social and cultural diversity demanding political attention;

- a destroyed and inadequate infrastructure;
history of ethnic conflicts; natural and man-made disasters;
the long-lasting effects of a protracted civil war;
a time of new claims on relief and development assistance and donor fatigue.
Africa also entered the decade of the 1990s at the end of the cold war;
Time of a world-wide move to self-determination and assertion;
Time of an increased role of civil society organisations in development; and
Time when participation is the new development paradigm.

It is now widely acknowledged that the bloated and corrupt bureaucratic machinery, which encouraged its encroachment of civil space in the name of development, thrived on graft and influence-peddling for the benefit of the powerful elites; rendering the poor powerless and voiceless and effectively disenfranchising people from participating in the decision-making processes through:
rampant corruption and autocracy,
indigence of proclamations and decrees in addressing human development has bred contempt and chaos,
regimes that are gravid with unpopular tenure, production and marketing policies,
abuses of resettlement, collectivisation, villagisation, lop-sided natural resources policies and development opportunities,
inequity in tenure and property rights have disempowered and emasculated civil society.

- The correlation of equitability and social justice to expropriation of private property for public purposes.

These have seriously handicapped socio-economic and cultural development and synergistically acted to create the poverty and vulnerability that ridiculously haunt the continent. Life is made even more exacting by the knowledge that only a few of the millions who struggle for survival outlive the next subsistence meal. Indeed, finding the right tactics to package and secure a single meal has become a valorous act.

For a third time in a generation, we are faced with the daunting task of building up new nation states. After decades of internal strife, wanton genocide, economic crises manifested by the destitution of the majority of the population and a socio-cultural fabric that has been woven over and again to precipitate only the desires of the strong; the continent remains one of the tragic scenes of modern day human crisis. The erstwhile trepidation generated by excessive concern with religious differences, the perplexing linguistic and cultural rivalry entrenched by tribal and ethnic differences have synergistically conspired to create an atmosphere of pervasive antagonism among its peoples.

On the other hand, the idealism of a community – the feeling of oneness, unity of purpose and kinship that the destitute have evolved as a result of mutual interdependence for survival, complementarity of human and natural resources and symbiosis of cultural values have been primarily destroyed by slave trade and colonialism and later deliberately manipulated by doctrinaire regimes who remained faithful to the percept of divide and rule; only to extend their destructive reign. Thus any initiative at devolving decision making through the machinery of ethno-political governments, considered as the only
open door left change this scenario, may have to be see within the framework of far reaching goals and objectives.

This paper is a modest attempt at scanning the hallowed role of civil society and its institutions, among which NGOs are a fledgling part, in the post-Cold War transition to democracy and fight against graft and corruption. It is my sincere hope that it will, on the one hand, enhance the dialogue on this issue and help in fine-turning an agenda for Africa Leadership Forum and Transparency International; underpinning the institutional, organisational and ideological requisites that we in the community of NGOs and civil society rarely challenge ourselves to address.
Section II

Impediments to Democratisation in Africa:
Bloated Bureaucratic Socialism:

A. Culture of Political Subversion:

Especially in the past twenty years, all organisational life in the continent has been monopolised by the state and autonomous activities were in most cases forbidden by law. There are few, if any independent functionary civil organisations with the requisite skills to interact and interface with the political establishment. The middle class comprising the intellectuals, the entrepreneurs and others who could be materially independent, politically organised and ideologically assertive in playing a prominent role in the founding and leadership of civic organisations and in articulating shared universal values are distinctly absent in the continent.

For the lack of opportunities for self organised and civil associations, whose functions are to preserve basic rights of its constituents and the society at large, educate the citizens and advocate popular claims, build a consensus and promote political and moral ethical values and disseminate them among the populace, it has become difficult to nurture a sense of civil society. The reality of Africa is that the state is too powerful and too controlling in the face of an embryonic and weak civil society. The result has been a complete absence of space for effective civic participation of the citizenry in national life. It is clear that for the current democratic movement experiments to survive, a balance should be created between the state and civil society which function as an effective counter-weight to the power of the state and its bureaucratic machinery and can check the excesses of the heavy handed bureaucratic rule and bring about change in the institutional arbitrariness and the illegal actions of the local agents of the state.
A major problem inherent in the political transition of Africa is the extreme weakness of the social movements and their failure to develop coherent strategies for promoting broad based and well organised citizenry. Some of the salient features that underlie the socio-economic and class formation of the African society make it difficult to preserve and consolidate democracy.

Since its emergence in the early 20th century, the modern African state has been typified by autocratic leaders and primarily existed for the benefit of the powerful elite of the centre. The overwhelming majority of the people had no role in governance and are unfamiliar with their rights and obligations as citizens. The system of rule was authoritarian top-down style of governance, with an urban-based power structure and authority radiating form the centre. Various efforts to devolve authority and involve people have been unsuccessful. As a result there was little popular participation in the political process and the populace has become distrustful and critical of the state and wary of having any contact with it.

Whatever the technical construction chosen to express democracy, the sustainability of the system will depend on the understanding of the people and social groups and institutions of the rights and obligations of citizenship and the respect for democracy. Africa has very little, if any, experience in open democratic discourse and is unfamiliar with the critical values and practices that anchor democratic culture and tradition. Three decades after the removal of the colonial and feudal regimes, the African political culture remains that of passive subordination and neo-patrimonial personalised rule. The political tradition preached by the aristocratic and religious groups associates the well-being of the individual with the presence of personalised leadership inducing loyalty and does not encourage active competition, questioning of authority or dissent. And these have turned out to be old habits that die hard and which linger on until the present day, despite the tumultuous political experience of the continent in the past quarter of the century.
Furthermore, while many African countries, experienced some form of democratic organisation and function in the colonial setting and their liberation struggle, the populace is paradoxically unfamiliar with the mechanics of democratic governance or its rudimentary principles.

Practices such as free elections, the formation of political parties, free and open discourse on public issues are all foreign concepts that need to be installed in the majority of the populace. The lack of democratic culture is also clearly manifest in the disarray and inability of the opposition forces to achieve internal unity. While there are many and varied opposition groups, they have been unable to unite or put together a coherent political alternative to the existing leadership. Rather to a considerable degree, these opposition movements have become a vehicle for ambitions and power hungry politicians.

There is a widespread perception that the political movements and contesting groups are preoccupied with petty internal bickering and have failed to involve and execute the populace. Most of the more militant opposition leaders tend to personify power and broadly exercise democratic principles within the meaning and contextual internal structures of their organisations. They seem to be more interested in taking political power rather than to effect genuine democratic changes.

The key to building enduring democracy is the existence of strong, viable and assertive civil society. Organisations of civil society operate between the state and the citizenry and give structure to the representation of interest of a diverse body of the populace. It is an essential prerequisite ad it facilitates the opportunity for participation in the political life for the citizens at large. The contemporary reality of Africa is that the various social, economic and political organisations such as trade unions, self-help groups, NGOs, professional associations, etc. are very weak and generally dominated by the state. Power is concentrated in the hands of the state at the expense of other institutions in society. Many of these civic
organisations in the country did not arise on voluntary basis or based on shared political value but are state sponsored.

In defining the problems of the African transition to democracy and proposing solutions for them, i.e. in setting goals, and tasks for itself in attempting to solve the problems, leading political parties have done so largely within a particular tradition of political thought, argument and struggle. The tradition has origins in the radical student movement, in ideas of national liberation, class struggle, national democratic revolution and socialism spawned by that movement, in international Marxist-Leninist though, and in the revolutionary experiences of former and existing communist countries, notably the Soviet Union, China and Albania.

With its successes and failure, and its recent global deflation, that tradition of political thought, discourse and action has been a decisive influence over leading organisations in the struggle for power. It was formative of the ways in which the struggle for liberation and democratisation had been thought up and initiated their political projects, and has continued to guide much of the subsequent revolutionary experience. And at a time when the revolutionary democratic tradition seems a spent force in much of the former communist world, a toned down and somewhat reconstructed version of it seems to have gained a new lease on life in Africa.

This means that various aspects of ideological and organisational activities are marked by specific features of the socialist tradition. As such, they are subject to limitations interest in the structural model of that tradition of political though, discourse and practice. Among these limitations are:

- the tendency to reduce broad-based and complex categories, like national tradition, the people and democracy of autonomous content, and the plenitude of meaning implicated in these categories to a set of significations tied to particular class interests or political projects;
- the inclination to saturate historically specific and localised problems of socio-economic and political change with global issues;

- the imposition of ground themes and formulate onto the concrete situations faced by particular communities and nations;

- a habit of discourse and argument whereby a vanguard party exerts ideological effort in the making or remaking of the “national” selves and identities of the people over whom the party exercise political control while at the same time taking them unproblematically as given in advance (whether historically or culturally or naturally) rather than produced in the vanguard party’s own ideology; in the process of socialist or nationalist ideology as a construct of an explicit political conceptualisation produced by a vanguard organisation or front is conflated into ideas and values of the nationality into the consciousness of the people.1

These limitations of the structural model of revolutionary socialist political thought and practice, within which or a version of which the transitions operates in large part, are manifested in the ways in which it has defined the problems of democratic change in Africa and proposed solutions for them, and in aspects of its management of the African transition. Let us take problem definition and goal setting first.

**Problem Definition:**

Africa faces pressing issues and problems of democratisation to be settled. But there are alternative ways of weighing up and framing the issues and of charting the course of action which may be embarked upon towards their settlement. There is no simple or immediate identification of democratisation problems as they actually are; there

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1 This tendency often leads the organisation in question to regard opposition to its partisan views and perspectives as opposition to popular opinion, as the work of anti-people elements, with all that this implies for democracy and democratisation.
is only a definition of them from a certain perspective and towards a certain resolution. What is important in the politics of democratisation is not so much the problems of transition themselves as what various, competing organisations and groups conceive them to be and how the organisations settle their conceptual differences.

The issues of democratisation that is articulated today in this context can therefore be seen in part as whatever it states within its ideological problematique, whether its formulation of the issues have anything to do or not with the democratisation of Africa. May be little more than a setting for exploring or experimenting with the global themes and preoccupations of revolutionary democracy, that bears within its wombs the traditions of socialism, vis., abolition of class oppression and national and gender inequalities, and of state boundaries created against the interests and wishes of peoples and so on.

The points made above regarding the identification of problems of democratic change in Africa apply to the setting of goals and tasks for Governments’ problem-solving activities. The solutions, like the problems, can be seen in large part as elements, features and effects of its revolutionary socialist-democratic ideology. They have taken shape and come into play as the articulation and operation of a particular doctrine. This means that the objectives of African transition do not represent purely or primarily its idiosyncratic ethnic agendas. They are conditioned:

- by a set of formulae and conventions belonging to the revolutionary democratic tradition. In large measure, they represent aims and purposes constituted by that tradition according to an internal rationality of its own. It is in this light that the preoccupation of the architects of the democratisation with the theme or concept of national self-determination including and up to secession should be seen;
by the important particularities of deeply felt ethnic wrongs and of political projects aimed at righting them.²

Yet this intensive process of largely socialist ideological mediation has allowed transitional Governments to transpose unique projects of self-determination into concepts, goals and methods of political work, of democratisation, ostensibly applicable carte blanche. In addition, many transition projects have yet to settle ideological accounts with its Marxist-Leninist legacy openly and unequivocally. This legacy continues to hold sway in African political transition below the level of declaratory goals and ideas, where it makes itself felt as ideology in operation, as taken-for-granted assumptions and habits of thought and action, as common sense rather than theory.

This is manifested in the mutualising of the goals, objectives and discourse of transition to the extent where they gain currency less as constitutive elements of an open public arena for democratic debate and discussion and more as ingredients of a political recipe pre-cooked by a particular organisation or coalition of organisations. It shows up in the tendency to offer transition solution in tight, formulaic terms, for the most part avoiding the uncertainty of their pluralism, negotiated framing, and to resist the opening up of its reform aims and purposes for alternative formulations. Under these circumstances, interpretive possibilities within concepts and goals of democracy are pre-emptively frozen or short-cut, turning immediately into the actualities of revolutionary democracy formulae.

The influence of decades of Marxist-Leninist legacy over African transition politics is also manifested in an activist impulse of organisations self-assertion which calls for Governments to be highly

² But these are so mediated and processed by revolutionary rhetoric, doctrine and organisational practice that they signify less spontaneous particulars than ideologically loaded and rehearsed elements. Often, they betray little in the contingencies of the lived experiences of ethnic and cultural groups in Africa, but manifest the more or less explicit general forms of the ideology the transition works, the mechanisms which the Front uses in operating the ideology, and the character of the operation itself.
polemical and combative in their mode of ‘communication’ with ‘opposition’ groups, to be sensitive but not particularly responsive to criticism of democratisation goals and strategies. The upshot is undue partisan closure on the formulation of the ends of transition in Africa, which, potentially, are marked by greater openness and variability, belong to a more complex universe of democratic though than the transition’s particular representation.

In terms of the articulation of strategy and process in the African transition, a major problem is that there is too much readiness on the part of the democratising liberating forces for unilateral action without meaningful and adequate understanding, let alone agreement, on critical issues with organisations and constituencies outside the government. The rather intrusive manner in which the Governments promote positions on vital issues of reform contravenes the ideals, standards and rules of democracy which seemingly they uphold. This detracts from the openness, credibility and effectiveness of the African democratisation process. It also encourages individuals and groups in the opposition to alienate themselves from the process, rather participate in it and work to improve it.

Recognition of this problem would constitute a significant development of its democratic practice. It would be a major opening for the mutual incorporation of uncertain state strategies and process in a more dynamic and complex articulation of democratic transition in Africa.

Corrupt Bureaucracy:

One major obstacle to efforts to install and consolidate democratic system in Africa is the all powerful, highly centralised and hierarchical bureaucratic structure. Built over the last fifty years, the organisational imperative of the massive bureaucratic machine is to command and control and is preoccupied with its own survival and enrichment. It is unlikely that the powerful bureaucracy will abandon its privileged position and control of the state apparatus to
democratically elected political leaders or respect the institutional restraints of democratic rule without struggle.

The state has proved to be the main channel for personal wealth accumulation and securing privileged position in society. As the result of the socialisation of the means of production, there was no, at least on paper, patrimonial class differentiation and the state power was appropriated to the political elite or bureaucratic bourgeoisie, that mainly constituted well-educated top officials, organisation leaders, and some high ranking officers or liberation front leaders. It was characteristic of this group that it did not exert control over means of production but utilised its position in the state apparatus to provide itself with an economic basis by indulging in corruption and nepotism.

The economic rewards of the public sector are so much greater than those of the private sector for the majority of people that politics has become a much more brutal struggle. Because the state has often been the only available vehicle for the personal accumulation of wealth and for the formation of social classes, there is too much at stake in the competition for power and position in the bureaucracy that political groups and individuals feel compelled to win at any cost even if that results in the socio-economic deterioration of the society or demands the cost of many lives.
As the winner takes all and the looser is consigned to the political and economic wilderness, all the brutality and corruption of bitter fights ensure in every political competition. It is simply a zero-sum game where the loser has no refuge or alternative. Consequently, the bureaucracy will no doubt fight aggressively in order to obtain its patrons in positions of political power by any means possible.

The bureaucratic set-up is characterised by a complicated networks of patron client relations, with a patron giving a decent position in the government in exchange for a clients political support. Clientelism in this form is extremely widespread and spreads out in waves from the centennial figure of the system. Relatives are among the first to be privileged followed by fellow villagers and members of the ethnic group and lastly those from other ethnic groups but who should prove life long loyalty.

The ruling elite makes every effort to maintain control over the state apparatus and government job is regarded as collateral for political support or at least for not opposing it. Hence, professional experts in the state apparatus for lack of opportunity to exit out of the system, remain mute and indifferent. The effort of the elite to establish its hegemony over the state and the society at large has led to resisting of the growth autonomous mass organisations among the civil society,
thus perennial attempts have been made to restrict the freedom of the press and to incorporate such organisations as trade unions, women’s, youth and professional associations into the state party system.

As political position has become the only competing alternative for professional salary level income generating business, the number of people who want to go into the business is very large. Individuals who couldn’t be capable of gaining sufficient education for decent white collar job have made it a way of success in life and the result is too many people are being diverted from material production to political service giving sector of the economy. As more and more people regard politics the easy way out for satisfactory income generation they are willing to do anything including sabotaging a true democratic process by being the mouthpiece of an authoritarian regime.

The legitimacy of the democratic process underway in Africa will depend in important ways on it being perceived as reasonably honest, predictable, transparent and accountable in the execution of the states responsibility. Public sector corruption and inefficiencies undermine political, economic and social stability by undermining citizens faith in the democratic process. In situations where public officials are seen to be using their positions to advance parochial interest and self aggrandisement, a general loss of respect for authority and the law occurs and despondency in the general population develops. It is apparent that as the continent enters this new era of political pluralism and democratic governance there is a need to overhaul the administrative machinery and develop institutional alternatives to the centralised, bureaucratic and hierarchical organisational structure.

The paradox of the African situation is that, at the same time, the authoritarian power of the state is based in part upon appearance. The state is weak by any conventional measure of institutional capacity and has little or no control over peripheral regions and rural areas. As the most able party leaders and expert advisers become involved inc central administration and policy, regional and local party organisations as well as the local government apparatus are manned by less qualified personnel or they simply cease to function. Vigilant and obsessed by preservation of power, local level officials are preoccupied by administrative and to an even greater extent by political
tasks than ensuring the rights of people or implementing the
democratic mandates. Again if public confidence is to be instilled, it is
necessary to extend the reach of the state to the remote areas of the
country and carefully monitor conducts of the agents of political
groups.

In the above review, the attempt has been to identify some of the
impediment for the consolidation and preservation of democracy. 
Economically, socially, politically there exist almost insurmountable
obstacles to the flourishing of democratic governance. However, other
societies with identical features have managed to install and maintain
multiparty democratic system. While it is too early to decide how the
system of governance will evolve, there is no reason to believe that
democracy is doomed in Africa. A skilled and committed leadership
can mitigate conditions that are hostile to democracy.
Section III

Democratisation in Africa-Articulation
Of Process and Strategy:

The democratisation process raises some fundamental questions. These questions have been raised and discussed in a number of colloquia and publications. Some of these questions are:

- What do we mean by democracy in the first place?
- Does democracy have indigenous African roots?
- What are the exogenous and endogenous factors that brought about this new chapter in the continent’s history?
- How deep-seated is ethnicity in Africa and is it the apotheosis or nemesis of the democratisation process?

Current discussions and analyses of transition to democracy in Africa generally are marked by several limitations. These include:

- a tendency to narrow democratic thought and practice to the terms and categories of immediate, not very well considered, political and social action, a naïve realism, as it were;

- inattention to problems of articulation or production of democratic system and process within African political structures and processes rather than simply as formal or abstract possibilities;

- ambiguity as to whether civil society is the agent or object of democratic change and concerning the role of the state in the transition to democracy;

3 CODESRIA dedicated its Seventh General Assembly to a discussion of the democratisation process in Africa, and this synopsis draws on some of the papers presented on that occasion.
a nearly exclusive concern in certain institutional perspectives on democratisation with generic attributes and characteristics of political organisations and consequent neglect of analysis in terms of specific strategies and performances of organisations in processes of transition; and

- Inadequate treatment of the role of international agencies and of relations between global and indigenous aspects or dimensions of democratisation.

Lurking in the background of all these questions is the rather disturbing one: is perhaps all this talk of democratisation an academic or a public relations exercise? The stark reality of Liberia, Mozambique, Angola, Nigeria, Somalia, Rwanda, Zaire, etc., makes this last question less cynical than it would otherwise appear at first sight.

**Naïve Realism:**

Pre-emotive Socialisation: The notion of naïve realism is invoked here to point to certain conceptual shortcomings in current perspectives on democratic reform in Africa. These shortcomings can be seen as outcomes of more or less conscious attempts of indigenous governments and their international backers to quickly get their hands on “urgent” or “practical” matters of democratisation of politics. One manifestation of naïve realism is the pre-emotive “socialisation” of democratic ideas and practices, as demonstrated, for example, by the rituals of popular participation in regional and local elections and referendum in Nigeria, Ghana, Senegal, Kenya, Togo, Guinea, Ethiopia and a host of other African countries that claim, and, in some instances a legitimate claim, transition to democracy.

A process which often spawns an attendant rhetorical over simplification of difficult concepts, this socialisation is disabling as a method of both grasping democratic ideas and rules in all their openness and complexity, and making the ideas tractable to
transparent and sustainable institutional practice. Another manifestation of the naïve realist approach to transitions to democracy in Africa is the simple equation of partisan or government elaborations of democratic ideology with the production of ideas, values and goals in civil society. Here, our attention and thought are diverted from the critical destination between:

- on the one hand, a system of abstract categories as a construct of an explicit rationalisations, a formal conceptualisation and design, and,

- board and diverse domains of ideology and purposefulness in the plenitude of social experience, on the other.

We are discouraged from acknowledging the distance and tension between these two spheres of democratisation. Instead, one is led to believe that ideological construction in one sphere is reducible to ideological construction in the other. As the statements the constitution must be a creation of the citizenry…. And….. law should come from the populace rather than palace suggest, the reduction, for example, assumes the form of a putative attribution of authorial agency in the making a democratic constitution to an organisationally underdeveloped, democratically inexperienced and largely, to a civil society that has been deliberately rendered illiterate.

NGOs: Still another expression of naïve realism is the uncontested assumption that the proliferation of social organisations, mainly indigenous NGOs, is in and of itself an index of democratisation. The assumption seems plausible. After all, what is more obvious in projects of democratic transition in Africa than the goal of increasing the number of NGOs and other social institution’s that will build

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4 For example, the concept of “national self-determination, including and up to secession” espoused by current thinking in the transition process in Ethiopia.

stronger civil societies that in turn spawns favourable conditions for democracy? Nevertheless, the assumption is open to question.

The growing number and diversity of NGOs mean that the organisations have very uneven political and professional capabilities, and differing levels of commitment to processes of democratisation. They provide a range of social, humanitarian and relief services of varying proximity and relevance to the end and purposes of democratic reform. They do not function simply as instruments to those ends, but have their own inclinations, concerns and motivations, which democratisation of African politics and societies must take into account. Also, it appears that the proliferation of NGOs over the last decade has been more as outcome of funding by external donors than an indigenous “grassroots” phenomenon. Problems such as these constitute significant obstacles to the realisation of the democratic potential of African NGOs.

NGOs may be problematic in that far from contributing to the strengthening of civil society vis-à-vis the state, they can function as instruments for the consolidation of technocratic elites within the NGO sector. People’s organisations face many limitations in the sphere of institutional development. Various recommendations and declarations aimed at addressing people’s organisations institutional problems have been made in recent years. Mobilising the action required has, however, remained a daunting challenge, as many practical and structural constraints militate against commitment by individual groups to inter-organisational initiatives, either nationally or regionally.

- Over-dependence on external finance and assistance.

- Inability to establish a clear and coherent voice nationally on issues which are crucial to their work, or to the interest of the local communities they serve.

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- The absence of effective networks

- Reflective capacity and the lack of system programmatic focus

- Civil Society Organisations are limited in their capacity to engage in any meaningful debate among themselves and with outsiders imposed by such factors as the poverty level to which individuals and communities belong. More than that, there are limitations against popular participation and dialogue imposed by the technical nature of the issues at stake. At a slightly different level many Civil Society Organisations simply do not have the technical capacity to engage in serious dialogue with outsiders and their governments on issues which turn out to have a highly technical and complex arguments to arrive at meaningful solutions.

- The Onion Skin Strategy: Within this international and national Environments, typically single-party states neither tolerated nor recognised any other centres of power within society apart from the party and government which had become almost synonymous. NGOs and other civic institutions were tolerated only as long as they adhered to the State’s definition of development or existed to provide alternative conduits of foreign aid. The fact that NGOs used their outer layer cover of welfare to empower people has, however, resulted in the relation between states and civil society institutions to be characterised by invasion of civic space by the state and its structures.

State Proclamations: Another version of naïve realism is the respect for the rules and procedures predicated on declared paragons of Western democratic thought, discourse and political engagement – free and fair elections, independent judiciary, predictable and accountable government’s executive branch, respect for human rights, multi-partyism, free press, and popular sovereignty expressed through the legislature. Implicitly or explicitly, this version of the Western
liberal democratic model is often taken as the acme of democratic governance. The target that most African countries set themselves in the process of democratisation is the attainment of institutions and practices that have been the basic ingredients of the Western democratic tradition. But keen observers have not been oblivious to the limits of this declared paragon of democracy, pointing to its formal character and the struggle in recent decades of marginalized groups with an “alternative, participatory vision of democracy” to achieve what has come to be known as the “empowerment” of the common man.⁷

In short naïve realism seeks to establish a direct relation to social experience, largely by passing the intangible, yet no less significant, terrain of critical political thought. Its immediate turn to the practical tasks of inducing people to participate in ostensibly democratic activities such as elections, the full meaning of which is often beyond the grasp of the participants, tends to become a substitute for the making of transparent and open rules of political engagement.

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Section IV

Transition to democracy – Distinction
Of Concepts and Processes:

How could the African transition and democratic projects in Africa pursue their goals consistently in varying contexts, but do so without resorting to a self-defeating, overly scripted and stage-managed political “play”? In other words, how could our democratic transitions combine immediately programmed internationality with a more open, process – based purposefulness? In presenting conceptual analysis to help answer this involved question, I wish to start defining, and distinguishing between, the following terms.

Political Openness and Democracy:

One can draw a conceptual distinction between political openness and democracy: the former would relate in part to various conditions or developments in government and civil society, only some of which may be necessary for or comparable with democratisation (decline or liberalization of authoritarian regimes and/or ideologies resulting in increased opportunities for political competition and popular participation, transformation of state – society relations and so on); the latter might refer to an entire distinctive form of political thought, discourse and practice which underlies, popularly elected and controlled government. Political openness may or may not lead to full-fledged democratisation, but the two are better understood as overlapping, possibly mutually supportive, processes rather than self-contained phases of democratisation.

Thus, in the absence of a widely open political space in which opposition parties of various ideological permutations are allowed to exist legally and to compete freely and peacefully for state power, free democratic elections cannot be held. Nor can formal constitution writing and satisfying efforts led by incumbent regimes and their
intellectual supporters attain broad and deep legitimacy as democratic activities.\(^8\)

Political Transition Process and Strategy:

Governing elites backed by foreign governments and international agencies may lead political transitions in their countries by deploying particular strategies and organisational mechanisms. Yet they often identify their particular transition goals, policies and programmes with entire transition processes. One often finds also strategy undifferentiated from process in studies of democratisation in Africa. As against this must be maintained that any analysis of political reforms in Africa that takes the problems and potential of democratic change in the continent seriously must distinguish between strategic and processual dimensions of the change.

It is easy to follow the current trend in Africa and within the international community and advocate democracy as a desirable form of government for Africans. Nor is it difficult to make normative judgments about how African ruling strata should behave if democracy is to grow in the continent: “The rulers must be accountable to and controlled by the people”. But it is not so easy to conceptualise democracy as a working process which is balanced against strategy, to determine what makes for real, as opposed to vacuously formal, democratic process. This is particularly the case where ruling strata tend to view the relations of their particular political agendas with their broader governing roles and responsibilities as relatively simple and direct, unproblematically reducing the latter to the former.

As a way of contributing to the overcoming or lessening of these difficulties we may theorize democratic transition as the dynamic

\(^8\) Political openness and democratic transition are possibly, not necessarily mutually supportive because a project of democratisation managed by a governing elite may also narrow the political playing field below the level where opposition groups can freely operate, restricting the dimensions and elements of a broadly enabling transition process by its transition strategy.
interaction of strategy and process. It is possible to see democratisation in Africa as the playing out of objective and critical standards, rules and concepts of political conduct in the transition activities of all participants, those of public officials who make and administer the rules as well as those of ordinary citizens. The issue here is not simply one of “application” of rules to particular activities. It is rather the production or articulation of process elements and forms within and through the strategic (and non-strategic) activities of various participants. Highlighting the mutually constitutive and regulative articulation of strategy and process, we shift the centre of analysis away from the two as separate formations that enter only external relations with each other.

This shift of analytical focus serves to emphasize the critical point that the task of broadly structuring democracy as a political system is more important than that of promoting it within the specific transition programme of a particular government or ruling party. The latter, which may manifest itself in a variously of efforts ranging from constitution drafting efforts to convening elections, is or should be only a second – order concern compared to the former, which is primary specific reform measures taken under the leadership of a given African ruling party are important in democratic transition.\(^9\)

Process Openness: Although the series of constitutive elements and mechanisms of the passage to democracy in Africa cannot be seen in isolation from the strategic moves of participants, the former retain their relative autonomy and can be grasped accordingly. The range of actual and possible elements that characterise process openness is greater than what might be represented within a single strategy of democratisation. There is always an “excess” of potential – in terms of

\(^9\) But the best action of a single party by itself can accomplish in democratisation is no substitute for what democratic impact the action can have as a component of a filed or system of activity in which alternative and opposition groups are able to participant freely and to achieve a share of transitional political power. The making of broadly inclusive democratic transitions should consist of an articulation of process and agency which can be sustained in its structure or system by any political party of government operating within it.
the number, variety and forms of articulation of political ideas and institutions possible – in open transition processes relative to any one strategic actualisation.

There are of course, historical limits. Ideologically fledgling and institutionally weak democracy in economically distressed contemporary Africa could not be expected to exhibit as wide a variety of elements and forms of articulation as does historically sediment, robust democracy in highly developed countries in the West. But there is still, within the limits posed by history, more potential for openness of democratic transition process in African nation-states any single participant strategy can actualise. Process openness or transparency can be analysed at two district but closely related levels: political agency and ideology. International relations and aid, more than in the past, have become an essential, indispensable fact of life catalysing the rise of social forces it finds compatible, and aborting those hostile to itself.

Political agency refers to the full range of significant participants and their activities and relations in African political reform. Participants include potential as well as actual and international as well as domestic actors. Ideology relates to complexes of ideas, beliefs, goals and issues that can come into competitive and cooperative play in democratic reform. It includes alternative definitions of transition problems and varying solutions offered for them. During any political transition events, actors and circumstances of action are likely to be uncertain and unsettled. Political agency and ideology are less stable organisations of participants’ identities and of their ideas and goal than rapidly evolving and shifting formations. This uncertainty imposes a significant degree of openness on political transitions, creating
objective conditions that can spawn democratic (but also non-democratic) forms of government.¹⁰

Such highly volatile and turbulent countries as Rwanda, Burundi, Somalia and Liberia may be particularly worrisome to the West and the international community, but the concern extends generally to all African countries in transition or out of it. External participants in African political reform are likely to want to balance the ends of democratisation against the need to maintain peace and stability. And this concern often leads them into close cooperation with incumbent governments, into identification with particular transition strategies of particular regimes rather than broad-based transition processes. Whatever its positive impact, this in turn has the effect of limiting the openness of democratic transitions in Africa.

Also, the proliferation of varied aid conditionalities tied to specific policies and sectors – structural adjustment programmes to be implemented, good governance reform measures to be taken, administrative codes to be followed, human rights to be protected, environmental regulations to be adhered to and so on – often outpace the development of coherent transition standards, rules and concepts by and within African nation-states can be expected to function. Local transition process has generally not matched global action. With all the multiplicity of different, not very well coordinated, international development and democratisation programmes, projects, mechanisms and activities in Africa, it has been a bit difficult to maintain a sense of direction, in both a strategic and process sense, in African transitions to democracy.

ⁱ⁰ At the same time, democratisation in Africa will generally be characterised by the existence of a number and network of organised actors and ideas one or a coalition of which will commonly be dominant. This determinacy makes for as certain degree of closure on political change possibilities and problems of democratic transition in the context of both agency and ideology can be grasped in term of this basic tension within the process.
Section V

Human Rights – Understanding the Issues:

Almost half a century ago, the human community proclaimed a bold and revolutionary vision of the future. The Universal Declaration of Human Rights asserted that every person on the face of the planet has certain fundamental rights.

Any system of ideas that claims to be universal must contain critical elements in its fabric that are avowedly of universal: African, Asian, Latin American…\textsuperscript{11} The concept of human rights as currently conceived lacks such universality. The conception of human rights in the United States has been described in numerous individual political and civil rights are concretely defined and have first priority. The more group-related economic, cultural, social rights are added as a rather vague afterthought, are generally defined, and appear in a negative context; they must not condition or compromise individual political and civil rights.\textsuperscript{12}

This approach has placed the American at intellectual and political variance with many nations, including those of Western Europe, in defining the content of human rights. Socio-economic rights are given much greater emphasis in other countries’ definitions. If the researchers uncritically accept an ethnocentric U.S. definition as universal, the research product will inevitably be culture-bound and so politicised as to defeat its alleged purpose.


The capitalist conception of human rights has been criticized by Karl Marx as; “thus none of the so-called rights of man goes beyond the egoistic man, the man withdrawn into himself, his private interest and his private choice, and separated from the community as a member of civil society.\textsuperscript{13} In other words, this conception of human rights as highlighted by the U.S. constitution takes man, the individual, as a man whose rights will be fully realized if and only if they are conceived as though state affairs are none of his concern. The Marxist conception of human rights is theoretically conceived as an empowerment, a moral claim that the person makes on society as a whole. This view of a human right yields the correlative notion of an expansive definition of the state. While the state is ultimately destined to whither away, in the interim phase of perfecting society, the state is the ultimate, perhaps the principal agency that guarantees that each person has access to the basic social and economic goods necessary for decent existence.\textsuperscript{14}

States being entities that are sovereign under international law, it seems to be clear that an examination of the conception of human rights by states is a prerequisite to arrive at a definition of human rights that can have a global acceptance. This is for the simple reason that, except for individuals who are citizens of member states of the European Commission of Human Rights, no individual has redress if the rights guaranteed to him as an individual by a treaty the country of which she is a national or in which she is domiciled is a signatory, are violated, thereby affecting him. He will have redress only when the treaty from which his effected right emanates is made part of the municipal law of the signatory country whose citizen of domicile he is.


\textsuperscript{14} Ibid.
Given these different conceptions of human rights, it becomes essential to examine the essence of human rights by tracing its historical development. This, in turn, calls for an examination of the history of human beings since the period they started living together as individuals that need each other such that the realization of at least some rights of the dominant group needed on imposition of duties (obligations) on the sub-servient group.

This seems to be tenable proposition since, unless some members of a human society are aware of their rights, other members of that society will not think of any corresponding obligations. It would also be a valid propositions must have stated in relation to things that must have been essential for man’s survival – things that were indispensable to meet his needs.

It, however, becomes relevant to raise the question; what could the needs of human beings at social development below that of slave owing societies have been such that they must have warranted a conception of needs at those of survival for the realization of which the nation of rights for a group must have been the prime factor? Put differently, the question becomes – could there be a distinction between needs and wants, a list of human ‘needs’ that includes or excludes human ‘wants’ as opposed to human ‘needs’.

To distinguish between ‘needs’ and ‘wants’, it becomes necessary to refer to Maslow’s work. A citation of this work by a political scientist states.

Maslow lists five categories of needs in the order of their assumed priority:

- physical needs (air, water, food, etc.);
- safety needs (assurance of survival and of continuing satisfaction of basic needs);
- needs to love and be loved;
- need for esteem (by self and others); and
- need for self-actualisation and growth.

This list presents a hierarchy, according to Maslow, in the sense that the “less proponent needs are minimized, even forgotten or denied. But when a need is fairly well satisfied, the next prepotent (‘higher’) need emerges, in turn to dominated the conscious life and to serve as the center of organization of behavior, since gratified need are not active motivations.” Note, however, that whenever in the course of a human life the ‘higher’ needs have become activated, they are not necessarily extinguished as a result of latter deprivation of ‘lower’ or more basic needs. For example, some individuals, provided they have known physical safety, will unhesitatingly sacrifice all of it for love, or for standards of right conduct tied in with their self-esteem, etc.

In a recent volume James C. Davies has suggested the utility of Maslow’s theory as a generator of propositions regarding political behavior, and he illustrates the plausibility (without demonstrating the validity) of such propositions with a wealth of historical and contemporary political behavior data. For example, according to Davies’ theorizing, it is impractical to suggest, with La Palomara, that it might be ‘possible to manipulate demands’ in economically underdeveloped countries so that widespread loyalties to democratic institutions can emerge: “Long before there can be responsible or irresponsible popular government, long before the question of dictatorship or democracy can be taken up, the problem of survival must be solved so that a political community itself can develop so that people can direct some of their attention to politics”… “Propaganda cannot paint a picture which conflicts with reality as it is seen by individuals in the light of their basic needs… one shortcoming in Davies’ as well as Maslow’s work, in my judgement, is that both authors seek to relate events and behavior directly to the elusive concept of ‘need’, without the use of an intermediate and more manageable concept such as ‘want’.
Both concepts are badly needed, and their interrelations and their application in hypotheses must be developed if we want to move toward a more adequate knowledge of political behavior. It must be granted that manifest wants are important aspects of our political reality, especially in democracies; what matters is that we also keep remembering….that there also are genuine needs to worry about, elusive though they may be to the researcher’s conventional tools.

In a pluralist democracy, rights are more likely to depend on the power of the purse than on the urgency of the need. Even the most democratic governments are likely to come to a bad end- to say nothing of the individuals living under them – unless they learn to become at least as responsive to the basic needs of all their citizens as they are to the most insistent wants of the various articulate and influential interest groups and parties.

We argue that human goals and politics should be conceived in terms of maximizing individual freedom – psychological, social and potential. Democracy and indeed every law and constitution clause should be judged as a means to this end. A comprehensive treatment of norms of liberty with interrelationship and empirical consequences is necessary for this purpose, and so is a theory of human needs such as Maslow’s which in effect predicts that with increasing satisfaction of sustenance and security needs men’s tendency will be to become less anti-social, 

While the explicit concepts of good governance and capacity building that current international initiatives operate in Africa may be consistent with goals of “empowerment” of indigenous communities and individuals, of enhancing local institutional and human capacities, the initiatives tend to work toward these goals in narrow economic and managerial terms. The initiatives seem to equate technocratic rationality and capacity with totality of institutional purposefulness and strength.
more capable of respecting and eventually perhaps insisting on respect for the basic needs and liberties of others.¹⁵

That the needs in salve owning societies must have been, on the basis of the above cited priority of needs, physical and safety needs, seems to be clear. These must have been, it seems reasonable to state, the ‘basic needs’ in such societies that must have forced the dominant group to subjugate their fellow human beings to slavery. Given their level of development, such dominant groups’ awareness must have been such that they believed they had not enough ways and means at their disposal that would enable them to meet their needs if this subjugation of their fellow human beings to slavery was removes.

When we come to the next stage of societal development, feudal society, it may be argued whether or not man was in a position to demand satisfaction of the five needs as stated above, thereby nullifying the distinction between needs and wants. That there still were groups of people in such societies that were not in a position to meet their basic needs may not, however, be denied. One can mention the serfs who were more ‘liberated’ than the salves in slave owning societies and yet were tied to the land and could be sold together with the land—to that extent not being different from slaves in slave owning societies— as an example.

It seems, however, logical to state that human rights in such societies must have been more developed than that prevalent in slave owning societies. However, even in feudal societies, the level of awareness of the ruling group was such that it made it believe that it may not meet the satisfaction of its needs fully if it were to do away with the subjugation of its fellow human beings. This must have been the reason why representatives of the ruling class in European feudal societies had to rule the subjugated people in the name of god as his ‘elect’.

Our brief examination of the historical development of human rights should, however, convince us that human needs must first of all be met before we can conceive of human wants. It must thus follow that conceiving human rights in developing countries with priority on political rights would, at best, meet the wants of the vocal few who have, in one way or another, solved the problem of their basic needs.

It is, however, evident that the majority of humanity suffers from hunger, malnutrition and all their attendant evils. To this majority, human rights as conceived in the development west is, at best, a luxury, something that it must forego even if it is aware of it, until its basic needs are met.

Moreover, if we follow a theory of knowledge that excludes circular reasoning, we should realize that individuals become aware of obstruction like legal personality and political rights only when they know how to obstruct ideas from concrete life. The majority of human beings in developing countries, however, are not literate. An illiterate person would find it difficult to distinguish between a state, the abstract entity, and the officials that run it, individuals. That bread is indispensable for survival, however, is common knowledge. Thus, to give priority to political rights in developing countries would be tantamount to ‘putting the cart before the horse’, as the human rights under international humanitarian law limited to human rights in times of war only or is it also in accordance with the priority of human needs and cultural heritage that prevails in Africa?\

16 The United Nations Declaration on the right to development states that the right to development is an inalienable right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be realized. It also implies the full realization of the right of peoples to self determination, which includes, subject to the relevant provisions of both the International Covenants on Human Rights, the exercise of their inalienable rights to full sovereign over all their natural wealth and resources. In order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights, and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms.
The Way Ahead:

The Way Ahead Towards a New Understanding: Our understanding should not overlook the matter of how far particular representations or constructs inform and condition democratic concepts and rules; but has to conceptualize the relation between the two levels of production of ideology and its implications for openness of political transitions in Africa. Several permutations signify the complexity of the stakes involved here:

- One way is to think of it in terms of concrete instances and abstract system. A system of democratic concepts, principles, rules and procedures provides objectives standards to which every instance of representation of interests, needs, demands and, intentions must conform. In this light democratisation appears as a process in which a global structural model of ideology is applied to local, African, contexts. It is seen as the extension of the ideological and institutional contents of the model toward African projects of democratic reform.

- This conceptualisation may not be entirely mistaken, but it is far from satisfactory. Generic democratic forms are not simply “pure” ideology devoid of practical content; and particular constructs are not merely points of “application” of systemic democratic elements which are wholly external to them and in whose articulation they have no role to play. If general forms are seen as pre-given standards to which every instance of representation of particular interests must conform, the effect will be the restricting of transition openness.

- For that will mean pushing ideas and values produced in the plenitude of social experience to the background and according primary to a mere system of abstract categories. It will mean giving pride of place to the ideologies of politicians, activities and intellectuals. It must also be noted here that the conceptual
and institutional mechanisms of democracy cannot “come alive” in African contexts merely as generic forms. They make themselves felt only to the extent individuals, groups and communities address through them their felt needs and concerns and the circumstances they face or particular political actors.

- Alternative way of looking at the relation between general forms and particular contents in democratic transition process would give precedence to the later over the former. Within this perspective, specific organisations and groups appear to have more lee way articulating systems of abstract categories according to their particular interests and intentions. Democracy as a system of universal concepts and practices will necessarily be instantiated in African contexts, but only in line with the specific transition aims and strategies of particular governments or political parties rather than within a simple application of its concepts in their pre-given abstract form. Instead of being applied to local contexts, global forms or models of democracy provide ideological materials for democratic construction in those contexts.

- This perspective has merits. It can work as a corrective to the view of democ rattisation as a mere extension of a system of abstract categories to concrete instances. However, the issue here is not one of simply giving primacy to specific contents over general forms. The concepts and principles of democracy may allow particular interest and intentions to permeate them, yet should take shape through such particularities as distinct, relatively autonomous articulations.

It is important to recognise here that there are various ways of connecting particular interest and goal to global concepts and principles of democracy, and that certain ways may be restrictive of transition process openness and transparency. In some cases, to tie democratic systems to specific ideological intentions and constructs, like projects of ethnic self-determination in Africa, is not to appreciate
the systems’ inherent breadth and complexity; it is, rather, to operate at levels and within forms of knowledge of democracy that encompass only a limited part of the systems’ full range. Also, political organisation and/or governments participating in or managing democratic transition processes in Africa may use strategies of interest articulation or identity construction that in effect displace or distort the generic forms that provide the standards for their democratisation efforts.

A given organisation or government may operate the formal concepts and rules of democratic transition in such a way as to maximise their openness and transparency. But the opposite is not uncommon—a “theoretically” open and free reform process may, in actually, be dominated and narrowed by the particular ideological agenda of assignable participants, specifically transition regimes.

The relation between explicit general forms and particular representations in transition process can best be grasped as their dynamic, mutually constitutive or regulative articulation. It is well to recognise that the former do not have effective generality or objectivity all their own, independently of particular elements and contents. If they were totally independent, the forms will be vacuous and practically irrelevant. And specific representations are not passive external targets of application of generic forms of democracy but in part constitutive of them. In other words, neither one nor the other level of democratisation has elements, features and functions that it owes entirely to itself. Articulation and structuring of elements occur, or should occur, continually across the two levels.

Thus, democratisation in Africa entails conceptualisation in global categories that are invested with varying local meanings that are themselves in part actualisation of trends in international political (and development) through. The openness, transparency and complexity of democratisation will depend on the extent to which and how global and local levels or dimensions are articulated with each other. This means that the attempt to subsume democratic transition by some
particular political agenda or ideological intention (“indigenisation”,
“ethnic self-determination” and so on) must, therefore, limit rather
than enhance openness of transition process. If what explicit general
forms signify is no particular transition strategy but the very process
of democratisation itself, then any particular agenda or intention must,
to the extent it is democratic, allow general forms to work themselves
out through it. Conversely, democratic transition strategy or strategies
must take on generic elements, dimensions and functions of
democratic process.

Democratic transition process itself, in order to have significant
constitutive or regulative effects on the plenitude of particular
representations, must be allowed to attain coherence and integrity even
as it comes into play in varied contexts of activity. While it may be
tied to the initiatives and leadership of assignable organisations or
groups in its emergence and development, it nonetheless gains
currency as a relatively autonomous system that other, competing,
organisations can also participate in and operate. As a set of distinctly
general categories and mechanisms of democratic thought, discourse
and practice, transition process takes the diversity of particular
political idea and activities into itself and makes them a vital part of its
conceptual and institutional economy. It medicates and channels
specific actors and their activities by means of an objectification and
generalisation that works on and through them.

Civic education – learning about and appreciating one’s rights, duties,
obligations and responsibilities as a citizen and the immediate rules, laws
and governance structures within which one exercises citizenship is the
first and fundamental step in development participation.

In this light, openness of our democratisation process can be
understood as a dynamic two-way operation of generic forms on
particular contents and particular contents on generic forms in which
the deployment of the conceptual and institutional machinery of
democracy is at the same time the representation of specific needs,
interests, motivations, claims, rights and obligations by individuals
and groups. Going beyond structuring or rearranging African political actors and institutional activities in their spontaneous, often turbid reality, this operation should result in their transformation into forms of transparent agency and practice within a democratic political system.

The authority of government derives from the will of the people and may be exercised only in accordance with that will. It follows therefore that it is the right and responsibility of the people, not the government, to determine what constitutes the public good. This is fundamental to the principle that the authority of government derives from the will of the people. Government is an instrument of the people, created by the people to serve their will. Those government officials whose actions reveal an underlying belief that their positions confer on them a superior wisdom and a right to regulate the behaviour of others by their personal definition of the public interest engage in a misuse of government’s coercive power, violate the public trust that has been vested in them, and demonstrate that they leave a lot to be desired to be fit for government service.

Governance, routinely considered a political issue, is also basically economic. Participation in resource management and governance is likely to increase efficiency of resources use; multi-partyism, electoral democracy and basic human rights are necessary but not adequate conditions for participatory development. We should all, therefore, be committed to an actionable agenda to:

- legislate the political rights of individuals, citizen’s groups

- protect, restor and sustain lives and cultures – develop laws and systems to monitor and ensure the observance of human rights

- legitimise developmental aspirations of people and peoples organisations through major changes in macro policies to ensure sound development
work towards equitable redistribution and appropriate use of land is a key measure for introducing equity into development programmes in Africa.

The best governments are those that maintain the public order essential to the exercise of the full range of basic human rights with the least use of their coercive power. The protection of the free and full exercise by the people of their basic human rights is the first and primary responsibility of any government. The use of government authority to restrict people’s and community based organisations or other voluntary sector activity should be limited to very specific and clearly identified public concerns relating to the infringement of the rights of others.¹⁷

Voluntary action, the sine-qua-non for preventive diplomacy among communities, is an expression of both a basic human right and a civic responsibility to participate actively in the life of the community. Indeed, voluntary action is one of the highest forms of citizenship as it represents action in the service of the community without expectation or pursuit of personal economic or political gain. Voluntary action may be either individual or collective. Collective action may range from purely informal temporary forms of cooperation involving no defined organisational structure to large corporate organisations with professional staff and significant assets.

Civil Society Organisations as legal organisational entitles are one vehicle for the expression of voluntary action. Our immediate concern is primarily with organised action, but the same basic principles relate to individual voluntary action as well.

The exercise of a basic right that resides with the individual requires no permission from any government. Nor does the intention or act of exercising such a right require public notification. The formation of an

¹⁷ These would include, for example, protecting the public against fraudulent fund raising practices, dangers to public health and safety, tax fraud, and infringements of the people’s sovereignty by foreign economic and political interests.
people’s and community based organisations represent an exercise of such a basic right and therefore is not legitimately subject to government review, approval, or registration – so long as no grant of special privilege is requested from and granted by government. Nor is there any obligation to make any public announcement or notification of the formation of such an organisation.
OPENING SESSION
I welcome all of you to Entebbe and to the Lake Victoria Hotel, venue of the second in our seminar series on “Corruption, Democracy & Human Rights”, this time focussing as it were on East and Central Africa. Let me thank President Museveni for honouring us with his presence to perform the formal opening of our conference on this important subject of corruption and its effect on development, democracy and human rights.

The only reason corruption thrived in Africa to the level it has is mainly because at independence the state became, in most cases, the context for primitive accumulation, and political parties became private armies organised to fight electoral, warfare in the quest to conquer the state and political power. The civil society which could have checked the state, was weak, rudimentary and largely ineffective. The international community which could have intervened was embroiled in the prosecution of the Cold War. As a consequence, violations of human rights, pillaging of state resources and all forms of undemocratic government practices and actions could be rationalised within the rubric either of stopping the spread of communism or of advancing the cause of socialism.

Familiarisation with political philosophy confirms an innate tendency in humankind. Once you give a free rein, unchecked, unbridled and uncontrolled, the bestiality of the man comes to the fore. Hobbes, has it that life becomes solitary, nasty, brutish and short. In a nutshell, at independence the structures which our leaders inherited actually encouraged them to behave in the manner which some did. And even

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18 Chairman, Africa Leadership Forum and Member Advisory, Transparency International.
if they wanted to act differently, the intelligentsia which could have
provide impetus were either lacking in critical mass or had already
been sucked into the vortex of government.

There is no time here to philosophise as to how Africa came to get
itself into such a predicament. These practices are not the exclusive
preserve of the African leader. The average African is not by nature
more corrupt than the European or anyone else from any part of the
world. He is no less democratic that anyone else. But others have
institutions, laws, conventions and practices which effectively
discourage and punish corrupters and corruptees. Effective sanctions -
moral, social, political and legal --are an essential part of the antidote
against corruption, human rights abuse and all forms of anti
democratic tendencies.

Reassuringly enough, there is today in Africa demand for a new
approach to governance. The clamour today for democracy and good
governance in Africa stems from two broad reasons. First, the denial
of fundamental human rights, the presence of arbitrariness and the
absence of basic freedoms for the individual have in the main
remained familiar traits of a majority of governments in Africa. The
strain of these styles of governance has prompted a demand and a
clamour for new approaches to the resolution of various national
question. In consequence, Africans are now clamouring for greater
responsiveness on the part of their political leadership, respect for
human rights, accountability and a two way flow of information
between the people and their leadership. They are also clamouring for
an adequate legal system and for the laws and the independence of the
judiciary and a free press which together can serve as a bulwark
against the oppression of government, and especially a corrupt or
unpopular government.

These issues of governance can only be effectively addressed and
guaranteed under a pluralistic political framework. The existence of
choice in selecting those who will lead —and the chance periodically
to review, renew or terminate a mandate for public leadership – should normally provide a secure basis for good government.

Our gathering here today is to examine the interface and the interconnectedness of the issues of human rights, democracy and corruption and the collective effects of such negative practices on the development process in Africa. Tackling the last one first What is Corruption?

Corruption which may be defined simply as the misuse of public power for private profit—is a world-wide phenomenon. It is thus little wonder that the cover story of the Newsweek Magazine for November 14th, 1994 was on *how bribes pay-offs and crooked officials are blocking economic growth*. As Newsweek noted, the last two decades have seen astonishing global economic growth. Without determined action, the worm of corruption may yet poison that apple. For most of us, our countries have failed to share at all in that astonishing growth, due almost entirely to the cupidity of our leaders. Horrific though the picture Newsweek paints may be, it really only begins to tell the story.

Corruption damages social and economic development in a variety of ways. The implementation of a process of sustainable development is contingent upon the presence of several features. First, it demands prudent, rational and far-sighted decision making. Second, it requires the best use being made of available resources. Third, it needs a principled leadership which enjoys the understanding and support of the people.

Corruption strikes at all three elements. First, decisions are taken that are irrational, short-sighted and motivated by greed, not need. Second, resources are squandered as projects are approved not on the basis of suitability, but on the returns which they may yield to decision—makers. Third, a corrupt administration quickly loses the confidence of its people, who are then gripped by cynicism and rendered immune to exhortations by the leadership.
The recurring question becomes one of *What’s in it for me?* Rather than *What is best for the country and its people?* The end result is an impoverishment of the already underdeveloped. The developing world is literally littered with white elephant projects, project began and abandoned, or completed but which never functioned. And each, more often than not, the result of grand corruption. Sometimes there are obvious victims, such as when whole communities die.

Only in a few instances are there obvious victims. More often than not, there is none. If a member of my family is arrested unjustly and their human rights abused, I can shout to the skies and the world will know. You simple cannot remove a member of my family without his or her disappearance being noticed.

By contrast, corruption is more insidious. It takes place silently and in secret, usually between only two people, each of whom has a vested interest in maintaining secrecy. There is no obvious victim to complain. In fact, whole communities, in some instances whole nations, are impoverished by this process. Without victims to complain, the task of investigative agencies is difficult enough. Our concern here while it must as a matter of necessity seek to address all facets and manifestations of corruption must focus more at the macro level or if you prefer at the global level. Here I am talking about grand corruption.

But what is *grand corruption?* In a word, it is not *petty corruption:* the five thousand shillings which a customs officer may demand, or the *drink* that an immigration official may ask for. Rather it is the huge kickbacks that officials are offered, or which they may demand – generally of salesmen from the North and usually in developing countries – in exchange for favourable decisions which often have incalculable bearing on their country’s future development. Without doubt, these enormously strike at the heart of the development process itself.
And the end result of grand corruption on this continent? A recent report from Swiss banking sources which estimate that the amount being held in Swiss banks on behalf of African leaders alone is in excess of US$20 billion. Some people believe that estimate is very mush on the conservative side.

A failure at the national level no doubt has been responsible. The hurdles are high enough when it comes to internal corruption. When international corruption takes place it becomes a veritable pole-vault—but without a pole.

Among the issues that most trouble the North are drug trafficking and Third World debt. Yet the linkage between the two is often missed. Both involve corruption, but there is more to it than this. In a very real sense, capital flight—a crucial component of the debt problem—would not be possible without the collusion of the North and their banks. If countries of the North were to take stern action to end flight of capital from developing countries, it would give developing countries strong incentives to crack down on drug traffic, since much of that traffic arises from an urgent economic need to generate funds for keeping body and soul together which might not have been necessary if national wealth had not been lost through capital flight, especially as some of the dirty money finds its way into the clean economy. To me, the money from corruption is not any cleaner than the money from narcotic trafficking.

It has been assessed that up to a third of all official and private loans to developing countries may well end up in hospitable havens outside those countries that bear the burden of the loan and debt. But their impact on Africa and the integrity of countries on both sides of the equation is devastating.
A Contradiction in the North:

The end result is a contradiction. On the one hand, there are excellent “good governance” programmes being run by the developmental agencies of countries in the North, but their good work is undermined when export trade departments are prepared to live with such bribery. Bribes paid abroad are allowed as tax deductions and most countries in the North presently refuse to treat the bribing of foreign officials as a criminal act. Some European countries are even known to allow tax deductions for bribes according to a sliding scale—depending on where the company is doing business, a set percentage of any deal can be claimed in this way without any need to produce receipts or any other form of evidence of actual payment!

Senior company executives generally defend themselves in one of three ways: by saying that corruption in the third world is simply a fact of life; by suggesting that bribes are no more than a contribution to the economy of a developing country by bringing income levels of senior people up to reasonable levels; or by claiming, not infrequently in the face of proof to the contrary, that their companies have adequate internal procedures to ensure that their employees and agents do not breach the laws of the countries where they are doing business. I challenge each and every one of these assertions.

But I am not suggesting that governments in the North are necessarily happy with the present situation: some are certainly not. Many are actively supporting what we are trying to do to drastically reduce international grand corruption and would like to be part of the solution, not part of the problem.

They, some governments of the North, are trapped in a catch 22 situation. Corruption levels are rising inexorably and unsustainably, and yet if a country moves unilaterally – as the US has done with its Foreign Corrupt Practices Act – it runs the very real risk of giving a competitive edge to companies in other countries. As one British industrialist put it. The issue, quite simply, is jobs. We wouldn’t dream
of doing it at home. Even in a democracy, the voters might look askance at a government which adds to unemployment at home in the name of ethics abroad.

The Culture of Corruption in the South?

A further factor in the North is a widespread myth that corruption in some way is a part of the culture of the South. That we do thing differently there. Personally, I shudder at how an integral part of African culture, for one, can be taken as a basis for rationalising otherwise despicable behaviour. In the African concept of appreciation and hospitality, the gift is usually a token. It is not demanded. The value is in the spirit, rather than in the material worth. It is done in the open and never in secret. And when a gift is excessive, it becomes an embarrassment and is returned. If anything, corruption has perverted and destroyed this aspect of our age-old culture.

Quite bluntly, it is simply a self-serving justification of reprehensible conduct for businessmen of the North such as Tiny Rowland to claim that children can anyone do business on this continent. I believe I am well-placed to speak with some degree of authority on this matter. I am, after all, a Chief in my own right. I am also a former African head of state. Yet, I am perfectly prepared to travel modestly – both in the air and when on the ground. And I have always been prepared to deal with proposals on their merit – and only on their merits. But I do not believe that I am an exception.

It is further said that in the South there are high social expectations which society placed on leaders. That society has a way of corrupting the public office holder because of the excessive demands and expectation that are placed on the individual. It is said that because of the African concept of the big Chief (and leaders in similar positions elsewhere in the world), the public office holder is expected to have an infinite supply of resources to dish out to all and sundry, if only to assist his kith and kin to escape the bounds of poverty.
Such an argument is, I believe, merely an escape route taken by corrupt officials and corrupt company agents alike.

Of course, corruption in international business transactions is by no means a phenomenon which is confined to North-South transactions. It is endemic too, in North-North scale. It is just in this latter context there is usually an infrastructure which severely limits the room for the corrupt to manoeuvre, and which the likelihood of detection is greatly increased. There is too, the thought that the North may be able to afford the present levels of corruption as it affects it, since the proceeds of corruption in a country of the North normally reside in that country; but that Africa certainly cannot. Especially as the proceeds of corruption in Africa merely exacerbate the problem of capital flight.

**A Programme for Reform:**

The fact of the matter is that, today Africans are now clamouring for greater responsiveness on the part of their political leadership; for respect for human rights; for accountability; and for a two-way flow of information between the people and their leadership. They are also clamouring for an adequate legal system, and for the laws the independence of the judiciary and a free press which together can serve as a bulwark against the oppression of government, and especially a corrupt of unpopular government.

This too, needs to be supported by structures and institutions that are transparent and which ensure accountability. Not only should these act as a sword to limit the scope for corruption by those who will be corrupt, but through their very transparency, they also act a shield for the honest individuals, who may from time to time be unjustly accused of self-enrichment and are enabled to point out the transparency of their actions.
We all have to be open, honest, transparent and frank. Only by opening these issues, which have previously been treated as taboo, can we begin a process of reform.

And we will only succeed when people at all levels are deterred from corruption by the likelihood of detection and the certainty of punishment and community disavowal.

At the national level, some countries can do little more than demand a principled leadership and government under the law, and hope for a day of change.

But those countries who have leaders who are prepared to tackle the issue meaningful cannot do it all on their own. They need the support, understanding and cooperation of international trading partners. The OECD has recommended to its members that they render bribes non-tax deductible, and consider criminalising the bring of foreign officials. This is an important step in the right direction.

A further step could be a form of partnership between both sides. For why should the North feel comfortable in providing development assistance and soft loans if these merely go to fee corruption? A high street bank generally takes careful measures to ensure that the loans it makes are not misapplied. Is there any reason why international loans, bigger as they are, should be treated any less carefully?

What I would like to see is development assistance being contingent on effective steps being taken to curb corruption. There would be need to be political courage on both sides. There might need to be joint commissions to monitor the use of the loans. There would also be need to be more cooperation from banks in searching out and exposing deposits of a dubious nature. There is hope that change is taking place: the government of Switzerland is at present actively helping Mali to try to recover money looted from its treasury by the former President.
Such cooperation should also involve addressing the linkage between drug and external debt and corruption. And in this, we need to go even further. We need to extend perhaps to all serious crimes – the mutual legal assistance provisions provided for in the Vienna drugs trafficking convention. This might be done simply by adding an optional protocol to the convention, enlarging the scope of the assistance it afford as between those countries who wished to break the cycle of international corruption.

I believe there is every chance that the Europeans and the American might cooperate with us in this regard. It would mean that the countries of the North would all move together in respect of the countries. None would miss trading opportunities as non would be given a comparative advantage by being out of step.

For us in Africa, I am convinced that this would open the door to the type of cooperation we need from the North. But if we want the North to take our request seriously, those countries need to see that some of us, at least, are serious. To me, that is the challenge. That is the importance of this seminar and others to follow it and the outcome form it and the faithful follow-up and implementation of the outcome from it.

Fortunately for us in Africa at this moment in time there are existing institutions within the global family network whose activities are coterminous with the genuine intentions of those concerned with laying a new solid foundation for Africa in the next millennium. Here I refer specifically to Transparency International, Messrs Jeremy Pope, Moody Stuart and Laurence Crockfort are here and would in course of our meeting share with us the operational modalities of the TI. Ladies and gentlemen, let me exhort you therefore to let us depart from this place with the determination to assist in constructing the islands of integrity in Africa with the belief and conviction that these would serve as the building blocks for making Africa continent of integrity as part of our challenge in our preparation for the next century.

In conclusion, I would leave you with three major points:
i. The continent suffers from a crisis of confidence at the leadership level.

ii. Systematic corruption abounds in many African states and at all levels.

iii. We, as Africans, must stop blaming others for sins to a large part of our own making, and instead must face our problems openly and honestly, and seek assistance of others in determined efforts to root corruption out.

I thank you for your attention.
Opening Address

By

H.E. President Yoweri K. Museveni

I welcome General Olusegun Obasanjo, members of the Africa Leadership Forum and Transparency International and all the participants at this conference on Corruption, Democracy and Human Rights in East and Central Africa to Entebbe. I wish to pay special tribute to the sponsors and organisers of this conference for the choice of the themes for the conference. They are food for thought for the leadership in Africa and must be discussed in more detail so that Africa can be put on a new moral and ethical footing without which we cannot expect much progress and prosperity.

In my view democracy is the foundation on which Human Rights and others ethical and moral values that can lead to the elimination of corruption can be built.

In the National Resistance Movement, we have a strong conviction that democracy, however defined, must have the following elements:

i. Popular participation
ii. The rule of law
iii. Accountability
iv. Transparency
v. Regular elections

Popular participation leads to the creation of a strong civil society with a keen awareness of their rights and responsibilities. The rule of law ensures that rights cannot be flouted at will without mitigation or redress; accountability means that the executive arm of Government

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people because they must answer to the other branches of Government and to that formidable fourth estate – the press for their actions. In order for democratic governance must be open so that the people know what is going on at all times to be able to censor its actions. Regular elections are necessary to ensure that the people do, at regular intervals. Choose the leaders they wish to lead them.

Although corruption is a universal phenomenon it is probably doing damage in Africa than elsewhere in the world because what you baptised Grand Corruption at your Cotonou meeting last September is particularly insidious on our continent and since our economies are weak the impact of corruption is much greater that in the developed economies where there is much to steal from.

The real problem is that the guards in Africa have themselves got to be guarded and this is clearly a vicious circle. Without moral authority in our top leadership it is very difficult to eliminate corruption. And unfortunately it is at the top that the really big thieves that cripple national development are to be found. In dealing with corruption at this level moral suasion is not enough; we need laws that govern corruption. Where sanctions against corruption do not exist these must be put in place. The problem sometimes is that the corrupt leaders, who are also the law makers, do not make laws to curb corruption because they would by so doing be creating problems for themselves.

I believe that in every country in Africa and certainly in East and Central Africa enough upright leaders are available to take the lead in the fight against corruption. Both at the legal and ethical levels.

In Uganda the national resistance movement government is very much aware of the problem and I salute the press who are doing their best to expose corruption. Government established the office of the inspectorate of Government to enable the public aggrieved by government officials, in all aspects including the soliciting of bribes, to report these crimes. We have strengthened, motivated and facilitated the police force; we have revamped the judiciary and
guaranteed its independence and we have made it very clear that nobody is above the law in this country. It is up to the institutions that we have to fight this evil and government will give them all the support they need to fight corruption.

However, it must realised that there are two parties to corruption – the one who gives the bribe and the other who receives it. Without the giver of the bribe there would be no corruption. Unfortunately when we discuss corruption we normally pounce on the recipient of the bribe as the guilty party. The African Leadership Forum and Transparency Institutional and Governments have a duty to tell those who give the bribes to refuse to do so whatever the cost. We in government are aware of our responsibility to create the requisite conference in government so that the public can refuse to give bribes in the knowledge that government will be on their side. That is the only way the public can refuse to give bribes.

I appeal to our friends and all people of good will outside our continent to help us fight corruption. It is common knowledge that a lot of ill-gotten wealth by Africans is laundered in the financial institutions of other continents and are given shelter and protection and neither their wealth nor themselves can be reached to account for the money stolen in our very poor countries. This is fuelling corruption in Africa and the world outside should do something about it.

The fight against corruption must begin in the family, moral and ethical values must be imparted to our youth at the most impressionable phase of their lives. The parents must however, ensure that they practice what they preach so that our youth have something good to emulate. The teachers and religious leaders must join this crusade so that our youth grow up as upright citizens who will neither corrupt nor be corrupted.
All over East and central Africa attempts are being made to build democratic institutions and I am confident that the growing empowerment and awareness of the people will effectively reduce corruption and violation of Human Rights.

Once again, I salute you all organisers and participants for the initiation of this crusade against Corruption and the violation of Human Rights and I wish you very fruitful deliberations.

I now declare the conference on Corruption, Democracy and Human Rights in East and Central Africa open.

I thank you.
SESSION ONE: THE NORTH AND CORRUPTION IN AFRICA
Corruption in Africa: The Role of the North

By
George Moody-Stuart

Executive Summary

Introduction:

How widespread is the problem of grand corruption?

Very, throughout developing world

Why do northern countries pay bribes in Africa?

a. To sell inferior goods or services – a very small proportion.

b. To sell goods or services which are not needed – notably military hardware and aircraft

c. To keep up with competitors – the great majority

How can respectable companies pay bribes in Africa?

a. By paying *success fees* to local representatives

b. Because no crime is involved in their own country (except in USA)
International Competitive Bidding.

- unlikely alone to defeat collusion between corrupt buyer and favoured seller

Conclusion

It is often said among expatriates who have lived in Africa that nobody is equally happy on both sides of the continent. If, as a Briton, you feel at home in West Africa you will probably feel like a stranger in East Africa and vice versa. With every respect to General Obasanjo, this is where I feel at home.

I first came to Kenya 28 years ago and I lived there managing a sugar project for five years. Since then I have been a frequent visitor. I do not know this beautiful country as well as I know Kenya but I have been here many times over the years and I have a daughter working here now.

I warmly welcome the opportunity to speak to you this morning within the context of the programme for this seminar. Over the last couple of years I have spoken quite frequently about the damage done by corruption – this is something about which Northern audiences need to be convinced because it does not affect their daily lives (except perhaps in Italy). I have also spoken about possible solution to the problems of North/South corruption. Today I have to discipline myself not to talk about those subjects because they are being dealt with by other speakers. In intend therefore to focus exclusively on the role of the North – in fact on the role of northern business – in relation to corruption in Africa. My only regret will be if this leaves a negative impression. I am, in fact, convinced that there are many things that we can and must do to improve the situation. I hope that my short analysis form the perspective of a northern businessman will help to point the way towards some of the solutions.
How Widespread is the Problem?

I have not come here to talk about myself but I have to say enough to establish my credentials. My working life of forty years has been spent entirely on agro-industrial projects in the developing world. For fifteen of those years I lived in the Caribbean, in East Africa and in the South Pacific, as chief executive of sugar production companies. Since 1980 I have been based in the UK, travelling frequently to many parts of the developing world as a consultant. It had never been part of my job to sell hardware; but it has been part of my job to sell the services of my company as developers of new projects and as managers of existing projects. I count among my friends and acquaintances many northern businessmen who, like myself, have a broad experience of the developing world. These range from heads of major companies to salesmen who spend two-thirds of their year living out of suitcases.

People sometimes ask me how widespread corruption is – and I am talking here only about grand corruption involving senior official and politicians, not about petty corruption involving customs officers and policemen. I think I can claim to know twenty developing countries moderately well, ten in Africa and ten elsewhere. Of my ten Africa countries, every single one is tainted to a greater or lesser extent by grand corruption. In case that makes Africa sound too bad, let me say that the score in my other, non-Africa, countries is eight out of ten.

At this point it is essential to pay tribute to the many men and women, Heads of State, ministers, permanent secretaries and other senior officials who do everything in their power to fight corruption. It is because they deserve our support and admiration that it is so important not to minimise the true extent of the problem.

For about the last five years, since I began to get seriously interested in the problems of corruption, I have made a point of asking my business acquaintances about their own experiences. Of course if I has asked the question *Do you pay bribes to senior people in developing countries?* The answer would almost always have been “No,” possibly
accompanied by a punch on the nose. However, when I ask Does your company ever make payments in developing countries which may, directly or indirectly, influence people in high place? The answer is likely to be: Well, you know how it... as little as possible... can’t afford to lose too much business.. don’t know exactly where the money goes.

Some people will answer: No, we never do that I believe that those who give this reply fall into three groups. A few belong to companies which are either so strong or so unchallenged in their own field that they are immune from all pressures. A managing director of a very large international company, whom I have known well for many years, told me recently I am very lucky to work for a company which is strong enough never to have to pay a bribe. We can afford if necessary to work away from a major contract. In his case I believe him. The second group are those who do not know what is happening in their own companies. A couple of years ago the managing director of a medium-sized company assured me that they never made any questionable payments. This was interesting because only a few weeks earlier one of his senior managers in an African country had complained to me bitterly about a payment he had felt obliged to make to a minister in order to get a land lease renewed. The third group, as I am sure you have already guessed are simply lying.

So is we have now established between us that North/South bribery – or, in this case, North to Africa bribery – is very widespread, there are probably two major questions that I must try to answer; why does it happen and how does it happen?

**Why Do Northern Companies Pay Bribes in Africa?**

I do not propose to spend time on trying to apportion the blame for grand corruption between the companies of the North and the politicians and officials of Africa. It is self-evident that both must, to some extent, be responsible. You can’t receive a bribe unless it is offered and you can’t pay a bribe unless it is accepted. Because corruption does not play a significant part in business life in the North
(except apparently in Italy) it is not surprising that the average businessman in the North regards it as something nasty that he has to live with only in the South and, therefore, something for which the South (in this case Africa) MUST be responsible. I believe myself that this is an incorrect conclusion and that the principal blame does in fact rest with the North; but I will not pursue that argument further at this stage.

So why are bribes – the grand corruption type of bribes about which we are talking —paid? The simple and all-embracing answer is that they are paid in order to secure the sale of goods or services which would not otherwise be bought. Like most simple answers that do not get us very far and we need to analyse further before we reach a useful conclusion. I want to suggest to you that there are three quite different reasons why the North gives bribes, all of which are of course connected with securing sales.

The first category arises because the goods or services to be sold are sub-standard and would never be chosen in fair competition. This may be because the supplier is not good at his job or it may be because he is deliberately reducing quality in order to generate more business. An example of the first case might arise if a supplier of coal-fired power stations wants to break into the business of supplying oil-fired power stations. With no track record it is difficult for him to compete with well established suppliers. He must either offer a very low price, or persuade the decision-makers by another method (a bribe); or, most probably, a combination of the two.

Another example will be familiar to all of you who drive on the roads of Africa. A new stretch of highway, built by an international contractor, looks fine when it is completed but starts to break up within a few months. You may assume that it was more profitable for the contractor to spend money on bribes than on the necessary materials and labour to do the job properly.
Although I have no detailed knowledge of this, I have been told that there have been some very ugly cases of sub-standard pharmaceuticals being supplied to African governments. This is doubly evil because it put lives at risk.

I must emphasise that, in my estimation, this category, in which grand corruption is used to permit or cover-up sub-standard supply, is a very small proportion (perhaps 10%?) of the total. You may think that it is so short-sighted that no northern company which hoped to have any future would possibly sink to doing it. I can only tell you that it is remarkable what some Northern companies – as well as some African politicians – have managed to get away with.

The second category is totally different and it arises when grand corruption is used to persuade decision-makers to buy goods or services which they do not in fact need at all. The classic example here is military hardware, like fighter aircraft. You will all be able to think of states in which a remarkable proportion of the Gross National Product is expended on defence against an unknown or virtually unarmed enemy. I have heard this explained in the North as being because heads of state with military backgrounds like expensive toys to play with. The true reason is that high-tech hardware is more commissionable than any other type of supply. It is known to be very expensive and yet hardly anybody knows what its proper costs and profit margins are. Civil aircraft and communications tend to fall into the same category.

I am not of course saying that northern companies have any responsibility or indeed any entitlement to tell African governments what they should or should not buy. If a government decides that the latest rocket launcher is a higher priority than a small farmer irrigation scheme or indeed a well-built highway, that it its own affair. My objection only arises when the decision-maker’s judgement is distorted by a bribe, which, in such a case, may be enormous.
The child category, which is very much the most common, is best described by the often-heard explanation: *We only do it because everybody else does it.* However weak this may sound, there is a lot of truth in it. The great majority of northern companies are satisfied to sell their goods or services at a fair price, that is one which will give them a fair profit margin. They know that getting rich quickly on one or two contracts is a short-term policy and they would prefer to build up customer confidence and their own good reputation. If the competition is strong they will be prepared to cut their margins – and this is healthy. They do not, of course, expect to win every contract which they pursue. However, what really upsets them is when they lose business simply because someone else has bribed the decision-makers.

So, in summary, those are the three categories of suppliers: those who bribe to counter-balance their poor quality; those who bribe to create a market for their unneeded goods; and, the great majority, those who bribe to stay in the competition.

**How Can Respectable Companies Pay Bribes in Africa?**

How do they do it? I find that when I discuss grand corruption with friends from outside the world of business – and particularly when I mention how widespread it is, their first reaction is to think that I am exaggerating. Some people, of course, believe that the top men in the big trading companies and transnationals of the North are a bunch of crooks anyway. There are certainly a few of those but I can only assure you that in my own experience this is not the case with the great majority, they are tough and competitive but honourable and very proud of their companies’ reputation. They would not even consider bribing somebody in their own country. So how can men of this type allow their companies to give bribes – sometime extremely large bribes – in the developing world?
The answer lies, I am certain, in a combination of two factors – *the use of agents* or representatives on the one hand and the current legal position on the other. I want to explain how these work together to make bribe-giving possible.

As I am sure you known, people who give large bribes do not do so by travelling around the world with suitcases full of used hundred – dollar bills. Nor do they approach politicians or senior officials and say to them, If your country buys these supplies from my company, we will give you a million dollars. What they do is to appoint a representative, who will normally be resident in the country concerned, to assist them in that country. There are many entirely legitimate tasks for such a representative to do, as I know personally, having more than once been the first person from my company to visit a particular country. You need help from a knowledgeable person; for example, advice on taxation, foreign currency or customs restriction, banking, security and so on. These things can all be difficult in a country which is new to you, particularly if you are not fluent in the language. You may perhaps also need help in making appointments to see the people in government whom you need to talk to. Perhaps the commercial staff at your Embassy can help but often they will put you in touch with a local banker or lawyer or businessman, sometimes recommending him because he knows all the right people.

So far, so good. The representative will obviously deserve some remuneration and the size of this will depend on how much he has had to do and what he expects to do in the future. Sometimes an immediate payment is appropriate; sometimes a good dinner and the promises of some future business is all that is needed. But sometimes the representative may say, I don’t need anything unless the sale (or project) goes ahead; but if it does, then include 5% in your price for me. Only that 5% may be 10%, 15% or even 20%. 10% on an order for $100,000 worth of goods ($10,000) million? Does the representative need or deserve $10 million for his legitimate work? These “success fees” lie at the lie at the heart of grand corruption.
It is at this point that the second of my two factors – the current legal position – becomes important, because at present, except in the United States, the paying of a bribe to somebody in another country is not a crime. I do not imagine that the chief executive of a northern company ever says to one of his staff I agree that you can disburse bribes of X million dollars to win this contract. What he does say is appoint the best representative you can find and negotiate whatever success fee seems to be necessary. Because no illegality is involved there is no obligation to enquire how the representative plans to use the fee or commission which he will earn if the contract is won. That, I can assure you, is the basis upon which respectable northern companies play their part in grand corruption in Africa.

**International Competitive Bidding:**

The last area I want to touch upon from the perspective of the North is International Competitive Bidding and I do so because it is an area which seems to be frequently misunderstood. The northern businessman is, of course, delighted if he can negotiate a contract rather than having to bid for it, and this is not necessarily for bad reasons. Direct negotiation can save much time and uncertainty for both buyer and seller and I have known cases where it has led to excellent results; but the potential for easy rip-offs makes is inappropriate in most cases. However that does not mean that ICB provides the whole answer, because it is unlikely to defeat collusion between a corrupt buyer and his favoured bidder unless it is very carefully monitored.

The preparation and adjudication of a full bid on a major contract can be a very expensive business, which is why both buyers and sellers tend to favour a process of pre-qualification leading to a short-list of bidders. This is where the system starts to breaks down because those companies which are eliminated by short-listing may include those which pose the greatest threat to the company which is intended eventually to succeed. Conversely the short-list may include one or two companies which are quite unsuitable and can therefore be easily
eliminated in the final competition. With a little skilful manipulation, the preferred company can emerge as almost the only choice; and, if it does not do so, the corrupt buyer has one further trick up his sleeve, which is to reject all the bids, for one of any number of reasons – for example that he wishes to change the scope of work or the size of the units – and call for a new tender. So please do not believe that ICB alone can eliminate grand corruption.

**Conclusion:**

Perhaps some of you are now saying *What has this big business stuff got to do with the real problems of my country? Our lives are much more affected by dishonest judges or policemen of minor officials than by any money that the big men may be making from foreign companies.* I can understand that feeling, but I believe that it is wrong for two reasons. First, the major spending decisions, which are so important for the future of Africa, are being distorted by corruption so that much of the available finance is being wasted. Second, if some of the top men are seen to be making easy money through grand corruption, what hope is there of enforcing proper standards down the line? If the ministers and permanent secretaries cheat, the judges and the policemen will cheat too.

It is not my responsibility today to propose solutions. I shall only say that I am convinced that both the governments and the businesses of the North have a major role to play in conjunction with the South; and that if we work together on this, we can achieve tremendous improvements in quite a short time.
SESSION TWO: EFFECTS OF CORRUPTION IN AFRICA
Corruption and Development in Central and Eastern Africa

By
Pierre Buyoya

Your Excellency
President of the Republic of Uganda
Distinguished Guests
Chairman of Africa Leadership Forum
Ladies and Gentleman

Before going into the depth of my presentation, let me thank everyone of you for your presence here on Ugandan soil, to reflect on one of the major obstacles to development in Africa; corruption. Let me also use the occasion given me to make my contribution to understand the problem. My gratitude, therefore, goes most especially to Africa Leadership Forum who invited me to the seminar. Here, I would like to point out that, because I am not a specialist in the field, I would be making use of my personal experience. Let me finally point out that the complexity of the subject and its sensitivity do not allow to be specific, that is to say, going as far as mentioning names of countries. That is why my contribution on the subject would be general.

After having tried to address the phenomena of corruption and its disastrous consequences on development, I will try to quickly comment on the case that I know better; that of my country, Burundi. I will finally recommend some measures for countries of our region and elsewhere to consider to wage a crusade against corruption.
Corruption in Central and Eastern Africa:

To begin, it must be noted that corruption is an old phenomena. For centuries, individuals have looked for and found ways to unduly make profit of their power or to commit public resources to personal uses. That is, the fundamental attitude known as corruption in the society. Of course, it is understood that the mechanisms vary along the periods and socio-political environments.

The title of my presentation could sound as if corruption is peculiarly an African syndrome. It is not. It is not because current political facts sufficiently show that corruption exists everywhere in the world. The chain of resignation in the Italy, the numerous resignations of Japanese politicians, the resignation of a Head of State in Brazil, all have corruption as the principal factor. It is a phenomena I would call corruption at peak, but it is hard to bet that other units of the State apparatus are exempted from it. Africans, therefore, do not have to be particularly saddled with guilt.

Nevertheless, this argument is not intended to support nor change things. It is only used to situate the phenomena in a global context. Corruption is a reality in Africa, including our region. It is only necessary to remark that it takes a peculiar and worrisome dimension when it is committed here.

In effect, in our countries, corruption sucks the already highly limited, if not non-existing resources. It often affects debts that the entire population would contribute to pay back at the cost of very enormous efforts. In the case of aids, corrupters and corruptees form a tango between donors and beneficiaries. It is therefore conclusive that in our countries, public funds are diverted to enrich individuals, which amounts to stealing from the poor the little that they would have.

It is needless to mention some cases. But it is established, with evidence, that in some African countries, the global figure of the amounts in the foreign accounts of some individuals involved
(generally in the fiscal paradises) is more than the public debt of their country. That is to say that if all this money returns to the coffers of the state, it would be enough to write off her debt. Worse still, we know countries where the wealth of a privileged handful is more than totality of the debt. We also see some individuals, who from nothing, accumulate colossal fortunes in a twinkle of an eye, as if by magic. Suddenly, the next day, buildings in the classy quarters of Paris are bought and shortly a worthless life chain begins from nothingness.

On the field, the effects of corruption are glaring for all to see. A good number of African countries cannot proceed with their economic takeoff, despite the massive aid coming from the Northern hemisphere. Very often, staggering sommes are injected in large projects that have no effect on the standard of life of the masses. In addition, resultant debts continue growing.

Beyond its immoral and shocking aspects, it could be seen that corruption is the major obstacle to development. Corruption wastes development aid and increases the debt burden of poor nations, Grants are negotiated, signed and released, but these countries do not get at them in total. From this fact, corruption discourages equitable appropriation of revenues.

In addition, corrupters and corruptees exploit the people because they steal fruit of its labour: it is the people who produce and pay taxes. Consequently, the people have no more confidence in the state; they have developed a feeling of skepticism and resignation. We can add that the mere knowledge of the presence of corrupt agents of the state contributes in destroying the same state and cultivating immorality in public affair.

**In Burundi, How Does it Look?**

Certainly, as you would expect, Burundi is not exempted from this “rule”. She also suffers from corruption. We see there and then, people who suddenly become rich. We witness projects, laudably launched,
but which suddenly change and disappear, leaving minimal impact and astronomical debts to repay.

It I were to make a comparative case, I would say, chauvinism apart, that the level of corruption in Burundi is relatively less higher. Current phenomena are related to what I would call “peti-corruption”. By this, I mean frauds in public service, trading of favours and diversion of funds. Of course, this does not provide an excuse to spare any efforts in the fight against the scourge.

**Some Measures to Fight Corruption:**

It is necessary to mention that on the global point of view, corruption in Central and Eastern African is not quite peculiar from corruption in the rest of the World. Even the tribal or ethnic dimension present in our region is just a matter of another side of the same coin. It is only a case study that can establish distinctive characteristic, but such is not my case.

To wage war against corruption with any hope for success, it would be necessary to act on the causes. These are numerous and complex, but they can be regrouped. For instance, they can be seen as causes external to African countries and others internal to them.

The first ones refer to the existence of corrupters in the countries of the North. The second refer to the organisation and running of states as well as certain ethical and moral factors. In both causes, any action that would not focus at corrupters and corruptees would be doomed to failure.

It is therefore necessary to go over this fact that corruption exists because there are corrupters and corruptees. Here again, Africans are not the only ones to be pointed fingers at, because there are corrupters who come form the North. This is referring to the fact that the process of aiding development is infected with corruption. In this regard, the fight should be directed at external corrupters.
In simple and direct terms corrupters in the North should cease from corrupting the South. This shows that it is necessary to revisit the procedure for North-South cooperation. The signing is certainly the most focal aspect. I believe that donors should commit themselves to more transparency. In effect, it is established that civil servants of our countries hardly resist enticement coming from the North. Some succumb as a vice, but most of them succumb out of need.

Nevertheless, the responsibility of African civil servants in this regard cannot be denied, far from that. Consequently, African states have as a duty to act on their own part. In this regard, a varied lot of action to be taken is available for them.

Firstly, African states should organise themselves in a manner to prevent or fight effectively against corruption. Politically, they should put in place administrative principles based on good governance. They should cease from being clannish or tribal states, to become open societies where management of public affairs is transparent. They should promote freedom of expression so that their citizens can condemn discrepancies without fear. On the economic aspect, economic opportunities should be determined by just and equitable competition.

Secondly, African states need to reinforce their capacity for organisation and management. They need to avail themselves of efficient and performing administration, capable of arbitrating over interests of individuals. But they should also organise themselves to safeguard their interest as states and to protect them against those of the individuals, though they should also be protected. It is incumbent upon them to know how to appropriately manage revenue, taxes, custom duties and other source. This implies, most importantly, the putting in place of a system of motivation for those involved, which would assist them to resist corruptive temptations.
Thirdly, the ethic of integrity should be developed, particularly at the level of leadership. African leaders have no right to manage the state with the aim of living in other heavens in the future. They should manage the available resources with rigour, and above all, they themselves should accept to submit themselves to transparency. The ethical dimension seems to me, as a binder of other dimension in the crusade against corruption.

In conclusion, I agree with you that corruption is a reality in our region, like elsewhere in the world. For corruption to cease from being a hindrance to development, it is necessary to reform African states. Politically, we need more democracy, more rigour and more transparency. On the institutional plan, we should reform the state in the sense of competition and liberalisation, meaning to promote merit and taking away from the state certain services to the private sector.

To round up, let me simply say this: We should not expect miracles. African countries are not more corrupt than others, they are may be less organised to resist it. It is left for them to get down to it!

Thank you.
Economic Development and Corruption

By
Lawrence CockFort

What does economics say about development and under-development?

Contemporary economics has reached a widespread consensus on the causative factors in determining economic growth. These may be summarised as follows:

i. an increase in national income is the result of an increase in productive investment, generating an increase in the supply of goods and services of improving quality;

ii. increased participation in international trade raises the possibility of optimising (both in quality and price) the sourcing of inputs and so increasing the efficiency of production;

iii. steady improvements in the use of technology, whether domestic or imported, will also contribute to an increase in output;

iv. to sustain increases in national income there needs to be a matching improvement in the quality and quantity of skilled manpower;

v. institutional change is an integral part of this process, and especially the development of a financial system and a legal framework.
How far has this paradigm been met?

The evidence is that if a country adopts most of (I) to (v) national income will increase in ways which benefit the majority of the population. The corroborative evidence is from both the experience of the ‘early industrialisers’, such as the UK and the US, and from the majority of countries in the developing world since the 1950s. The growth of many countries in the latter group (not necessarily including those with the largest populations) has increased as rapidly, or more rapidly, than that of the ‘early industrialisers’. However, until recently, this has tended to be obscured by the rate of population growth.

In what circumstances may countries fail to participate in this process? Obviously political instability and war can suspend the process altogether. For a country which a dependant on the export of international commodities long periods of depressed prices can prove a major constraint (although these are usually followed by a period of ‘higher than average’ prices). More objective economic ‘catches’ include the following:

a. investment may be too low because savings are too low;
b. even if domestic savings are high the foreign exchange required to finance certain investment may not be available;
c. there may not be access to appropriate technology;
d. the national educational and skills base may be too weak

The Role of ‘Aid’ in Promoting this Process:

The original justification for the development aid process (as developed by economists such as Rostow an Chenery) was two fold:

i. investment in one, low income, country might be inadequate (but could be increased by mobilizing savings from another country or set of countries where savings rates were higher;
ii. countries might not have sufficient foreign exchange to translate domestic savings into investment with a significant foreign exchange component.

In the 1950s and part of the 1960s this constituted the basic economic justification for the operations of the World Bank. Its success in part of the world is reflected in the economic performances of the high growth economies of Asia, including the original NICs, all of which were significant beneficiaries of this kind of aid. Many countries in Latin America, too, benefited from this first phase of aid, but its impact was obscured by the twin phenomenon of high levels of commercial debt and of capita flight.

**The Economic Characteristics of Corruption:**

The economic characteristics of corruption, rather than its impact on the economy as a whole, have been extensively discussed elsewhere and will only be summarized here.

**Project Related:**

The project related impact of corruption include:

i. the inflation of projects costs as a result of commissions which may increase the cost of a project by up to 25 per cent;

ii. the skewing of investment towards projects with a high foreign exchange content and which may therefore leave domestic resources under-utilised

iii. a lower ratio of capital investment to output than could otherwise be achieved;

iv. high annual maintenance costs, resulting from a capital intensive choice of project, which are likely to be denominated in foreign exchange.
Non-project Related:

The consequences of corruption which is not related to individual projects include the following:

i. over and under invoicing which lead to the loss of foreign exchange;

ii. the non payment of tariffs and other major sources of revenue which significantly reduce budgeted revenue;

iii. inappropriate purchasing by government purchasing authorities;

iv. the erosion of legal recourse to the judiciary in the context of disputes which relate to the management of resources (such as land title).

Privatisation:

In the context of privatisation corruption amongst the divesting authority is likely to lead to:

i. the sale of companies to less competent bidders;

ii. a reduction in the total finance available for investment after the purchase (in view of the inflated purchase price);

iii. a net reduction in potential total flows of investment for privatization as investors’ perception of the process deteriorates.

Legal Impact of Corruption:

In addition to the above it is important to note that from the viewpoint of US investors a corrupt environment is generally difficult to do business within, as the Foreign Corrupt Practices Act, passed in 1978,
imposes major penalties on companies paying bribes in order to facilitate investment.

How do these processes undermine the economic development paradigm?

The cumulative effect of the various forms of corruption is to undermine the quality and level of productive investment, whether in the public or the private sector. As project costs are inflated and as technology choices deteriorate productivity declines, the country’s capacity to generate foreign exchange is reduced and aid dependency is increased. The capital flight associated with commissions constitutes a net drain on resources. Where projects are financed with commercial debt the costs of debt services are an added burden on limited foreign exchanger resources.

The erosive impact of corruption also affects the institutional base which is essential to the development process, by for instance undermining the legitimacy of land tenure systems and recourse to the courts in the case of commercial disputes. In cases where corruption has played a part in the privatization process this has led to an inappropriate selection of corporate purchasers, and has tended to dampen the interest of other potential investors.

The consequences of these processes are indicated in Charts 1 and 2. Chart 1 shows a re-allocation of GDP over a five year period in a way which tends to depress both public and private investment. By Year 15 the consequence of reduced and lower quality investment is evident in a reduced GDP which has an even lower investment rate. Chart 2 indicates the changing nature of aid in response to the corruption phenomenon. It indicates that the original justification for aid as described above has been serious undermined, if not completely distorted.
Conclusion:

The above argument indicates that in a low income economy with a high level of corruption the means to sustain an annual rate of investment which is sufficient to generate an increasing GDP may be lacking. It further suggests that, if the level of corruption is high enough, it may cause such distortions in the aid process as to render its basic justification untenable.
Effect of Corruption on Democracy

By

Lee G. Muthoga

Democracy, it has been said, is the rule of the people by the people and for the people. A democratic administration is one in which the people, all the people, are enabled to express a free choice on all matters affecting them. A simplification of the democratic ethic is that it allows the unrestricted exercise of the freewill of the people determining the cause of their affairs by references to the will of the majority thereof demonstrably expressed. In political terms it implies the right of the people to freely choose their representative, it being recognised that there is no scope, except in the tiniest of the mini-states, for direct expression of the will. The freedom to select representatives is expressed by the conducting of free and fair elections in which all those who can are enabled to express their wish.

Accordingly, democracy cannot be said to exist in a situation where the freedom of choice is constrained by whatever factors. It is for this reason that corruption has been called the enemy of democracy. Corruption as we shall see later in this paper constraints or corrupts the mind of the corruptee rendering him unable to exercise a free choice on matters affecting him. The corruption often cited in connection with the exercise of the democratic choice is the unjustified or unfair interference with the exercise of the electoral choice. While free and fair elections do not comprise democracy they are regarded as an essential beginning point for the establishment of a democratic regime. Accordingly, electoral fraud is one of the most devastating form of corruption to the establishment of a democracy. Leaders who have been selected through electoral fraud are aware of the illegitimate nature of their rule and will seek to perpetuate it by use of coercive force. They will cling to power opposing any efforts to

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introduce open government leading to curbing personal freedom and abusing basic human rights. They will use whatever political or economic power they can muster to perpetuate their rule and to encourage practice that are dishonest, corrupt and unaccountable. They will encourage dishonest business practices and will put in effect measures that will foster greed and maladministration. This will create a business climate in which honest business persons go broke and which ensures that rules or a healthy economic system are twisted and business entities are encouraged to become addicted to paying bribes.

Democracy is not constituted in a single opportunity to vote, but by the fulfilment of guarantees of regular elections and by procedures for citizens free involvement between elections. Democracy is not an event. It is a process which constitutes the creation and maintenance of operational political institutions and an appropriate political culture. That culture is natured through institutions that embody enhanced opportunities for political participation and competition for all citizens. Legislative institutions must exist to check the exercise of executive power and a genuinely independent judiciary must exist to safeguard the civil liberties of the people. These instructions are often seriously constrained in their operation by corruption as we shall see later.

An essential attribute of democracy is good governance with goes hand in hand with accountability and transparency. A government cannot claim to be democratic unless it is fully accountable to its people and conducts its business in a transparent manner. Corruption is the most effective way of obliterating transparency because it thrives in non-transparency. Accountability is anathema to corruption and will have the effect of reducing its incidence.

Besides constraining the free exercise of the electoral choice corruption affects the exercise of democracy in a number of other ways. Corruption undermines the growth of a sound economic base which is the hallmark of the substance of the democratic culture. In its various forms corruption results in the malfunctioning of the economic
system which in turn results such things as increased National debt, failed development projects and increased poverty of the people.

Corruption takes various forms. One of these is the straightforward bribery. The chai or as it is now called in Kenya T.K.K. Toa Kitu Kidogo. The menial bribes you give to the Police Officer on the road or to the clerk in the Pension Office to facilitate the availability of the file or to government tax inspectors to persuade them to overlook tax evasion measures. This form of corruption has the effect of undermining the peoples faith in public institutions. People loose faith in the ability of the police force to secure their lives and property when they see that persons who are known to have committed offenses are let off without prosecution. Frequently, police officers who have received bribes turn to the innocent parties and have them prosecuted for such offences like giving false information to a person in public service in order to cover their failure to prosecute.

Similarly people loose confidence in the system of justice when they see people bribe their way out of the court after they have committed offences or in civil contests bribe their way into winning cases they should loose. Once people know that catching the criminal and handing him over to the police or having him charged in a court of law will only result in his going free after bribing his way out the will be encouraged to meet instant justice. Once a person is suspected of or is found committing an offence he will instantly be punished thus undermining law and order which is the cornerstone of democracy. This small time corruption – bribery has the other effect of discouraging effort. When bribery is prevalent in a society people tend to loose hope in their lot. When the job opportunities are distributed on the basis of who knows who, not what, and when one has to bribe one’s way to be able to sell his farm produce or to secure a licence to export them or import inputs there is great temptation to give up all hope. This is turn creates a despondent populace longing for an opportunity to overthrow the social and political order.
The other form of corruption is in what is generally called graft or kick backs. Public officers responsible for the offer of tenders and contracts for execution of public works accept or indeed seek commissions for themselves. In order to service these commissions contractors either over-value or over-cost the works or provide substandard work. The effect of this in national development is to constrain economic growth and to create indebtedness on the part of the government which in turn renders the government unable to provide the social amenities that its people expected to flow from democratisation. This in its turn breeds discontent and dissatisfaction amongst the people which leads to political instability. It cripples the ability of the government to function and to prove welfare services to the people who, being tax-payers, are entitled to expect these services from their government. The net effect is similarly to disaffect the people against their government thus undermining democracy.

Yet another form of corruption is in malapplications of governmental resources. Public officers responsible for the administration of public resources have been known to do so on the basis of criterion designed to benefit themselves or their special interests. Factories are cited not on the basis of the economic convenience or in relation to user or availability of raw materials but on considerations of ethnicity or regionalism. Resources intended for a purpose A are directed to a purpose B which has not been planned or even considered by the planning authority. This is done to please a given individual or a particular community or locality. This malapplication of resources inversedes the national development planning and frequently results in failed project thus cause huge losses to government which undermine its economic programmes with similar effect to democracy.

The most damaging effect of corruption on democracy is perhaps not to do with the undermining of the economic viability of the state, it is in the distortion of the values of society. A democratic society has certain values which characterise it. It exposes the virtues of hard work, self-application, sacrifice and self-denial. Corruption negates all these values. It spurns these virtues giving respectability to such others
as craftiness, usury, arrogance and dishonesty of trickery. It distorts the perception of the people so that society ceases to regard as success any achievements that are not translated into material gains. Public service ceases to have any meaning or purposes unless it can be used to open channels of accumulation of wealth. Society’s view of what is right and what is wrong is similarly corrupted so that we begin to praise those who have prospered by evil means and to disparage those who have sacrificed to remain on the straight paths.

We look at those who have made a quick buck in some shady deal as the ones worth of our praise and look with disdain at those who have persisted on doing what is right rather than what is convenient or beneficial. People who are known never to have done a day’s honest job are all of a sudden seen to acquire a lot of wealth attracting public praise while those who have toiled form day-to-day holding fast on the nursery rhyme they were taught at school Honesty is the Best Policy are seen as useless, slothful and mean individuals incapable of providing leadership. Leadership is therefore usurped by those with the ill-gotten wealth with the result that corruption becomes even more entrenched in our society. Democracy ceases to have a chance to thrive in a society so heavily laden with people of this type.

In conclusion, I would implore all those dedicated to the establishment and fostering of democratic institutions and culture in our countries to rededicate themselves to the eradication of corruption from our midst. It is not an easy task. It is, however, achievable provided we persistently maintain our attack on unaccountability, greed and selfishness. We must do so using all instruments at our disposal. The foremost of these instruments is the media. The criminal justices system is another as is also the legislature. We must consistently insist on the law being allowed to take its course and must be quick to point out when it has not. We must use the media to bring to public scrutiny any activity which stinks of corruption. We must fully support any measures to bring to book those who have abused their officers and caused losses to government revenue.
Corruption and Its Effects on Human Rights

By
Livingstone Sewanyana

Introduction:

In any society of today that wishes to call itself a democracy, human rights and the rule of law should be in focus.

The concept of human rights is not, as sometimes has been argued, a part of a Western culture seeking to politically dominate the rest of the world. Neither are the various rights separable as on a menu from which you may pick and choose what you prefer, considering the circumstances. Human rights are in their character universal and valid to all human beings. They also consist of a number of inseparable principles, manifested in their civil, political, social, economic and cultural aspects.

Although human rights have been embedded in old traditions in all societies and cultures, we today commonly refer to human rights as those adopted in the 1948 Universal Declaration of Human rights. This document has been of tremendous symbolic and practical importance in strengthening the rights and dignity of mankind. It covers the aspects of freedom of association, opinion and expression as well as rights to health, education, housing, etc. The ideas have been further developed in a number of international documents, including the International Covenant on Economic, Social and Cultural Rights and the Optional Protocols. Further, many special treaties, such as those on the abolition of torture, slavery and discrimination of women and regional charters like the Regional African Charter on Human and Peoples Rights are of no lesser significance.
The acknowledgement of human rights stems from the notion that no human being should be deprived of his/her personal freedom. Irrespective of age, sex, race or religion, everyone is entitled to both negative and positive rights. The civil rights cover many of the negative rights as it specifies abuses from which people should be protected, such as arbitrary arrest or torture. The positive rights of citizens give them the ability to act, through for example freedom of speech, organisation and religion and through the political right to active participation. Also the social, economic and cultural rights are positive in the sense that they guarantee individuals and peoples the resources necessary for their well-being. Together with the rule of law, human rights form the basis of stable democracy and development.

The rule of law is the moral guideline to all those in charge of law making, administration and enforcement, serving as a protection of individuals and peoples from the abuse of authorities of all kinds. Also beyond the formalities of legal documents, there should be a widespread awareness of the rights of man and its practical implications throughout society. In democratic societies, the people’s representatives fulfil their duty of accountability to the citizens. These in turn have access to all the goods and services they are entitled to.

**Human Rights and Corruption:**

While acknowledging the importance of these enlightened goals, in reality, we must admit to be far from achieving them. All over the world, people are still deprived of their rights by the presence of poverty, war and political repression. One of the reasons for the prevalence and continuation of human rights abuse is the existence of corruption.

Unfortunately, we can still see the presence of corruption in one or several of its many ugly manifestations: bribery, self-aggrandisement, theft from public funds, incorrect appointment procedures, including elements of nepotism or sectarianism. Corruption can be defined as the misapplication of public goods to private ends. This does not
necessarily mean that the goods in question are material or that the beneficiary is solely one person. The practice might just as well include personal favours given to a group of people, such as political party colleagues relatives or neighbours.

This is particularly striking in economically weak countries, where the needs are the greatest and the abuses the worst. In Africa, corruption has become part of every day life. In most likely for the average African citizen, whether politically aware or ignorant, active entrepreneur or passive spectator, to sooner or later be confronted with corrupt practices. The phenomenon is to an alarming extent considered as self-evident part of the life that is also in other aspects filled with hardships and hazards.

Having stated that corruption is a serious problem to African and other developing countries is not to say that it is non-existence in the more prosperous world. It only has other attributes. For example, in the untamed markets of European and North American societies personal favours and grants may well be part of unofficial custom. Furthermore, corruption as such is an international phenomenon. Malpractices in one country may have spill-over effects on other actors of the world.

Thus, corruption is a social evil that prevails in all corners of the world, affecting the morals of citizens as well as their living conditions and opportunities to survive. Corruption, in undermining the rule of law and in abusing human rights, is a threat to democracy itself. In viewing human rights as an integrated whole, corrupt practices are threats to all of the internationally declared rights of mankind as expressed in its civil, political, social, economic and cultural dimensions. Any abuse of office undermines the rule of law.

In examining this, the role of the executive, legislative and judicial professions as well as the civil service, security forces and the regional and local government is of utmost importance. These bodies are part of what should be to the people accountable government and human
rights protection. Corruption in these areas serves to weaken the link between the people and their representatives, causing conflict, fear and misunderstanding. At the end of the day this leads to serious human rights abuses.

The role of the judiciary can be illustrated by the question of civil rights. Obviously, if the judiciary is not independent and fails to grant the citizen an adequate legal treatment, he is left utterly vulnerable and in a situation where he has no control of the events. Corruption in the legal area paves the way for political imprisonment’s, unlawful detentions without charge or trial and other Malpractices, causing individual harm and general distrust in the rule of law.

The same can be said in the area of social and economic rights. An official who confiscates public assets for private use commits a crime leading to instant suffering and long-term deprivation. The disastrous effect is evident in the health sector, where drugs and medical care may be in scarce supply due to corruption. The outcome is similar in other fields of society, such as education and social infrastructure.

In an environment of widespread corruption, the internationally stated right to development is not likely to be realised. Rather, if the opportunity to pursue a civil service career is dependent on family ties, religious background or ideological belonging instead of personal skill and competence, the whole system loses its efficiency. Nepotism kills the professional etiquette, the very morals of work and employment, and seriously damages the prospects for development. Corrupt practices are likely to frustrate those who presses the much needed skills, forcing them to retire to insignificant occupations or to leave the country. In corrupt societies no high-level research can be made. Brain drain is know to be one of the most serious obstacles for the Third World to develop independently.

Nepotism further leads to the appointment of incompetent officials, who make decisions that at best have no effect and at worst catastrophic results on national economic performance. Sustainable
investments for the future, although recognised as a prerequisite for development, meet serious challenges in a corrupt economic systems. Investments are not likely to be channelled into the most profitable sectors but rather to the sectors where corrupt officials believe their abuses are least likely to be discovered. This means that foreign currency and indigenous capital already in scarce supply is put into speculation instead of being a contribution to national development and human rights.

Another aspect of corruption as an economic obstacle to human rights promotion is demonstrated in the international context. It is clear that the phenomenon recognises no national borders. This is a major dilemma to people of the Third World, to a large extent, dependent on foreign aid donors for the democratisation but at the same time governed by corrupt political representatives. If the recipient government is corrupt, a serious donor is most likely to withdraw its financial support in protest. Donor fatigue is becoming an increasingly common response to corruption.

The foreign dependency itself is often an obstacle to development rooted in corruption. The self-aggrandisement of officials in the developing world, force the nations to borrow money from without. To repay the loan, extensive structural adjustment plans, involving cost sharing and cuts in the employment sector, are put into practice. This debt burden is not carried by those who caused it – the corrupt officials – but by the population. The situation is one of serious human rights abuse, and furthermore one that is likely to include future generations. The corruption of today will take decades to repair, and in the meantime innocent people suffer.

A seldom considered effect of corruption is the cost of anti-corruption campaigns. The flight against corruption is a most costly procedure that is likely to endure for a long period of time. Instead of spending time and money on development, democracy and human rights promotion, many states find themselves force to spend these resources on education, investigation and research on corruption matters.
Politically, corruption has deteriorating effects on the search for stability and sustainability. Corruption serves to lead politics out from the stable path of law and in to the unpredictable arena of patronage. Significant for patro-client relationships is the mutual dependence but at the same time the dominance of the patron, who is the one setting the terms of the agreement. The patron can expect a lot of personal gain from these corruption procedures, whereas the client has little to gain but much to lose if he refuses the deal. On patronage it can further be said the although it is rational in the short-run, it is a serious obstacle to democracy in the longer-run. As stated above, the system is highly unpredictable and does not obey the rules and principles of human rights.

A political climate where bribes, personal favours and inadequate promotion of the patronage kind have become the norm, further induces an atmosphere where private gains are considered more worth than the common good. Impossible to measure in terms of figures but yet considerable, corruption has an effect on the morals of society.

In this, the conduct of political and other leaders is essential. A phenomenon is the leader who takes power starting by paying allegiance to anti-corruption campaigns but ending up being part of the system and challenged with the same accusation. Hence, history keeps repeating itself, and no long-term stability is achieved. No public representative can expect his fellow citizens to act in accordance with and have faith in the rule of law if they can see for themselves that only corrupt mechanisms brought him to his position. Neither is any human rights education likely to have the intended effect if the people feel that the law has no relevance to their every day life.

In poor societies, corruption often is induced from above. A population severely stricken by poverty has no choice but to follow the rules outlined by the powerful in society. Most certainly, a distinction can be made between the “grand corruption” of already well-to-do officials only seeking further wealth and the “petty
corruption” of the insufficiently paid officials forced into corruption as a means of survival. The latter can be looked upon as a consequence of the former and as the sad reflection of the human rights abuse taking place.

Besides reinforcing and feeding poverty, corruption also causes major societal inequalities. High-income groups that evade taxes deprive the nation of important resources meant for development. As noted earlier, the lack of national income brings about a debt crisis. It also creates a class society by distinguishing the “haves” from the “have-nots.” In many corners of the world, this has proved to be a politically dangerous situation. It may lead to increase military activity or further political repression. Economic and other inequalities are obstacles on the way towards the security, peace and order necessary for the realisation of human rights for all.

**Concluding Remarks:**

Corruption in these various tragic manners have a way of becoming endemic, a natural part of political and economic life, if not the widely held definition of politics and economics, sustained by the people’s representatives and accepted by the people. Thus, corruption creates its own societal rules, which have very little in common with internationally acknowledged human rights and the rule of law.

By its very nature, corruption is an abuse to all internationally acknowledged human rights. It creates a vicious circle where human rights awareness is constantly paired with and undermined by the harsh realities of poor economic and political performance. Corruption is both the cause and the consequence of political turbulence, human rights abuses and under-development. Therefore, all the aspects of human rights in all arenas of society need to be considered in order to fight corruption effectively.
It is important to note where the anti-corruption potential lies. First and foremost, the system must be reformed from within. The task is to create accountable governments through democratic institutions. It is essential that political representation is elected freely and fairly and that laws incorporate human rights as well as reflect political and economic realities. Law enforcement should be guaranteed by a strong and independent judiciary. Corruption must always be investigated and properly dealt with so that the people responsible are brought to justice and the rule of law upheld.

The world of civil society, the pressure groups within it and other private entrepreneurs could greatly contribute to the elimination of corruption and the creation of a new economic and political climate. Widespread public awareness is vital in the struggle to eliminate corruption. Free flow of information through an objective and analytical media is one of the instruments in this procedure. Notably, to a large extent, problems could be solved at the level where they occur, giving the communities and local authorise a mandate to fight corruption from below.

In summary, corruption is a challenge to everyone, and therefore action must be taken is various areas of society. The role of hard working pressure groups and vigilant individuals cannot be emphasised enough. But a very great part of the responsibility lies with the political leaders that also have the power to influence society, both morally and practically. This conference therefore is a most important step forward in the fight against corruption. It is a great task that lies before us, but together we can make a difference.
SESSION THREE – MOBILISING AGAINST CORRUPTION AND HUMAN RIGHTS ABUSE: STRATEGIES FROM AFRICA
Corruption and the Judicial System: The Challenges Ahead

By
Hon. Paul Muite

Distinguished guests, ladies and gentlemen,

The task we have set ourselves in this forum is both important and urgent. There can be no doubt that corruption in Africa is serious, deeply entrenched and destructive. What factors have made it so serious? Why is it so deeply entrenched? How do we minimise its destructiveness? What is the impact of Corruption of democratisation and human rights? These are the challenges that face all us in this forum. We have already tried to meet some of these challenges in the last session that we have had.

In this session, I am asked to speak on corruption in the legal and judicial system. When I agreed to make these remarks I had not reckoned with the complexity of the subject.

There are two main reasons why this subject is difficult.

First, the African continent is a true political and social mosaic. There are countries that are making a real move towards democracy. There are others in which the democratic experiment started off hopefully but are now sliding back into the old ways of autocracy and repression. In other countries, the political, social and state infrastructure has collapse. Yet in a few others, chaos, genocide and terror are predominant. How can one discuss corruption in the judicial and legal system in such a variety of scenario?
The second problem that I immediately recognised was one of the scope. Should we just focus on corruption in the judiciary or should we widen our vision to include corruption in the law making process? We have recently heard of Members of Parliament that are paid to ask questions in the House of Commons. Is this not part of our subject matter?

Ladies and Gentlemen, you must see then, that I was no longer to sure that it was a subject I wanted to tackle. But perhaps the complexity of the problem is only an indication of its importance. For if there are these many manifestations of corruption then all the more reason why we must come to grips with it.

What I have chose to do is to focus attention on the forms that corruption take in the judicial system and then perhaps suggest some of the sign-posts for the way forward. In ordinary speech there is a tendency to equate corruption with bribery. I want to suggest that although this is serious, it is hardly the most grave type of corruption.

I will organise my discussion around three broad subjects.

First, I shall ask that we look at professional corruption. By this I mean, the deliberate manipulation of the law to serve illegitimate goals.

Secondly, I shall then deal with moral corruption. I want to suggest that when a judge asks for a bribe in order to decide a case in particular way he is engaged in a qualitatively different act of corruption from the first one.

The third point I want to deal with are the institutional causes of corruption in the judiciary.

My letter of invitation requires that I link these three points with democratisation and human rights. I do not promise that I will be successful in doing so but I shall try.
First let us think about professional corruption.

One of the barriers that have stood in the path of the new wave of democratisation in Africa has been the absence of an enabling constitutional and legal environment. All too often, governments have enacted laws that obstruct democratic action and criminalise dissent.

Again all too often the state machinery and the secret police are used to hunt down human rights activists.

This has made the struggle for democracy either outrightly illegal or at best a semi-legal activity. Of itself this is a serious matter. I want to suggest however that this has not been the most obstructionist factor in the move towards democracy. Bad laws can be improved by a sensitive judiciary. It is the Supreme Court that finally outlawed racial discrimination in the education system in the United States, not Congress.

If the courts can play such an important role we need to look more closely at the character of the judiciary in most of Africa.

Let us first admit that bold and courageous judges are few and far between in Africa. The general judicial trend in our beloved but often tragic continent has been that of a judiciary that follows the whims of the undemocratic politicians who have appointed them.

In my own country, for example, we have had ruling form the High Court which have held that the bill of rights is not enforceable. This notwithstanding the fact that for years constitutional practice had always recognised that the bill of rights was enforceable. Unless one looks into the politics of the case, it would be difficult to explain such a ruling. And we cannot explain it unless we deal with it as an aspect of professional corruption. In other words, a judge who makes a ruling such as this has surrendered his professional judgement to the politicians who appointed him.
Ladies and Gentlemen, where the judicial culture is thus corrupted the first thing that goes is respect for human rights. When respect for human rights has declined, one has effectively put brakes on democratisation. I need not enumerate situations where a supportive judicial culture has spurred the move towards democracy. The High court in Zambia played a critical role in the transition of Zambia from a one party system to a multi-party system. Recently, the Tanzania High Court struck down laws that required political rallies to be licensed. In other words, where the judiciary is manned by men and women of character, scruples and integrity it can lead the way forward into democracy and freedom.

Which then brings me to the next form of corruption. Remember that this is what I called moral corruption.

Moral corruption is wide and has a variety of manifestations. First, there is the most common form, that of the judge who takes bribes in order to give or guarantee particular results or outcomes. This is a world-wide problem. There is nothing particularly venal about African judges in this regard. But in our case this type of corruption has been aggravated by tow factors.

First, the fact that judicial officers are very poorly paid. Given the investment that the families often put in the education the pressure to show the material benefits of education is extra-ordinary high. This inter-locks with a second factor. Because political branches often want to influence the behaviour and character of the judiciary, independent minded judges get neither promotions nor other professional recognition. This encourages the growth of a culture of mediocrity and cynicism. Since the independent judge is clearly guaranteed professional stagnation he or she is then driven to the philosophy of: I might as well have something to shoe for it.

The problem is magnified eve more by the general lack of capacity in the judiciary.
In my country, for instance, we have not had official law reports in the last 16 years. Judges do not have stenographers. They do not have facilities for electronic recording of court proceedings. They lack research support. The high court library is old and lacking in new literature. Surely, such a sorry state of affairs reduces the judge to a glorified clerk which only feeds into his cynicism and lack of professional interest in his work. The resulting inefficiency leads to overflowing court dockets and opens up illicit opportunities for court functionaries like filing clerks and others to extort bribes from people who what their matters to receive preference.

Ladies and gentlemen allow me to take you back a little. You will recall that I observed that apart from moral and professional corruption we also need to look at the institutional factors that promote opportunities for corruption. I want to spend a few minutes on this because I think it is a critical issue. It is my view that unless we deal with these factors we shall not have made any headway towards solving the problem.

First, let us begin by observing that in most of our countries the judicial and legal system are not sufficiently sheltered from predatory government officials. In some countries, judges have only token security to tenure. Some governments give judges security of tenure only because donors have insisted on it. In some other countries the promotion and seniority of judges is controlled by government officials. In such countries, the judge who wants to get ahead professionally may feel the need to carry favour with government officials. The scenarios can be multiplied. Judicial appointments to the higher magistracy and the High court are made by the President. The tribunals that assist in the administration of the judicial departments and regulate the discipline of judicial officers are constituted, or appointed or subject to the powers of the President.
The power to hire and fire judges is often vested in a Commission or body that is appointed by the President. In combination these factors will often bring tremendous pressure to bear on the judge who wants to be professionally independent.

Secondly, the way in which the judiciary is administered could also contribute significantly to corruption. Where the administrative authority is vested in one individual, say the Chief Justice, the moral strength, professional integrity and personal courage of the Chief Justice will define the judicial culture. If the Chief Justice has no integrity, a corrupt judicial system can be expected. If the Chief Justice is a rascal, the judiciary will be dominated by rascals. If the Chief Justice has no courage, then the judiciary can be expected to be spineless. If the Chief Justice is easily cowed by the executive, a worthless timidity will be the character of the judiciary.

Now we have diagnosed the problem. What is to be done?

Ladies and gentlemen, at this point I am tempted to announce that I have no idea what we can do. You see, it is my view that reform of the Judiciary needs to be seen as part of the entire democratisation process. Our focus has been how the judiciary can contribute to democratisation. Is this then not a chicken and egg problem?

I do no think so. If we have laggards, rascals and demagogues in politics they are also likely to appoint laggards. Rascals and demagogues to the judiciary. So we need to clean the politics of our countries and introduce a new ethic. In England they say that a fool and his money are soon parted. The African variation of this is that a fool and his money are soon elected to parliament. I say this to dramatise the general lack of professionalism in our politics. We have tended to encourage a culture that favours those that can grease the patron-client net-works not those who are competent to do the job.
But even as we change our politics we must begin to do something about the judiciary itself. We must give the judges the capacity to access the latest material in the law. We must give them stenographers, research assistants and decent incomes. This way we can seal the opportunities for occupation that exist in the system as it is.

But we must also make a judicial career an attractive proposition for some of our best legal minds. Many brilliant lawyers shun judicial careers because of the obstacles that they see and the professional frustration that they hear about from practising judges. Surely time has come for us to admit that we are short-changing ourselves. When the best of our people run away from public service we experience the most tragic form of brain drain.

For me the real brain is not the sons and daughters of Africa who live in exile in the West. Those are not a real loss to the continent. In all probabilities these exiles are teaching in some prestigious universities, doing important research and writing and publishing books. In some round about way their works will eventually find their way into Africa. Has Ali Mazrul not continued contributing to debates in Africa?

The real brain drain is the judge who cannot exercise her professional judgement, the law professor who cannot teach certain constitutional doctrines because he knows that one of his students is a member of the secret police or the young lawyer who avoids the judiciary because he fears professional frustration and political manipulation.

This is the real brain drain. A judicial career is thereby left to profiteers, those who do not mind bending the rules or those who have political godfathers. They would have been independent judge goes into private practice where he probably makes a decent living but only contributes to the growth of the law at the fringes. His real intellectual talent has been flushed down the drain.
An important challenge for us therefore is to find ways of making judicial career attractive. That means ensuring that the conditions that make the life of a judge worthwhile should be enhanced.

How we can effect these reforms is the challenge of this session. It is the challenge that I throw to you.

And let us keep in mind that the quality of our civilisation will be determined by the quality of our laws and the manner in which we enforce these laws. Our challenge is to find ways of ensuring civilised law in our beloved continent.

Thanks you. And God bless Africa.
Parliamentarians and Corruption and Human Rights Abuse

By

Hon. Ralia Odinga

Introduction:

Africa is bleeding from the wounds of corruption and human rights abuses. Those of us who were born in 1945 have particular reason to be angry about the woeful state of the African continent. We were in intermediate and then in high schools when the struggles for independence were being waged. We sang at political rallies, in the Uhuru Choirs, and were promised a better future by the politicians. They kept visiting our schools and promising us that we were “the future leaders”. We studied hard, graduated, and returned home with critical minds, in the positive sense of the word. That was our undoing, for by the 1970s, the politicians had eaten the fruits of Uhuru, found the matunda sweet, and changed the wording of the tect: The future now belonged to them, not us. Some of us spent the 1970s and the 1980s struggling for democratic space, asking the leaders to keep their erstwhile promises to us in high school, for which we paid dearly.

As our colleague, Prof. Anyang’ Nyong’o recently reminded us in Kenya’s parliament, we were vilified and called Marxists by the likes of Kariuki Chotara, and generously maltreated. We gained a brief respite in the 1990-1992 period when the democratic movements for the second African independence surged. But now in 1994 we are back in the Coliseum with Androcles and his lions once again, as African’s autocrats have regained their nerve and are re-playing truant with the maguezi process: Eyadema, Mobutu, Moi etc., are still allergic to democracy, despite their platform protestations. Much hope is therefore placed on our age mates like Jerry Rawlings and Yoweri
Museveni, to show that with an enabling environment, Africans are capable of managing their affairs in a democratic transparent and accountable manner. However, the case of Zambia is particularly interesting. The country experienced a full democratic transition in late 1991. A contributing factor to the demise of the longstanding authoritarian government of Kenneth Kaunda was the existence of a single major opposition group, the Movement for Multiparty Democracy (MMD), and a single opposition presidential candidate. But when new president Frederick Chiluba took over in the wake of his electoral win, he was confronted with enormous challenges posed by the practical realities of statecraft, including political factionalism, renewed corruption, ethnic and regional tension, and uneven economic performance. Above all resurgent societies and democratic politics require a viable economic performance. Yet the creation and consolidation of such a base is perhaps even more difficult to achieve under a democratic regime than under an authoritarian one.

Observations in this paper are based on the Kenyan experience which is very similar to other African countries.

**Parliamentarians and Human Rights Abuses:**

**Kenyatta Legacy:**

Kenya has experienced some of the worst excesses of the one party dictatorship and personal rule for the last twenty five (25) years. The stage was set by the highly autocratic but benevolent despotism of the late President Jomo Keyatta.

The Kenyatta regime lasted 15 years and saw to the systematic erosion of the Constitution of Kenya and the ruthless emasculation and destruction of all democratic institutions in the country. The regime did not countenance or spare genuine political opposition, democratic dissent within KANU, the Parliament, the Universities, the Trade Unions, the Co-operatives and other institutions of civil society.
The Kenyatta era witnessed mysterious political assassinations and murders of prominent Kenyans, like Gama Pinto, Airwings Kodhek, Tom Mboya, George Morara, Ojamaa – Ojamong, Ronald Ngala, J.M. Kariuki and the disappearance of Kungu Karumba. The Kenyatta regime also retained and resuscitated draconian colonial laws and ruthlessly used the chiefs Authority Act, the Public Order Act, the Preservation of Public Security Act, the Penal Code, the Societies Act and other highly punitive and repressive measures to silence and stifle all democratic dissent and opposition in Kenya. The excessive use of detention without trial and other vindictive measures created a “Culture of Silence” as many opposition leaders were brutally and viciously treated in prison. They were also ostracised and stigmatised after release from detention and prison.

During the Keyatta tenure, the Constitution of Kenya was changed and tampered with at will, while the entire judicial and legal system was manipulated to serve personal rather than national interests. In these circumstances, abuse of power, official corruption in high places, pathological sycophancy and opportunistic careerism became political virtues rather than the despicable social vices that they are. This is the political legacy that Kenyatta left behind when he died in August, 1978.

**Moi Era:**

President Moi inherited the Kenyatta legacy and purported to follow in Kenyatta’s “footsteps” of autocratic despotism and personal rule after waiting in the wings for twelve (12) years as Vice-President. He baptised the inherited Kenyatta legacy “NYAYOISM” and went on to perfect the negative aspects of the legacy and statecraft to establish a monstrous dictatorship in Kenya. He tampered with what little was left of the Constitution from Kenyatta days, and wilfully killed democracy and all national institutions in the country.
President Moi turned Kenya into a de jure one party state in 1982 with the willing collaboration Charles Njojo, Nicholas Biwott and some of the current leaders of the opposition, who were to become victims of their own conspiracy in the change of the Constitution. He abrogated the constitutional security of tenure of the Attorney-General, the Judges, the Auditor-General, the Members of the Public Service Commission and the Electoral Commission. The President and some of his KANU cohorts even threatened to abrogate all parliamentary immunities under the National Assembly (Powers and Privileges) Act. Indeed, it took concerted public effort and outcry and diplomatic intervention to restore these constitution safeguards.

In the so-called Nyayo era, president Moi’s “philosophy” of Peace, Love and Unity became a mere euphemism for assassination, detention and tribal clashes. While there are no political detainees in the country today, the Preservation of Public Security Act is still in the statute book.

The conscience of this nation cannot rest until detention without trial and other repressive laws and measurers are abolished. The ghastly and mysterious murder of Dr. Robert Ouko is still unresolved and the tribal clashes have claimed many innocent lives in some parts of the country, the clash-victims remain and unsettled.

The massive rigging of the 1988 General Election was the most unprecedented manifestation of political manipulation by the Moi regime, only equalled and even surpassed by the orchestration of the tribal clashes intended to defeat the democratisation process and multiparty democracy in Kenya. Indeed, President Moi’s fatalistic attitude is remarkably similar to that of Louis XVI of France in the last days of his autocratic reign: “Je suis la France et la France est Moi. Apress Moi Le Deluge!” (I am France and France is me. After me the Flood!). This is the political complexion and rhetoric of all dictators.
Parliamentarians and Corruption:

Corruption may be defined as behaviour seen as abusing, according to society’s legal or social standards, a public role or resource for private gain.

Public officials pervert their officers to a mass personal fortunes at the expense of common good. Historically, every form of government has experienced corruption the difference being the degree and extent in a given context.

Parliament as an institution has two major functions namely:

i. law making
ii. public watch-dog

If the Constitution is the embodiment of the aspirations, ideals and the collective will of the people, the Parliament is the collective defender and watch dog of the aspirations, ideals and collective will of the people. If the constitution is the social contract between the people and their government, the parliament is the advocate for the people and the arbiter of the national interest. Indeed, if the constitution is (like the Bible, the Quran and other religious treatises) the covenant between the people and their leaders, the parliament is the repository and protector of the “holy writ”) and the oracles of the political covenant and social contract between the people and their government.

This is the constitutional basis of parliament in Kenya and in any democratic regime of governance. The constitution vests the legislative power in the parliament. Above all, the most fundamental constitutional basis of parliament is the appropriation and control of public funds and government revenue. It is the responsibility of parliament to ensure that the money is spent for the purposes and on projects for which it was allocated. The parliamentary control of Kenya under the one party state left a lot to be desired. In the 7th parliament, the Public Accounts committee and the Public Investment
Committee (PIC) are controlled by the members of the opposition in the parliamentary practice and tradition of Westminster. Indeed, the Leader of the Official opposition in parliament is the Chairman of the Public Accounts Committee.

In the single party era in Africa, most of parliaments were mere rubber stamps for executives decisions and outspoken members who went against the grain to expose cases of corruption found themselves on the wrong side of the law often in detention. In 1975, a MP, George Anyona tabled documents in parliament proving impropriety in awarding a railway tender to a British firm while other competitive bidders from other countries were excluded. Due to connivance of senior officials, the government responded by detaining the Anyona without trial. This case underlines the risk a member of parliament face in exposing even blatant cases of corruption, particularly where officialdom is implicated. More recently several cases of corruption have been exposed by members of parliament including the infamous Goldenberg and Trade and Exchange Bank Scandals in which the government and the public was robbed of billions of Kenya shillings but no official has been prosecuted. The multi-party parliament has been more assertive in playing its constitutional role of being a public watch-dog. However, the present parliament is handicapped by the standing orders and laws which were introduced during the single party era to protect the executive excesses and corruption.

A member of parliament is strategically placed to expose individual cases of corruption and/or to identify forms and trends the vice is taking in order to enable the government of the day to deal with it. But this presupposes that the government has the political will to combat the vice. The Kenyan experience has shown that those that have been responsible for creation of a corrupt system cannot be relied upon to reform it – as the old say goes “you cannot teach an old dog new tricks.”
Unfortunately in some cases, members of parliament have not only condoned corrupt practices, but they have taken part in promoting them. This phenomenon is not unique to Africa as the recent scandals in Britain where two members of the House of commons were exposed for agreeing to take money in exchange for tabling questions revealed. The difference is that in Britain the Prime Minister acted promptly by suspending the two MPs as parliamentary private secretaries and the speaker called a debate and asked for the matter to be referred to the committee of privileges.

In spite of limitations and handicaps, the multi-party parliament offers the best prospect for democratic change and the battle against institutional corruption in Africa. It is therefore, necessary for genuine friends of Africa to assist the democratisation process as it in the only way of institutionalising transparency, accountability and good governance.
Parliamentarians and Corruption and Human Rights Abuse

A Parallel Paper By
Victoria Sabaegereka

This is a Parallel Paper whose function is to supplement the head paper, as Hon. Raila Odinga said, no two parliaments on the African continent are similar, hence my paper is intended to outline what steps the present parliament has taken to curb corruption.

Many scholars have attempted to define corruption and some definitions are relevant to our discussions today.

Bayley defines corruption as a general term covering misuse of authority including bribery as a result of considerations on personal gains which need not be monetary.

Macmillan says, a public official is corrupt if he accepts money or money’s worth for doing something that he or she is under duty to do or to exercise a legitimate discretion for improper motives.

Huntington says corruption has a direct relationship with modernisation. He argues that during the process of society transformation, foreign norms, ideas and ways of behaviour are introduced which negates legitimate cultural aspects.

He further notes that the moral aspect of corruption is the degeneration of ethical standards leading to a biased perception of issues. Therefore generally corruption is doing something which is outside norms established by society including misuse of power, authority of offices.
Types of Corruption:

Basically there are four of corruption:

1. **Bribery:** Giving somebody something so that he/she can act in a manner you choose for him to act. The initiative is normally the corruptor who determines what to be done.

2. **Extortion:** This is abuse or threat of abuse of somebody’s power in such a way as to secure response in payment of money or anything from a client who want services. The initiative is on the corruptor.

3. **State Bribery:** This is common in most Developing Countries. It is when public funds or property are abused or misused for purposes of creating control relationship.

4. **Auto Corruption:** This is where there is one individual involved in the act of corruption by being both the corruptee and corruptor. This is also common in LDCs. For instance, Awarding a contract to oneself of Manoeuvering Vouchers to pay oneself.

One of the major causes is the level of socio-economic production of a given society and the production relationships. In a fragile Economy, the producers of wealth are not in decision – making and the surplus gets appropriated by Non-producers. Also low investments means low salaries hence people must look for ways of supplementing their meagre salaries through corruption. *Okutunda empewo* selling air.

Another reason is the lack of patriotism and National interest on the part of leaders and public servants. This breeds immoral and unjust society where “survival for the fittest” becomes the adopted social norm. “You either eat or else you are eaten” leading to degeneration of the social economic system.
There is also lack of exemplary leadership to subordinates and the multiplier effect where juniors initiate their superiors and are stimulated to be corrupt also. By engaging in corruption, leaders violate government goals and undermine the political, economic and social programmes. Then there are people who are naturally greedy and bad. These people want everything for themselves even if they are highly paid.

The complexity of modern government activities increase room for corruption. Because of Africans’ undertaking on Nationalisation of enterprises, governments have found themselves with public enterprises which can not be supervised centrally and has been a source of embezzlement for the politically appointed managers. Organisational formation has also been abused by the bureaucrats where procedures have been used as ends rather than means. These have also encouraged officials who are not formally accountable to misuse resources taking advantage of this complexity.

Another cause which has spread corruption is ignorance about people’s fundamental Human Rights. Because most people don’t know their rights, they beg for resources they are entitled to get.

Corruption which as a global phenomenon is an obstacle to development and has serious implications and consequences for the growth of democracy, promotion and protection of fundamental human rights.

It has been a major source of discouragement to foreign investment, increased Aid fatigue among Donor Countries and has increased government borrowing which when not matched with development increases the external debt. It has led to loss of confidence in governments by the people and increased poverty of the population, which is a potential source of political instability and insecurity.
Corruption has also undermined the morals and ethics of traditional African cultures where people felt embarrassed to demand bribes or misuse resources placed in their hands on behalf of society. I strongly feel that corruption was alien to Africa, although to date, Africa practices it better than any other continent.

Corruption has worsened to the level of uneven development where resources earmarked for particular projects have been diverted to other areas or used irrationally.

African governments, have as a result, been insensitive to the needs of the population, less democratic and accountable and gross abuse of Human Rights. Right now in the C.A., we are discussing the power of the President to borrow on behalf of the state and the most outstanding argument is that we will be easily corrupted by the leader and in turn he/she will misappropriate and divert the funds = gross mis trust reflected in all the arguments.

Therefore the fight against corruption and Human Rights abuse is a challenge which we all can’t escape in our efforts to build and sustain democracy and accountability.

Corruption which is endemic in most African countries is still a problem in Uganda. The NRM government however, is committed to the respect of human rights and sanctity of life. Elimination of corruption and misuse of public office is point No. 7 of the NRM Ten Point Programme.

Although some of our leaders are involved, but the President and members of Parliament who are untinted by this social evil can speak against it with great authority. In Uganda, parliament has passed the legislation to curb corruption, promote transparency and democratic behaviour, and created the avenues where corruption can be cross checked i.e. Freedom of Press, office of the Inspector General of Government and many others.
In Restructuring the State, we have embarked on decentralisation of powers, responsibilities and resources from the Central Government of Local Governments to control their resources and use them for development. Decentralisation, participation, creativity and open systems are common passwords of modern management. Not because of their rhetoric sounding but because they work better.

We have also recognised the need to undertake a comprehensive reform of the Public Enterprises with a view to reducing the financial and administrative burden upon government. Most of our Public Enterprises were characterised by operating losses, low capital utilisation, low productivity and increasing illiquidity.

We have encouraged press freedom where a variety of opinions (most of them unpalatable to the government) are often heard even on government owned Radio and Television.

Intensive press investigation of human rights abuses by even government owned newspaper is the sign of new Uganda. For this does not talk only of Press freedom but even human rights, Democracy and accountability which is a remarkable reversal of a situation in a country which until 1986 had become a Password for dictatorship, senseless violation or human rights, and lawlessness.

The Press has done a commendable job in sustaining the democratisation process, unearthing allegations of corruption in government departments and condemning Human Rights abuses.

Having recognised that the moral fibre of our society had completely decayed and our cultures completely ruined, we have tried to improve on social and economic incentives which can enforce morals. The government is looking for ways of paying a living wage to Civil Servants so that to loose their jobs. In the rural are government is encouraging small-scale groups and individuals by giving them soft loans or Entandikwa.
We have passed a law the Magistrate’s Court Amendment Bill 1991 to give consequential effect to changes in judicial powers given to Resistance Councils. This is done to bring justice nearer to the peoples. The Magistrates Court Amendment Bill 1993 has also been passed by parliamentarians to include offences of embezzlement of public funds and causing financial loss of not less than 1,000,000 and similar offences in respect of which only the High Court may grant bail.

The creation of institutions and enabling laws to investigate allegations of corruption, Human rights abuse and misuse of Public office. The Inspector General of Government, officer of the Auditor General and the Public Accounts Committee composed of members of the National Resistance Council. Another law is being considered by the Constituent Assembly to allow and give powers to the IGG to prosecute offenders.

The leadership code of conduct aims at ensuring a minimum standard of behaviour and conduct for leaders. The penalty attached to the breach of the code is disqualification from holding any of the offices of a leaders. Leaders are also supposed to ensure that State property entrusted to their care is adequately protected, used reasonably and without abuse e.g. Courts, Houses, telephones, etc.

There has, however, been reluctance on the implementation of this code because the would be watchdogs including parliamentarians would themselves fall victim.

The National Resistance Armed Force Bill 1992 provided a strict code of conduct to guide and discipline members of the army. The Army is not supposed to interface in the process of law, eg. Misuse of Army funds and property, security of prisoners and destroying evidence.

Furthermore, officers of the Army are not supposed to engage in export or import trade business. Transgression of this code could lead to dismissals, demotion, imprisonment or even death by Court Martial.
If any officer of the army commits any of a fraudulent nature, or a favour in the transaction of duties, he/she is liable for imprisonment of a term not exceeding seven years.

The Police Act has also been revised to counteract corruption and Police Bill 1994 provides for a better organised police force with an established code of conduct. It also provides for a Police Welfare Fund and establishment of an independent Police Tenders Board.

Administratively, to apprehend all those involved in corruption and human rights abuse, we established Police Units in all sub-countries to ensure local protection, prevent crimes and for wronged parties to seek quick redress.

It's also important to note that corruption is a cancer which if not checked will hinder progress in all sectors of society. It is therefore every responsible citizen’s obligation to give information and to guard against violation of his/her rights. The public is therefore being encouraged to report and give evidence to government for action.

An active, vibrant and informed Civil Society is a strong foundation to fight corruption and Human rights abuse. The civil society has therefore to be awakened to play an active role in the democratisation process and fight against corruption. Our political and military courses so far have increases awareness of the population which has started demanding accountability and transparency of the government.

Parliamentarians have also created watchdog to the observance, promotion and protection of Human Rights. The Uganda Human Rights Commission is empowered to bring proceedings in a court of competent jurisdiction on behalf of a person whose human rights and freedoms have been infringed upon. Other watchdog are Uganda Human Rights Activists, The Law Society of Uganda, Association of Women Lawyers (FIDA), Sewanyana’s Para-legal clinics and FHRI and many others.
These civil institutions coupled with the building of an independent and strong parliament has and will continue to provide checks and balances various government departments and institutions of civil society.

It would not be doing justice to oneself to conclude this discussion without touching on the rights of women and their fight against corruption. In spite of repressive working and living conditions, women in Uganda and more so Parliamentarians are not passively accepting their exploitation and oppression. Luckily, we have found a comrade in arms in the National Resistance Movement, with its affirmative action on Gender balance. Our guiding principle is that the woman is the cornerstone, foundation and custodian of social, cultural, spiritual and political development and she should be empowered to attain her goals to help in the fight, she sensitises her children on corruption.

For most Ugandan women, the basic need is elementary literacy and involvement in village life decisions. We need comfortable expression of opinion and free involvement politically, socially and economically in community life and we demand that laws on rape, defilement and incest must be strengthened. This area has a high degree of corruptive tendencies.

The NRM government has created a Ministry charged with Gender and Development. To quote President Y.K. Museveni “It is now acknowledged that the involvement of women in the development process is not just a matter of ethics but of good economics. “The challenges of development enjoin us to pay more than just lip-services to the core issues of unequal relations in our society.

Uganda Women Lawyers have formed a legal clinic headed by a Parliamentarian to give free legal counselling and litigation to indigent women and legal education through the media on laws of marriage, divorce, succession, affiliation, land, commercial and constitutional laws.
All in all, women are a step ahead in their empowerment struggle for their rights and we have benefited much from the affirmative action of special representation in decision making processes, the position of a first woman Vice President on the African Continent is a manifestation of the NRM’s commitment of bringing a Fundamental change.

The enshrinement of individual fundamental human rights and freedoms in the constitution now is the making illustrates the determination of Ugandans to avoid a return to past abuses.
NGOs and Mobilisation Against Corruption

By

Mwalimu Musheshe

Definition:

To the NGO sector corruption denotes: Conscious or unconscious mismanagement of today’s and tomorrow’s resources (human, material, financial, space, time etc) and abdication of personal, social and moral responsibility.

Therefore we look at corruption at the individual, family, societal, national and international levels.

Individual Level:

Abdication of personal social responsibility, failure to account to self and others and moral decadence. These manifest themselves through distorted values, type of priorities, apathy towards civic activities, greed and malice etc.

Family Level:

Distorted division of labour, distorted family budgets, imbalance gender considerations and false expectations, (demands for luxurious consumption what is sometimes called vain glorious display) owing to family sizes hence a case of social maintenance at the expense of quality of life of the family. These manifest themselves in distorted resource use (e.g money spent on selfish social habits by one of the partners), favouritism of one sex against the other or one group of people against another (e.g. cases of inlaws viz avid other family
members). Decision making processes reinforce all those cases mentioned above.

**Society Level:**

The case of institutions like religious organisations, cooperative movements, political parties, schools etc involved in acts of corruption to the disappointment of all those who look up to these institutions for guidance, inspiration and vision. To compound these are the traditional and cultural practices and beliefs especially economic relations between the haves and the have-nots in the wider society. For example, it is commonly held that a successful person in society is one who accumulates wealth at all costs – a poor person is a failure in life. With such attitudes in society, corruption is institutionalised.

**National Level:**

This area has been the focus for many people and the emphasis has been more on the public rather than the private. Cases here include political patronage, outright theft, human rights violation and abuse of office, lack of transparency and accountability. Even the way these injustices are termed or spoken about, reinforces corruption. For example when someone steals people’s money, it is called mismanagement or irregularity in the use of funds and when there is outright vandalism of public property it is referred to as abuse of office. These terms are not easily understood by the public. To the public, a thief is a thief. One who commits adultery should not be protected by the use of slanted language like “he/she had an affair.”

**International level:**

There is political dealing and wheeling, unbalanced trade relationships, economic bulldozing, conflict fuelling, mismanagement of information and general manipulations of minds through a variety of mass media. These manifest themselves through policies that make
people poorer, double standard evaluations/judgements and harassment of African progressive forces.

To us in the NGO world we strongly advocate that the issue of corruption should be looked at from broader dimensions than the conventional approach that looks at it, only from two major dimensions at the national and institutional levels vis a vis the political and the economic.

What NGOs Have Done to Mobilise Against Corruption:

NGOs have distinguished themselves as a force in creating a strong civil society i.e a society with a clear vision that recognises its rights and obligations and know the rights and obligations of the state, as well.

To this end the following has been or is being done:

i. International NGOs like NOVIB, Friedrich Ebert Foundation, Adeneaur Conrad Foundation, Ford Foundation, to name only a few are supporting local NGOs that are involved in fight against corruption and all sorts of injustices.

ii. NGOs like OXFAM, Save the Children Fund, CARE, Red Banner are supporting individuals and groups involved in children welfare, political victims, refugees and displaced people.

iii. NGOs have been known to contribute materially, financially, intellectually and morally to the arms struggle for the liberation of oppressed people as in Eritrea and South Africa.

iv. Uganda has a number of NGOs focused on human rights issues (all dimensions). Examples include Foundation of Human
v. There are NGOs that are involved in issues of democratisation, leadership, governance etc like Foundation for African Development, MWENGO (a regional organisation for reflection and development).

vi. Consciousness raising and awareness building NGOs that are training at the community level to enable the people to generate income with gender balance, protect the environment, create civil momentum, practice good leadership and governance and above all, define common values, purpose and vision for their families, societies and the nation. Organisations in this category include the Uganda Rural Development and Training Programme, BUSO Foundation, VEDCO, etc.

vii. There are umbrella organisations and Networks that have a mission to strengthen their membership in areas of information management, leadership (transparency and accountability) programme management, etc. These organisations are also involved in lobbying and advocacy activities for good policies in the country. In this category there are Networks like Development Network of Indigenous Voluntary Association (DENIVA), IRED, MWENGO, NUDIPU, UCOBAC etc

viii. There are activist groups that have taken to the street to protest against poor laws and governance in the country like as stated earlier, ACFODE and NUDIPU. They have created systems for information dissemination like publications and columns in newspapers. They are advocating and lobbying directly to legislators for laws against corruption, abuse of office and gender related issues.
Conscious of the magnitude of corruption at all levels, the Development Network of Indigenous Voluntary Associations (DENIYA) during one of its Delegates Conference formulated and adopted an NGO Code of Conduct that informs the NGOs of good relationship and good governance. Even at the International level there is a lot of interest in how NGOs are positioning themselves to demonstrate good governance and good leadership and respect of values and people. To this end, the Common-wealth Foundation, a section of the Commonwealth Secretariat that deals with NGOs has developed a Code of Conduct for NGOs as a result of wide consultation during the last two years.

**Areas To Be Strengthened:**

- When all is said and done, the NGOs are aware that there should be a better understanding of the concept and practice of corruption.

- Structures and systems for communication and information management should be strengthened.

- NGOs should strengthen their tools for lobbying and advocacy and use such tools to demand action against corruption at all levels.

- NGOs should consciously get involved in the fight against corruption in all its forms.\(^\text{21}\)

- NGOs need to form strategic alliance amongst themselves with progressive forces in Government and with other activists in the civil society: locally, nationally and internationally.

- Above all, NGOs should clean their house of corruption.

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\(^{21}\) The Author Acknowledges the contribution made by Assoc. Prof. J. B. Kwesiga, Executive Secretary of Development Network of Indigenous Voluntary Associations (DENIVA). He provided valuable input.
In conclusion we in NGO community assert that corruption is not an isolated phenomenon fighting against it is a part of the bigger battle that includes revisiting our unifying values, attitudes, guiding principles and other humanising factors.
Corruption in Africa: The Role for Transparency International (TI)

By
Jeremy Pope

“When the public at large demonstrate for more accountable and decent government in so many countries of the world they are motivated, to no small extent, by anger over corruption: corruption that humiliates the poor who must bribe officials for minimal services: corruption that bankrupts the honest trader; corruption that empowers unscrupulous captains of commerce and their partners, dishonest politicians; corruption which spreads like a cancer to kill all that is decent in society”.


The Feeling of Empowerment:

People everywhere are on the move: In Bangladesh they choked the streets of Dhaka to bring down a corrupt President Ershad; in Latin America thousands of “painted faces” took to the streets to depose President Collor of Brazil; Guatemala’s President Elias fled the country as Nobel Peace Prize winner Rigoberta Menchu addressed thousands of citizens on the streets of Guatemala City. Earlier, the people of the Philippines had defied the army to shoot as they marched through the streets of Manila to bring down the corrupt regimes of President Marcos. The list goes on. But perhaps the most outstanding example of contemporary times is here in Uganda.

Managing Director, Transparency International, Heylstrasse 33, 10825 Berlin, Germany; Tel: +49-30-787-5908; Fax: +49-30-787-5707 (as from 1 January 1996).
To any observer, it is clear that a quantum shift has taken place. Whereas in former times the people of a country crippled by corruption would have looked to the army to topple the tyrants, today, in many parts of the world, they march to do it for themselves. They know, from bitter experience, that army rule can be as corrupt and as debilitating as any civilian government. That much has changed. But so, too, have people’s feeling of power. They know, many instinctively, that the state has no power of itself: the power of the state comes from the people. If they withdraw their consent to be governor, the most corrupt of edifices can fall. It is clear, too, that this is understood here in Uganda at the highest level, and perhaps it is this that gives cause for so much hope for the country’s future, both within the country itself and by your friends outside.

The So-called Cultural Phenomenon:

Other things are changing, too. For generations the industrialised countries of the North have traded comfortably with – and corrupt – with the countries of the developing world, content to pay bribes and kick-backs to gain business (at, the expenses of other businesses in the North and so not only at the expenses of the South). The culture of the South demands it, they would say. In already immoral – though recent-words of Lord Young, this conduct is neither immoral nor corrupt. Speaking on the BBC in May 1994, the former British cabinet ministers for trade and industry and now executive chairman of Cable & Wireless, defended bribes in business.

The moral problem to me is simply jobs, he said. Now when you’re talking about kickbacks, you’re talking about something that’s illegal in this country, and that – of course, you wouldn’t dream of doing. But there are parts of the world I’ve been to where we all know it happens. And if you want to be in business, you have to do – not something that is morally wrong... In many countries in the world, the only way in which money trickles down is from the head of the country who owns everything. Now that’s not immoral, or corrupt. It is very
different from our practice. We must be careful not to insist that our practices are followed everywhere in the world.\(^{23}\)

On the same programme, former Zambian cabinet minister and TI supporter Dr. Rodger Chongwe, who resigned from government in protest over kickbacks and bribes, responded: *Corruption is corruption, whether it manifests itself in England, or in Zambia. It is a drain on the resources of a country.*

The trickle down theory was also vigorously contested by TI Vice Chairman and former Minister of Foreign Affairs and of Justice for Bangladesh, Dr. Kamal Hossain. He insisted that bribery further impoverishes the poor and rejects the thesis that backhanders are part of the culture of Bangladesh. It is difficult to imagine that numbered Swiss bank accounts, for one, are a part of anyone’s culture, other than the tax evader and the drug trafficker. Where cultural traditions require presentations, these generally take place in the light of day – not in the shadows.

In a letter to the Financial Times, too, General Olusegun Obasanjo has rejected the cultural defence of bribery in its entirety.\(^{24}\)

**Who is to Blame – The North or the South?**

It is a sterile argument to try to apportion blame in a situation in which each side of the equation has accused the other or responsibility. However, even here things are changing. In Africa, for example, there has been increasing acknowledgement of the fact that the present deplorable state of affairs could not exist were it not for the active and more-than-willing participation of Africans in the process. The first conference in the present series, in Cotonou, Benin, in many ways

\(^{23}\) See TI Newsletter, June 1994
\(^{24}\) Financial Times, 14 October 1994. E.g. “In no country – North, South or East-is it acceptable to the people for their leaders to feather their own nests at public expense. Once this simple truth is widely accepted, more meaningful social and economic development will follow.” See Annex A.
marked a watershed in its public acknowledgement that Africa had to stop finding scapegoats and accept its responsibility.

This is, of course, not to say that the responsibility lies solely in the South or East, any more than that the solution lies there too.

However, a further leap forward took place in Pretoria, South Africa, in last month, at the Southern and East African Regional Ministerial Forum Against Corruption sponsored by the United Nations Drug Control Programme. Its prime conclusions were that leadership at the national level has a paramount duty to demonstrate in all practical ways its commitment to a just and honest society and to give full support to the endeavors of this charged with responsibilities for the protection of society’s integrity. In this way too the public can be encouraged to abhor an expose corruption. At the same time is desirable to enlist the support of civil society and to foster within the private sector the highest ethical – 10 December 1994 practices in order to assists in building public attitudes firmly opposed to corruption.25

Recent Developments in Uganda

Consolidating on these gains have been developments here in Uganda in the last few days. Here, at the initiative of the Inspector General of Government (who is fundamentally and ombudsman but who also has special responsibilities in the areas of corruption and public procurement), a workshop took place.26 This brought together various ministries and officials with responsibility for fighting corruption from the Director of Public Prosecutions through to the Revenue and the Ministry of Education. In a noteworthy step, the workshop established a national coordinating committee to tackle corruption on three fronts:

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25 Final Communique, Pretoria, South Africa, 14 November 1994. The meeting was chaired by the Hon. Dullah Omar, Minister of Justice of South Africa.

26 Workshop on Enhancing Transparency and Accountability in Government, Mukono (Kampala). 9 – 10 December, 1994
To these ends the workshop agreed upon a three point programme:

1. Raising public awareness of the damage done by corruption and of their rights to services without payment of bribes, and to make public servants at all levels aware of their own duties and responsibilities to provide an honest service to members of the public. This was a process in which there was a clear role for participation by civil society.

2. Strengthening the public sector’s credibility and effectiveness through the improved enforcement of the laws and the effective prosecution of the corrupt, whoever they may be.

3. To the extent possible, preventing corruption from taking place by introducing processes of transparency, openness and accountability, and including the minimising of bureaucratic procedures.

This means that, in so far as we are aware, for the first time on this continent a government is organising itself in an holistic fashion to combat corruption in a meaningful way.

The workshop set short-term targets, some achievable almost immediately through administrative means – increasing coordination between various officers on the enforcement side, administrative changes to achieve a special court (within the existing judicial structure) so as to expedite the hearing of important corruption cases and a specific arrangement by which the Director of Public Prosecutions will appoint as public prosecutors members of the Inspector General’s staff to enable the IGG to enforce his office’s findings in appropriate cases.

Longer term goals include the mounting of public awareness campaigns, a review of the adequacy of the existing criminal law and them and a programme to ensure that all those within the public sector are aware of their duties and responsibilities.
It was also decided that much greater use should be made of section 10 of the Prevention of Corruption Act 1970, which requires a person in possession of assets which exceed his or her known worth, to explain how these were acquired legitimately. Although of long standing, the provision has been seldom used.

The workshop recognised that much needed to be done, but rather talk about it, participants have announced action. The citizens of Uganda and the wider world will watch the coming months with particular interest – particularly as the workshop’s diagnosis was not that systems and laws were lacking, simply that there was a crisis in their enforcement and operation.

**A Move Towards Ethics in Business:**

A key element of the process of change in the North has involved a remarkable retired British businessman, George Moody-Stuart, whom we are honored to have with us today. He has quite literally shattered the comfortable culture of silence with which Northern businessmen had surrounded their large-scale payments of bribes in developing countries. In a sensational paper, now required reading for international businessmen throughout Europe and beyond, he lists the technique used and explodes the myth that these payments are harmless. Not only do they distort major development programmes and escalate costs that, in the end, have to be met by the world’s most poor, they also corrode the business ethics of the companies in the North who are so actively flouting the criminal laws of other countries, and can lead to embarrassing publicity when new regimes expose the sins of the old.27

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27 See for example, Bribes Paid to Indonesian Official Surface in Singapore: Pertamina, an Indonesian State enterprise, has won in the High Court of Singapore in its efforts to recover nearly DM 53,972,000 (US$32 million) representing bribes paid by the German firms, Siemens and Klockner. The bribes were paid to an official, now dead, whose salary at no time exceeded US$9,000 per annum. He authorised payments with regards to the Krakatau Steelworks at Cilegon, West Java in 1973 and 1974. The contest was between the Indonesian Government, two sons by an earlier marriage and the official’s widow. Allowing a substantial part of the claim, the court held that Singapore law would govern the destination of the money from the official in person, so, too, could it do so from his estate. Appeals have been
Yet it is still true that industrialised countries continue through their trade and diplomatic missions to help their exporters through what they see as a maze of local customs, but which can very often boil down to how much should be given to whom and for what. A blatant example of this occurred just last month when a New Zealand trade official stated on public radio that exporters to South Korea should engage middlemen to handle the corruption aspects for them, as they know the market best and that way the exporters would get full value for their money! 28

George Moody-Stuart has got things moving, but that an official can be so blatant (coupled with Lord Young’s easy conscience) demonstrates just how long is the road we have to travel.

**International Moves – At Last …**

Ever since the Winds of Change swept through Africa, leaders in the developing world have been pleading with their northern trading partners to help them outlaw illicit payments in international business transactions – the greatest single source of corruption and the largest single factor distorting the development of their countries.

However, their efforts to obtain an international convention at the United Nations aroused suspicions that the Third World was in some way anti-business and that the trans-national companies of the North were being targeted. The initiative there ran into the sands. About the same times, there was action at the International Chamber of Commerce. A splendid code for international transactions was agreed, but implementation of this was never monitored. It remains find words on paper. After the signing ceremonies, it was business as usual.

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But now, at long last, three hard and sharp messages are getting to the North…

- that corruption is the enemy of progress;

- that corrupt leaders cling to power, opposing efforts to open government, curbing personal freedoms and abusing basic human rights;

- that corruption crushes the potential benefits of free market forces. The honest business person goes broke, the rules of a healthy economic system become twisted, and companies addicted to paying bribes become rotten. In consequence, prospects for economic progress, so vital to social development, are ruined.

At long last, too, in the OECD there is recognition that there are, for example, too many countries where corporations can pay bribes abroad and claim these as tax deductible expenses in their home countries. Laws that permit companies to behave in this way encourage bribery. They poison the environment of international business, make a mockery of public rhetoric by political leaders when they espouse the cause of ethical government, and they undermine international trade and investment agreements.

The Founding of Transparency International:

George Moody-Stuart is just one of several concerned individuals – from the South and East as well as from the North and led by the former high-ranking World Bank official, Peter Eigen – who have seen, at first hand, the damage being done by corruption in international business transactions. As well as General Olusegun Obasanjo, Chairman of Africa Leadership Forum. Founding members include former Bangladesh Minister of Foreign Affairs and Minister of Justice, Kamal Hossain: Kenyan accountant and auditor, Joe
Githongo; Attorney general for Namibia, Hartmut Ruppel; Nobel Laureate, Oscar Arias; former President of Costa Rica; and the Vice President of Ecuador, Alberto Dahik. In their determination to do something constructive and meaningful to redress the evil, they launched a year ago a new non-governmental organisation, Transparency International.

The response has been overwhelming. Letters have poured in to TI’s Berlin headquarters from over 120 countries. People from all walks of life – from heads of government to students – have welcomed this move. *At last, one wrote Someone, somewhere, is trying to do something about this...*

National Chapters are being set up by activists from Ecuador to Namibia, from Sri Lanka to the Philippines. Some of these are existing organisations, keen to join in TI’s international solidarity movement. Others are wholly new initiatives. Surprisingly quickly, an international movement has been born. It is clearly an idea whose time has come.

**The International Agenda:**

TI has joined battle. It simply does not accept that grand corruption of the kind being talked about is a part of anyone’s culture. Nowhere, TI believes, does a society accept without question, that it is the right of those in power to help themselves to the country’s wealth, to the deepening poverty of their fellow citizens. The reverse argument is more convincing that grand corruption may be a part of the culture of the North when it comes to seeking business in developing countries.

The problem is not new, but the approaches to it are. Analysis of unsuccessful efforts both at the United Nations and the International Chamber of Commerce leads to four conclusions:

- the approach has to be evolutionary: you simply cannot change the way the world is presently operating by a stroke of a pen;
- there needs to be a coalition of interests: governments by themselves, and the private sector by itself, cannot achieve meaningful change;

- the rules of any particular market-place need to change for everyone and at the same time; and

- there are a number of leaders in developing countries who genuinely want to reform, but they cannot do this without the assistance of their trading partners, and this has not been forthcoming.

TI does not purport to be a self-appointed global policeman, and to catch those who break existing rules. That task is for the police and for the investigative journalists. Rather, TI aims to monitor the adequacy of existing systems, and to work to tighten rules and procedures so as to increase the likelihood of detection and so raise the level of deterrence. To convert corruption from being a low risk and high profit activity to one that is both high and low profit.

To this end, TI works with all governments, in rich countries and in poor, that demonstrate their resolve to attack corruption and who have the demonstrable credibility to ensure that programmes of action can be implemented effectively. Clearly, Uganda and its government is one which fulfils these criteria.

TI is forging an international coalition whose international agenda is straight-forward:

- to monitor development concerning corruption in international business transaction and to mobilise action to curtail it; and

- to serve as an international solidarity movement, with national groups supporting each other, by sharing experience and strategies and, where necessary, by providing political support and encouragement.
The National Agenda:

Enormously damaging though it is, international grand corruption is not always uppermost in the minds of the general public. Those who live in countries where corruption is out of control, encounter petty corruption in their daily lives, and to them it is the most visible form.

TI does not indeed cannot ignore this reality. It is one of the tasks of TI’s National Chapters to develop national agenda – determining priorities, whether these be employees of a state-owned telephone company demanding huge bribes before they will make a telephone connection (as in Ecuador), or local police extorting what they can from motorists and victims of crime (as in Mexico).

Those in authority know all about these grease payments, but either turn a blind eye or simply do not know where to begin.

These forms of corruption, daily played out with the poorest of poor people being the hardest hit victims, aggravate social and political conditions. Solutions here must come in the form of political and administrative reforms. TI backs such efforts through its National Chapters, but it recognises as well the there are already many organisations, within numerous national governments, and development assistance agencies and consulting firms, working with governments, that are studying these problems, and striving to initiate reforms.

How National Chapter Work:

The role of TI National Chapter is to:
- follow, and provide a forum for informed discussion on, local developments in ways consistent with TI’s non-partisan coalition approach and without making accusations in individual cases;
- network among each other to share perceptions and approaches on issues of common concern
- share information on successes and failure; and
- help support and execute TI’s international campaign.

Already TI is well advanced in Ecuador, with a committed Vice-President Alberto Dahik and a lively and highly-active National Chapter led by a woman lawyer, Valeria Merino Dirani. There, new and innovative procedures are being adopted for the first time on a massive oil pipeline public procurement exercise. Normally a corruption component of about 15 percent would be involved: the contracts are for $600 million. If this component is only halved by the new procedures, there will be a net saving to the people of Ecuador of about $45 million.

Work has begun here in Benin, with a National Chapter being formed by His Grace Mgr. De Souza, a towering and deeply respected public figure whose integrity is acknowledged by all. Soon, missions will visit Mali, Uganda and Tanzania. A major initiative will take place in South Africa in November, when General Obasanjo will lead a mission to help those great South Africans, Rev. Frank Chikane and Dr. Beyers Naude establish transparency South Africa. Later this week there will be a round table here, in Kampala, to discuss the formation of TI – Uganda.

Elsewhere, a mission recently visited Russia, and Transparency Russia is now being formed in Moscow and will join with TI staff next month discussions with the State Parliament and with the Officer of the President on aspects of needed anti-corruption laws and strategies.

The European Chapters, together with TI’s US chapter, worked hard in the corridors in support of the OECD efforts to achieve a recommendation to curtail illicit payments in international business transactions, pointing out to some of their governments that their trade and their aid policies were in direct contradiction of each other. Whereas their aid programmes were helping developing countries to build ethical and professional administrations, their overseas trade
counterparts were adopting an anything goes attitude that embraced turning a blind eye to attempts to bribe those same officials.\textsuperscript{29}

\textbf{No Quick Fix:}

There are, it must be acknowledged, no simple answers. There can be no quick fix. The task ahead is a daunting one. Yet it is one that simply must be tackled. The consequences of inaction are simply too great.

It is also a never-ending one. The development of a national integrity system that will effectively safeguard the public interest is a process that goes hand-in-hand with social and economic evolution – constantly adapting to changing circumstances. As recent developments have shown in Europe, developed countries have no cause for complacency in this regard. There the Italian political system reached such a level of corruption where it has melted down, where French institutions are reeling from corruption disclosures, and where Spain is gripped by corruption to a degree that may well not yet be fully revealed. Who knows what further scandals lie ahead in other major European exporting countries?

The lesson is clear: the people of any country risk-everything when they take the integrity of public institutions for granted. It is also plain that a country’s integrity – the very “soul” of its society – is too precious an asset to be left simply in the hands of its politicians: often the very ones with which the problem lies.

So it is that civil society must take charge of the issue. As the age-old maxim has it:

\textit{Evil Thrives While Good People Do Nothing.}

\textsuperscript{29} Officials involved in the negotiations have acknowledged in particular the crucial role played by TI’s national chapter in fostering discussions within UK departments which led to the breakthrough that resulted in agreement being reached.
So entrenched and pervasive is the pestilence of corruption that even General Obasanjo’s letter of invitation to participants to this seminar told that in our analysis of the disease and in suggesting modalities for combating it particularly in government and business circles, we should aim not at eradicating, perhaps because this is impossible, but we should aim at “serious minimisation” of it!

My contribution as a legal media practitioner draws heavily from personal experience in my own country Kenya.

It is clear to me that any serious attempt to deal with corruption must necessarily address the issue of leadership, transparency and accountability.

I have found that generalised lectures couched in diplomatic finesse have absolutely no impact on the people for whom they are intended. You will permit me therefore if you find my remarks out of tune with what you are accustomed to hearing at this kind of seminar.

Thirty years ago when Her Majesty’s Government at the Whitehall handed over the instruments of nationhood to an independent Kenya, there was also passed over to the new leadership a panoply of laws, traditions and conventions designed to protect the integrity of the nation. Among them were the Official Secrets Act, Sedition Laws, the laws of Contempt of court, Defamation, and of course the modalities for enacting the Preservation of Public Security Act, or the law of detention without trial.
True we were given a written Constitution that contained entrenched provisions for safeguarding and enforcing fundamental human rights and freedoms. What was not readily acknowledged was that all the protections and safeguards were expressed to be subject to nationals security.

National Security in time became synonymous with the protection of the person of the President – the so-called Bid Man – by Blaine Hardon in his Dispatches from a Fragile Continent law were to apply equally to all people except the President who was to be above the law.

As recently as Friday December 9, 1994, President Moi was reported by the Kenya Press as stating thus:

I am said to be above the law, but I do not break the law.

But barely 3 years ago when I published a list of names of individuals occupying key government and parastatal positions and pointed out the it smirked of nepotism and corruption of office, I was promptly arrested and accused of belittling the President and held in custody where I was subjected to physical abuse and denial of medical attention for more than three months.

In 1990, when I was detained without trial under the provisions of the preservation of Public Security Act the reasons for my detention were served upon me on July 5, 1990 at the 24th floor of the Nyayo House. These were stated as follows:

“You are the Editor or proprietor of a Nairobi Magazine known as The Nairobi Law Monthly in which you have repeatedly written and published articles which denounce ridicule and discredit the government of Kenya, its activities and its established constitutional leadership. You have given lectures or speeches at Limuru Theological! College, on diverse occasions and on subjects which constitute or amount to downright subversion against the Government of Kenya as by law established.
You have aligned yourself and associated with known anti-government characters and personalities such as Kenneth Matiba, Charles Rubia and others and have worked in concert with them to lay ground work for the formation or creation of another political party contrary to the provisions of the Constitution of the country.

You have participated with the same said characters, in a series of illegal meetings in Nairobi, and at those meetings you together with those characters have discussed, promoted and mapped out plans and strategies to overthrow the Government of Kenya by unlawful means including of violence.

You have conducted yourself in total disregard and disrespect of the Head of State and have participated in activities calculated to create disaffection, discontent, ill-will, hatred and hostility amongst the people of Kenya.

Now therefore, because of these activities and in the interest of preservation of public security your detection has become necessary”

I have reproduced the contents of my detention order to show you just how provisions of the law can be cited to justify and legitimise the creation of a chilling atmosphere of the journalist.

And I will give you another example, Section 9(4) of the Constitution of Kenya has the following provision:

The holding of the Office of the President shall be incompatible with the holding of any office of profit or of an office in any professional or labour organisation and with any professional activity to any other public employment.

Effectively this means that the President of the Republic of Kenya’s only source of legitimate income when in office is his salary. Under the law of Kenya, the President’s salary until last month when parliament increased it by 170% was KShs. 36,975/- {It is now KShs. 100,658/30}. 

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Those who listen to the Kenyan radio or watch Kenya television or read Kenya newspapers will not have failed to notice that every time is a fund-raising ceremony presided over by the President or one of his ministers or appointees, there is always the prominent announcement of President’s personal donation never less than KShs. 50,000/- in some cases exceeding 1 million shillings. In one month alone I added the figure publicly announced and arrived at a figure in excess of three million shillings! But note that I do not suggest that the President of Kenya is corrupt.

What I know and can state without fear of contradiction is that the President’s official motto is “Nyayo: meaning “footsteps”. Every public official or presidential appointee is required to follow the President’s Nyayos, the way he followed his predecessor’s.

Therefore, if every public official from the Vice-President to the village headman is following the President’s Nyayo’s, he must be seen to be “development conscious” which means that his “donation” at public and private fund raising functions must always be as prominent as those of the Head of State. So how do they raise their weekly contributions when their only source of legitimate income is provided for by law?

It is not difficult to tell how this “wealth” is obtained. Take the example of the Kamlesh Pattni of the Goldenberg Exchange Bank fame!

Between 1990 and December 1992, Kamlesh Pattni and his associates in high places obtained a total of KShs. 18,032,198,069/- from the Central Bank of Kenya unlawfully. Every year since 1990, the public Account Committee of the Kenya parliament has given detailed account of how this money was stolen.

Now everyone of you knows that a country’s central bank is not an ordinary commercial bank where a customer walks in and encases a cheque. At the Central bank, it is the government itself that draws out
cash and it is a process that involves more than signing a cheque leaf! Yet so far the Kenya Attorney General has not taken any steps to bring charges against known conspirators with Kamlesh Pattni.

Ketan Somaia, an associate of Ainoor Kassam, a Kenyan fraudster against whom a warrant of arrest is in force in relation to the collapse of the Trade Bank of Kenya was sighted in London just last month as part of a Kenyan delegation led by no other than President Daniel Arab Moi to Western capitals to plead for donor aid from the European Community.

And whereas the Kenyan government will later this month be asking the World Bank and the IMF for financial support to the tune of 2.8 billion Kenya shillings, it has now been publicity admitted by the country’s finance minister that the Central bank of Kenya unlawfully paid Kamlesh Pattni 5.8 billion shillings between the space of the three months of April, May and June last year!

**What Does This Mean?**

In simple plain English this means that corruption in Kenya is now officially institutionalised. The ordinary personal who looks to the leaders and government for guidance sees corruption everywhere. “Nyayoism” has become synonymous with abuse of office and official corruption.

In these circumstance, what is the role of the journalist? Last month in Swaziland, I was asked to address the same issue.

I suggested, as I reiterate now, media practitioners are the custodians of liberty. I suggested that we journalists mustn’t distort or give false meaning to works which are the tools of our profession. I suggested, as I do here again that a journalist must speak out, must criticise and must expose even where such exposure hurts one’s friends or people in high places.
It is that exposure of the rights and wrongs, of the strengths and weaknesses that provide the essential bulwark against the ever encroaching tyranny that is the handmaiden of corruption and the smouldering oppression that has been the curse of Africa.

I suggest that we African journalists must be particularly aware of the dilemma created to our leaders by the demands of an activist social policy that seeks to right the wrongs inflicted on citizens and the demand of the time namely less and less government interference with the individual and market forces.

That is why we must shift, where appropriate, from being an essentially crusading press and adopt an educational and informative role. It is not our role to exploit unfair advantage and opportunities created by the free flow of information.

We cannot afford to be destructive for our civic and democratic institutions are still fragile and need nurturing.

The surest way, however, of minimising and eventually eradicating corruption is to continuously keep expanding the frontiers of freedom for a free society is an open society and corruption and freedom are incompatible. It is no coincidence that Africa’s most corrupt political regimes are also the most authoritarian.

For the journalist to meaningfully participate in this expansion of the frontiers of freedom, the Official Secrets Act must be repealed. The most corrupt practices in Kenya are today protected as “state secrets” and their exposure can lead a journalist to long term imprisonment. For the journalist to meaningfully participate in this expansion, the law that enables a corrupt head of state to detain a journalist under the guise of the preservation of public security must be repealed. A journalist cannot give full meaning to his profession while he risks imprisonment under an archaic sedition law or an arbitrarily applied and undefined law of contempt of court.
Nevertheless we must continue to require our leaders whether in public or private sector to be transparent and accountable to the people affected by their actions. Only a free can ensure transparency and accountability. A free press is inconsistent with a monopolistic press ownership. It is inconsistent with governmental control. We must therefore strive of the creation of a pluralistic mass media.
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Background Note

The Africa Leadership Forum

Despite over a quarter of a century of political independence Africa’s aspirations and hopes remain today largely unfulfilled. This has not been, however, a period of unmitigated failure in the history of the continent; there have been successes in education, public health, import substitution industries, and in the continuing process of decolonization. The problems of development, peace and security, the health of the world economy, and improving the environment are interrelated global issues; they do not admit of piecemeal solutions.

And yet all countries find that in the absence of true global cooperation, they have to tackle particular aspects of them. At the national level in Africa, the inadequacy of information, data, and resources render the problems daunting. Regionally they are overwhelming.

African leaders have frequently come to their positions with limited experience. Though most of them have battled on, confronting their awesome problems of development and nation-building essentially not only unprepared but unaided, their efforts have been at best only a qualified success.

Africa cannot afford to continue with ill-prepared and unassisted leaders. Those on whom the burden of leadership will fall in future must fully comprehend their responsibilities, duties, and obligations. They must, that is, have exposure and carefully planned preparation if they are to meet the challenges that will face them.

The leaders of tomorrow, however, today have to be pursuing their professional careers. They have little time to devote to gaining a comprehensive knowledge of their own countries and their region, nor of the cultures their diverse peoples. Nor even to learning about and
understanding the actions taken by their present leaders where they do not impinge on their own areas of expertise.

Most young potential leaders have focused primarily on single issues, lacking time to look at wider, critical regional and world challenges. Time for comprehensive study and reflection, for sharing experiences with persons inside, let alone outside, their countries, region, and field of concentration is very limited. Opportunities for such detached discussion and contemplation are even rarer.

There are no private institutions in Africa devoted to preparing potential leaders with a global outlook, leaders who will be able to cooperate within and across national, regional, and institutional boundaries. Further, it is difficult, if not impossible, in many African countries to gain access to relevant and timely information on most national, regional, and global issues.

Experience in and out of Government and in international for a bears out this situation, one which poses a challenge to address and remedy. One solution is to launch the “Africa Leadership Forum” – conducting a series of meetings which may be national, sub regional, regional and international in dimension and may vary in duration. The purpose will be to enhance the knowledge and awareness of current and young, potential African leaders, placing special emphasis on diagnosing apparent failures of the past; on understanding multiple dimensions and complex interrelations of local, national, regional, and global problems; and on seeking possible approaches to solutions.
Objectives

The purpose of the Forum is to encourage diagnosis, understanding, and an informed search for solutions to local, regional and global problems, taking full account of their interrelationships and mutual consequences.

To that end, the Forum will develop, organise and support programmes for the training of young and promising Africans with leadership potential so as to expose them to the demands, duties and obligations of leadership positions and to prepare them systematically for assuming higher responsibilities and meeting the challenges of an interdependent world.

The Forum will also endeavour to generate greater understanding and enhance the knowledge and awareness of development and social problems within a global context among young, potential leaders from all sectors of society, cutting across national, regional, continental, professional and institutional borders. This may foster close and enduring relationships among participants, relationships promoting life-long association and cooperation.

Further, the Forum will support and encourage the diagnosis and informed search for appropriate and effective solutions to local and regional African problems and to global problems from an African perspective – within the framework of global interdependence, including consideration of phased action programmes that can be initiated by various countries, sub-regions and institutions.

In additions, there will be specific weekend seminars organised as Farm House Dialogues to be held quarterly.