



Fostering institutions to contain corruption

How can institutions of accountability be developed to control endemic corruption?

Corruption is bad for development. Leaving aside the morality of bribe taking, influence peddling, embezzlement, and other abuses of power for personal or narrow group gain, corruption impedes investment and growth and exacerbates poverty and inequality.

Human beings are prone to self-seeking behavior. What constrains individual behavior and makes it conform with larger collective ends includes the laws that form the core of norms and institutions. Corruption can never be completely or permanently eliminated. The question is, how can it be controlled? How can a country move from a situation where corruption may be the norm to a situation where corruption is morally intolerable and behaviorally rare?

Why focus on institutions?

Endemic corruption cannot be controlled with moral crusades. People respond to incentives, not moral appeals. Officeholders will not abstain from corruption unless it no longer appears in their interests to behave corruptly. To control corruption, the expected benefit-cost ratio for an individual officeholder of obeying the law must be higher than the expected benefit-cost ratio of behaving corruptly. In particular, the expected costs of engaging in corruption—which are low or near zero in an endemically corrupt society—must be dramatically increased. Public officials must perceive a substantial risk that if they engage in corrupt conduct they will lose their offices, forfeit illegally acquired wealth, and even go to prison.

Implementing such sanctions against corruption requires an institutional framework to control corruption. But endemic corruption is a systemic disease that can only be controlled with a systemic cure: a single institution, such as an anticorruption commission, will not do. Effective and durable corruption control requires multiple, reinforcing, and overlapping institutions of accountability. And where corruption is endemic, these institutions need to be of three kinds: horizontal accountability, vertical accountability, and external accountability.

Institutions of horizontal accountability

The primary institutions of horizontal accountability are the law, anticorruption bodies, the ombudsman's office, public audits, and the judicial system.

The law

The law must prohibit all forms of bribery, nepotism, and misuse of public funds. Comprehensive anticorruption legislation is necessary but insufficient.

Effective corruption control requires that high-level elected officials, political appointees, civil servants, military officers, and police officers declare their assets upon taking office and every year thereafter, and whenever their assets change in some significant, defined way (as through a major sale or stock transaction). These declarations should be filed publicly with the anticorruption commission. To ensure public confidence in the process—and facilitate the overlapping arena

Implementing
sanctions against
corruption requires
institutions to
control corruption

FILE COPY

It makes sense
to enable an
anticorruption
institution to
impose civil
penalties

of vertical accountability—these declarations must be widely available, ideally through publication in newspapers.

Anticorruption bodies

The second institution of horizontal accountability is a body charged with scrutinizing the conduct of public officials and assessing their asset declarations. This body must be charged not only with receiving but also monitoring and verifying the asset declarations of the president or prime minister, ministers, members of parliament, state or provincial governors, state legislators, and other elected and appointed public officials. The commission must also have the staff to investigate annually, on a random basis, some significant portion of these asset declarations and, on a systematic basis, the declarations of the country's highest officials.

Scrutiny must be comprehensive if it is to be effective and if the threat of detection is to be credible. This requires a lot of resources: accountants, investigators, and lawyers trained in the ways that wealth is moved, accumulated, and hidden, backed up by computer specialists and other support staff. In addition, an anticorruption commission needs to pay its staff enough to deter temptation and establish an esprit de corps.

Scrutiny, however, is not enough. If credible evidence of wrongdoing emerges, there must be the institutional means to try the suspected offender and impose punishment on the guilty. The most common—and crippling—flaw in systems that control corruption is an inability to enforce this function free from interference by the highest levels of government. The anticorruption commission should be able to independently prosecute officials who have violated ethics laws.

One of the most important changes introduced by Thailand's 1997 democratic constitution was to grant the National Counter-Corruption Commission independent prosecutorial authority, even if it means overruling the attorney general. Critics may argue that trying public officials outside the normal judicial process undermines the rule of law. And in a democracy the power to deny someone his or her freedom through imprisonment

should be exercised only by the judiciary. But it makes sense to enable an anticorruption institution to impose civil penalties—including forfeiture of office and assets—through due process even if the judicial system is able to do this as well.

Ombudsman's office

The ombudsman's office receives and investigates public complaints of abuse of office. Members of the public or the press should have a right to—indeed, be encouraged to—bring evidence to the anticorruption commission if they believe that a public official has misrepresented his or her assets or abused his or her office.

But there needs to be a supplementary channel of public access to government authority if power is being abused and the anticorruption commission does not seem to be doing its job. If the system is working well, the ombudsman may occasionally come across evidence that the anticorruption commission does not have, or that reinforces investigations the commission has already opened. Ideally, these offices would cooperate. But where corruption is systemic, mutual suspicion may be a functional (if not ideal) substitute for cooperation. Members of the anticorruption commission should know that they could be exposed to public outcry if they fail to move aggressively on evidence of corruption. And the ombudsman's office should know that it has to meet the same standards of public conduct as all other officials, or it will be held accountable.

Public audits

Independent, systematic audits of public accounts are a highly specialized field of public administration. It is not enough simply to monitor the personal accounts of public officials. A dense, overlapping system of accountability also requires that all major government bureaus, agencies, and ministries have their accounts regularly audited. To conduct these checks, each major agency or bureau should have its own auditing office and inspector general. Finally, the government should have an office of the auditor-general with the authority to conduct

external audits on a periodic or random basis, and audit any agency when there is evidence of wrongdoing.

The judicial system

Like the other agencies of horizontal accountability, the judiciary must be independent if it is to be effective in controlling corruption. An effective judicial system requires well-trained, capable judges, clerks, prosecutors, and defense attorneys—and enough of them to keep caseloads to a level consistent with vigorous justice and due process. These staff need the support of law libraries, computerized information systems, professional bar associations, law schools, and judicial training institutes. All of this takes money.

If these horizontal institutions are the nerves and muscles of corruption control, why would politicians let them function effectively? What ensures their operational autonomy? Answering these questions is crucial in designing institutions to control corruption, and it begins with the power to appoint. If a country cannot get high-quality professionals in these positions, all is lost from the start. This seemingly modest problem—who will appoint, if not guard, the guardians—is fundamental, and there would be much value to exchanging ideas among developing democracies.

Thailand offers fresh thinking on this issue. Its new constitution provides for a nonpartisan upper chamber of parliament, the Senate, whose members are elected for six-year terms and are forbidden from holding any party membership or political appointment. The nonpartisan Senate is responsible for appointing members of independent agencies mandated by the constitution to promote transparency and accountability—such as the Constitutional Court, the National Counter Corruption Commission, the Election Commission, Ombudsmen, the National Human Rights Commission, and the State Audit Commission.

Institutions of vertical accountability

Horizontal accountability needs to be stimulated and reinforced by pressure and

scrutiny from below and from outside. And where corruption is systemic, these additional sources of pressure and scrutiny must be massive and sustained—or horizontal accountability will be gutted and left to rot.

Electoral accountability

A competitive and transparent electoral process is a vital, though imperfect, means of controlling corruption. One of the most common motives for political corruption is to amass the campaign war chests needed for reelection. But an ability to throw out the worst offenders is one vital means for containing corruption. And the most extreme forms of corruption often extend into the electoral process, using any means to win elections (including buying not only votes but also electoral officials) because so much is at stake in controlling power. If vertical accountability is to be real, then, an instrument of horizontal accountability is needed in the form of an independent electoral commission. This institution also needs resources—human, technical, and financial—and a lot of training.

An independent mass media

An independent mass media is another crucial entity of vertical accountability. Transparency, virtually by definition, requires free and open flows of information. Without a free and pluralistic press, transparency is not possible. Controlling corruption requires a press that is free from intimidation and restraint, a press that has the resources to investigate rumors and evidence of corruption, and a press that has the maturity, restraint, and professionalism to eschew sensationalist charges based on any whisper of malfeasance. This third point requires emphasis, because if the press is constantly accusing without credible evidence, it will discredit itself and the quest for accountability. For many developing and transition economies, it will take many years to develop the needed press pluralism, capacity, and responsibility, even if a climate of freedom exists. Investigative reporting requires training and resources that few newspapers and magazines can afford.

Where corruption is systemic, additional sources of pressure and scrutiny must be massive and sustained

Donors should reassess their involvement in states that do not show a serious interest in controlling corruption

Nongovernmental organizations

Vertical accountability also requires nongovernmental organizations in civil society building new practices of good governance. A variety of civic associations—bar associations, women’s organizations, student groups, religious bodies, election monitoring groups, human rights groups—may form coalitions to lobby for constitutional changes to improve governance, while also working to monitor the conduct of public officials. Transparency International has demonstrated the vital and creative role that international civil society can play in forming coalitions with domestic constituencies for good governance and accountability.

External accountability

Two significant gaps remain in the system outlined above. One is generating the incentives to put these institutions in place. The other is finding the resources to enable these institutions to function effectively. For most developing countries where corruption is widespread, if not endemic, these problems require extensive international scrutiny and support.

Scrutiny

International donors and even corporate actors need to monitor systematically the conduct of the governments and public officials with whom they do business. Effective monitoring requires coordination and information sharing. Businesses and donors should have a central international agency to which they can report demands for bribes and other improper conduct by public officials. Because bribery is an exchange that requires a giver as well as taker, an honest public official should also have an international agency to which he or she can report an offer of a bribe from an international firm. An institution that is universally respected should at least gather this infor-

mation, if not investigate it. Now that the Organisation for Economic Co-operation and Development (OECD) has adopted a convention banning bribery in international business transactions, the time is ripe.

Support

Donors should reassess their involvement in states that do not show a serious interest in controlling corruption. For states that appear serious about implementing a comprehensive institutional agenda to control corruption, there will be huge resource needs. These states will have to staff, equip, train, and remunerate anticorruption commissioners and investigators, auditors, judges, public prosecutors, electoral commissioners, and ombudsmen. Private newspapers and civil society organizations interested in holding these structures accountable and helping to make them work will also need resources.

This amounts to an expensive institutional apparatus, in human and financial resources. In situations of systemic corruption and an institutional vacuum, this apparatus cannot be constructed overnight. These institutions, along with independent central banks and effective bureaucracies more generally, constitute the real, indispensable infrastructure for development. Funding socioeconomic development without having these institutions in place is like building a gravel road on a treacherous cliff. Open and accountable political institutions matter as much for economic growth as for viable politics.

This note is a summary of a presentation made by Dr. Larry Diamond (Senior Research Fellow, Stanford University) at the World Bank in November 1998.

If you are interested in similar topics, consider joining the Anticorruption Thematic Group. Contact John Heilbrunn, x87754, or click on Thematic Groups on PREMnet.



This note series is intended to summarize good practice and key policy findings on PREM-related topics. PREMnotes are distributed widely to Bank staff and are also available on the PREM website (<http://prem>). If you are interested in writing a PREMnote, email your idea to Sarah Nedolast. For additional copies of this PREMnote please contact the PREM Advisory Service at x87736.

Prepared for World Bank staff