

Chapter XVIII

CORRUPTION AND CRIME

Corruption

1. Corruption has emerged as another issue of international concern in the 1990s. The processes of political transition, globalization and increasingly open markets have provided greater opportunity for corrupt practices but have also laid them open to greater scrutiny. Some observers believe that large-scale corruption exacts high costs by directing resources away from priority development programmes and perpetuating income and social inequalities.¹ Small-scale corruption, when prevalent, puts the poor at a disadvantage in obtaining state jobs or services; it also stifles initiative in many communities trapped in unequal patron-client relationships.

Perceptions

2. Corruption is not a new phenomenon and in varying forms it exists to a greater or lesser degree in most societies. But the definition of what constitutes a corrupt act often depends on cultural context and socio-economic realities. In the United States for example, giving or receiving gifts by officials may be interpreted as a bribe, but in many African and Asian countries gifts are customary and represent an element of social ritual. Citizens in some countries do not view as corruption payments in cash or kind that will advance legitimate business or delivery of essential services. Cultural perceptions aside, the tolerance and acceptance of corruption in societies where it is deeply ingrained has complicated efforts to combat it.

3. The bureaucracy has been a major site of corruption. Here the players are politicians and bureaucrats at all levels, citizens and the private and business sector, both domestic and foreign. Persistent misuse of resources under the control of public employees has produced system-wide damage and undermined economic growth. The World Bank, for example, estimates that corruption could reduce a country's growth rate by 0.5 to 1 percentage point a year. Research by the International Monetary Fund shows that investment in countries with systemic corruption is almost five per cent less than in those that are relatively corruption-free. Investors run a 50 to 100 per cent risk of losing their entire investments in five years in countries with varying degrees of corruption, according to one bond-rating agency.² Where the sale of public offices by

political masters has been prevalent, it has destroyed merit systems, perpetuated a culture of nepotism and fostered administrative incompetence and inefficiency. Government favouritism extended to particular groupings or regions in exchange for votes or financial support has all too often replaced formal criteria of distribution of public goods and services.

4. Payments by the private sector to bureaucrats or politicians occur at all levels of the bureaucratic or political system. Firms offer rewards for speedy licenses or contracts or to evade taxes and tariffs. Some small companies pay bribes simply to survive. Over-regulation of private activity as well as weakened public scrutiny often breed corruption. In any form, "kickback" corruption runs counter to the notions of distributive justice and administrative and political accountability. Firms that incur high costs in bribes to state officials have tended to cut down on their tax payments, resulting in substantial loss of revenue to government. The poor may make up the shortfall, paying higher taxes and receiving fewer social benefits.

5. Corruption has resulted in fixed public benefits (such as pensions, tuition, public housing, consumer subsidies) going to rich and well-off groups in many countries. Corrupt practices have also sometimes marred agrarian reforms and irrigation projects in Latin America, Asia and Africa, with water and land going to those who bribe the highest and not to the most needy farmers. Corruption has defeated the redistributive goals of government programmes so that they have no impact on acute problems of poverty and landlessness.

6. Street-level corruption involves ordinary citizens and petty officials. Money is exchanged in return for legal services or to overlook illegal activities. Although individual transactions tend to be small, widespread street-level corruption has been found to obstruct economic efficiency in the long term and prevent access to services, especially by excluding the poor, who cannot pay bribes. By tolerating criminal activities, street-level corruption has also encouraged various social ills that lead to social disintegration.³ Poor pay and the low social status of petty officials accounted for some or much of street-level corruption, but where salaries of officials were increased to counter corruption there is insufficient evidence to judge the effectiveness of the measures. Doubts have been expressed in this

regard, especially in societies where moral or cultural attitudes tolerate corruption.

7. Financial and trade liberalization in countries with weak institutions and administrative capacity has widened the range of opportunities for corrupt activities, while raising chances of corrupt individuals and groups evading punishment. As a result, some forms of corruption have spilled over national borders. Increases in tax evasion, bribery, theft of public funds, asset-stripping, manipulation of export-import and transfer prices and money-laundering have led to a proliferation of offshore banking, providing a haven for corrupt money. Organized crime in one country has used such corrupt practices as front companies in another to profit from illegal business.

8. Corruption in high places has far-reaching effects across many countries. In some developing countries, it has led to gross misuse of international aid and abandonment of crucial development projects, with billions of dollars of official development assistance going into private foreign bank accounts. In a number of African and Asian countries, the systematic abuse of power by tax collectors and customs officers has caused a loss of 2 to 9 per cent of GDP, while up to 20 per cent of tax liability has gone into private pockets, by one authoritative estimate. In many of these countries, corruption worsened the problem of tax evasion.⁴

9. The magnitude of corruption affects people's opinions and perceptions about how things are run or done in their country. Popular perceptions of a situation and the strength of perceptions can thus often be indicative of the magnitude of corruption. At the same time, perceptions are transient and may fluctuate over a short period of time in response to mass-media coverage or government anti-corruption actions or reforms. For example, perceptions have changed when corruption became endemic and more visible in countries where earlier it had been discreet and hidden. Perceptions have changed when awareness about the consequences of corruption increased. They may change again if increased political participation or education erodes a habitual tolerance of corruption.

Causes

10. There is a large measure of agreement on what lies at the root of corruption: a dysfunctional institutional system, inequality, hierarchical structures, weak civil society, weak market agents, lack of transparency and accountability in governance, and a low level of skills and integrity in the bureaucracy. A widely held view is that heavy involvement of government in market activities tends to generate incentives for corruption. A large presence of government in the marketplace reduces the scope of competition, making entry into the market more difficult and complicated, which in turn instigates

corrupt acts on both sides. In many countries in transition, practically all types of public activities and reform efforts, particularly the wide-scale privatization of public assets, provided unprecedented incentives and opportunities for corruption.

11. Whatever causes corruption, its consequences are destructive on several fronts. Corruption undermines the legitimacy of the state and the country's leadership, the primary function of which is to ensure that collective interests embedded in the constitution and political mandates are translated into appropriate public policies and programmes. Corruption can also have lasting impact on social development by deepening inequalities and poverty.

Remedies

12. The diversity of patterns of corruption makes it impossible to design a universally applicable remedy. Nonetheless, a number of key conditions and components have emerged as factors that may remove incentives for corruption. A number of key components at the macro level are crucial to an environment discourages corruption. These include the political legitimacy of the state, ensured through democratic elections and transfer of power; an effective political opposition and representative government; accountability through transparency and the provision of information; independent and diverse national media; separation of powers; thorough internal and external audit; effective means of combating corruption and nepotism; official competency, such as trained public servants; and an impartial and accessible criminal justice system. While all these components are important, countries choose framework issues to be addressed on a priority basis to identify effective and sustainable short-term and long-term anti-corruption measures.

13. At the national or provincial levels, reform programmes have sought to identify and curtail officials' discretionary control rights that can incite corrupt behaviour. Reform measures include replacing regulations with transparent mechanisms, such as the discretion to provide subsidies, soft credits and tax exemption, or the issuance of licenses, permits and the award of public procurement contracts. Other anti-corruption measures are providing citizens with complaint mechanisms, such as ombudsmen, to enable middle-level bureaucrats to review the performance of subordinates, publicizing citizens' complaints in the local media and ensuring appropriate punishment for corruption when exposed. Combating the sale of public offices has been effective when preceded by political reform.⁵ An important role in combating and reducing corruption has been played by a robust civil society.

14. Better understanding of the root problem, including what causes corruption in specific national

circumstances, can help societies break the vicious circle of corruption patterns. Better awareness must be created about the high social costs of corruption and its detrimental effects on the economy and society. Following awareness-raising, citizens as well as various institutions and agencies need to agree on coherent and wide-ranging measures to be taken to root out the corrupt behaviour. In societies with a “high-corruption trap”, which makes corruption patterns reproducible and difficult to eradicate, small or piecemeal steps may be inadequate to solve the problem. There is a need for a coordinated “big push”, envisioning a wide-ranging massive effort of society to attack corruption and implying the use of all feasible strategies aimed at raising the public profile of the problem while offsetting the forces which perpetuate corruption.⁶ Among those possible strategies one can identify various concrete measures to raise moral norms, following a multi-prong approach: challenging complacency, including the prevailing attitudes which made corruption common and where people feel little guilt about committing corrupt acts; celebrating important examples of honesty amidst corruption; building indicators of corruption, institution by institution; and exerting moral pressure upon those in dishonest institutions. These measures may be supplemented by increasing the risk of punishment for corrupt behavior, including creating financial penalties for its consequences.⁷

15. Success stories of specific anti-corruption efforts (for example, in Uganda; Hong Kong, China; Botswana; Chile; Malaysia; Singapore; Poland; and the Philippines) provide some important insights, particularly on the role of institutions in national efforts. In all these cases, the implementation of anti-corruption measures either coincided with (Uganda, for example), or immediately followed (Singapore, for example) broader economic and institutional reforms, which widened the opportunity set for wealth generation by removing institutional and policy constraints on economic activity (economic liberalization, deregulation and demonopolization).

16. In countries where a fraudulent institutional environment has been left intact, government anti-corruption campaigns, decrees and newly established anti-corruption watchdog institutions have failed to restrain corrupt activities. In some instances, they even worsened the situation, as corrupt public officials frightened by government anti-corruption statements and some initial actions intensified their activities and transfer of corrupt money abroad.

17. Allowing public scrutiny of financial records is one of the most successful ways of eliminating corruption. Some countries, such as Australia, Poland, Singapore and Uganda, have used independent commissions to effectively monitor, audit and survey public transactions.⁸

18. National and multilateral initiatives to combat corruption have succeeded when they mutually reinforce one another. The United Nations, the Organisation for Economic Cooperation and Development, the European Union, the Council of Europe, the International Monetary Fund and the Organization of American States (OAS) have adopted several international treaties to fight corruption.

19. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999) makes the bribery of foreign public officials a crime. The Convention is a freestanding instrument, open to non-member countries. In fact, five principal signatories (Argentina, Brazil, Bulgaria, Chile Slovakia) are not OECD members. The IMF Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles (1999) is aimed at making the public and financial sectors more transparent. The Council of Europe Criminal Law Convention (1998) requires nations to criminalize a range of corrupt acts and promote international cooperation in prosecuting corruption offences. The EU Convention on Corruption (1997) criminalizes active and passive corruption of officials. The OAS Inter-American Convention against Corruption (1996) views the elimination of corruption as a means to boost democratic institutions and to prevent distortions in the economy, improprieties in public administration and damage to civil society.⁹

20. The International Code of Conduct for Public Officials (United Nations 1997) is “a tool to States in advisory services, training and other technical assistance activities”.¹⁰ The United Nations Code of Conduct for Law Enforcement Officials (1996) stipulates that law enforcers should avoid corruption and rigorously combat it.

21. The United Nations has been helping several nations with law reform, public administration management, training for civil service and criminal justice personnel, and tendering for international aid projects in an effort to combat corruption. In 1999, it launched a global programme against corruption. The programme is helping countries to assess national measures against corrupt practices and is gathering information for an international database to provide comparative data and explore the nexus between corruption and organized crime.¹¹

22. The World Bank’s anti-corruption efforts focus on preventing fraud and corruption within World Bank-financed projects; helping countries in their efforts to reduce corruption; taking corruption more explicitly into account in country assistance strategy, country lending considerations, policy dialogue, analytical work and the choice and design of projects; and supporting international efforts to reduce corruption.

23. The international movement against corruption has just begun to unfold. It has crossed one important milestone in raising awareness about the consequences and impact of corruption, and has entered the phase of criminalizing it. However, the most difficult tasks lie ahead. Especially daunting is the design and implementation of an institutional mix at the national and international levels to discourage corruption.

Crime: trends and perceptions

24. Security of person, home and possessions – in other words an absence or low level of crime – is a basic component of well-being and the attribute of a stable society.

25. Historically, periods of high and low incidence of crime have come like waves. The forces behind the particular intensity and duration of the ebb and flow have not always been easy to explain, although periods of low rates of crime have been associated with political and social stability and economic progress widely shared. Effective policing and a just, efficient and predictable criminal justice system have also played their roles. Sometimes authoritarian regimes keeping a close watch over citizens have contributed to a low level of “ordinary” crime. Periods of high crime levels have been associated with political upheaval, major economic dislocations, waves of population movements, clash of values loosening social cohesion and ineffective or corrupt forms of government.

26. By historical standards, ordinary crime at the global level is widely considered as to have been low in the period after the Second World War. In the most recent two decades or so, there appears to have been a steady increase and in some parts of the world a surge in crime.

27. Most recently, in some developed countries, for example the United States, there has been a declining trend in recorded crimes. Some criminal justice analysts attribute the decline in crime in major cities partly to more efficient police work but also to the changing demographic profile and such other factors as the sustained upswing in the United States economy, the longest in a generation, and record lows in unemployment rates.

28. According to a Gallup survey, almost nine in every 10 people said they were concerned about the level of crime in their own countries, with 81 per cent of people in Africa, 78 per cent in Latin America and 61 per cent in North America expressing a “great deal” of concern about the levels of crime. More than half of all people surveyed worldwide said they felt crime had increased and 64 per cent said their Governments had not performed well in combating it.¹²

29. However, the perceptions and especially the actual data on conventional crimes have to be treated with caution, bearing in mind that statistics reflect only crimes that are reported and therefore only a portion of actual crimes committed. Within countries, the picture can vary considerably between rural and urban areas and major cities, and depends on the development profile of each country. Other determinants also play a role. They include the nature of political systems, the degree of credibility of the police as a law enforcer and dispenser of justice, especially in the eyes of racial and ethnic minorities and indigenous populations, and the willingness and ability of poor, illiterate, newly immigrant or elderly people to file police complaints. These factors make straightforward comparisons within and between countries difficult. The United Nations surveys on crime trends and operations of criminal justice systems point also to other problems, including differences in legal definitions of crimes and administrative procedures for counting, classification and disclosure.

30. Differing state perceptions of crime and punishment are reflected in the facts and figures on the death penalty. There has been a growing trend toward the abolition of the death penalty in law and practice – 108 countries had done so by 1999, according to a new report by Amnesty International. Seventy-three of these do not impose capital punishment for any crimes, while 13 countries retain it for exceptional crimes, such as wartime crimes or those committed under military law. In a further 22 countries, the death penalty is abolished in practice. Eighty-seven countries continue to retain the death penalty for ordinary crimes, such as murder, as well as exceptional crimes. Such countries as Cuba, Oman and the United Arab Emirates have brought non-lethal crimes, such as drug-trafficking, armed robbery and import of banned materials, within the ambit of capital punishment. Crimes committed by persons under 18 years of age are not punishable by the death penalty in 110 countries. These countries are parties to international human rights treaties that prohibit the execution of child offenders or have specific laws to this effect.¹³ In contrast to the growing trend among Governments for abolition of the death penalty, more people worldwide are reported to be in favour of the death penalty (52 per cent) than against (39 per cent), according to a Gallup poll.¹⁴

31. The closing decade of the twentieth century has seen a spurt in violent and divisive regional conflicts that have brought war crimes to the forefront of the international peace agenda. The massacres during civil wars in Bosnia and Herzegovina, Rwanda and Congo-Brazzaville have led to international jurisdiction of conventional war crimes (including deportation of civilian populations, ill treatment and murder), as well as crimes against humanity (including political, religious or racial persecution of civilians). The International

Tribunal for former Yugoslavia (which also has the mandate to investigate crimes committed in Kosovo) and the International Tribunal for Rwanda have used international human rights law to end the criminal impunity of States and individuals. The latter has issued several indictments and delivered important clarifications of war crimes, especially genocide and sexual violence under international law.

Organized and transnational crime

32. Organized crime has taken on monumental proportions in today's global economy. Trafficking in humans, drugs and illegal firearms, as well as money-laundering, have burgeoned under globalization, creating a shadow economy that grosses an estimated \$1.5 trillion a year. Spending on illegal drugs in 1995 was equivalent to about 8 per cent of world trade. Traffickers generate gross earnings of about \$7 billion from the commercial sexual exploitation of women and girls each year.¹⁵

33. The economic environment that enables the growth of legitimate multinational business and facilitates the freer movement of goods and capital across national borders as well as freer movement of people also provides unprecedented opportunity for criminals to organise themselves on a global scale. Traffickers of all description have benefited from every positive feature of globalization, moving criminals and booty easily from country to country, stalking victims and recruits in new and ever-growing territory and investing profits in centres that offer secrecy and attractive returns. The negative features associated with globalization, such as increasing inequality, social exclusion and marginalization of vast sections of populations, have also worked to the advantage of criminals. Growing numbers of people, especially the poor and the young, in developing and developed countries alike, are becoming vulnerable to the lure of crime and the "highs" of criminal behaviour.

34. The Internet, a centrepiece of globalization, is fast emerging as a key ally of organized crime networks. Criminals have been able to move their money anywhere in the world with speed and ease and little danger of detection, thanks to rapid developments in financial information, technology and communication. "Megabyte money" (as symbols on a computer screen) can be moved instantaneously and repeatedly to shake law enforcement officials off its trail. In addition, criminal organizations are making full use of financial havens and offshore centres in the new global economy to launder their assets. Some estimates put the number of such "anonymous" corporations at more than one million worldwide and the amount of laundered money as high as \$500 billion a year.

35. The Internet is also a new tool for the old crime of trafficking in humans (see chap. XVII). The

proliferation of web sites on pornography catering to sex predators and paedophiles, with "content" providers from around the world, adds a new dimension to the transnational reach of criminal syndicates engaged in sexual trafficking of women, girls and boys. The United Nations Special Rapporteur on the sale of children, child prostitution and child pornography has called on the Commission for Crime Prevention and Criminal Justice to pay immediate attention to the issue of child pornography, especially in the context of computer crime and the growing reach of the Internet.

36. As the use of computers grows worldwide and millions of computers connect to the Internet each year, new forms of crimes, including computer sabotage, hacking, copyright infringement, privacy intrusion, gambling, identity theft and other on-line hoaxes are emerging as security concerns, particularly in developed countries with highly computerized societies.

37. The Convention on Transnational Organized Crime and its three Protocols (on trafficking in humans, migrants and firearms), which was adopted in 2000, has established a range of offences to be classified as serious crimes, including trafficking in narcotic drugs, illicit manufacture of and traffic in firearms, money-laundering, trafficking in persons, counterfeiting currency, illicit traffic in cultural objects, stealing nuclear material, acts of terrorism, acts of corruption and illicit traffic in human organs.

38. This section will review the nature and extent of the crimes of trafficking in drugs and firearms and money-laundering, examine their social impact and assess the successes, setbacks and challenges experienced by States and law enforcement agencies in tackling them. It will also outline existing international legal and policy responses and their effectiveness.

Drug trafficking

39. The international narcotics trade is a multi-billion dollar business, second only to the illegal arms trade and far surpassing the oil business. More than \$400 billion are spent globally on drugs every year, dwarfing oil sales.¹⁶ Profits from illegal trafficking in cocaine, heroin and cannabis have been estimated at a staggering \$85 billion, a figure that exceeds the total gross national product of three-quarters of the world's economies.¹⁷ Entire economies and Governments in some regions of the world survive on the illegal drug trade, which supports large sections of poor peasant populations in developing countries and thrives on traffickers' influential connections with corrupt police, paramilitary and politicians.

40. In a trade that respects no national boundaries, the expanded flow of goods under globalization has abetted the illegal transit of drugs across borders and

greatly increased the transnational reach and ramifications of narco-trafficking. Some drug control officials believe that the free flow of goods across the border from Mexico to the United States under the North American Free Trade Agreement, for example, makes it hard to weed out illegal flows.

41. The power and resourcefulness of organized drug syndicates, the multiple links in the illicit chain of production, importation, distribution and laundering of profits, spanning countries and continents, and the sheer range of players involved make narcotrafficking in today's world an increasingly complex and sophisticated business. Complicating law enforcement measures is the inter-linkage between drug trafficking, money laundering, terrorism, insurgency operations and trafficking in arms and human beings.

42. The international character of illicit drug cultivation, manufacture and trafficking has forced countries to recognize the importance of cooperation, overcoming political conflicts and differences. Equally, States have endorsed the need for a set of practical legal instruments that call for and depend on sustained international cooperation at many levels.

43. At the level of the United Nations, the Vienna-based Office for Drug Control and Crime Prevention has been reconstituted with two entities, the United Nations International Drug Control Programme (UNDCP) and the Centre for International Crime Prevention (CICP). Both bodies substantively support the Commission on Narcotic Drugs, one of the functional commissions of the Economic and Social Council. A central mandate of the Commission is to assist the Council in supervising the application of the four principal international conventions and agreements dealing with drugs.

44. The 1961 Single Convention on Narcotic Drugs (amended by its 1972 Protocol) lists more than 200 controlled substances and has been ratified by 166 States parties.¹⁸ One hundred and fifty-eight countries have acceded to the 1971 Convention on Psychotropic Substances.¹⁹ The rate of accession to the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in the first 10 years following its adoption was about twice as high as the 1961 Convention, reflecting the growing priority accorded to the problem by Governments.

45. The international control regime has greatly succeeded in checking the movement of manufactured narcotic drugs from the licit trade to illicit traffic. There has been less success in the control of psychotropic substances. Vested industrial and commercial interests in some major manufacturing and exporting States ensured that the control provisions of substances listed in the 1971 Convention were less stringent than the 1961 Convention.²⁰ However, the 1971 Convention has helped improve prescribing practices and drug use in many

countries, specifically in reducing prescriptions for barbiturates and hypnotics (typically used in suicide cases) and such stimulants as amphetamines.

46. Overall, the compliance of national authorities with treaty provisions is increasing and is the basis of national drug control strategies in most countries. But Governments often fail to provide timely and comprehensive reports to the International Narcotics Control Board (INCB), as required under treaty provisions. In addition to poor reporting, developing countries have pleaded lack of resources and technical capacity to meet treaty obligations.

47. Despite more cohesive international action and billions of dollars spent on anti-drug efforts worldwide, drug trafficking and consumption are demonstrably on the increase in most parts of the world. Coca leaf production has gone up since 1988 from just below 295,000 tons to slightly over 330,000 tons.²¹ Several factors bedevil control campaigns. For one, illicit manufacturers have started to use chemicals not listed in the schedules of the Conventions. Criminal organizations have also started exploiting the Internet for drug abuse, designing drugs by manipulating the molecules of scheduled drugs and gleaning new ways of production from the Internet.²² The Internet is also increasingly a site for illicit drug sales, posing knotty problems of national jurisdiction for law enforcement agencies.

48. Critics and watchdog groups have pointed to the weaknesses inherent in current anti-drug measures, which are heavily focused on supply-side policies. The objective of such measures is to reduce supply, drive up prices and ultimately discourage drug use. But rising prices attract new growers, especially in developing countries, and producers and distributors to trafficking, ensuring supply and bringing prices down again.²³ Moreover, targeting coca and poppy cultivation through forced eradication programs that include aerial and chemical fumigation pose environmental and health risks. In the absence of alternative sources of income, they deprive poor peasant farmers of a means of livelihood. Substitute cultivation has not always proved viable.

49. Other serious concerns have been raised over counter-narcotics policies that target production in developing countries rather than tackle demand. Specifically, these concerns centre round the extent to which democracy and human rights are compromised in countries where strongly authoritarian structures are involved in a prolonged "war on drugs", often with substantial assistance from developed countries. To what extent does military and police involvement in tackling the illegal drug business perpetuate authoritarian power structures in drug-producing or exporting countries? To what extent does the incendiary mix of organized crime and drug-related political violence threaten to halt or reverse democratization?²⁴ Entrenched corruption in the

state bureaucracy in many drug-producing and transit countries is another factor hampering counter-narcotics efforts.

50. The social and health impact of drug abuse goes far beyond what is revealed by statistics on production, consumption or impact. Dependence-producing drugs rapidly cause compulsive use, especially among the large populations worldwide coping with rural poverty or urban squalor. Drug subcultures draw the young and vulnerable into abusive drug practices. The spread of HIV/AIDS adds a dangerous and tragic dimension to the persistent problem of drug abuse. There are high concentrations of seropositive drug injectors in Africa, Asia and Latin America.

51. The imbalance between the overuse of some effective prescription drugs (such as hypnotics, sedatives and tranquillisers) in some parts of the world and their underuse in others has been identified as another area of concern. Very high per-capita consumption of some of these drugs in industrialized countries suggests serious drug abuse, including self-treatment. On the other hand, many developing countries cannot meet public health requirements in these drugs and large sections of the population have to resort to "parallel markets".²⁵

Money laundering

52. Closely linked with trafficking and other large-scale criminal business is international money-laundering. Here, again, criminal networks have adapted their modus operandi to keep pace with the geographical spread of activity under globalization, making use of rapid financial and electronic developments to delink money from the crime, disguise its trail and channel it back into criminal activity. Estimates of money laundered each year vary from \$300 billion to \$500 billion, of which law enforcement authorities recover roughly a fourth of one per cent, or \$500 million.²⁶

53. Money-laundering obstructs global efforts to create free and competitive markets and undermines the development of national economies, especially in new democracies and countries in transition. It distorts the functioning of markets by increasing the demand for cash and creating exchange rate volatility. The presence of large volumes of laundered money damages the credibility and stability of financial markets in individual countries and regions. Criminal organizations that siphon away billions of dollars from legitimate economic growth wreak havoc on societies, fuelling such criminal activities as drug dealing, arms trafficking and trafficking in humans.

54. In June 2000, OECD identified 35 offshore financial centres as tax havens that harm trade and investment flows. The centres include Antigua, Bahamas, Bahrain, the British and United States Virgin

Islands, Grenada, Panama, Tonga and Samoa. OECD warned centres that permit money-laundering, tax evasion and bribery to clean up their operations within a year or face coordinated defensive measures by member countries. These could include economic sanctions, a ban on banking transactions and a denial of aid. The Cayman Islands, the fifth largest banking centre in the world, with 590 banks and trust companies and an estimated \$500 billion in assets, has committed itself to cooperating with OECD so as to avoid sanctions.²⁷ In a separate list, the Paris-based Financial Action Task Force (FATF) identified 15 countries that it said were recycling billions of dollars each year in earnings from organized crime. The list includes the Russian Federation, Liechtenstein, Lebanon and Israel. FATF and the Russian Central Bank estimated that the Russian criminal groups moved about \$70 billion through the tiny Pacific island State of Nauru in 1998. According to Oxfam, tax havens cost poor countries at least \$50 billion a year in lost revenue, a sum that equals the entire aid budget of donor nations.²⁸

55. Faced with the expansion of anti-laundering measures, criminal groups are seeking safety in countries with weak states that provide them financial havens with very strict secrecy. Internet banking is another hurdle to law enforcement officials, due to the speed and invisibility of transactions and the possibilities it offers for fraudulent business to be conducted from several locations, befuddling jurisdiction. The lack of systemic reforms and harmonization of regulations covering financial havens, trusts, shell companies and banks are serious challenges.²⁹ Many developing countries, particularly in Africa, lack the capacity to combat such transnational crimes as money-laundering. Governments in Africa have pointed to the critical need for assistance to formulate model laws, for exchange of crime intelligence to overcome the absence of modern data-processing and communications systems, and the establishment of structural capacity to acquire and use financial intelligence to detect money-laundering and corruption.³⁰

56. A range of international legal instruments forms the framework for the regulation of money laundering, including the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (referred to as the Strasbourg Convention); the 40 recommendations on money-laundering of the Financial Action Task Force of February 1990, revised in June 1996 (referred to as the FATF recommendations); the Political Declaration and Action Plan against Money-Laundering, adopted at the twentieth special session of the General Assembly, convened to focus on the world drug problem (New York, June 1998); and several regional agreements.

57. These are important steps in underlining the need for sustained international cooperation to combat

money-laundering activities. But Governments' compliance with obligations remains uneven. Of the signatories to the 1988 Convention, for example, fewer than 30 are fully implementing its measures.³¹ The efforts of the United Nations global programme against money-laundering to prevent the offshore financial sector from becoming a conduit for money-laundering received an impetus in March 2000. Delegates from 37 jurisdictions meeting in the Cayman Islands, backed the efforts of the Office for Drug Control and Crime Prevention to deny criminals access to financial markets. They agreed that all international financial services centres should enter by 30 September 2000 into a formal governmental commitment to the minimum standards proposed by the United Nations Offshore Forum, an anti-money-laundering initiative aimed at ensuring global commitment to internationally accepted standards of anti-money-laundering measures relating to cross-border financial services.

58. The agreed principles include the need for recognition of the positive action taken by participating individual jurisdictions and forbearance from sanctions on individual jurisdictions for non-compliance with accepted standards without a full, fair, transparent and consultative process of evaluation and opportunity to remedy deficiencies. In the words of the Executive Director of the Office for Drug Control and Crime Prevention, the Cayman Island consensus "represents a groundbreaking step in the global fight against money-laundering."³²

59. The Convention Against Transnational Organized Crime recommends that countries establish a domestic regulatory and supervisory regime and, where appropriate, work with regional initiatives, including the Caribbean Financial Action Task Force, the British Commonwealth, the Council of Europe and the Eastern and Southern African Anti-Money-Laundering Group.³³

Trafficking in firearms

60. The proliferation of illegal firearms poses serious threats to security and social and economic development. In recent decades, hundreds of millions of small, inexpensive, sturdy and easy-to-use weapons have spread around the world and are the tools of conflicts that cause as many as 90 per cent of all deaths. Some estimates of illegal firearms are as high as 500 million military-style arms, besides hundreds of millions of guns designed for police forces or civilian use.³⁴

61. A sizeable portion of all transfers of firearms is illicit, with destabilizing effects closely linked to other transnational criminal activities, high levels of crime and violence, and inter-state conflict (see chap. XV). Trafficking in firearms, ammunition and other related materials goes hand in hand with drug trafficking, terrorism, transnational organized crime and mercenary

and other criminal activities, posing serious obstacles to peace.³⁵

62. The move toward establishing a set of international legal norms in the protocol on illicit firearms is an important step forward. Cooperation and exchange of information between States, criminalization of illicit trafficking in, manufacture and detention and use of firearms and ammunition, and effective export and import licensing or authorization are among the measures proposed in the protocol.³⁶

63. Despite the role of insurgent groups and drug traffickers in the spread of illegal firearms, it is Governments that remain the largest source of weapons. With the end of the cold war, surplus weapons from American, Russian and European armies are sold cheaply to other countries, often getting into the hands of organized criminal groups and armed insurgents. Moreover, Governments in some countries have distributed large numbers of arms to citizens in times of war. When government forces and insurgent armies are demobilized, leftover weapons find their way from the original buyers to criminal networks. The wide dispersal of illegal arms poses special threats to countries long ravaged by or trying to emerge from wars, perpetuating a culture of violence, lawlessness and crime.

64. In a climate of widespread unemployment and discontent, environmental degradation and social inequity, the free availability of firearms makes violence commonplace. It forces citizens to arm themselves, either personally or through private security organizations. Citizens faced with little or no economic or social development acquire weapons for survival, to satisfy basic needs or for commercial purposes.

65. A unique challenge in the control of small arms and light weapons stems from the fact that most efforts at disarmament take into account the principles and purposes of the Charter of the United Nations, especially the right to self-defence and non-interference in the internal affairs of States. These principles are especially sensitive in the case of this class of weapons since the conflicts and their resolution are often within a state's jurisdiction. In many instances, citizens can legitimately own and use small arms for personal security against crime, which may be difficult to distinguish from warfare. Solutions will require a broad range of policy options in the areas of development, human rights, judicial systems and police work.

66. A second challenge in the control of small arms and light weapons is that they are in the inventory of every State's legitimate armed force. Each State possesses small arms and light weapons, with few international norms restricting such possession, and participates in the legitimate trade in them.

67. Experts believe that the response to the challenge posed by small arms must go beyond the

supply-restriction efforts that dominate the approach to security problems created by major conventional weapons. Several methods have been suggested to reduce the flow of small arms – buy-back programmes for countries coming out of war, systematic disarming of ex-combatants, national export controls to limit illicit arms trade and a code of conduct for government-authorized transfers.³⁷ Cutting back on future production could be an uphill effort for many Governments, which remain convinced that small arms production makes economic sense because of the profits involved. Humanitarian agencies have noted that gun-control efforts have to be accompanied by social development and employment-generation programmes, especially in war-torn societies.

68. The task of combating the rise of a transnational uncivil society is a critical challenge in today's globalized world. The sheer sophistication and complexity of organized crime calls for innovative and constantly expanding forms of cooperation between government and non-government agencies at multiple levels. The changing nature of organized crime is not only a serious test to government and inter-government law enforcement agencies but also raises fundamental questions of the role of the state in ensuring social protection and human rights guarantees for the poor and marginalized.

69. The war against organized crime under globalization makes strong States and good governance a key prerequisite. Proponents of economic liberalism and open democracies contend that the pervasive spread of free markets can in itself be a shield against global insecurity. But the record of globalization so far in accentuating economic and social disparities, even as it increases opportunities and advancement, makes a clear case for more, not less, stewardship by States in the new economic order.

NOTES

¹ See, for example, Tanzi, Vito, *Corruption Around the World: Causes, Consequences, Scope and Cures*, IMF Working Paper No. 63, May 1998; UNDP, *Corruption & Integrity Improvement Initiative in Developing Countries*, 1998 (<http://magnet.undp.org/docs/efa/corruption/Corrupti.htm>); Lambsdorff, Johann Graf, Transparency International Working Paper, November, 1999 (http://www.gwdg.de/~uwwv/Research_area/lambsdorff_eresearch.htm); Alam. M.S., *Some Economic Costs of Corruption in LDCs*, Journal

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² United Nations, The Cost of Corruption, Factsheet for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April, 2000.

³ UN Economic and Social Council, Commission for Social Development, Thirty-Sixth Session, Expert Workshop on Participation and Social Justice, Note by the Secretary-General, 17 November 1997. (E/CN.5/1998/4.)

⁴ Rose-Ackerman, Susan. *Corruption and Government: Causes, Consequences and Reform*. Cambridge University Press, 1999, p.19.

⁵ UN Economic and Social Council, Commission for Social Development, Thirty-Sixth Session, Expert Workshop on Participation and Social Justice, Note by the Secretary-General, 17 November 1997. (E/CN.5/1998/4.)

⁶ Collier, Paul, "How to Reduce Corruption", *African Development Review* (London), vol. 12, No. 2, December 2000, p. 200.

⁷ Ibid, p. 201-202.

⁸ United Nations, The Cost of Corruption, Factsheet for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April, 2000.

⁹ United Nations, The Cost of Corruption, Factsheet for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April, 2000.

¹⁰ A/RES/51/59, 28 January 1997.

¹¹ United Nations, The Cost of Corruption, Factsheet for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, Austria, 10-17 April, 2000.

¹² Gallup International, International Millennium Survey; <http://www.gallup-international.com/survey10.htm>

¹³ Amnesty International Releases Statistics on Worldwide Executives for 1999, Calls for Moratorium, April 18, 2000; <http://www.amnesty.org/news/2000/A5000900.htm> Also see Amnesty International Website Against the Death Penalty; <http://www.web.amnesty.org/rmp/dplibrar>

¹⁴ Gallup International, International Millennium Survey; <http://www.gallup-international.com/survey10.htm>

¹⁵ UNDP, Human Development Report 1999, p.5

¹⁶ Interview with General Barry R. McCaffrey, director of the U.S. Office of National Drug Control, United Nations Office for Drug Control and Crime Prevention, *Update*, October 1999.

¹⁷ A 1991 estimate by the OECD Financial Action Task Force, cited in The Social Impact of Drug Abuse, United Nations International Drug Control Programme (UNDCP) Technical Series Number 2, Vienna, 1996 (originally prepared as a position paper for the World Summit for Social Development).

¹⁸ As of November 1, 1998. Report of the International Narcotics Control Board for 1998. (E/INCB/1998/1.)

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²⁰ Report of the International Narcotics Control Board for 1998. (E/INCB/1998/1.)

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²⁸ (if needed): *Guardian Weekly*, Russia and Israel Head Money Laundering List, by Charlotte Denny, June 29- July 5, 2000.

²⁹ United Nations Global Programme against Money Laundering, UNODCCP, December 1998.

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³¹ United Nations Global Programme against Money Laundering, UNODCCP, December 1998.

³² *United Nations Offshore Forum Concludes: Delegates Reach Broad Agreement on Proposed Minimum Standards to Combat Money Laundering* (http://www.odccp.org:80/pressrelease2000-03-31_1.html).

³³ Article 4 bis, revised draft United Nations Convention against Transnational Organized Crime (A/AC/254/4/Rev.7).

³⁴ *Small Arms, Big Impact: The Challenge of Disarmament*, Michael Renner, Worldwatch Paper 137, The Worldwatch Institute, 1997; <http://www.worldwatch.org/pubs/paper/137a.html>

³⁵ Revised draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.2/Rev.4).

³⁶ Revised draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.2/Rev.4).

³⁷ *Small Arms, Big Impact: The Challenge of Disarmament*, Michael Renner, Worldwatch Paper 137, The Worldwatch Institute, 1997; <http://www.worldwatch.org/pubs/paper/137a.html>