

The "State for Sale" and the System of Reciprocal Exchanges

Contradictions and Challenges

*Devendra Raj Panday**

*Reciprocity in any society is a rule of life, and in some societies at least **the** rule of life.*

John T. Noonan Jr., 1984¹

I only want to draw your attention straightaway to the fact that you have yourselves formed this very state, to a large extent through political and quasi-political structures under your control. So perhaps what one should do least of all is to blame the mirror.

Vladimir Putin, 2000²

Objectives and Premise

The state or more simply government³ occupies the critical domains of corruption and has also the principal agency role for anti-corruption policies and programmes. The obvious contradiction is simultaneously a threat and an opportunity for anti-corruption campaigners in the world. How to reform the reformers is an age-old dilemma in the science and art of governance. Public corruption means that interested parties can purchase public office and its outcomes in the form of policies and decisions of the state at a price. This is usually done at the cost of others who have an interest in the decisions of the state but who are not players in the market.

The state comprises the legislative, executive as well as the adjudicating roles public officials perform on behalf of the people whose interest they are expected to serve. The policies and decisions taken at a given point in time can affect the interests of the different groups of people differently. The powerful groups in the society who would like these decisions to be in their favour can have such permanent influence on the state that public officials could seem to be working for them rather than the public they are

* Member, Board of Directors, Transparency International, Past President Transparency International Nepal (pandaydr@hotmail.com). Paper prepared for the 12th International Anti-Corruption Conference, Guatemala City, November 15 – 18, 2006.

expected to serve. The structures and processes of the state that subsume actors and networks that precipitate such decisions and transactions frequently make the government a party to corruption rather than the agency for reform.

There are cases when the state is organised in an inherently dysfunctional manner, as in a political system that does not value transparency and accountability or civil liberties that go with them. Even when this is not so, there may be critical elements in the economic, social and external environment that put the state in the role of not a custodian of public probity and the rule of law but a collaborator in corrupt practices. Nearly all democracies in the world face this problem in varying degrees. The countries of the North generally have this problem in their political and business practices. Many countries in the South face this situation also in their contemporary cultural and social environment.

We have some reasons to be satisfied with our efforts when we see how the anti-corruption campaign has grown to assume its current size and substance. One can have a measure of the achievements by observing:

- the important place that corruption now freely commands as an issue in "polite discourses", political debates, the media, social campaigns, the academia and the international development assistance system;
- new knowledge that has been created to enhance the understanding of the nature of the beast and the turf it preys on and of the ways and means of taming it;
- new systems and tools that have been developed, at the technical level, to promote institutions and practices that are potentially an antidote to corruption;
- the international conventions, declarations and mechanisms developed to make collective efforts against corruption at regional and global levels;
- the emergence of governance reform as a principal agenda of national and international communities across the world; and
- the awareness of the cost of corruption and acceptance by the private sector engaged in business, finance and related activities, that corruption as a social and economic issue is also their responsibility.

At the same time, however, we are also challenged by the reality that with the exception of some isolated corners and cases, the dent on the disease as a whole is miniscule. This

is so notwithstanding some high profile cases and convictions in some countries of the North, or the punishments, including death penalty, meted out to the convicted in China.

Corruption as a Form of Reciprocal Exchange

For a framework for this discussion, we follow the interpretation of corruption as articulated by John T. Noonan, Jr some years ago.⁴ Human society sustains itself by building and promoting systems of reciprocal exchanges for mutual benefits. We call this cooperation in everyday life. At an individual level, we have all granted or requested favours from families and friends and, perhaps, public officials without thinking much about the ethical implications of such conduct. Societal units from family to market and from religious bodies to governments are sustained by such exchanges. The roles that we assign to parents and to daughters and sons and husbands and wives embody such exchanges. The same is true in the relationship between the state and the citizens, political leaders and the voters, and sometimes between “god” and the priests and ministers and the parishioners. The markets where corrupt transactions take place exist within these vast and complex networks of reciprocal exchanges. The challenge is to figure out what types of reciprocal transactions in the overall system of exchanges constitute corruption, not cooperation.

The society or its moral and legal systems tolerate one type of exchanges and proscribe others, even as some people find it difficult sometimes to see the difference between the two. The adverse effects of this condition at the cognitive level impact the anti-corruption campaign at the practical level as well. Theobald makes a similar point when he argues, “... of the vast body of reciprocities and transactions which are an everyday feature of behaviour in public office, a small majority are selected out, deemed unacceptable and subjected to some form of public examination and perhaps legal persecution”.⁵

A particular form of influencing the decision of the state may not appear particularly offensive or one may even attribute the behaviour to “the unique” cultural demand of the country concerned.⁶ But the same act can be the source of “substantive” corruption. The appointment of a cousin to an important public post may appear like a pardonable offence of “culturally acceptable” nepotism. But it can also be a part of the

design for “capturing” a niche in the state. The problem is aggravated when individuals and groups take decisions on the acceptability of a given act of reciprocal exchange according to the “sub-universe” of their interests.⁷ Anything from human nature and the country’s culture to the “realities” of development enterprise may be invoked to establish the legitimacy of the act and serve one’s interest that to many others would appear illegitimate. Under such conditions, the networks remain busy, doing what they do best. The task of penetrating them becomes harder. Regimes may change, but the networks do not.

For Noonan, Jr, "Bribery [or a corrupt practice] is an act distinguished from other reciprocities only if it is socially identified and socially condemned. The exchange of favors with a powerholder is otherwise like other reciprocal transactions in the society".⁸ The possible assumption here is that if an act is socially condemned, this condemnation becomes a deterrent in itself. In addition, such condemnation may also provide the moral basis for effective legal sanctions. The difficulty arises when condemnation is rare. After all, even Transparency International does not encourage its members and national chapters to investigate individual cases of corruption and to name and shame the corrupt. Besides, when the network of influence is vast and embedded deeply and horizontally across important segments of the society condemning one, to exaggerate a bit, can mean condemning "all".

While accepting the value of social condemnation, it is also necessary to consider what makes the act condemnable. A reciprocal exchange becomes a corrupt act, and condemnable if the exchange takes place at the cost of a third party. The victim can be an individual, a collective like the public or the government, or it can be a value, such as democracy or rule of law. When a license or public contract is issued to a person out of turn, the third party suffers. If the deal means higher cost or less benefit to the public the act becomes a burden to the public and the economy as a whole becomes the victim. Even when economic costs are not involved, granting of contract to a particular person as a part of the reciprocal exchange deprives another person of her right and opportunity. When a public office is exchanged for money or in patronage some third party, including the values of professional civil service, is affected. The same is the case in malpractices

in such critical sectors as education and health or in accounting and auditing that harm the professions and the society together.

What is on Sale and Who are the Buyers and the Sellers?

We are used to thinking of the state as an all-powerful entity that prescribes the rules of the governance, with coercive powers to impose the rules on the sovereign citizens and their associations and enterprises. We are also used to accepting it, though not necessarily observing in practice, as an agency that enforces contracts, property rights, public welfare, human rights and humanitarian laws and policies. And in the context of the developing countries, we have also been accustomed to look at the state in its agency role in economic and social development and in managing resources, claims and conflicts that arise in the process. It is strange that this powerful entity can also be so weak that it is encroached upon from various sides and by dubious elements and interests to defeat its very purpose. It is this condition or character of the state that leads the two ends of the ideological spectrum in the capitalist-socialist or liberal-conservative divide to take the position they do on the role of the state in society. But that debate itself is outside the scope of this discussion.

Can the state be really put up for sale as a part of the “system” of reciprocal exchange? If so what is it that is actually for sale and who are the buyers and the sellers interested in this “commodity”? The commodity is clearly the policies and decisions made on behalf of the state. The sellers are the political and bureaucratic elements – in an optimistic frame of mind, one might call them the “trustees” – who are in charge of the state apparatus and control its functions and resources on behalf of their “principal”, the public. The buyers are those who are willing to pay the necessary price in order to influence the “agents” or the trustees and the functioning of the state to have the decisions of the state serve their priorities rather than of the general public. The concept of “state capture” that is popular in some discussions on corruption, especially in the context of countries in Eastern Europe involves buying of the state by what has been called “the oligarchs” in a package. If the state is fully captured, the state as a whole operates in the interest of the group of people or firms who pay the requisite price “to own” it.⁹ Legislations, laws and rules, decrees and economic policies are routinely passed

to serve specific private interests that have captured the decision-making machinery, though the façade of a constitutional order is maintained.

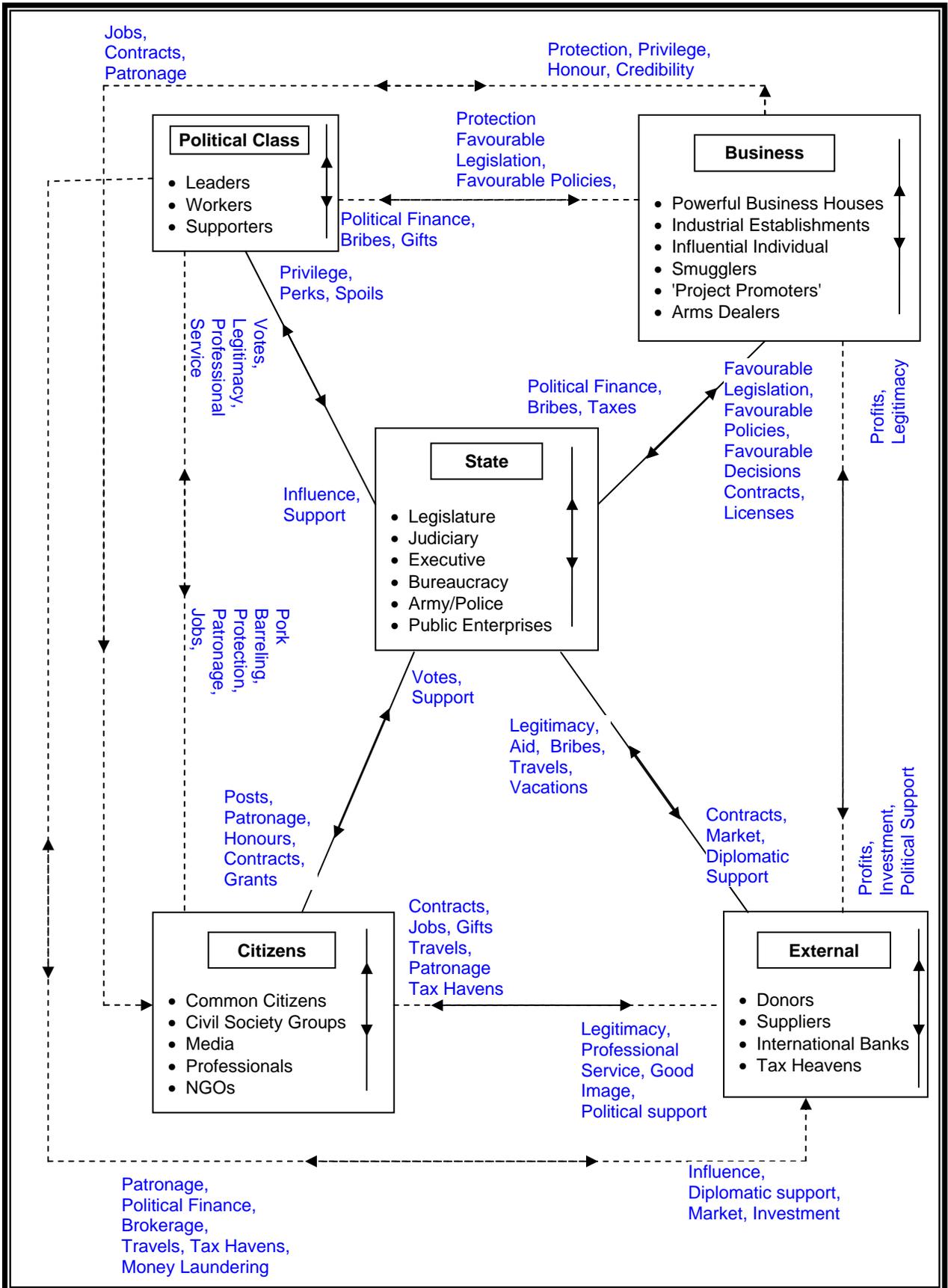
In corruption discourses, we tend to concentrate more on politics, business and the nexus between the two. Not all private interests, however, are what we normally call business interests and not every sale or purchase of the state machinery is related to the activities of the business sector. When the state is for sale, so can be the citizens, who also may become a part of the network. Votes can be for sale as can be the loyalty of workers to their institutions. Criminals in some parts of India, for example, capture parliamentary seats with the help of the voters. There are reportedly 95 members (MPs) in Lok Sabha (Lower House of the Parliament), including some cabinet ministers with pending criminal cases. There are 77 members (MLAs) in the state assembly of Tamil Nadu, 45 in West Bengal and 119 in Bihar.¹⁰ There are some other states with a smaller number of such cases. No particular party has a monopoly to these "privileges". These MPs and MLAs come from most major national and regional parties in India, indicating that the disease afflicts the society as a whole.

Many of these politicians project themselves as social workers interested in charity etc. They also mix up politics with religion – all for personal gains. When this happens, it becomes difficult to distinguish between what is acknowledged as politics, business or private interests and the interests of groups occupying social spaces such as charitable institutions and religious bodies. It is generally the common citizens who give the politicians legitimacy in these roles. Many civil society institutions including the professions, the media, the academia and social movements organised as NGOs do the same in pursuit of their own interests.

The Network

Chart I captures the network of institutions and actors that are the players in the market with flows showing the directions and, by way of illustration, the contents of exchanges. We illustrate here the expectations of one actor from another and the mutual expectations that drive these exchanges. We have selected five actors who engage in reciprocal transactions of various types and scales at various levels. They are: common citizens,

Chart I: The Nexus of Reciprocal Exchanges



including the civil society agents and institutions, the state, the political class, including leaders and workers, the business community and external players. Within the state, there are legislature, executive, and the judiciary and, obviously, the bureaucracy and the Army or the security forces. The political parties and politicians are taken separately because of the way they tend to influence the functioning of the state from outside even as many of them would be a part of the state at a given time. Then there is the business community and the external actors as parts of the network. The business sector is an important economic agent in all societies; it is also the principal buyer in the market where the state is for sale. Their modus operandi can be simple as lobbying and donating political finance, but the outcomes can be sinister for democracy and the society at large. The external actors include donors (who interact with the state and the civil society) and international businesses, including the multinationals that transact through and with their domestic counterparts. Obviously, this sector also includes the suppliers of goods and services including international banks and tax havens that grant "parking spaces" for the looted money.

There can be reciprocal exchanges and corruption within each of the five segments (as shown by the arrows within the five boxes in Chart I). In the state, for example, there are exchanges between the Army and the civil bureaucracy or between the bureaucrats and the political leadership. In the business sector there can be "internal corruption" and autonomous embezzlement and fraud without the helping hand of the state and its operators. The flows in the chart indicate the exchanges that take place among the various actors, alluding also to the multi-pronged relationship that each actor could be engaged in. A more detailed picture of these relations is shown in Annex 1. In Annex 2, we illustrate the corrupting influences and transactions that take place between various actors without necessarily involving the state.

Citizens in the market: Let's look at citizens and civil society. First, common citizens and civil society groups can become a party to the "culture of corruption" by virtue of their tolerance of corruption and involvement in reciprocal exchanges with the state for their own benefit. Such acts can include anything from the practice of selling votes by the poorer sections of the society to seeking nepotism and favouritism and making facilitation payments by the not-so-poor sections of the population in their own

interests. Second, some society agents and institutions, including the professionals may not be very discriminating about their professional ethics, as they are attracted to or depend on the state (or the business sector and external benefactors) for privileges, benefits, grants and subsidies, consultancies, committee appointments and even honours and felicitations available from the state. Some members of critical professions such as engineering and accounting and auditing may actually collaborate with criminal elements engaged in corrupt practices for personal gains. Critical civil society organisations in South Asia are known to be heavily influenced by political parties and their agenda. Many civil society actors, in Nepal¹¹ derive their influence from their association with political parties, political leaders, donors, or some similar kind of patronage networks. They can make critical or unethical compromises when their own interests so demand.

Third, we know that in some countries there is an interchange of personnel between government and the business sector creating conflict of interests regularly. This happens between the civil society and the government too. In some countries and situations, important civil society actors go in and out of government positions (including those in public enterprises) at ease. When out of government, some of them become a part of the NGO sector ("the civil society") and use their influence and contacts with the government and the donor community for contracts and consultancy. Fourth, the media plays an important role in exposing cases of corruption and a free and fair media presence is a deterrent against corruption in all countries. In some situations, sections of the media have been a party to corrupt practices, especially when they are aligned with dubious political and business interests. In addition, some media owners can themselves be prominent businesspersons with an interest in protecting the interests of the business sector at all costs.

Business Sector and the Political Class: The business houses influence the state on a case by case, or "retail" basis for grants of licenses, procurement contracts etc. It can also influence the state "wholesale" and exercise "permanent" influence on the state by developing special relations with important political parties, leaders and senior bureaucrats. It can have influence on the legislature as much as or even more than in the executive. The "cash for votes" or "cash for questions" syndromes have affected

parliaments situated in places as far apart as Nepal and the U. K. and India and Brazil with many other parliaments located in between not able to escape the scourge.

In some countries of South Asia, we have the interesting case of the traditional “commissioned agents” transformed to the self-proclaimed role of “project promoters”. They maintain good “rapport” with officials not only in recipient government but also in donor capitals. In such situations, projects for international financing are chosen to suit the interests of the parties engaged in the reciprocal exchange, not the need or the priority of the country or its economy and society. Such things can happen only in collaboration with the political class, though the bureaucracy and professional sectors may also be involved.

State and the External Sector: The external suppliers of goods and services, with or without the help of officials in the donor capitals influence the state by bribing in transactions that involve sanctioning of development projects, procurement of goods from arms and ammunitions to public works consultancies. The system of tying of aid illustrates the practice of reciprocal exchange in a most profound way by stipulating that the donors will provide the aid, and the recipients will accept the monopoly of the donors' market in supplying goods and services needed, with the public officials on the recipient side if not the donor side as well receiving their “due share”.

When the procurement of professional services is also affected, it has a chain effect on other activities. There is often the problem of over-costing that the bidding procedure for procurement does not seem to be able to locate. A more disturbing scenario is the regular “cost over runs” of high magnitude that the concerned donors also seem to have no option but to cooperate with. Without the cooperation of the professional consultants, both domestic and international, fraudulent cost over runs would not be realised.

Some practices of some donors can subvert the system by interfering with incentives structures. Such activities can vary from such "innocuous" activities as invitation to public officials and civil society leaders for seminars and observation tours to the favourite officials to outright "purchase" of public officials by providing consultancy work and other benefits. In this way, some members of the donor community also create their own “civil society” and ignore all implications of the clear conflict of

interests. The way the systems of money laundering and tax havens protect the corrupt is a well-known perversion of the system of international transactions. Corruption linked to the external sector persists, despite a number of important initiatives ranging from reforms in tendering and bidding processes to international conventions.

Loans Scandal in Nepal: The Case of Missing Repayments (and Social Condemnation)

The non-performing loans of the commercial banks, particularly two of them fully or substantially owned by the government have been an issue in Nepal for some years. A part of the problem is the result of some genuine difficulties and losses faced by the borrowers in a conflict-ridden country with economic uncertainties and stagnation. Such borrowers are involved usually in small and medium-size loans. The scandal is about the loans to 53 business houses that have been designated wilful defaulters by the government that investigated the case. The amount involved is Rs 25 billion, equivalent to 40 per cent of the total tax revenue of the government currently.

In both banks, the top ten defaulters together owe approximately 50 per cent of the total overdue loans. Such defaulters include business houses that have borrowed from both banks. The problem starts from the time the loans are sanctioned and disbursed. A business house prepares a project report with inflated costing and unrealistic and unrealizable streams of benefits. The borrower relies more on his capacity to bribe and influence decisions than on the economics of the project for which financing is sought. Together with the powerful political leaders and public officials the professional consultants (in the civil society) who prepare the project reports also get involved in the dubious process. In many cases, the intention from the very beginning is to over-capitalize the project, over-invoice the purchases and siphon off resources at the cost of one's own enterprise as a part of the first round personal gains for the so-called entrepreneur. Often such over-costing and over-invoicing are done for imports so that the balance (that is, the personal gains so made) can be parked or invested abroad, undetected as personal assets of the borrower by the banks, national tax collectors and other authorities. The regulatory agencies assist the defaulters in their design through relaxed supervision. The external sector provides the facility for parking the looted money in

international banks and also a place for the culprit to escape. One defaulter has already done so by going to the United States apparently to enjoy the loot.

All this becomes possible because the collateral originally pledged or created during construction is also over-valuated with the help of bank officials and professional accountants in the civil society. This means that in most cases the banks have no way of recovering the full value of their loans. The banks face hurdles from the judiciary as well. Stay orders are regularly issued to prevent the banks from taking measures to recover their loans. They have not been able to proceed to auction and foreclose the assets of the defaulting companies. One suspects that the court's actions are not all about the law. Let us look deeper into the case of one particular borrower.

A consortium of four banks provides term loans to one company to the tune of over Rs 300 million for financing fixed assets. Apart from collateral, the banks receive from the principal owner of the borrowing firm Liquidity Guarantee covering the entire loan amount and a personal guarantee to the extent of the loan of the bank that led the consortium. The man providing the guarantee is a top scale businessperson who and his family members hold two third of the equity shares of the company. Later, going against the conditions stipulated at the time of sanctioning the loan, the said business person scandalously "sells" all his worthless shares to another party and tries to wash his hands off the defaulted loan. In the mean time (in April 2002), the Credit Information Bureau, under public pressure blacklists the concerned company and its shareholders, including the businessperson in question. When the businessperson goes to the court to clear his name the court rules in his favour, after dilly-dallying for several years. The country's central bank, the consortium banks and the parliament of the country are agitated over this unfair and possibly irregular verdict. The banks want the two judges presiding in the case to be impeached by the parliament. But one of them has already retired and the other will retire in November 2006.

Blacklisting would mean that the involved businessperson would be subject to having his passports revoked barring him from leaving the country. In addition, among other things, he would not be able to borrow from other banks and carry on his usual businesses. No such action has been taken, other than the publication of the so-called blacklist, which does not seem to shame or harm anyone listed there.¹²

The authorities of the central bank have publicly stated that the "political talk" about taking actions against the defaulters is merely for "popular consumption". This may be so, but it is also known widely that in the past the central bank, too, has not been particular about its monitoring and supervision responsibilities. An additional feature of the sinister network is that former bank managers and top executives can get appointed regularly to the top positions of the central bank and vice versa. The resultant possible development of "incestuous relationship" between the regulating and the regulated bodies does not seem to attract the attention of political leadership or other authorities concerned.

After the political change in April 2006, the decibel level of the public noise on the issue has increased. But firm action is yet to be seen. Interestingly, the so-called White Paper that was issued by the new democratic government in mid-May to inform the public of economic and financial mismanagement, misappropriations and misconduct by the king's government brushes over the issue of non-performing loans and wilful defaulters by treating it in a most perfunctory manner. In his budget statement made to the newly reinstated House of Representatives (HOR) on July 12, 2006, the finance minister did promise that actions would be taken. But very little has happened so far.

The finance committee in the HOR is engaged in the investigative process and has just recommended that the House impeach the two judges involved in the case just mentioned. However, with the HOR itself sheltering the politicians who could have been a party to influencing the loan decisions and who did not do much for recovering the loans for years when they were in power do not inspire much confidence. The person who reportedly bought the shares in the fraudulent business deal and who is an original partner in the company concerned is himself a member of the parliament representing the principal ruling party. The judges too are likely to defy the impeachment process even if that gets initiated. Among other things, the history and the public image of the country's political leadership and most members of the parliament deprives the parliament of the credibility and moral authority that would be necessary to put the judges in their place, as is indeed the case with corrupt businesspeople and others who defy the law.

Many of the businesspeople owing money to the banks are "honourable" persons who appear with ministers and diplomats regularly on the television screen, in cocktail

parties and other public places. One of the principal “non-performing” borrowers heads the Federation of Nepal Chambers of Commerce and Industry. His debt is so large that to avoid having to provision against this debt, the banks have offered a generous restructuring of this debt to keep it technically out of a default situation. The other defaulter whose case was just discussed heads a parallel body called Confederation of Nepalese Industries. Such businesspeople set up and run charitable organisations and either receive or give away honours on a regular basis. Respected citizens such as academicians and litterateurs and artists and media icons regularly receive honours and awards from the hands of such "philanthropists". The notion of "social condemnation" appears a distant possibility. The news of the defaulter and blacklisted businesspersons do not appear in the media as much as they did earlier because of the alleged intervention from the media houses who themselves own many businesses and who also need the advertising revenue.

What More Can We Do?

The experience so far in the fight against corruption has taught us one lesson. It is not possible to fight and win against corruption by fighting corruption" as Daniel Kaufmann¹³ puts it in his attempt to shatter 10 myths about governance and corruption. In his agreeable view, "yet another anti-corruption campaign, the creation of more 'commissions' and ethics agencies, and the incessant drafting of new laws, decrees, and codes of conduct" will not add value. There are also views on governance that fixation with sophisticated techniques of analysis may lead to "a narrowly practical and technological view of policymaking" devoid of moral concerns.¹⁴ In other words, as an anti-corruption movement, our task now is not so much to produce "goods", including tool-kits and other instruments, as to promote values, ideas and ideals, not from the perspective of moralists but in the belief that they can be realised by ordinary mortals. Besides, one can already hear grumbling that some anti-corruption drives such as tightening of bidding procedures or “excessive” investigation adversely affect the smooth flow of decisions, thus hurting the economy.

The second area to ponder is the ownership and participation of the ordinary people in the anti-corruption movement. The degree of involvement of the people “at the

grassroots” should match their concerns and stakes in the issue. These are the concerns of “the ordinary people” many of whom also suffer from inequities and injustices of various kinds. The campaign needs people who can actually hear such voices and broader concerns of the afflicted population. In many cases and countries, the Transparency International National Chapters and similar groups engaged in anti-corruption campaigns are still perceived as elitist groups. This will not do. The distance between the daily lives of the people suffering from corruption and its social and economic outcomes and the agenda of anti-corruption movements has to be bridged.

To examine first the possible interventions in the area of values and attitudes, we should begin by considering the broader picture. As we join our efforts to fight corruption, we should also look at what is happening to us as human beings, as individuals and as a collective, and how can we bring improvements to the condition. It is not as if everything is honky dory with the world and that only corruption is spoiling it. In every part of the planet, the human race is ridden with conflicts and violence as never before in modern times. Social injustices, including injustices to children and women, abound amidst unprecedented access to economic resources and human ingenuity. Our relation with nature has become so hostile that people with a capacity to reason are dreading the future. The physicist, Stephen Hawking expresses his anxiety by placing one "simple" question in the website. He wonders if human race can sustain for *another one hundred years* with so much chaos in our social, political and environmental life.

One problem at present is the reluctance of the mainstream social scientists, among others, to bring moral considerations into discourses on politics, political economy and governance. If we treat human beings merely as objects that follow pecuniary incentives and disincentives, we should have hard time morally questioning the motives and actions of those who do the same, even if illegally. Many thinkers such as John Dewey have argued that one can't really deny human nature. But it is also recognised that human nature changes according to the culture in which it is placed. Culture in this sense is not about what we inherit from the past but about how we organise our ideas, ideals and motives in the present. As Bertrand Russell said seventy years ago, "It has been too readily assumed that, when a man has acquired certain capacities by means of knowledge, he will use them in ways that are socially

beneficial".¹⁵ Values and visions are important to have the critical policies and instruments grounded on them and to ensure that our personal and social conduct is consistent with the designed purpose of these instruments and policies.

When we speak of values it is not some fuzzy sentiments we are after. Value in the context of this discussion is about knowledge, too, and also about the wisdom to use it usefully. We can recognise the potency of human nature and address the value system together. The place to start may be the field of education.

An unfortunate fact of life in many countries is that the educated classes have failed us more than the uneducated ones when it comes to governance. To reverse this situation, we should accept that education is not merely about having occupational skills and learning them in bullets and bytes to gain capacity to compete in the market. The curriculum even in such technical areas as medicine and engineering can have courses that will sensitise them about the good (and the bad) they bring to the society they work in. It has just been reported for example that medical doctors became better healers after taking a course on creative writing because they could now view their patients as people, not just medical cases.¹⁶ We have to try to make "social responsibility" as an integral part of "professional responsibility", not just a subject taught in some adjunct courses in business schools. The Chinese government has launched anti-corruption education for high school and college students as well as in primary schools. There are other countries thinking along the same lines. If it works, there could be lessons here for many other countries. Only that, as stressed, such education has to be more than about just learning about tools and instruments for fighting corruption.

The second area is of course politics and governance. Here, too, we need to look at the need and opportunities in a holistic manner. There is already a good body of knowledge available on governance, transparency, electoral reform, political financing, public procurement system and civil service reforms. However, we have yet to learn to look at these issues holistically as parts of an integrated system where we cannot influence one systemic or behavioural trait without changing another. In addition, politics and political institutions have to reclaim their moral authority to enable them to use this knowledge effectively.

For example, it will be difficult for us to enforce accountability in the government by focussing only on finance and related areas – areas of direct interest to us in the anti-corruption campaign. Accountability structures have to be created and established as a part of the political culture and the value system that need to be promoted in the society. There is something called policy accountability without which there cannot be financial accountability. There is something called the value of democracy and public accountability without which there may be little sense in talking about transparent governance.

To come to the issue of ownership and participation, the anti-corruption movement should again adopt a holistic stance and embrace the popular agenda of people's empowerment. Important sections of the civil society that we talk about in many of the developing countries are often urban-based, donor driven and somewhat "distant" entities. While such groups and organisations too have a role to play as idea generators, the emphasis should be on the mobilisation of ordinary citizens, as the "sovereign consumers" of governance. Like democracy and development, anti-corruption too cannot be purely supply-driven. People must demand honest governments first. The task of anti-corruption campaigners will become simpler once the ordinary people including those in small towns and villages are empowered and ready to demand politically results from their governments. The people are after all the source of state power in a democracy. Apart from citizens, local bodies of governance need to be empowered too, going beyond perfunctory decentralisation. Programmes and activities related to poverty alleviation (or Millennium Development Goals) should have anti-corruption components integrated into them in such a way that the relation between poverty and corruption is clear not only in theory but also on the ground – to awaken the interest and energy of the affected people.

Care is necessary to involve and engage especially the youth and the women who as a group have had less to do with current corruption than the male population in older generations and who can embrace the future in a more constructive frame of mind. This means that the coalition we build for anti-corruption campaigns has to be broadened by embracing other relevant causes, concerns and actors. With the synergy thus created the anti-corruption movement, too, will be further empowered. Transparency International and its national chapters will possess not only commitment and technical competence to

fight the menace of corruption. They will also be further enabled to exercise moral courage and competence to track down the systems and individuals driving corruption. The naming and shaming of the corrupt individuals, essential for promoting the value of social condemnation within the universe of reciprocal exchanges might also be possible.

Often we talk about the importance of the empowerment of the people without emphasising enough the issue of rights and freedom for them. It is amazing to see dictatorial regimes brag about projects for "people's empowerment" with the help of their development partners who, seemingly unaware of the contradictions involved, also claim to be supporting anti-corruption programmes. There can be no empowerment without civil liberties and civil liberties can be guaranteed only within the system of democratic governance that allows for all kinds of freedoms and representations for the people. Obviously, we have problems with what has been called "electoral democracy" and the corruption surrounding it in our countries. The solution lies in working towards improving the system, not nurturing antipathy or ambivalence about democracy itself. The social thinkers and political scientists among us have a special responsibility to conduct further research and studies in the area. We can benefit from innovative ideas and suggestions that take into account the logic behind the pursuit of power by the political class and also help control corruption in politics and political financing.

In many countries, bureaucracy is being increasingly politicised for its partisan use in the interest of one political group or another instead of the people as a whole. In the past the so-called tension between the professional civil service and the political leadership in democratic governments served as a built-in safeguard against political corruption. The currently popular mode of operation between the two groups in many countries is one of cynical cooperation and reciprocal exchanges against public interest. The bureaucrats too need to be empowered in such a way that at least the public-spirited among them can challenge the excesses committed by the political class. The resurrection of the "old" values of independent and professional civil services may do us some good in this respect. As stated repeatedly, this cannot be realised however through technical interventions alone. The emphasis on downsizing of the bureaucracy, as a part of donor conditionality also might have distracted the policy analysts away from the core issue. In our societies, there is a need for not only opposing corruption but also finding ways of

supporting the sections of public bureaucracy that try to resist uncalled for reciprocities among powers that be. We should find ways of positioning the bureaucracy in such a way that the civil servants could *autonomously* be the protectors of public probity. The local governments and their officials working at the grassroots should receive similar importance in such scheme. We should try to co-opt the civil servants and local level officials, who are in the frontline of governance as our coalition partners in the anti-corruption movement.

On the external sector, that is, the donors and development partners operating in the countries of the South, the primary reality to be kept in mind is that the donors need recipients as much as the recipients need the donors. Such mutual dependence itself can breed corruption. That the donors have to support corrupt regimes because they cannot “abandon” the poor is a patronising sentiment of the worst kind. There are serious – and ancient -- disorders in the international aid system that need to be corrected. Chiefly, this has to do with the lack of coherence in the strategic expectations of the donors from their aid policy. In the least, the donors should be careful that they do not subvert the system even while they try to support it. It is not a good commentary on the donors that aid flows especially directed to critical civil society institutions, including the Non-Governmental Organisations are not satisfactorily transparent even now.

There is a good bit of literature on the dysfunctions of international aid.¹⁷ However, we tend to ignore them thinking that they belong to the fringes of the discourse on the subject and thus unhelpful. If given a chance, the ideas occupying those "fringes" should inspire us to do what is necessary to get rid of the systems and methods that provide room for "the network" to usurp benefits meant for others. If the donor community cannot address the systemic problem diligently and effectively, the anti-corruption campaign can accept the burden of doing so. It should revisit in earnest the international aid system more comprehensively than at present and suggest workable improvements for change from the perspective of the intended beneficiaries. The service-providers in the donor and recipient countries we tend to depend on for ideas should be re-enabled to do the same if they wish to remain relevant, professionally and socially.

Concluding Remarks

The analyses of the darker side of human nature and human society and its constituents, including the state and the citizens should not obscure the fact that there is the brighter side to the human spirit and its manifestations. Human beings with their knowledge and systems of international cooperation have contributed much to what is positive in the contemporary world. The challenge is to build on what we have accomplished on the positive side and discard ideas and methods that land us in situations where corruption ends up being the supreme influence. The positivists in social science community need not be alarmed at the stress in this paper on such factors as values, culture and political ideals that in their view may not merit consideration because they cannot be handled “scientifically” or studied and researched empirically. The emphasis on values only tries to ensure one thing. The institutions and practices, allowing for broad representation and participation of the people in the economic and political life of a country and the structures of accountability should actually work in practice as envisaged. Talking incessantly about “political will”, for example, will not produce much results, until we understand that such will is generated by the knowledge about the rights and the wrongs of what we do, which is what value systems are all about.

There is a broad agreement among social thinkers including Amartya Sen¹⁸ that human motive is not one-dimensional, chasing only the narrow self-interest. There are also motives that can potentially drive human passions and interests towards the realisation of socially responsible causes that, in the end, also serve self-interest seen in a different light. It is up to us to educate and enable ourselves to harness such potentials. We have to understand, among other things, what we really mean by rationality. Rationality is not about exclusive pursuit of self-interest, let alone pecuniary interest. Amartya Sen¹⁹ has also argued in detail that rationality is about subjecting one's choices to "reasoned scrutiny" that is necessary to understand what is it that maximises an individual's personal utility in a given situation. In other words, rationality is about knowing and affirming that one is making the right choices. When one does so, it may be found that self-regarding behaviour may not always be preferable to the other-regarding behaviour. Some people make material sacrifices for others but in the end satisfy their

own non-material needs. The emphasis placed earlier on revisiting the way we look at education can be related to this approach to rationality. Appropriate education to the ruling classes whose actions and decisions affect our lives should enable them to interrogate their priorities from time to time and fruitfully indulge in reasoned scrutiny of their choices.

Combining the two suggested specific areas for intervention, education and politics, we can conclude this discussion by suggesting one further possibility for consideration. Can the Transparency International take leadership in organising purposeful training for the education of the political and civic leaders? Moral issues and value systems are not only about conscience and human sentiments. They have to be charged in the specific context and application of knowledge of human existence and the surrounding environment. A well-designed programme for the education of the politicians and policymakers become relevant to this end.

It is not a do it yourself type of courses we have in mind -- "to teach" the politicians on how it is done in elections and parliaments. The course has to be about the values as just discussed and about ethical dilemmas and "rational" education. Above all it has to be about the joy that one may have in the journey to change the world by trying to reverse its downsides.

To end, let me summarise the recommendations for advocacy and action that follow from the above. The recommendations are:

1. We should place emphasis on values and ethical conduct in our advocacy work to generate necessary political and professional will.
2. There should be studies and research to revisit, from the standpoint of anti-corruption, the concepts and practices of self-interest, rational conduct and exercising one's choices.
3. We should advocate for revisiting the idea and the purpose of education and redefining it to suit the challenges of the contemporary world. Education is not only about having knowledge and skills. It is also about learning for the purposes for which they are to be used.
4. In politics, we should go beyond advocating electoral reforms or reforms in political financing etc. to the area of political culture and commitment. The norms

- of transparency and accountability have to be framed within the broader picture of public accountability, including policy accountability.
5. If we can do in politics as suggested, civil service also can be professional once again. Bureaucracy can autonomously oversee the maintenance of probity in public life.
 6. On people's participation and ownership, the leaders of the anti-corruption movement especially the national chapters of Transparency International should be persuaded to try harder to involve ordinary people, especially the youth and the women at the grassroots level in large numbers. The relation between poverty, injustices and corruption should be demonstrated to the affected people on the ground, not just in theory and rhetoric.
 7. We should press for full devolution of decision-making powers to local governments and work with them in a closer and more extensive way.
 8. If we claim moral authority by further legitimising our movement at the people's level and in villages and towns of our countries, we can feel more comfortable with the idea of social condemnation. There can be naming, if not shaming as well, of the culprits around the world for the benefit of the culprits also.
 9. There is a lot that needs to be done about aid and corruption. There should be greater attention to the systemic shortcomings, not on technical matters that may also be important, however. The anti-corruption movement should embrace the issue more comprehensively than we do at present by impressing the wisdom and experience that can be observed in the growing literature at the "fringes" of the discourse.
 10. The final suggestion is for Transparency International. This may be a prerequisite to the effective implementation of the other suggestions just listed. TI should consider if it could design and conduct training programmes for political and civic leaders. It can use some of its excellent national chapters for this purpose. The training is not to be about tools and systems, and methods and practices only, however. It should be about values and value-based politics and professions. It should be about making possible the enunciation and implementation of the global ethic for the twenty-first century.

Annex 1: Corrupt Influences on the State

Political Class and the State

- “Horse Trading”
- Collusion in critical appointments
- Buying of votes in the parliament
- Exchange of critical information in favour of a third party
- Brokering in favour of a third party
- Sale of parliamentary questions
- Accessing and distribution of spoils
- Pork-barreling
- Inducement of extra-budgetary expenditures
- Misuse of privileges

Citizens (Civil Society) and the State

- Opportunities for political appointments
- Claiming public jobs, lucrative placements and promotions through nepotism, favouritism
- Making facilitation payments for legal/illegal public work
- Resorting to the sale and purchase of public offices
- Opportunities for special benefits, grants and subsidies (to the media, for example)
- Opportunities for consultancies
- Opportunities for appointments to ad hoc committees and commissions set up by the government
- Possible offer of medals, honours and other felicitations by the government
- Quid pro quo for tax avoidance

Business and the State

- Business people contesting elections for public office for private gains
- Business people inducted into public offices
- Business people decorated with medals and honours
- Public officials inducted into private corporations
- Sharing critical information on policies with concerned business interests
- Exerting influence on public policies
- Exerting influence on legislation to suit private, not public, interests
- Promoting projects including those of low priority at exaggerated prices
- Ensuring procurements contracts
- Ensuring licenses
- Ensuring relaxed supervision
- Ensuring tax avoidance with impunity

External Actors and the State

- Promoting trade-induced development financing
- Influencing policies even without conditionalities (by donors and suppliers)
- Facilitating spurious procurement
- Corrupting the morals of the poorly paid public officials in the recipient countries
- Offering consultancies to not so poorly paid public officials
- Non-compliance of international conventions against bribery
- Establishing "incestuous" relations with critical sections of civil society.

Annex2: Corrupt Activities Not Directly Involving the State

| | |
|--|---|
| Civil Society and Common Citizens | Business <i>contd....</i> |
| <ul style="list-style-type: none">• Low law abidance• Malpractice by professionals such as physicians, lawyers, accountants and auditor, journalists, school teachers and college professors• Peer pressure for unprofessional conduct• NGO malpractices• Sale of newspaper columns and editorials (India)• Rigged chart positions and music awards (Hong Kong, several popular music stars arrested)• Rigged beauty contests• Corruption in sports | <ul style="list-style-type: none">• Manufacturing and sale of spurious drugs• Sale of adulterated food |
| Business | Political Class |
| <ul style="list-style-type: none">• Corruption within the private sector• Embezzlement in one's own company or firms• Racketing and price-fixing | <ul style="list-style-type: none">• Rigged elections• Criminals inducted into political parties |
| | External Sector |
| | <ul style="list-style-type: none">• Pursuit of market through corruption if necessary• Lack of level playing field in trade• Defects in international aid system• Lack of transparency in aid• Promotion of favourite professionals and NGOs and INGOs in the name of civil society |

Notes

¹ *Bribes*. New York, Macmillan Publishers Company.

² Cited by John Hellman and Daniel Kaufmann in *Finance and Development*, September 2001.

³ For the purpose of this paper, the two terms, state and government, are used interchangeably.

⁴ Noonan Jr, *op.cit.*

⁵ See Robin Theobald, *Corruption, Development and Underdevelopment*, Durham, Duke University Press, 1990, pp. 64-5.

⁶ One author points at a peculiar type of reciprocal expectations that may guide the behaviour of some people in certain situations. "In countries where the extended family matters and there is strong sense of family altruism, rejecting a bribe is seen as selfish and is disapproved of". See Diego Gambetta (2004), "Corruption: An Analytical Map", in Emmanuel Kreike and William Chester Jordan (eds), *Corrupt Histories*. Rochester, N. Y., University of Rochester Press.

⁷ In literature one can find good discussion on the subject of what some scholars call "sub-universe of reality". Discussing the Indian case, Pavarala explains the reasons why "there is no unanimity among key elites about what constitutes the problem of corruption, or about its causes, consequences and solutions". See Vinod Pavarala (1996), *Interpreting Corruption: Elite Perspectives in India*, New Delhi, Sage Publications, p. 225. Also, Michael Johnston (1996), "Public Officials, Private Interests, and Sustainable Democracy: When Politics and Corruption Meet" in Kimberly Ann Elliott (ed), Washington, D. C., Institute for International Affairs. See Robin Theobald (1990), *Corruption, Development and Underdevelopment*, Durham: Duke University Press, pp. 64-5. Also Steven Chibnall and Peter Saunders (1977), "World's Apart: Notes on the Social Reality of Corruption", *British Journal of Sociology*, Vol. 28, No. 2, (June), pp. 138-154.

⁸ Noonan Jr, *op. cit.*, p.3.

⁹ In practice, probably, the state can be captured thus in full, only by force and usually by a dictator. The dictator captures the state through *coup d'etat* or by some similar means to use the state fully to his interests. When king Gyanendra of Nepal gradually encroached on the state institutions from October 2002 and fully captured it in February 1, 2005, his apparent mission was to seize not only political power, but also the resources and institutions of the state for his personal benefit.

¹⁰ See "Cry My Beloved Country: Tainted Targets", *Bulletin of Lok Sevak Sangh* (2004), edited by S. D. Sharma, New Delhi, India.

¹¹ Seira Tamang (2002), "Civilizing Civil Society", *Studies in Nepali History and Society* (7 (2), December.

¹² Among the people so listed was the Vice-Chair in the Cabinet (that is, number two man after the king himself) in the Royal regime that was ousted this April. After much hue and cry in the press and the public, he paid back the due amount (Rs 17.4 million). He had taken the loan 20 years earlier and had not bothered to service it, and yet was appointed to the critical post by the king who professed, among other things, to control corruption.

¹³ "10 Myths about governance and corruption", *Finance and Development*, September 2005.

¹⁴ Joel L. Flisman and Bruce I. Payne, *Ethical Dilemmas and the Education of Policymakers*, Hastings on Hudson, N. Y: The Hastings Center, 1980.

¹⁵ Bertrand Russell, "Useless' Knowledge", in *Praise of Idleness and Other Essays*, London and New York: Routledge, p. 33; first published in 1935.

¹⁶ *The Kathmandu Post*, October 22, 2006. Here is a related and somewhat ancient thought: "How pleasant a world would be in which no man was allowed to operate on the Stock exchange unless he could pass an examination in economics and Greek poetry, and in which politicians were obliged to have a competent knowledge of history and modern novels!" (Bertrand Russell, "On Youthful Cynicism", in *op.cit.* p. 139.)

¹⁷ Among the relatively more recent ones, I will recommend one.

¹⁸ Amartya Sen, *On Ethics and Economics*. New Delhi: Oxford University Press, 1990; and *Rationality and Freedom*, Cambridge, Ma, Harvard University Press, 2002.

¹⁹ Amartya Sen, *Rationality and Freedom*, *op.cit.* . Also Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before its Triumph*, Princeton, N. J., Princeton University Press, 1997 (Twentieth Anniversary Edition).