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93rd Harold Wolpe Dialogue

23 September 2010
Cape Town

Topic:

CORRUPTION IN OUR SOCIETY

Speaker:

Dr. Iraj Abedian
Pan- African Capital Holdings

Respondents:

Adv. Nelson Lolwane
Glynel International Consulting Services

Mr. Tony Ehrenreich
General Secretary, COS ATU – Western Cape

The aim of these dialogues is to create a space for open and informed dialogue and debate around key local and global political, social and economic issues facing South Africa.

Wolpe dialogue 23 September 2010

Corruption in SA society

Main Speaker - Dr Iraj Abedian

He is an economist by profession. He exchanged academia (Iraj worked previously for UCT) for the corporate sector and joined Standard Bank. He subsequently became CEO of Pan African Capital Holdings and is a regular commentator on radio and television. We are very pleased that he accepted our invitation to introduce the discussion this evening.

Respondents:

First Respondent

Advocate Nelson Lolwane: he is currently the CEO of Glynel International Consulting Services which aims to promote ethical practice in business and in organisations. He has extensive experience of the field in the area of corruption previously working with Ernest & Young in that area and also with the Competition Commission.

Second Respondent

Mr Tony Ehrenreich General Secretary COSATU – Western Cape (who, in the Western Cape, needs no introduction).

COSATU has been vociferous on this issue of corruption and so we wanted his voice here this evening.

Corruption in Society: Impact on South Africa's Developmental Path

Dr Iraj Abedian

It is indeed an honour for me to have the opportunity to participate in **Harold Wolpe Memorial Trust's** social discourses. I thank Dr Lionel Louw, the Director of the Trust, for his kind invitation and I thank you for being here this evening to engage with the critical issue of Corruption in Society. I intend focusing on the impact of corruption on the country's developmental path.

Corruption has emerged as a serious problem across the globe. Over the past decade international organizations such as the United Nations, the World Bank, and OECD have made corruption control a significant focus of their agenda in the hope of entrenching good governance across the globe. A watershed development in this regard was the adoption of the United Nations Convention Against Corruption in December 2003, where countries agreed to an increased level of cooperation in the fight against corruptionⁱ. In South Africa, the ruling party (The ANC alliance), has adopted the fight against crime and corruption as one of its five strategic policy priorities.

The world over, it is now generally recognized that corruption is harmful to economic growth, that it diminishes the effectiveness of socio-economic reforms, it exacerbates unemployment and poverty, and it destroys social capital. In short, the prevalence of corruption is a fundamental obstacle to sustainable and inclusive socio-economic development.

Corruption occurs in both public and private sector organizations. My emphasis in this paper will be primarily on public sector corruption. In the remainder of this paper, I will firstly begin with a brief philosophical *Note on The Essence of Corruption* in Section One. Section Two will then offer an analysis of *Aetiology of Corruption*. Section Three will reflect on *Corruption in South Africa* with its evident consequences in our society. The concluding Section will highlight some of the obvious next steps towards arresting the corrosive spread of corruption and containing its damage to the social fabric of our society.

Section One: A Note on the Essence of Corruption

Corruption as a phenomenon does not have a positive essence! Corruption, *per se*, could not exist. A useful analogy may be darkness- darkness *per se* does not exist! We cannot say: let's bring darkness to an area! Nor can we say: let's transmit darkness from one region to another! Darkness, in reality, is the absence of light. Darkness assumes existence only when all light is removed. Corruption, likewise, does not have essential existence. Corruption therefore owes its prevalence to the absence of certain systemic factors in the society or in an organisation.

This definitional or philosophical discussion of corruption is critical for socio-economic discourse, for the fight against corruption and for the containment of its adverse developmental impact.

Illicit activities, by their very nature, tend to be secretive and hidden from public scrutiny. Many of the issues surrounding the causes and extent of corruption in particular countries remain elusive. Increasingly, however, more systematic studies on corrupt activities have yielded empirical support for policy prescriptions. Various definitions have been formulated in the literature; eg:

- “The abuse of public power for private benefit” (Tanzi, 1998);
- “Corruption is the misuse of office for unofficial ends” (Klitgaard, 1998);
- “The abuse of public power for personal gain or for the benefit of a group to which one owes allegiance” (Dye and Staphenurst, 1998);
- “The intentional non-compliance with arm’s length relationships aimed at deriving some advantage from this behaviour for oneself or related individuals” (Tanzi, 1998).

Corrupt acts include bribery, extortion, influence peddling, nepotism in hiring and procurement, fraud, “speed money”, embezzlement, ghost workers on payrolls etc. Corruption distorts public decision-making at political and administrative levels about the acquisition and allocation of public resources (personnel, procurement of goods and services) as well as the allocation of public goods and services produced by the government sector. Unfortunately there exists no exhaustive taxonomy of different forms of corruption, after all corruption is defined relative to particular ethical, legal and administrative norms and standards.

In South Africa, public sector expenditure accounts for over 40% of Gross Domestic Product (GDP). The sheer magnitude of public sector participation in most economies means that if corruption depresses public sector productivity and service delivery performance, then there will be an immediate negative impact on the performance of the economy as a whole. Reducing corruption does not mean simply reducing the role of the state – rather the emphasis should be on how the state operates and carries out its functions.

Different forms of corruption will clearly have different effects, in the short and long term. Some economists argue from a public choice perspective that corruption may well be efficiency-enhancing by permitting entrepreneurs to circumvent inflexible bureaucratic procedures – the proverbial “grease in the wheels of bureaucracy”. Alternatively, bribery is seen as a rationing mechanism, rather than waiting in line. Bribes – according to this rationale – “clear the market” since they reflect individuals’ and firms’ willingness to pay. I submit that this analytical paradigm is far too narrow, shallow and deeply flawed.

Section Two: Aetiology of Corruptionⁱⁱ

In my view, the aetiology of corruption may be traced back to two broad factors- one is institutional and the other moral.

The institutional dimension of corruption pertains to a set of interrelated or systemic measures, practices and structures that culminate in the problem of poor public sector performance. Increasingly, the link between reducing corruption and improving service delivery has been made in the literature. Even then the benefit to service delivery is simply regarded as a positive spin-off, or externality, rather than as an independent or even primary objective of the relevant anti-corruption initiative. It is as though the researchers, policy-makers and politicians have become so engrossed in addressing the corruption issue that they have lost sight of the primary purpose of democratic government, namely to act for the public good.

This is not to suggest that anti-corruption initiatives are not in the public good (far from it). Rather the aim is to suggest that we need to reappraise the way we think of corruption and anti-corruption initiatives with a view to formulating a new approach which emphasizes transparent, accountable and effective government action that is in the public interest.

To reappraise the way we think of corruption and anti-corruption initiatives, we need to develop a clear understanding of the current public sector and its relationship to the rest of society. Among other things, this entails looking at:

- The social context within which the public sector operates;
- The evolution of the public sector, particularly the more recent changes;
- The role the public sector plays, and the traditions, institutions, systems etc. that govern its actions;
- The way the public sector interacts with the private sector and civil society, and
- How the public sector is likely to respond to new challenges such as increasing regional integration and globalisation.

Public policy analysis and debate have always been in some way concerned with finding ways of improving public sector performance. More recently, however, the issue of public sector performance has taken centre stage in response to the increasing pressure for the effective use of limited public resources and the growing appreciation of the costs of government failure. In recent times the more successful public sector reforms have been those that have set out to reorient public institutions, systems and incentive structures to focus on performance.

Consequently there is growing consensus among both academics and practitioners that international good practice in the public sector means *focusing on performance* and, more specifically, *on the delivery of results and impact on social conditions*.

This focus on performance encompasses all government institutions - including parliament and the cabinet - and is not restricted to the traditional service delivery departments such as health, education, welfare etc. It is based on a systemic understanding of the state that acknowledges the integrated nature of all institutions and elements of good governance. For instance, to improve performance in the health sector is not simply a function of improving health delivery, but also requires the effective functioning of the budgeting, personnel, procurement and a host of other systems. In fact, good public health delivery may well require proper planning for water supply, urban amenities, and appropriate environmental planning. By the same token efforts to improve the delivery of education are to some extent dependent on the functioning of the health system. The ultimate aim of this performance/ delivery oriented approach is to get all government systems, departments, commissions, regulatory bodies, parastatals etc. performing and delivering.

A reappraisal of anti-corruption initiatives has to take cognisance of this. For instance, an emphasis on performance means that it is not only important to monitor that resources are not being abused or misappropriated, but also that they are being used as effectively as possible. While monitoring for probity and results could be done using separate systems, it makes far more sense to do both jobs on a single system. Not only is this likely to be simpler, but it gives explicit recognition to the fact that both probity and effective delivery are integral to good performance.

The growing focus on public sector performance can be explained and understood in another way. In the private sector a company's performance is measured by its bottom line. Corruption that is internal to a company reduces its profitability and this tends to elicit a rapid response from shareholders. In other words, in the private sector there are built in incentives and mechanisms to monitor for corruption and to address it rapidly and effectively when it surfaces. As a result both the risk and the incidence of internal corruption within companies are fairly limited over the long run. In addition, there are strong mechanisms in the private sector for dealing with inefficiency,

namely performance contracts, take-overs and bankruptcy procedures to name but a few. By contrast, there is nothing like a bottom line in the public sector. The result is that corruption within the public sector has ample room to thrive. To complicate the problem further, the mechanisms for dealing with inefficiency in the public sector are generally weak as well. And since both corruption and inefficiency impact negatively on performance, it is often difficult to distinguish between the effects of corruption and inefficiency. Therefore, instead of trying to deal with the problems separately, current best practice focuses on public sector performance and thereby seeks to address both problems simultaneously. Thus in the public sector, measures of performance and sanctions for poor performance substitute for the bottom line in the private sector, while the threat of a change of government could in some respects be compared to a take-over in business.

A reappraisal of corruption as a concept and anti-corruption initiatives also need to take cognisance of the fact that a focus on public sector performance is likely to change perceptions of accountability and probity. To date these notions have tended to be interpreted narrowly, i.e. in terms of procedural correctness and strict legality. Focusing on performance necessitates broadening this to include notions of transparency, effectiveness, efficiency and accountability for results. This means that certain behaviours and actions that escaped censure in the past, because they were not strictly illegal or dishonest, would be censured under the new approach because they detract from effective and efficient performance. By the same token certain behaviours and actions that were not rewarded in the past would be recognised and rewarded because of their positive contribution to performance.

As noted earlier, the notion of corruption does not lend itself to clear definition. This is partly because corrupt acts are usually defined relative to particular ethical, legal and administrative norms. Having said this, such norms only change at the margin from one country to the next. Thus the bulk of what is likely to be considered corrupt in one country will be considered corrupt in all countries. The real challenge is, therefore, to find ways to define, identify and address what might be called 'marginal corruption', i.e. acts of a dubious nature but that are not obviously corrupt.

Developing a clear definition of corruption is further complicated by the fact that the impacts of corruption are almost indistinguishable from those of inefficiency. Indeed, in most developing countries one would be hard pressed to say whether poor public sector performance is primarily the result of corruption or of inefficiency. The reality is that it is probably six of one and half-a-dozen of the other - and in fact they are mutually reinforcing. For instance, are hospital pharmacies in chaos because the medicines are being stolen or because the inventory systems are inadequate and poorly managed?

The line is particularly fuzzy when it comes to distinguishing between petty inefficiency and 'marginal corruption'. For example, is taking a longer tea break than normal stealing time or just an inefficient use of time? In most cases the distinction does not matter. What matters is the fact that the cumulative effect of thousands of actions of this kind impact negatively on performance.

The linkages between corruption and inefficiency go a lot further. To start with, the way certain public sector systems are set up and operate may induce behaviour that from a procedural perspective is illegal but that is not dishonest. The hospital superintendent that by-passes the normal tendering system to purchase an X-ray machine in order to ensure that it is immediately available and not only in eighteen months time is a case in point. Strictly speaking her action is illegal and an anti-corruption programme with a narrow focus on procedural accountability would censure it. However, the reality is that few would argue that the superintendent behaved dishonestly. Indeed most people are likely to consider her action in a positive light - as evidence that she places the interests of patients first. Clearly the problem is not the individual 'illegal' action, but the inefficient system that induces such behaviour.

Secondly, certain public sector systems may actually permit certain corrupt behaviour. An example here is the court system that allows prosecutors and lawyers to conspire to get criminal cases dismissed by continually asking for postponement. Strictly speaking they are acting within the law, but the motivation is 'corrupt'. Acting against this kind of corruption without changing the inefficient system which allows such behaviour is likely to be a futile exercise. Again the main problem is not the action itself, but the inefficiency of the system.

Thirdly, public sector systems may be set up and operate in ways that in fact induce corrupt behaviour. This is particularly pertinent when it comes to interactions between the public and the private sectors. In many developing countries excessive amounts of red tape govern what should be relatively simple, routine processes such as registering businesses, the approval of building plans, obtaining zoning rights, importing and exporting goods etc. In order to survive and be competitive businesses resort to acting outside the bounds of the law by seeking to either expedite or bypass bureaucratic processes by paying 'speed money', bribing the enforcement officials etc. Again a narrow view of corruption would tend to focus attention on preventing these various corrupt acts often by generating even more regulation, instead of addressing the root causes of the problems, namely ineffective, inefficient, over-regulated systems.

Also with regard to system induced corruption, the system governing the payment of public officials is crucial. If pay levels are inadequate or salaries are received irregularly, it should come as no

surprise that many officials seek to supplement their normal incomes by moonlighting, using work time to trade or do other things, seeking bribes, trading favours, embezzling funds etc. Clearly to focus just on these corrupt activities again addresses only half the problem. The other half involves ensuring levels of pay are adequate and ensuring the payment system operates efficiently. It is also important to address the whole issue of income earning opportunities. In many developing countries income earning opportunities in the private sector are limited compared to rent-seeking opportunities within the public sector. Addressing this issue requires far more than just an anti-corruption programme.

Finally, public sector systems may by their design and operation enhance opportunities for corruption. This is particularly so where systems create monopolies of some kind which civil servants are responsible for administering. Examples include licensing departments, the appointment of staff, procurement, the approval of building regulations, prosecution services, the judiciary, the granting of pensions to name a few. The non-transparent and discretionary nature of many of these systems lays them wide-open to abuse. Again to focus only on identifying and prosecuting instances of corruption and on rooting out corrupt officials is unlikely to solve the problem. In nearly all instances the systems themselves need to be reformed to minimise opportunities for corruption.

A reappraisal of anti-corruption initiatives requires a new look at the relationship between corruption and inefficiency, and how both these relate to the efficacy of public sector systems. It also requires one to question whether corruption really is *the* problem facing developing countries, as some writers suggest, or whether it is merely a symptom of some deeper problems with developing countries' public sectors? If it is the latter then it follows that a narrow anti-corruption focus in fact deflects attention from the more fundamental, underlying problems facing public sectors in developing countries.

The Role of Morality

At the heart of an effective systemic approach lies the indispensability of modern and well-performing government machinery that is capable of developing and executing policies that enhance social welfare. This is particularly so in a rapidly globalizing environment in which the sustainable economic and social development of countries is as much dependent on the comparative productivity of their private sector as is on the relative efficacy of their public sector.

However to suggest that a well-designed governance system is all that is required would be at best a static view of society, and at worst may well be naïve. The reality is that all systems function within an operating environment. More accurately put, within the society every mechanism, such as the public resources governance system, in effect operates within a larger and more complex system. As such it is subject to the continuous dynamic forces of the larger environment.

The sufficient condition for success, therefore, is to ensure that the larger social system provides an enabling environment for the governance system of public resources. To this end, I argue that moral values play a major role in ensuring that the society at large aspires to, and espouses, the ethical standards of honesty, integrity, equity, efficiency and transparency.

Advocating specific morals or values might well be controversial in the current age of humanistic relativism. However, for the sake of systemic sustainability, there is a *congruency requirement*. This means the *corporate ethics* that permeate the systemic governance of public resources should be in consonance with the prevailing moral values under which the society at large operates. Logically this requires a common set of values that the society in some or other manner has arrived at. How exactly these values will be arrived at, and adopted, fall outside the ambit of my presentation today.¹

Operationally, the influence of moral values impacts upon the system of public resource management at two levels. Firstly, any system of public resource use is bound to require a great deal of discretionary judgement as part of its ongoing allocative and management functions. Such subjective decisions are inherently value driven. Moral values consciously or otherwise inform such decisions. This type of influence is internal to the operations of the system itself. For example, the conventional notion of 'public servant' was founded upon the ethical values of integrity, care, and aspiration to serve communal interests. The literature on public choice challenged this view from the perspective of individual utilitarianism. The public servant, this paradigm argues, is first and foremost an individual with self-interest at heart. Contemporary empirical research amply supports this view. Meanwhile, New Public Management reforms, introduced mostly in the OECD countries, place a renewed emphasis on ethical values in public service (World Bank 1997). There is an acknowledgement that administrative and managerial system development cannot operate in a moral vacuum. However, it is at the same time recognised that ethical values alone cannot suffice and they need to operate in conjunction with strong financial management control measures.

In contrast to the internal influence, moral values also impact on systems from the outside. External influences are manifested in the social context within which the system operates. This context may enhance the well functioning of the system or can be unfavourable to its operations. In this regard, a combination of socio-economic, political and historical factors plays a major role in shaping the broader environment. Ultimately, the patterns of economic and political powers determine the reality and the perception of social justice within the society. This in turn tends to affect the sustainability of a given status.

¹ In principle this process is best located within a multidisciplinary process including theologians, sociologists, political scientists, and moral philosophers. Economists have the critical role of highlighting the need for such a moral framework.

However, the reality and perception of social justice should not mean that the prevailing moral values need to be internalised. Personal integrity, for example, cannot be a derivative of the prevailing or historic political legitimacy of the ruling party within the country. Likewise, honesty should not be compromised on the basis of 'realistic evidences' of the abuse of economic and political powers. Such justifications and their concomitant behavioural consequences are sure means of society's infinite regress. Systemic stability, and subsequent virtuous circles of progression, requires a set of exogenous norms and values.

Interestingly enough for the classical economists this was almost axiomatic. For example, on the socio-economic significance of honesty, Adam Smith in his *Theory of Moral Sentiments* argued that a well functioning society was dependent on compliance with what he termed a "code of honour". (A Smith (1812): *The Theory of Moral Sentiments*, London: Cadell and Davies) The absence of a 'code of honour' ultimately leads to corruption in one or other form.

The literature on the economics of asymmetric information illustrates the social implications of a society imbued with ethics and generally bound by a moral code of conduct. Market efficiency depends largely on information, its accuracy and flow. The quality of information, therefore, directly affects the ability of the market to meet societal collective material needs. Consider the infamous market for second hand cars, dominated by the "used car salesman", a caricature of dishonesty. In order to obtain the highest price possible, the salesman provides inaccurate information about the quality of the car. Information is thus used to extract money that otherwise the buyer would not have willingly agreed to if all information was available to him. Note that if all relevant information were available, an honest and open transaction would lead to a socially optimal outcome. In essence due to information asymmetry, and the absence of honesty, what would have otherwise been mutually beneficial ends up asymmetrically exploitative.

Possibly the most important economic impact of infusing morality into a systemic public resource management is the substantial reduction in transaction costs. Both public and private sector activities are subject to enormous transaction costs. These include the cost of concluding deals, cost of collecting the optimal level of information, expenses of contracting, and costs associated with policing or enforcing contracts. Lack of morality increases such costs enormously. In many vital cases of social interest such increases in expenditure result in public services being unavailable.

The *congruency requirement*, it is important to highlight, is merely a diagnostic tool. It does not help with the choice of common set of values. To illustrate the point, let us describe two polar situations where congruency requirement is met. One is what we may call virtuous spiral of progression. In this social setting, the prevailing social norms and standards unequivocally promote competence, performance, honesty, and service to community. These values, in turn, inform the electorates' choice in electing and mandating their political representatives. As such the political representatives espouse 'leadership through service', are inclined towards meaningful accountability, and operate within a performance framework in pursuit of public service delivery. The machinery of state, in turn, is governed by a set of fully internalised and generally accepted

'charters of good practice'. These include professionalism, integrity, stewardship of public resources, efficiency and efficacy, transparency and accountability. In such a situation, there is congruency compliance among the three components of the societal structure; namely the electorate, the political, and the state components.

At the other polar extreme, there could be a situation where the machinery of the state is riddled with inefficiency, inefficacy, various forms of public resource misuse (including nepotism, bribery, fraud, and the like), and apathy in performance. At the same time, the broader society operates in a milieu without any generally accepted norms of behaviour as regards communal or personal values. Commonly, the most pressing imperative in such a setting is survival and the individual's corrupt practices are justified on this basis., Hence the ethical and moral values of expediency are internalised by the individual as a pragmatic survival strategy. As such the general polity does not regard the *modus operandi* of the state and its individual members as abnormal at all. More often than not, in such societies the polity faces effective political disempowerment in any case. In this environment, the political levers of power are also in the hands of either self appointed and/or self-serving groups. Once again their actions are not out of sync with the broader societal practices. In such circumstances, once again the *congruency requirement* is met. However, the dominant direction of this configuration is likely to be the vicious spiral of regression.

It is stating the obvious that between the foregoing two polar situations there exist a spectrum of possible scenarios. Their descriptions are not necessarily instructive for developing a plan of action for transformation; and as such unhelpful for, *inter alia*, fighting corruption. What the congruency requirement suggests, however, is that moving towards the virtuous spiral of progression requires developing the common set of values on the one hand and the system of public resource governance on the other. The former is clearly a multi-disciplinary enterprise to which economists and public financiers can at best make their respective contributions. Much more is needed to develop the basic moral framework that can bind the entire fabric of the societal environment together. Unless there is a common appreciation across the private sector and broader civil society of what constitutes public service ethics at managerial and political level, civil society cannot play an effective oversight role in combating corruption. They may in fact exacerbate the problem.

The introduction and internalization of a value system is much easier in a homogeneous environment than in a setting where diverse cultures, religious beliefs and nationalities are involved. In such environments, there is a serious risk of value inconsistency creeping into managerial and administrative practices. Special care should be taken to avoid a business or public sector operational milieu that admits and promotes 'duality of values'. An environment filled with duality of values is conducive to operational inefficiency and ethical inconsistencies, and all forms of corruption.

Section Three: Corruption in South Africa

It may not be an exaggeration to suggest that the two interrelated phenomena of corruption and crime have been the topmost blights on the face of an otherwise successful, if not miraculous, democratic transition in South Africa. I further hold the view that a considerable portion of our societal crimes originates from the deepening corruption within our society. Increasingly, it is evident that the liberation movement's social democratic revolution is tripped by corruption. There is a growing danger that procrastination to effectively expunge the corrupt practices within the society could lead to the institutionalization of corruption, the rationalization of corrupt practices and the rooting of a culture of greed and self-enrichment at all costs.

In South Africa, as in many other countries, over the past decade, a gradual but tangible rift has emerged between the country's socio-economic 'formal (professed)' as opposed to 'informal (practiced)' ethics. For example, in the business sector business executives and corporations formally subscribe to the 'codes of good corporate governance'. Their annual 'glossy' reports are decorated with "impressive evidences" of their socially responsible citizenship. Yet operationally they do not hesitate to collude and/or abuse their market powers. Evidences of price fixing amongst pharmaceutical companies, bread producers and steel manufacturers have been high profile cases over the past few years in South Africa. Sasol, South Africa's most celebrated petrochemical corporation, has been heavily fined, both locally and internationally in EU, for its extensive anti-competitive practices. The country's banking sector is also accused of malpractices and a report in this regard is yet to be made public by the Competition Commission. The banking sector is alleged to be exerting every pressure to halt its publication. The cellular phone companies are likewise accused of collusion to fleece the consumers in South Africa. The latest allegations are against tyre manufacturers in the country.

The gap between the formal and informal ethics within the government sector is even more pervasive. Frequently, government ministers and departmental executives espouse 'global best practices', and yet operationally in their organizational and managerial behaviour there is little evidence of the values, standards, or practices that conform to their formal statements (they don't answer the phone). The duality of these values is equally prevalent in labour unions, the media sector and other social structures.

Apart from this duality of values, there are other forces that have contributed to the rapid rise of corruption in the country. The political imperative of socio-economic transformation has necessitated policies such as affirmative action, black economic empowerment, and preferential procurement policies. Furthermore, the nature of the political transition and the evolution of the process of change of power have given birth to political deployment strategies by the ruling parties, be they at national or sub-national spheres of government.

Whilst these policies and corrective measures have been created with good intentions, and there is sound rationale for them, yet in practice one of the unintended consequences of such political and

regulatory interventions has been the rise in corruption and abuse of power. As far as governance is concerned, their most deleterious effects are manifest at the local government level. With regard to the broader developmental impact, the combined effects of the above mentioned factors are much wider and equally detrimental. The abuse of public sector procurement opportunities has become so widespread that a new phrase, that is 'tenderpreneurs', has been coined specifically for it. In the areas of public housing provision, education and health, among others, corruption has become widespread.

These developments have gradually tarnished the internal and external perceptions of state operations. Against this backdrop, the country's global competitiveness has suffered considerably. As shown in Appendix One, South Africa's global Corruption Perception Index ranking leaves much to be desired. Furthermore, over the past decade, the country's Corruption Perception Index (CPI), as compiled and published by Transparency International, has generally worsened.

I want to show you that South Africa's Global Corruption Perception Index leaves much to be desired. This is from Transparency International: South Africa is 55. Topping the 10 cleanest countries is New Zealand. Of the top 10 in Southern Africa, we are number 5 – Botswana is the cleanest. But, if you look at the emerging economies, South Africa is number 2 – emerging economies seem to be riddled with similar kinds of problems (like the BRICs). But, Chile is much higher on the rankings in comparison to us. These slides are on the websites of the Presidency. In terms of actual corruption, we are pretty stable from 2000 – 2009. But, the perception of corruption has increased dramatically from 2000 – 2009. The result is that this is a critical contributor to our global growth competitiveness – what is SA like to do business in/invest. In 2002, we were number 33 out of 34 but in 2010, we are number 54. But, that is not the real issue – what makes it really complicated is if you compare a country like India- in 2002 they were much worse than us. But, by 2010, India has become much better than us. So, we were ahead of many countries and in the past decade they have left us behind.

At the same time, over the same period South Africa's Global Competitiveness has declined sharply. The strong correlation between these two indices is more than statistical. For the reasons outlined earlier, corruption ultimately undermines growth and development, both directly and indirectly. The impact of growth on the drivers of growth and development may be small for any given period, and the corrosive influence may take time to manifest itself, but there is no escape from its ultimate harmful impact on the developmental path over the medium to long term.

Whilst the economy and the society at large suffer the consequence of widespread corruption, the poor within the society bear the brunt of its impact. After all, the poor are far more dependent on the performance of the public sector. The rich whinge about it, but the poor feels its effects. The rising disparity of income, the growing gap between the rich and the poor over the past decade is in part due to the growing spread of corruption across all sectors and spheres of the economy. Given the historic inequalities inherited from the previous dispensation, it is our society's manifest moral failure ever since the dawn of democracy in 1994 that we have failed to curb the scourge of corruption.

Concluding remarks: Some Possible Next Steps

Corruption in the society acts much like cancer in the human body-if you do not stop it, rest assured it will spread! Whilst initially some acts of corruption may even be politically correct, its ultimate and cumulative effects will be only detrimental to the developmental path of the society.

Based on our analysis in this paper, it is safe to suggest that:

- 1-** South Africa needs an effective discourse on a set of moral codes of conduct. In this regard, research institutions, religious establishments, think tanks, and academia ought to play a pivotal leading role.
- 2-** All political parties need to adopt and publicize an explicit set of moral values and codes of behavior.
- 3-** The spheres of governance require an urgent transformation based on effective systemic reform underpinned by meaningful professionalization of their operations.
- 4-** Civil society organizations need to be far more actively involved in the monitoring and engagement with public and private sector organizations in order to deepen the culture of probity and accountability.

In effect, whereas pre-1994, the social democratic revolution in South Africa coalesced around 'liberation from racial discrimination and institutionalized disempowerment', there is now a growing need for a second social democratic revolution focused on freedom from the tyranny of corruption and crime. From a developmental perspective, the oppressive and corrosive impact of corruption may well rival apartheid. We need to act to stop it.

I thank you.

First Respondent: Advocate Lolwane

Thank you Dr Abedian for your very interesting and provocative presentation.

The first thing I want to respond to concerns the issue of efficiency and the need to wrap up cases quickly in an attempt to avoid postponements. Everywhere in the world, when a matter is defended, your client is presumed innocent until proven guilty. And legal systems in the world are fraught with technical problems because as you know they are created by human beings and we are not perfect species – a bird is a better species, at least it can fly. Hence, if you have to defend your client, you have to ensure that every avenue is explored. Postponement of cases is not the responsibility of lawyers, and if it is, they are justified in the sense that they have to make sure that sufficient evidence for a conviction is obtained.

There are a number of points that I do support you on – eg, where police dockets disappear – and this is where corruption comes in. And you are 100% correct that corruption is a disease. In fact, on Monday, I read a comment by Pravin Gordhan, our Minister of Finance, that corruption in SA is a cancer. We all know that. We need efficiency but we cannot be in a situation where we wrap up cases and get people convicted and then 6 months later, the guilty person is made known and they say ‘I did it’ and hence defeat the criminal justice system.

The second point that I am happy to say is in line with our system is in making sure that corruption in the public sector is heavily and properly dealt with. Here are the preconditions to creating a corruption free society:

- 1) **Commitment** – if your leaders are not committed to rooting out corruption, then we can all pack up and give up on the dream of corruption being eradicated. In Canada and Denmark, the Transparency International and the Corruption Index, Denmark ranks first out of 180 countries. There is a very high confidence here that there is no corruption.
- 2) **Prosecute** –there must be swift prosecution. You must not go and get involved in long and complicated cases that will take 6 years to finish. You need a strategy. What you do is to get quick wins – take cases that you can wrap up in 6 months and show the world that ‘we got these people, they were involved in corruption, we found the evidence, we put it together and hence in 6 months they were found guilty *and* went to jail – no appeals, no games and they are serving 20 years in prison.’ Quick wins show your clients that you are serious about business. Cases that get dragged out do not send this message - eg – ‘the Zuma cases’ where people ask ‘well, which Zuma case’ since there have been so many of them and eventually they die out as people get bored.
- 3) **We need to encourage whistleblowers** – they are protected in terms of the Protected Disclosures Act. There are

problems and weaknesses with it, but we are working on it to get it right. You cannot victimise whistleblowers. Then people will simply be too scared and will not want to go to the Labour Courts. You have to encourage whistleblowers and you protect them.

- 4) **Values** – we must share the same values. We need to share the same idea of what corruption is. It is no use that I think that corruption is a bad thing and you think that it is a business strategy because ‘that is what you do’. There is an old saying that behind every big fortune there is great tragedy or great crime. What it means is that people have accumulated wealth because they have inherited a lot of money or they have been involved in crime. Or you could have been lucky to win the lottery. The last option is to be an astute businessman like Mark Shuttleworth who was able to make \$500 million in 1 transaction.

We have done research and Dr Abedian has demonstrated that we rank number 55 in the world. But, the good news is that corruption is not only in the public sector. Corruption is everywhere – it is in the church, in NGO’s, families, hospitals (eg doctors give you stale medicine because they have arrangements with the pharmacists where you need to go and purchase further medicines).

The last point I want to make is that there is a correlation between poverty and corruption. Now, my argument is that poverty does not cause corruption, but rather, corruption causes poverty. People take your money which you invested – eg poor pensioners have taken your money and then these corrupt individuals then use it for themselves. Poor people are not involved in corruption. A lot of black people in this country live in squatter camps but they do not go around forming sophisticated schemes to defraud others. They go into the market to sell what little they can sell.

Finally, in 2006, a comment was made by Global Companies – the largest group of people who commit fraud (55%) was management –over half in big companies. Do you know why? Management have power – they sign requisitions, they approve payments, they know what to do and what not to do. 30% were employees – so don’t think that when they come and smile at you every day that they are necessarily happy to be there – they are busy doing something else to make them smile. 6% were the syndicates – my business does work all over Africa, and the information that we give is based on these findings. We have met some syndicates – they have international conferences since this is business for them – they come with technical points about how they are going to beat the system. They are 2 or 3 steps ahead of us. 5% were clients – they send you invoices 3 times and if you don’t check, then you can pay them more than once. Your suppliers also steal – they register 3 companies called ‘cover quoting’ – 3 companies submit different quotes but they are all owned by the same company/person. This is also a form of corruption.

What is the cause of corruption? Greed. Management are people who earn big salaries, some of them earn even more than I do, which is very strange (and I work 15 hours a day).

People who are committing fraud are not happy with what they have and hence they simply want more. And the answer to this problem is to actually punish and hence send a message to the rest of society that you are serious about corruption.

To close, it is important for us to encourage whistle blowing. You cannot stay in an abusive relationship because your friend promises you a nice bottle of whiskey every day. You need to do without that whiskey and you will still be very healthy. Thank you.

Second Respondent - Mr Tony Ehrenreich

I hope that that applause was for me at the start because you are not going to applaud when I am done.

I think that the issues raised are important. But, the fundamental question that gives rise to this practice is a disjuncture within individuals. The question that we pride ourselves in is that we are good people – the way that we treat our families, our relatives, people in the church. We do that with a certain set of standards and values. These private virtues we reserve for ourselves. But, we don't translate these private virtues into public values so that these are the public actions that we put out there. We have this duality of responses to this society. And instead of our best to put in place a number of mechanisms to deal with this issue like the King Code, we are unable to crack corruption in our society. Ethics in the past was used in a way to humanise people. Ethics has become power in our society because it is used to try and regulate the way in which even companies do business. But, clearly, there is a problem with the conduct of this form of ethics. The guy who makes bread for the companies who have colluded to increase bread prices, are probably good people at home, but in their companies, they are corrupt. And in the case of bread, they are stealing from the poorest of the poor and exacerbating the systemic problems that we have. Now, that has made these companies more profitable. We more and more measure profit in shorter periods (from quarter to quarter rather than the long term value that a company can add to society). This results in an environment that builds and breeds corruption. And then we are surprised by acts of corruption.

The salaries of CEOs in South Africa: R43 million for Whitey Basson last year and a number of people earning in excess of that. How can you possibly justify that kind? If you look at countries that have lower levels of corruption, they just happen to be those that are more equal. Surely that is what we should be working towards and yet we don't put that out there as one of the key features that we should be working towards. I would argue that this is something that we all need to respond to.

What we need is a social compact – we need a social agreement because even those that are tasked to watch what is happening in society are themselves pretty corrupt. How is it possible that in the global financial crisis, companies sold what was essentially worthless stock, with auditors who were working in these companies to check on every component thereof, that no one brought these issues to the fore? Somebody must have been keeping quiet and someone must have been greasing other palms. So, I accept that in the public sector there is immense corruption, but, I must point out that this kind of corruption exists in the private sector too. Why is this important?

Because, when we think about how to respond, we need to acknowledge that we are building an environment of corruption and that is a global corruption environment.

Many of these features in South Africa stem from Apartheid, which was the most corrupt system that we ever had – it engendered conflict between black and white communities and then used this as cover for large scale stealing. That is what really happened. In our country, we are trying to put in place a system to deal with the ramifications of Apartheid. For instance, the Competition Commission does great work – it fines many people who are guilty of corruption. But, what is the sanction? A slap on the wrists. If you were in China, they would have cut off your hands. And when you see the kind of reduction in corruption as in China and the increases in competitiveness that have resulted due to improved management of corruption, then you can see what kind of impact cutting down on corruption can make.

But, BEE is probably one of the most corrupt practices that is happening here. And we can see that when Mittal Steel was fleecing the country, what they did was to sell a part of the company to a Zuma relative, in the hope that this would stop the government coming down hard on them. But, how can you get a stake worth billions if you have added nothing of value except some political connections? Granted, we were also involved in corruption by giving away some of the state jewellery by selling off parastatals including Mittal.

I agree that this kind of corruption has become endemic but the way that we analyse it will shape our response to it. I think that it is born out of an environment that what happens every day is a part of what I would call the systemic corruption and unethical responses to the challenges of the majority of the people of this country. What was the fight against Apartheid really about? It was about building a society that was more equal, more fair, with more people having access to resources and where everyone has an opportunity to prosper. That is what people fought for. What did people get? They got the vote every 5 years and that is all that they really got. I am not sure if we have managed the country in a remarkable way where we have been able to manage this democratic transition. It cannot be a very successful transition if the majority of our people, 52%, live on less than R800 per month, where the levels of inequality today is worse than it was in 1994, where the levels of unemployment today is worse today than what it was worse than in 1994, where gangsterism and drugs tears apart the social fabric of so many communities with no prospect of improving their lives. Is this the kind of society that is conducive to acting in an ethical or non-corrupt manner where they see the system that is so corrupt? The kind of rainbow nation that we have created is one in which the rich get richer and the poor get poorer and this is a *systemic corruption*. If you take the black elite and you make them as wealthy as the white elite and they become the praise singers of this systemic corruption. And so you do not hear about the devastating effect that this has on communities.

This discussion about public services and public servants is fascinating because it goes to the heart of any sense of the possibility of a shared sense of values. Public services are about a society coming together, pooling their funds and providing those services for everyone. So, what we thought here is that we would put our money together and we would make sure that we had a

good health care system and education system and this was supposed to take care of society. But, what actually happened was that after 1994 you had a dual system developing regarding public services. The dual system was that the public services were made for poor people. Wealthy people put their money in a different pool called a medical aid: for wealthy people only. They put their kids in the Model C schools where they could have an advantage around education and hence always have the inside track. You want to talk about a set of common values that builds an attitude against corruption in the face of systemic corruption? It is impossible. If you want to change a society, you need to reinstate the promised values, not something that you are sucking out of your thumb. This was the promise of liberation, this was the Freedom Charter that said that the land would be shared amongst its entire people, that the doors of culture and learning shall be open to all. No one said that it would only be open to the Model C kids whose parents had the money to pay for it. And so you build this environment that perpetuates this attitude.

What is great is that we are starting to talk about it now. Because, when we talk about it now, it has clearly started to affect the wealthy in a much different way. And I want to agree with Dr Iraj Abedian that the brunt of corruption is borne by the poor – all of that systemic corruption, the public servant not working, the teacher not working, that is all bad and must be attended to. But, the fact that there is no money in education to ensure that the class sizes are less than 60 – that is more corrupt. It shows that the government gives wealthy people tax cuts to go and get separate education for their children and as a consequence underfunds public schools. We can talk about the fact that we are spending more money than other countries relatively in the health and education sectors, but all of these things happen in a context of how a society is geared towards responding to their difficulties. The point that I want to make is that we must be as vocal about the systemic corruption in our society – the fact that poor people are marginalised, that inequality is worsening – as we are about the other issues. I agree with the other issues – we must raise them and the media must expose them. But, surely, each of the sides of this coin are equally bad because unless we expose the dual nature of this corruption, the moral voice around the battle against it does not have as much resonance in our society.

My final point is that no doubt we need to free our people from the tyranny of corruption. But, I would argue that the tyranny of poverty far more occupies the minds of our people. Because it is a struggle to survive every day for 60-70% of the people in our country. They are not worried about the Minister having a big Mercedes or stealing a few million rand, they have to make it to the next step.

We need to find a social compact – an agreement on the way forward. This agreement needs to talk about the notion of a 'South Africa Incorporated' – this ideal about a common set of values that we don't only talk about but that we actually implement through our actions: in the way that we fund public services, in the way that we respond to the difficulties that exist. And the key thing that we must do is to measure the success of our country in proportion to how it builds a more equal society where there is greater social cohesion. At the moment, we are on two opposite sides – poor black people, rich white people and of course there are sprinklings on both sides. But, the

environment is becoming more and more conflict ridden and there is no leadership that arises beyond these difficulties. Even more so, we talk about the many challenges that exist but we don't make sure that we have the appropriate policy mix to respond to a variety of these issues. And once we do this, we need to make sure that we hold everyone to account. And maybe part of the difficulty is that we have an environment that is too liberal – laws that are too easy to flout if you have enough money (you can stay out of jail forever if you have enough money, ask Schabir Shaik). So, you need to make sure that the law is decisive and cracks down on mainly white collar crime because that is where the really big money is. The guy stealing a spanner or a tool at work is miniscule in the greater scheme of things. Unless we combine all of the aspects of corruption, our fight against corruption is weakened and we need to raise our voices to deal with all of these elements.

Questions

1. The point that the speakers touched on recently was the disclosure of the director's income packages which every company has to disclose. It gets surprisingly little attention in the media. But, this raises an anomaly - you can find out what the President or the director of Old Mutual earns but you cannot find out what people in political parties or those involved in trade unions earn? This does not appear to be public information.
2. I am interested in what the speakers said, particularly about improving efficiency as being correlated with a reduction in corruption. I would like to know whether there are examples of other countries that have succeeded in improving their state and whether our country can look into learning how they did it?
3. I have a question about corruption in the wider sense. Does that include gender discrimination for instance the fact that today all 4 panelists are men?
4. You have said that the ANC has adopted corruption as one of its top 5 priorities. Advocate Lolwane – you have said that the government must prosecute quickly and seriously. I want to talk about my hobby horse the arms deal which has been going on for 12 years. According to hearings in Parliament 2 weeks ago, the head of the Hawks said that it would take 10 years to read the 4.7 million documents that were seized from BAE in November 2008. Archbishop Tutu, Helen Suzman and former Deputy President De Klerk called for an independent investigation into the arms deal and unfortunately both President Motlante and President Zuma have dismissed it and said that there is no reason for any investigation. I have some of those affidavits about who benefitted from BAE's bribes and into what bank accounts money was paid. But, obviously, corruption did not start with the ANC – it had a long legacy before that. But, could I put a challenge to Tony that perhaps COSATU could prevail on its ANC alliance to actually take corruption seriously and if it is going to do so, then it should do so with the arms deal, which is kind of the 'original sin' of what has been released subsequently in South Africa. We could wrap up the arms deal in 2 weeks if people were serious just on the basis of plea bargaining based on the affidavits.
5. I would like to throw a challenge to Tony about the linking of corruption to the broader socio-economic conditions in the country. My domestic worker earns less than what it costs me to send my kids to a private school. When she sends her kids to school, she expects that teacher irrespective of the socio-economic conditions in the Eastern Cape to come to school and teach those kids with the same commitment that my son's teachers show. I read a report that said that is Niger that is one of the poorest countries in the world but also has one of the lowest crime rates so this linking of poverty and corruption is not sufficient.

Tony Ehrinreich

Zwelinzima Vavi earns R36 000 per month and the lowest level administrator of COSATU earns R8000 and the other salaries are in between that. It is on the website of COSATU. In the unions there is a big push to deal with this issue of the Apartheid wage gap and we need to address that. I think that this is still too far away from our members which means that our staff is still too removed from the lived experiences those that we represent.

The broader issues of corruption in our society arise when the society does not act consciously enough to confirm the promises that it makes. The state then complains that it does not have enough money as per the *Grootboom* case. But, they had money to spend on arms and all kinds of other things.

Much of our leadership has lost their way and many are corrupt – this is the reality of arms deals everywhere. And hence, they are trying to cover their arse's in Parliament. We as COSATU must stand very clearly and say that no corruption should be hidden away and where we are aware of it, it must be exposed. But, there are powerful vested interests that don't allow this to happen. I don't think that COSATU would ever say that we must not get to the bottom of the Arms Deal. We must use the space that has emerged in the ANC. A big part of the battle around Mbeki and Polokwane was that comrades felt that many people in that administration were corrupt and had used the state to enrich themselves. And we did not want the new administration to do the same. And this is the difficulty about the post-Polokwane coalition that voted Jacob Zuma into office. And certainly the unions would not want to be a part of these corrupt practices. The General Secretary (Vavi) is now taking about the 'predatory state' where politicians use the state to get to tenders, to get to access to resources to enrich themselves. But, this is a huge political battle and we must expose everyone who has used the state in this way, including Jacob Zuma if he is involved because he has taken a public stance on corruption. I hope that his commitment to fighting corruption is a genuine one.

My final comment is about the teacher and the domestic servant. There is no issue – the public servant must work and that teacher must apply themselves with the same dedication as a teacher in a private school. But, there is a very different reality. In a township school, teachers have 60 kids in a class and they have classes every period. In a fancy school, they have 25 children in a class and classes every 3rd or 4th period. It is just the environment. We can say that in our experiences there are slight differences but this is the overall picture. We have organized teachers and we know what the conditions are like from schools where Helen Zille sent her child (Westerford). There was a survey done at Westerford and one done at a school in Khayelitsha which highlighted these kinds of disparities. Notwithstanding that, the teacher must work. In township schools, the conditions are just so much more difficult – children are often malnourished, there are too many kids, not enough textbooks etc. The point, however, is that every child has the right to the educational experiences

that gives them the opportunity to pursue their potential. We want to put into place policies that allow everyone access to the same kinds of resources that we want for ourselves.

Advocate Lolwane

I wanted to deal with 2 questions.

Firstly, disclosure of director's salaries.

Public companies have to disclose to the public. Their financial reports are there and you have the right to know how the money from that company is spent as a shareholder including the remuneration of directors.

However, in a private company or a closed corporation, they do not necessarily disclose information on that score. But we are moving away from closed corporations in general and by next year, you will not be able to register a closed corporations (you will need to register a public company). But there is the Access to Information Act that limits certain information from being attained: where information is confidential and privileged. Public servant's salaries are well known and as you know, they have to be published now. This is why we need lifestyle audits because if it is found that a public servant is earning R700 000 per annum and he owns a catamaran in the South of France, I mean how the hell does that happen?

The second question is the arms deal – it has been around since time immemorial. It is a conundrum and a quagmire. It involves a lot of people who need to be clear as to what their involvement was. As you know, De Lille started this whole thing but unfortunately she got married and I don't know what happened to her thoughts thereafter but now the DA is pursuing this argument. And it is an issue because we need to know what happened there. But I think that it will die a natural death or someone will push it through because there is a lot at stake. If you have to expose it, I am not sure who is going to be left.

Dr Iraj Abedian

On the question of other countries that have done it – yes, there are many other countries. New Zealand, the country with the least perception of corruption, in the 1970s was as rotten as SA is today. These things can be done. Australia is one of the cleanest countries but was very dirty at one stage. But, Australia, along with New Zealand, Malaysia and the UK in the 1980s started a process of public management reports. There are a number of books written about it, which is exciting because we can talk ourselves into depression otherwise. The reality is that these are social phenomenon that we can solve them. As a nation, if we begin to talk about these things and acknowledge that these are the road to nowhere, then we all know that we have to get to the road to somewhere. The problem is that we are so often quiet about this because we feel that no one will listen. The interesting thing is that in Australia it was the left of centre government who said that they would crack the whip on teachers/doctors as well as on the capitalists who abuse the

system as well as on the management of businesses. The pretense that we are up against a power that we cannot tackle is nonsense – we have to let go and realize that this is a power that we need to tackle. This is the moral responsibility that we have. The prospect is exciting enough to go through hell to get it done.

Note: Section Two of this paper draws heavily on “Fighting corruption: Balancing Morality with Systemic Governance” by Iraj Abedian, Tania Ajam and Conrad Barberton, September 9th, 1999, AFReC, UCT.

1. ⁱ Goel, R and Nelson, M (2010) Causes of corruption: History, geography and government. Journal of Policy Modeling (32) pp.433-447
2. ⁱⁱ The word "aetiology" is mainly used in medicine, where it is the science that deals with the causes or origin of disease, the factors which produce or predispose toward a certain disease or disorder.
3. Dye, K. and Stapenhurst, R. (1998) “Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption, EDI Working Paper, Economic Development Institute, World Bank, Washington DC
4. Klitgaard, R. (1998) “International Co-operation against Corruption”, Finance and Development, March 1998
5. Tanzi, V. (1988) Corruption around the World: Causes, Consequences, Scope and Cures, IMF Working Paper 63, IMF, Washington DC.