

# **POLYCENTRIC GOVERNANCE AS A MEANS TO LIMIT CORRUPTION**

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In September 1996, the president of the World Bank, James D Wolfensohn, committed the Bank to “fight the cancer of corruption”. This drive helped catalyze a global response to the problem of corruption, which is endemic in many countries. Since Wolfensohn’s announcement, the literature on corruption has mushroomed. This literature covers many aspects of the phenomenon, such as its nature, its costs and benefits, its optimal quantity and the possible means of limiting corruption. Numerous anticorruption measures are mentioned and discussed, from writing anticorruption laws and establishing anticorruption units to revamping systems of governance. In respect of the latter, some attention has been paid to the transformation of totalitarian to democratic systems to governance. However, as far as could be established, little attention has been paid to different kinds of democracy and, in particular, polycentric versus unicentric democratic governance as a means of limiting corruption. This paper aims to stimulate discussion on the latter topic.

## **1 The nature of corruption**

Corruption is often defined as the abuse of public office for personal gain (comp Nas, Price & Weber 1986:108; Goudie & Stasavage 1997:11; Tanzi 2000:111; World Bank 2001:1; Fjeldstad & Tungodden 2003:1460). Corruption may occur on various levels of governance, as well as among politicians, senior and junior bureaucrats. One of the early contributors to the modern literature on corruption, Robert Klitgaard (1988:xi) states that “Corruption exists when an individual illicitly puts personal interests above those of the people and ideals he or she is pledged to serve”. This description conveys the fact that corruption does not only occur in government, but in the private sector as well. Any agent illicitly reaping some personal benefit by acting at variance with the principal’s expectations would be acting corruptly. While

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accepting the validity of this broader view (see also Rose-Ackerman 1975:187), this paper focuses on corruption by politicians and bureaucrats involved in government and public enterprises, with or without the complicity of persons in the private sector.

Corruption consists of illegal activities. Since bodies of law differ from country to country, the precise meaning of the term “corruption” also differs from country to country. While a large proportion of the literature on corruption deals with bribery, corruption may take many forms and range from the trivial to the monumental (Klitgaard 1988:xi). Tanzi (2000:111) mentions two examples of corruption that does not involve the payment of bribes. A public employee claiming to be sick, but goes on vacation is abusing his public position for personal use. The president of a country who has an airport built in his small home town is also engaging in corruption that does not involve the payment of bribes. The first example is presumably an instance of what Tanzi calls bureaucratic or petty corruption; and the second of what he terms political corruption: “corruption by the political leadership”. For the purposes of this paper petty corruption is defined as corruption by lower-level bureaucrats, without the knowledge and assistance of senior superiors. Grand corruption would then be corrupt acts by politicians and senior bureaucrats, with or without the assistance of bureaucrats on lower levels. Grand corruption may occur in a network of corrupt politicians and bureaucrats formed across several levels of governance, accommodating the need to co-opt and silence potential whistleblowers. Both petty and grand corruption may be limited by means of polycentric governance.

## **2 Polycentric governance**

A fundamental feature of polycentric or federal governance is the absence of hierarchies of governments controlled from the top down. Such hierarchies are characteristic of unicentric or unitary systems of governance. A unicentric system of governance might consist of a national government, provincial governments and local governments, where the provincial governments are subordinate to the national government; and the local governments in a province to the relevant provincial government. Each provincial government has the power to overrule any decision of a local government in its area of jurisdiction, while the central government has the power to overrule any decision of a provincial or local government. In other words, all governmental power ultimately resides in one centre - the national government (often called the “central government” in such systems).

A polycentric or federal system of governance might also consist of a national government, provincial governments and local governments. The fundamental difference between polycentric and unicentric governance does not lie in the observable units of government, but in the invisible lines of authority between them. In a pure polycentric system of governance each government is answerable to the citizens in its area of jurisdiction, not to another government.

At the same time, in a polycentric system of governance a given person is a citizen of more than one government: at least one local government, a provincial government and the national government. If a local government treats one of its citizens unfairly, the citizen may request the provincial government to look into the matter, not because the local government is subordinate to the provincial government, but because the provincial government is an agent of the citizen. Depending on the wording of the provincial government's constitution, one of its functions might be to investigate complaints against the local government. For example, if the local police are corrupt, citizens of the local government could lay a complaint against them at the provincial police department. This does not mean that the local police department is subordinate to the provincial police department, but simply that the provincial police may investigate whether or not the local police are guilty of a specific transgression of the law. The provincial police would investigate complaints against individuals or companies in its area of jurisdiction in a similar fashion.

Such overlapping jurisdictions (Ostrom 1987:129-130) render it more difficult for politicians and bureaucrats to construct and maintain corrupt networks than in a unicentric system of governance. The chiefs of the various police departments in the polycentric system would typically be chosen by the relevant citizens in regular elections. They would be sensitive to the preferences of the citizens, who could oust them if they engage in or tolerate corruption in their departments. Corrupt networks take time to build up. If one officer would take bribes to look the other way, while others would not, that officer could hardly guarantee the bribers that they would not be caught. The other officers have to be brought in on the deal. People may have to work together for several years before enough mutual trust develops between them to strike such deals. Regular elections are likely to disrupt the process. Where acts of corruption require cooperation between police officers in different governments, say local and provincial, the process of cultivating such cooperation can be further disrupted by staggered terms of office (see Ostrom 1987:148-149).

By contrast, in a unicentric system there might simply be one national police department with a hierarchy of branch offices. The entire staff complement is likely to consist of government appointees, who would be sensitive to the preferences of their superiors rather than to those of the citizens in the relevant area. In addition, they are likely to have permanent appointments, not subject to regular review as in the case of elected officers. Such permanent employees work together for years on end and could gradually build up corrupt networks.

Similar analyses may be made for other functions of government, for example, income tax collection, customs and excise, defence, health services and education.

Another characteristic of polycentric governance is the separation of legislative, executive and judicial powers (Ostrom 1987:141-145, paraphrasing Madison). Whereas these powers are not “kept absolutely separate and distinct”, those wielding them must be free to exercise vetoes on one another. They “should derive their tenure from different constituencies”. This is not always easy to achieve, particularly in the case of the judiciary. While judges may be appointed by the executive, Madison anticipates that permanent tenure “will destroy their dependence upon the authority conferring appointment”.

The separation of powers is of particular importance in curbing grand corruption, especially by the executive head of a government. Ibanda-Nahamya (1995:407) cites a contrary example. The Leadership Code in Uganda provides for the minimum standard of behaviour of leaders and establishes a Leadership Code Committee (LCC) to ensure compliance with the Code. The statute defines “leader” to include the President and the National Resistance Council (NRC), yet the members of the LCC are appointed by the President on the advice of the NRC. Furthermore, the President on the advice of the NRC may remove members of the LCC for misbehaviour or inability to perform their duties. The statute does not define “misbehaviour”. Ibanda-Nahamya appropriately asks “whether it is possible for the LCC to carry out its work without interference from such persons”. She also points out that the criminal justice system is not immune to corruption and that the Ombudsman, whose primary role is to curb corruption, is directly responsible to the President (Ibanda-Nahamya 1995:412-413).

Mbaku’s (2000:125-130) description of constitution-making in Africa prior to decolonisation leaves the impression that similar situations exist in several countries.

Theoretically, the *design* of a polycentric system of governance to limit corruption is fairly straightforward. However, the *implementation* of such a system may not be straightforward at all. Having discussed less radical ways of limiting corruption, Banerjee (1996:128) concludes: “In the real world, the real constraint on corruption reform may not be the economist’s ability to come up with a better *mechanism*, but rather the political economist’s ability to design a *process* that would allow this mechanism to be put in place” (my emphasis).

The chance to implement polycentric governance in a country occurs relatively seldom, since it requires major constitutional change. If the country has a totalitarian or unitary democratic system, a radical change will be required. In fact, most people in the country are likely to find the principles underlying polycentric governance alien and difficult to grasp. The process of “reflection and choice” will require a major campaign of educating the drafters of the new constitution, as well as the public who (or whose representatives) will eventually have to vote for or against the implementation of the new constitution, as at the time *The Federalist* papers were published in the US (see Ostrom 1987:60-65). In addition, any educational campaign in favour of polycentric governance is likely to be opposed by another campaign against it. Whether or not anyone will actually undertake a campaign in favour of polycentric governance is a moot point. A few academics with full-time jobs and without financial backing to run an educational campaign are unlikely to accomplish much.

### **3 The will to limit corruption**

Suppose that in a given country, a new constitution is to be drafted by a convention of political parties and militias emerging from a civil war. Even if the leaders of these groups understood the principles underlying polycentric governance and the fact that such a system could limit corruption, they might not have the will to limit corruption through constitutional design. They might be political entrepreneurs seeking public office *because* they want to abuse it to enrich themselves and their allies. Limiting corruption would not be one of their goals in designing the constitution.

Furthermore, each of the leaders might envisage his or her group as the ruling party under the new constitution (preferably with him- or herself as the head of government) and would not want its political power to be limited, for whatever reason. Only leaders that envisage their groups as minority parties after the first and most other elections would favour limitations on the power of the ruling party and the head of government. They would accept limitations on

their own power, in the event of their running the government for a limited period, as a quid pro quo for limiting the power of other governments.

Could international pressure, for example from donors, be brought to bear on the convention to design a polycentric constitution that would limit corruption? It is difficult to tell. Many donor countries themselves do not have polycentric systems of governance. They may favour some form of democratic governance, but to induce the convention to design a democratic constitution, they would have to make some promise or threat. They are unlikely to promise aid irrespective of other concerns, such as the use of the grant and the economic policy of the yet unknown government-to-be. Neither would a threat not to grant aid merely because of the nature of the future constitution be credible.

Ginwala (1998:72) raises the point that “Corruption in the developing world is linked to corruption in the West”. To her knowledge, only the US has made it illegal for its citizens to bribe foreign officials, while in Austria, Australia, Belgium, Canada, Denmark, France, Germany, Greece, Ireland, Luxembourg, the Netherlands, New Zealand, Norway, Spain and Switzerland bribes are tax deductible (Ginwala 1998:64). She does not quote any source for the latter statement and since bribees are unlikely to issue receipts to bribers, it would be interesting to know how bribers prove these expenses to the tax authorities. Nevertheless, if citizens of developed countries may bribe foreign officials with impunity, it is a sign that the governments of these countries may also lack the will to eradicate corruption in countries other than their own.

Domestic or international pressure might be brought to bear on an existing regime to revise a country’s constitution, thereby limiting corruption. If that regime, and in particular the head of government, had been involved in corruption, the individuals concerned would have incentives to resist particular limitations on their power. Even a head of government who is genuinely willing to abstain from corruption in future, may resist a clause to limit his or her tenure to, say, two terms, for fear that the successor might have him or her accused and punished for past sins.

Another danger is that a constitution bringing about a well-designed polycentric system of governance may be suspended in future. In several African countries military elites have captured the government through a coup d’état, dissolved legislatures or national assemblies and abandoned or suspended the constitution (Mbaku 2000:155).

Mbaku (2000:152-153) writes that African countries hastily adopted constitutional rules at independence, because Africans were not willing to postpone their independence for “proper constitution making”. Once indigenous elites had “captured the evacuated structures of colonial hegemony”, they “rarely made any effort to engage the people in the type of constitutional discourse that would have provided each sovereignty with relevant, viable and effective laws and institutions”. Instead, the new African leaders employed the colonial structures “to exploit the people, and to plunder the economy for the benefit of the ruling elite. ... The result was pervasive corruption, worsening poverty, and the marginalization of many people and communities.” It is not clear how the ruling elites can nowadays be induced to engage in proper constitution making.

#### **4 Cultural values**

Whether or not the will to design and maintain a corruption-limiting constitution exists in a given society, depends, at least partly, on the dominant cultural values in that society. If the vast majority of the people value honesty and find corruption abhorrent, most of the leaders are likely to share these values.

However, the exact content of a value such as “honesty” may vary from country to country. Tanzi (2000:91) summarises research by Prakash Reddy, an Indian sociologist who compared human relationships in a Danish and an Indian village of roughly the same size. The Danish villagers hardly knew one another, rarely exchanged visits and had few other social contacts. They hardly knew what other villagers, including their neighbours, were doing and apparently had little interest in finding out. The relationship between parents and children was not very close. When children reached adulthood, they moved out and then visited their parents only occasionally. By contrast, daily house visits were common in the Indian village. Everyone was interested and often involved in the business of the others. Family contacts were frequent and members of extended families supported one another in many ways. Relations with neighbours were close.

Tanzi, who prefers to define corruption as non-adherence to the arm’s length principle, which “requires that personal relationships should play no part in economic decisions involving more than one party” (Tanzi 2000:88), points out that the contrast between the Danish and Indian villages has implications for the concepts of arm’s length and corruption. The arm’s length principle would be likely to prevail in the Danish village, but would seem strange, alien and

even immoral in the Indian village. In the latter, relatives and friends would simply expect preferential treatment when dealing with individuals in either the private or the public sphere. An attempt to create an impersonal bureaucracy would conflict with the accepted social norm that family and friends come first. The government employee, just like any other individual, would be expected to help relatives and friends with special treatment or favours, even if it occasionally meant bending or even breaking administrative rules. The person who refused this help would be seen as breaking the prevailing moral code and be ostracized (Tanzi 2000:91-92).

The Indian village is probably representative of most villages in traditional areas in the Third World. In such a village, practically all the residents are members of the same extended family. Each would expect related bureaucrats to extend them some form of special treatment at some time, depending on the pecking order in the extended family. Each would also accept that the other family members are entitled to some special treatment at some time. If the bureaucrat worked for a village government, the conflict between accepted social behaviour and the application of the arm's length principle would not arise. However, if the bureaucrat were employed by a government serving more than one village, of which only one accommodated his or her extended family, the conflict would be very real.

Polycentric governance could provide at least a partial solution through devolution (not mere decentralization) of as many government functions as possible to village governments. This implies that a ready-made polycentric constitution cannot be applied to all countries. Instead, each country should design its own constitution, based on first principles, so that its cultural values can be accommodated as far as possible.

## **5 Information**

Neoclassical microeconomics rests on the assumption that market participants are globally rational, that is, that they have full information and perfect ability to use the information. This assumption has been transported into the public-choice literature on polycentric governance. A successful system of polycentric governance indeed depends on the vast majority of voters being well informed and able to reason about matters of governance, so that they can act against unsatisfactory behaviour of politicians and bureaucrats. However, in many Third World countries an assumption of severely bounded rationality would be far more realistic.

In other words, the successful implementation of a system of polycentric governance would require free private media that will inform the public of all government actions, as well as corrupt activities by individual politicians and bureaucrats. Buckley (2002:189) underlines the importance of freedom-of-information laws, which must provide the fullest possible access to government information and documentation about procurement, funding, service-provision and contracting. She warns that even then, there can be subtle but effective legal impediments to anti-corruption initiatives, such as anti-defamation laws that may be so daunting that individuals and organizations find it too risky to make allegations about suspected corrupt practices. There should be a balance between freedom-of-information laws and anti-defamation laws.

Providing the public with information is one side of the coin. The other side is the public's ability to understand and act upon the information. In many Third World countries the level of adult literacy is relatively low. Though illiterate people can be reached through radio and television, they probably lack the vocabulary and understanding to follow many of the reports on matters of governance. This might be a reason for the apathy about corruption found in Third World countries that Hope (1996:135) refers to.

It is a bitter irony that the problem of illiteracy and inadequate education in Third World countries is intensified by corruption. If bribes are required to gain access to educational facilities, the poor will be excluded (Banerjee 1996:108). Even more frightening than such petty corruption is that grand corruption could reallocate government spending away from education and toward defence and physical infrastructure, since the producers of weapons and physical infrastructure pay higher bribes than suppliers of educational materials (Thomas et al 2000:145-147). A vicious circle exists: corruption leads to inadequate education, which helps to maintain corruption. External intervention to improve education, for example, by church missions and other nongovernmental organisations, could help to break this vicious circle.

## **6 Willingness to act against corruption**

Ostrom (1987:157) points out that the workability of a federal system depends in part on the willingness of citizens to practice civil disobedience. Similarly, citizens must be willing to blow the whistle against corruption and accept the personal consequences of that act. It is desirable to provide special protection for these "brave individuals" (Buckley 2002:188).

## 7 Conclusion

Polycentric governance may be a method of limiting corruption, but the implementation of that method is subject to a number of preconditions. Firstly, those involved in the design and upholding of a new constitution for a country must have the will to limit corruption. Secondly, each country should design a polycentric constitution for itself, based on first principles, so that its cultural values can be accommodated as far as possible. Thirdly, the operation of polycentric governance requires a free flow of information. A balance must be struck between freedom-of-information laws and anti-defamation laws. In the fourth place, education must be improved to enhance literacy and reduce apathy about corruption and governance in general. Lastly, whistleblowers against corruption should be granted special protection. Fulfilling some of these conditions will probably require involvement by the international community.

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