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NEW APPROACHES TO ADDRESSING CORRUPTION IN THE CONTEXT OF U.S. FOREIGN ASSISTANCE WITH EXAMPLES FROM LATIN AMERICA AND THE CARIBBEAN¹

Steven E. Hendrix²

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1. This article is primarily drawn from the United States Agency for International Development's (USAID) 2005 report, "USAID Anticorruption Strategy." The author of this article, Steven E. Hendrix, was one of the chief contributors to the report. This article includes additional examples and illustrations from Mr. Hendrix's research and work with USAID. However, it reflects the personal opinion of the author and does not necessarily represent the position of USAID or the United States Government. The "USAID Anticorruption Strategy" was republished in January 2005 and can be located online at http://www.usaid.gov/policy/anticorruption_strategy05.pdf.

2. Mr. Hendrix is a Team Leader for Democracy Programs with USAID/Nicaragua and a Senior Research Fellow with the International Human Rights Law Institute, DePaul University College of Law. The author acknowledges and thanks Eryk Gettell and Ava Sadripour for their editing and research support.

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No problem does more to alienate citizens from their political leaders and institutions, and to undermine political stability and economic development, than endemic corruption among the government, political party leaders, judges, and bureaucrats.

USAID, *Foreign Aid in the National Interest*, 2002³

I. INTRODUCTION

A powerful global consensus has emerged that addressing corruption and establishing good governance is essential for the successful development of people, markets and nations. For example, during the 2002 Financing for Development meeting, over fifty heads of state committed their nations to the "Monterrey Consensus," calling for increased foreign aid resources in response to enhanced governance.⁴ Similarly, the United States Government's Millennium Challenge Account (MCA) strives to match resources to good policy environments, but still singles out controlling corruption as the difficult hurdle that must be cleared before any other aspects of performance are considered.⁵ Finally, the United Nations General Assembly recently approved, and nearly 100 nations have signed, the "United Nations Convention against Corruption."⁶

While the United States Agency for International Development (USAID) and the State Department have both spent many years addressing corruption, this issue was made a greater priority within the past year. For

3. USAID, *FOREIGN AID IN THE NATIONAL INTEREST: PROMOTING FREEDOM, SECURITY, AND OPPORTUNITY* 40 (2002), at http://www.usaid.gov/fani/Full_Report-Foreign_Aid_in_the_National_Interest.pdf.

4. International Conference on Financing for Development, Monterrey, Mex., Mar. 18-22, 2002, U.N. Doc A/CONF.198/11 Report of the International Conference on Financing for Development, ¶ 13 ("Fighting corruption at all levels is a priority. Corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication and economic and sustainable development").

5. Overview of The Millennium Challenge Account, available at www.mca.gov/about_us/overview/index.shtml (last visited Nov. 19, 2005).

6. United Nations Convention against Corruption (Oct. 31, 2003), at http://www.unodc.org/unodc/en/crime_convention_corruption.html.

example, the Department of State and USAID's *Strategic Plan: Fiscal Years 2004-2009* determined that the "[State] Department and USAID policy regarding assistance will support and encourage governments that fight corruption and safeguard the rule of law, pluralism, and good governance."⁷

USAID is one of the world's leading sources of programming in the field of anti-corruption. It has made important contributions to reducing the opportunities for corruption through administrative simplification efforts, procurement, financial management, tax, customs and budget reforms, and providing access to information systems. USAID also helps support stronger and more independent judiciaries, legislatures, audit offices, and other oversight bodies. Finally, USAID works to promote independent media, civil society oversight, and public education efforts within foreign countries.

Despite these various anti-corruption efforts throughout the world, corruption remains a tremendous impediment to political, social, and economic development. This is hardly surprising given that, not ten years ago, many governments and international organizations avoided public discussion of corruption, let alone programs to address the issue. Additionally, the private gains from corruption are so great that anti-corruption reformers often face tremendous resistance from powerful vested interests. While progress in constraining corruption has occurred in isolated cases, in the aggregate, the problem of corruption has not measurably diminished.

Part I of this article defines corruption and discusses why its eradication is a beneficial goal. Part II analyzes recent trends in both U.S. policy and USAID programming which suggest some new perspectives and approaches. Part III examines several positive developments already under way which will help contribute toward USAID's anti-corruption efforts such as programming focused on preventive approaches. These programs appear to be moving in the right direction, but they must be accelerated to ensure their effectiveness. Lastly, Part IV of this article summarizes five measures to not only help combat key knowledge, resource, and operational constraints, but also help improve the effectiveness of USAID anti-corruption efforts.

7. U.S. DEPARTMENT OF STATE & USAID, *DEPARTMENT OF STATE AND USAID STRATEGIC PLAN: FISCAL YEARS 2004-2009* 28 (2003), available at <http://www.state.gov/s/d/rm/rls/dosstrat/2004/>.

II. WHAT IS CORRUPTION AND WHY SHOULD IT BE A CONCERN?

USAID defines corruption as the abuse of entrusted authority for private gain. Inherent in this definition is the notion that while public sector corruption is especially damaging, it cannot be realistically dealt with in isolation from other forms of corruption within political parties, the private sector, associations, non-governmental associations (NGOs), and society at large. Therefore, corruption encompasses not only the abuse of public office, but the abuse of power within other offices as well. Furthermore, this broad definition reflects the notion that while corruption involves the seeking of an immediate personal gain, it also includes the abuse of entrusted authority in seeking any private gain, such as the siphoning of public funds to finance an incumbent's reelection campaign. Under this working definition, not all illegal activities are corruption, nor are all forms of corruption illegal.

This broad definition includes concepts of both "grand corruption" and "administrative corruption." Grand corruption generally includes exchanges of resources, access to rents, and other competitive advantages for privileged firms and their networks of elite operatives and supporters, such as high-level officials in the executive, judiciary, legislature, or political parties.⁸ Conversely, administrative corruption typically refers to smaller transactions and mid- and low-level government officials. The greatest distinction between the two forms of corruption is that administrative corruption reflects specific weaknesses within the different systems (i.e., principal-agent-client problems and capacity), while grand corruption involves the distortion and exploitation of entire systems for the benefit of private interests. Thus, administrative corruption is the most visible dimension of the problem, but by no means the only one.

A. *Corruption and Development*

As we enter the 21st Century, more people throughout the world are rejecting the notion that corruption is inevitable. Success [in fighting corruption] depends on impartial democratic institutions, open elections, and an unfettered access to information. Success also requires leadership by the private sector and active participation by citizens. Promoting

8. Grand corruption can be found across a range of regime types, including countries with high levels of state capture where private interests effectively purchase public influence, laws, and regulations as well as predatory states where the state extorts funds from the private sector through arbitrary and extra-legal means.

integrity in government and the marketplace improves the global governance climate, nurtures long-term growth, and extends the benefits of prosperity to all people.

Secretary of State Colin Powell, May 2001⁹

Corruption must be addressed because it undermines social, political, and economic development. For one, corruption impairs service delivery, particularly for the poor. The 2004 World Development Report, *Making Services Work for the Poor*, finds almost no relationship between public sector social spending and outcomes.¹⁰ As summarized by The World Bank Group, the reasons for these failures include "weak incentives for performance, corruption, imperfect monitoring (if at all), and administrative logjams."¹¹ However, by improving the productivity of public expenditures, tracking and reducing leakage, and enhancing citizen oversight, anti-corruption efforts can help support the achievement of "Millennium Development Goals" in health, education, social safety net programs, water supply, and infrastructure.

Second, corruption cripples democracy. Perceptions of rampant corruption contribute to the public's disillusionment with democracy in Latin America and elsewhere. Corruption weakens both the legitimacy and effectiveness of new democracies by undermining democratic values of citizenship, accountability, justice, and fairness, especially when it permeates the courts. It also weakens free speech and public accountability, particularly when it reaches into the media sector. Corruption violates the social contract between citizens and their elected representatives because it elevates the interests of the few over the many. Corrupt parties are able to effectively bar new entrants from competing for political offices and block efforts to consolidate weak democracies by redirecting public resources to finance their reelection campaigns. Moreover, when nepotism and cronyism divert public resources to favored groups, it creates strong grievances that contribute to conflict, especially if these cleavages follow preexisting fault lines in society such as economic, religious, or ethnic divisions.

9. U.S. DEPARTMENT OF STATE, FIGHTING GLOBAL CORRUPTION: BUSINESS RISK MANAGEMENT 2001-2003, iii (2001) (A Message From Secretary of State Colin L. Powell), available at <http://www.state.gov/g/in/rls/rpt/fgcrpt/2001/3140.htm>.

10. See generally THE WORLD BANK GROUP, WORLD DEVELOPMENT REPORT 2004, MAKING SERVICES WORK FOR POOR PEOPLE, available at <http://www-wds.worldbank.org/navigation.jsp?pcont=browdoc> (follow "World Development Report" hyperlink, then follow "World Development Report 2004 : Making services work for poor people Vol. 1 of 1 (English)" hyperlink).

11. *Id.*

Third, corruption impedes economic growth because it distorts public investment in infrastructure and other key public goods, deters direct foreign investment, encourages firms to operate in the informal sector, leads to the auctioning of property rights, deforms the terms of trade, and weakens the rule of law. Small- and medium-sized enterprises are disproportionately affected by corruption. For example, when farmers are forced to make corruption payments along transportation routes, their gains from bringing products to markets, near or far, are reduced. In some nations, powerful firms are able to effectively "capture the state" by purchasing laws and regulations that shield them from competition, and by blocking reforms that would benefit the majority of firms.¹² Enormous unaccounted losses in the energy sector also weaken the quality and sustainability of electricity. Finally, crony lending and weak supervision may lead to the misallocation of credit, which could potentially result in banking sector collapses.

Although anti-corruption programs are not the 'silver bullet' to ending corruption, the failure to address widespread corruption ultimately undermines all development efforts. Political, economic, and social reforms can all help establish a more constructive environment to combat corruption. More open economies, liberal democracies, and improved human development would help contribute to the opportunities and capacities to control corruption. However, the reverse is equally true.

Corruption must also be addressed in conjunction with political, economic, and social reforms to advance the successes of each. For example, in the political arena, democracies dramatically vary in their performances. Many young, partial democracies have failed to show that they are significantly less corrupt than the authoritarian regimes that preceded them.¹³ Economies cannot simply grow their way out of corruption either. Research illustrates that while good governance appears to have a strong causal effect on per capita incomes, per capita incomes only have weak, or even negative effects on governance, in part because corrupt elites may capture many of these economic gains.¹⁴ Similarly, commitments to allocate greater public spending toward poverty reduction

12. THE WORLD BANK GROUP, ANTICORRUPTION IN TRANSITION: A CONTRIBUTION TO THE POLICY DEBATE 9, 71 (2000), at www.worldbank.org (follow "Data & Research" hyperlink; then type "Anticorruption in Transition" in "search" function; then follow "Anticorruption in Transition" hyperlink).

13. PHILIP KEEFER, CLIENTELISM, CREDIBILITY AND DEMOCRACY 26, (2004), available at <http://www.worldbank.org/research/wdr/WDR2004/papers/keefe.pdf>.

14. Daniel Kaufmann and Art Kraay, *Growth Without Governance*, ECONOMIA, Sept. 25, 2002, at 169, 169.

will not be successful unless governments can come to terms with corruption.¹⁵ In 2003, the Asian Development Bank estimated that one-third of public investment within many countries in the region was being squandered on corruption.¹⁶

B. *Corruption and U.S. National Security*

Poverty does not make poor people into terrorists. . . Yet poverty, weak institutions and corruption can make weak states vulnerable to terrorist networks and drug cartels within their borders.

President George W. Bush, U.S. National Security Strategy, September 2002¹⁷

USAID's efforts to address corruption in developing countries strengthen the United States' national security. The U.S. National Security Strategy (NSS) argues that development directly contributes to U.S. national security.¹⁸ The NSS conveys the need to fight corruption in order to address global threats such as terrorism and international organized crime.¹⁹ Since corruption is truly a global phenomenon, its costs are borne by all countries. Four weeks following the September 11th attacks, the head of Interpol²⁰ addressed an international anti-corruption conference and stated, "[f]rankly, ladies and gentlemen, the most sophisticated security systems, best structures, or trained and dedicated security personnel are useless if they are undermined from the inside - by a simple act of corruption."²¹

15. THE WORLD BANK GROUP, *supra* note 9, at 32; See Vito TANZI AND HAMID DAVOODI, CORRUPTION, PUBLIC INVESTMENT, AND GROWTH (1997) (concluding that corruption is associated with higher rates of public investment and with lower productivity of public investment), available at <http://www.imf.org/external/pubs/ft/wp/wp97139.pdf>.

16. Geer H.P.B. Van der Linden, Vice-President Asian Dev. Bank, Address at 4th Reg'l Anti Corruption Conference for Asia and Pacific, (Dec. 3, 2003), available at <http://www.asiandevbank.org/Documents/Speeches/2003/ms2003099.asp>.

17. THE WHITE HOUSE, THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 4 (2002) (Introduction by President George W. Bush), available at <http://www.whitehouse.gov/nsc/nss.pdf>.

18. *Id.* See generally U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, *supra* note 3 (providing an in-depth discussion of the relationship between foreign aid and U.S. national security).

19. THE WHITE HOUSE, *supra* note 17, at 4.

20. Interpol is the largest global police force throughout the world and it focuses on preventing terrorism, organized crime, drug-related crimes, financial and high-tech crimes, human trafficking, and supporting fugitive investigations.

21. Ronald K. Noble, Interpol Sec'y Gen., Address to 10th International Anti-Corruption Conference (Oct. 8, 2001), available at

III. USAID'S ROLE IN U.S. ANTI-CORRUPTION EFFORTS

USAID is currently working with a wide-range of U.S. Government agencies in order to address corruption globally. Most of USAID's coordination efforts are with the United States Department of State. USAID cooperates with bureaus on formulating U.S. positions on international conventions, such as the United Nations Global Convention Against Corruption, participates in international conferences like the Global Forums Against Corruption, incorporates good governance into regional initiatives, such as the Middle East Partnership Initiative, and develops anti-corruption procedures into emergency response measures, such as with Hurricane Mitch and other natural disasters. Additionally, USAID assists in creating and implementing National Security Council-led initiatives such as the G8 Transparency Action Plan,²² which primarily targets corruption in countries with heavy reliance on revenues from extractive industries.²³ The Agency also works with U.S. Treasury Advisers throughout the world to improve budget, tax, and customs reforms, and to coordinate international financial institution and bilateral approaches. USAID coordinates with the U.S. Trade Representative on trade-related issues, such as the World Trade Organization (WTO) efforts to promote transparency in procurement. The Agency also works with the Department of Justice on improving the prosecutorial function and hopes to collaborate more closely with both the State and Justice Departments on efforts to address police corruption. Lastly, USAID cooperates with the Department of Commerce on improving corporate governance, commercial law reform, and other related areas.

Additionally, USAID interacts either directly, or in partnership with other U.S. Government actors, with a multitude of different international organizations. The Agency actively participates in the Organization for Economic Co-Operation and Development's (OECD) Development Assistance Committee,²⁴ a forum for the sharing of best practices and

<http://www.interpol.int/Public/ICPO/speeches/20011008.asp>.

22. See generally Official web site of the Evian Summit 2003, Fighting Corruption and Improving Transparency – A G8 Action Plan, <http://www.g8.fr/evian/english>, (last visited Nov. 19, 2005).

23. See USAID Democracy & Governance, Calls for Financial Disclosure in Extractive Industries, at http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/news/403_6.html.

24. The Development Assistance Committee (DAC) is the main entity through which the Organization for Economic Co-Operation and Development (OECD) deals with co-operation issues pertaining to developing countries. See generally OECD, Development Co-operation

experiences among bilateral donors, and it also regularly contributes to the OECD's Network on Governance,²⁵ with its focus on capacity development and governance. USAID collaborates with its U.S. Government colleagues in the planning and running of the biennial Global Forum on Fighting Corruption,²⁶ and it convenes the Donor Consultative Group for Latin America and the Caribbean through the Americas' Accountability/Anti-corruption Project,²⁷ funded by the Bureau for Latin America and the Caribbean. It advises the State Department in the work of the Committee of Experts for the implementation mechanism of the Inter-American Convention against Corruption by involving its missions and civil society in the review process.²⁸ The Agency also maintains friendly relations with many different bilateral donors, most noticeably, the United Kingdom's Department for International Development,²⁹ with whom it undertakes several joint training, research, and assessment projects. Lastly, USAID has paired with important international NGOs in areas such as the multi-year support for Transparency International,³⁰ and the recent inaugural contribution to establish their endowment fund.

USAID has also provided technical assistance to countries to address the root causes of corruption and help modify behaviors and incentives in the future (i.e., prevention). In this area, USAID can build on its development experiences across all key sectors and draw from its extensive

Directorate at <http://www.oecd.org/dac>, (last visited Nov. 19, 2005).

25. The OECD's Network on Governance is a global forum comprised of various agencies working to combat corruption and promote development. See generally OECD, Governance and Capacity Development at <http://www.oecd.org/dac/governance>, (last visited Nov. 19, 2005).

26. The Global Forum on Fighting Corruption is a forum that addresses practical and effective measures for preventing and combating corruption. See generally United Nations, IV Global Forum on Fighting corruption – "From Words to Deeds," available at http://www.unodc.org/brazil/global_forum_against_corruption_05.html, (last visited Nov. 19, 2005).

27. The Donor Consultative Group for Latin America and the Caribbean through the Americas' Accountability/Anti-corruption Project is an organized effort that strives to raise awareness about the devastating impacts of government corruption, and to promote transparency and accountability in the administering of public resources by Latin American and Caribbean governments. See generally the Respondat Introduction page, <http://www.respondanet.com/english/introduction.htm>, (last visited Nov. 19, 2005).

28. Adolpho Franco, Assistant Administrator for Latin America and the Caribbean, USAID Official Addresses Challenges Facing the Americas, (Mar. 2, 2005), available at <http://usinfo.state.gov/wh/Archive/2005/Mar/03-577330.html>.

29. The Department for International Development (DFID) is part of the United Kingdom's government that assists impoverished countries in overcoming extreme poverty. See generally <http://www.dfid.gov.uk>, (last visited Nov. 19, 2005).

30. Transparency International is an NGO that fights corruption by uniting civil societies, business, and governments into a global effort. See generally <http://www.transparency.org/>, (last visited Nov. 19, 2005).

experiences in institutional development, such as, engagement not only with national and local governments, but also with the private sector, political parties, trade unions, NGOs, universities, professional associations, and other actors to affect sustainable change.

IV. THE CURRENT CONTEXT FOR USAID ANTI-CORRUPTION WORK - WHERE USAID HAS BEEN AND WHERE IT IS GOING

Despite USAID's highly decentralized character, some general trends are readily apparent within the agency.

First, anti-corruption efforts within USAID are significant. According to a recent inventory of USAID anti-corruption programs, USAID invested \$184 million in the 2001 fiscal year, and \$222 in the 2002 fiscal year, in its effort to combat corruption.³¹ Within Latin America and the Caribbean alone, USAID programs totalled approximately \$35 million in the 2002 fiscal year. These expenditures not only include programs exclusively focused on fighting corruption, but also broader "good governance" programs with a significant anti-corruption component.

Second, roughly eighty-seven percent of USAID's current anti-corruption and good governance programs are primarily concentrated in two areas: (1) economic growth, and (2) democracy and governance. Other sectors such as the energy sector, environmental sector, and health sector each report that they have some programs addressing corruption, accounting for approximately ten percent. Lastly, the USAID sectors dealing with agriculture, basic education, urban programs, conflict, and the Office of Transition Initiatives report a small number of programs and account for the remaining three percent.

Third, USAID faces hurdles in buttressing high profile, credible reform efforts as they emerge. Extraordinary efforts are required to maintain current levels of USAID investment and include modest increases. Over the past year or so, major anti-corruption reformers have emerged in Kenya, Nicaragua, and Madagascar at the same time that these USAID budgets were being cut.

Fourth, USAID recognizes that enabling reform-minded professionals to act results in greater success and ongoing reform, even after USAID's funding has ceased. For example, leaders of the USAID-supported Justice

31. Official budget figures do not adequately capture USAID anti-corruption efforts. Only one sector, Democracy and Governance, has created a budget code of "Anti-corruption/Government Transparency and Accountability." This code accounted for \$23.6M in the fiscal year of 2001, but does not capture work in other sectors and does not include programs which have a broader focus but contain important anti-corruption elements.

Studies Center of the Americas (JSCA, also known as CEJA) in Chile ultimately succeeded in implementing Chilean criminal code reform and are now directing a regional clearinghouse for training and justice reform.³²

Fifth, USAID has a strong asset in its ability to support and foster dialogue between a wide range of stakeholders such as independent media, civil society mobilization, and other groups seeking to advance public awareness and policy dialogue. For example, as a result of USAID/Paraguay's journalism training program on anti-corruption, Paraguay's media has been better able to expose its citizens to public sector corruption.³³ The number of articles on corruption in the four national newspapers has increased by 226 percent since this effort was initiated in 2001.³⁴

Another emerging trend is that USAID missions are now adopting comprehensive and narrower approaches, such as free-standing anti-corruption commissions, which represent relatively modest portions of USAID spending. Anti-corruption commissions have become a popular strategy used by governments to spearhead and publicize government efforts to combat corruption.³⁵ They are very useful because they can combine different elements of prevention, investigation, and public outreach. For example, USAID/Honduras currently provides technical assistance to the National Anti-corruption Council, which was created by the President of Honduras.³⁶ Accordingly, the Council is developing a national anti-corruption strategy and action plan.³⁷

V. WEAKNESSES IN THE CURRENT APPROACH OR A NEW APPROACH TO COMBATING CORRUPTION

One of the weaknesses in USAID's "first generation" anti-corruption

32. USAID, USAID PROMOTES THE RULE OF LAW 9 (2005), at http://www.usaid.gov/locations/latin_america_caribbean/pdf/dg_ruleoflaw.pdf.

33. USAID, Democracy and Governance, Governance Success Stories, at www.usaid.gov/our_work/democracy_and_governance/technical_areas/governance/ss4.html.

34. USAID, FIELD PERSPECTIVES: A REPORT ON THE FIELD MISSION ANTI-CORRUPTION SURVEY 6 (2003), available at http://www.usaid.gov/our_work/democracy_and_governance/publications/ac/field_perspectives.pdf.

35. Maria del Mar Landette M., Combating Corruption: What the Ecuadorian Anti-corruption Agency Can Learn from International Good Practice (Sept. 2002) (unpublished paper, University of Birmingham, School of Public Policy, International Development Department), available at <http://www.yachana.org/ecuatorianistas/landette.pdf>.

36. USAID/Honduras, Increasing Efficiency at National Level, at <http://www.usaid.gov/hn/transparency.htm>.

37. *Id.*

programs was that it targeted administrative corruption, rather than grand corruption. The 1999 USAID *Handbook on Fighting Corruption* noted that "corruption arises from institutional attributes of the state and societal attitudes toward formal political processes."³⁸ The fundamental argument was that institutional and organizational reform would help address principal-agent failures linked to corruption,³⁹ and that public education efforts would help change public attitudes and increase the demand for political accountability.

However, the problem with a "principal-agent model" is that it offers little guidance when the principals themselves fail to act in the public's interest.⁴⁰ Yet this is too often the case. In an environment of rampant corruption, anti-corruption efforts must eventually confront grand corruption, or else the risk is run that the corruption will only be rearranged, rather than reduced. In addition, pursuing incremental approaches within these negative environments puts the efforts at risk of being hijacked by corrupt elites.

While institutional and societal factors are important to consider, it is also necessary to understand how imbalances between political and economic attributes can play major roles in corruption patterns. New research by Michael Johnston suggests that corruption not only varies across countries in its degree, but also in its form.⁴¹ Johnston argues that distinct "corruption syndromes" flow from: (1) the imbalances between evolving political and economic opportunities; (2) institutional endowments that can or cannot delineate and check unacceptable forms of political and economic competition; and (3) the overlay of these processes on complex, path-dependent social settings, including public attitudes and social mobilization, both reflecting and shaping relationships between wealth and power.⁴² Johnston also cites Samuel Huntington's conclusion that where

38. USAID, A HANDBOOK FOR FIGHTING CORRUPTION I (1999), available at www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnace070.pdf (the Handbook drew from Robert Klitgaard's "stylized equation" of corruption (CORRUPTION=MONOPOLY+DISCRETION-ACCOUNTABILITY) and his policy recommendations in five areas: selecting agents, changing rewards and penalties, gathering information, restructuring the principal-agent-client relationship, and changing attitudes about corruption. See ROBERT KLITGAARD, CONTROLLING CORRUPTION (1988).

39. See ROBERT KLITGAARD, CONTROLLING CORRUPTION (1988) for an application of the principal-agent model to corruption.

40. *Id.* at xii ("I suppose for the sake of analysis that the reader is the principal or policymaker – surely, therefore, acting in the public interest").

41. Michael Johnston, *Comparing Corruption: Participation, Institutions, and Development*, in PRIVATE AND PUBLIC CORRUPTION 275, 275 (William C. Heffernan & John Kleinig eds., 2002).

42. *Id.* at 276.

economic opportunities are opening up more rapidly than political opportunities, ambitious people will pursue *power through wealth*.⁴³ Conversely however, where political opportunities are plentiful and economic advantages are scarce, individuals will pursue *wealth through power*.⁴⁴ These imbalances may ultimately be reflected in patterns of either a strong private sector "capturing" the state (state capture),⁴⁵ or a relatively large state "preying" on the private sector (state predation).

This new type of approach offers several key advantages. First, this approach focuses on the distinct dynamics of bureaucratic and elite factors, which has important programming implications. Bottom-up approaches must be complemented by strategic approaches in order to address grand corruption as well.

A second advantage of this new approach is that USAID's work on fragile, failed, and failing states emphasizes the importance of both government effectiveness and government legitimacy. This approach also helps trace these impacts. For example, efforts to address administrative corruption must not only be highly visible in order to improve legitimacy, but the efforts must also be comprehensive in order to improve effectiveness. While grand corruption is more subtle, it has a more powerful impact on effectiveness. Furthermore, mere perceptions of elite corruption can severely damage the legitimacy of governments, regardless of whether there are objective performance improvements.

This approach is also beneficial because it focuses USAID on a multi-sectoral and multidisciplinary approach that incorporates political competition, economic competition, social factors, and institutional and organizational performance across all sectors. Since corruption reaches all areas of development, USAID's conceptual approaches must be equally broad.

A second weakness in the USAID approach is with its corruption-awareness programs. Although some programs have succeeded, increased

43. *Id.* at 284 (emphasis added) (citing SAMUEL HUNTINGTON, POLITICAL ORDER IN CHANGING SOCIETIES (1968)).

44. *Id.* (emphasis added).

45. The degree of exclusion, along with the degree of transparency and legal regulation – or lack thereof – that governs these processes, would constitute the difference between the standard processes of political lobbying and a corrupt, or captured, state; See CHERYL GRAY, JOEL HELLMAN, & RANDI RYTERMAN, ANTICORRUPTION IN TRANSITION 2: CORRUPTION IN ENTERPRISE-STATE INTERACTIONS IN EUROPE AND CENTRAL ASIA 1999-2002 11 (2004) ("State capture is rooted in the extent of competition, participation, and transparency in the state's policymaking and legislative process. It thrives where economic power is highly concentrated, forms of collective interest representation beyond the firm remain underdeveloped, and the market for political influence is thus monopolized by dominant firms").

attention to corruption has not yet yielded a measurable reduction in corruption around the world. There is evidence of significantly increased attention to corruption, such as the evolution of Transparency International from a small NGO to a global movement with over eighty-five chapters around the world.⁴⁶ Diplomatic, donor, and private sector engagements have also increased. For example, USAID/Honduras worked with two local NGO partners in developing and implementing a multimedia outreach campaign ("transparency is development") that involved television and radio public service announcements, internet and print materials, posters, vehicle bumper stickers, t-shirts, and billboards.⁴⁷ USAID/Colombia launched a television and radio public awareness campaign ("muestra su cara," or show your face), which was released in a special event under the auspices of USAID and the presidential program to combat corruption.⁴⁸ This campaign also included the establishment of a toll-free hotline that citizens could call to seek information on corruption issues or to report corruption.

Nonetheless, combating corruption remains a tremendous challenge throughout the world. While certain countries have made impressive strides in controlling corruption, it does not appear that, as a whole, much measurable progress has been achieved.

VI. NEW TRENDS TO HELP USAID ANTI-CORRUPTION PROGRAMS

If these trends are effectively implemented, then within five years, USAID will have supported important and successful interventions creating "demonstration effects" in bellwether countries. USAID will have better tools and knowledge to make more detailed recommendations based on its serious evaluations of what approaches are most effective in addressing corruption in a variety of contexts. In collaboration with other donor partners, USAID will also conduct improved assessment and diagnostic work that examines both low-level and high-level corruption.

The following five measures can help donors like USAID better address development challenges posed by corruption, and make a reality of the rhetorical commitment to doing so: 1) confront the dual challenges of

46. See Transparency International, About Us, at http://www.transparency.org/about_ti/index.html (last visited Nov. 19, 2005).

47. See generally USAID/Honduras, *supra* note 36.

48. See generally USAID, Democracy & Governance, Anti-Corruption News: Archive, USAID Assists Anti-Corruption Program, at http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/news/colombia.html for more information on USAID/Columbia (last visited Nov. 19, 2005).

grand and administrative corruption; 2) expand agency resources to fight corruption in strategic ways; 3) realign organizational incentives and structures to help mainstream anti-corruption; 4) build anti-corruption knowledge; and 5) model anti-corruption best practices in operations.

A. *Confronting the Dual Challenges of Grand and Administrative Corruption*

Most of USAID's experiences in fighting corruption have focused on attempts to reduce administrative corruption, rather than reducing corruption among political and economic elites. Grand corruption may be less visible than its administrative counterpart, but it is often more harmful to development because state institutions and financial and natural resources are harnessed for private and elite interests, rather than for the public interest. Additionally, efforts to control administrative corruption are not sustainable without efforts to dislodge corruption at the highest levels.

USAID must develop an assessment methodology that will address both grand and administrative corruption. This framework should help to identify, within particular countries, whether the primary challenge is in addressing administrative corruption, grand corruption, or both. Recently, the World Bank has made significant intellectual contributions to the understanding of state capture and its role in transition states.⁴⁹ By expanding its methodology, USAID should be able to apply a multi-sectoral and multidisciplinary approach to the analysis of corruption.

Additionally, USAID should ensure that its interventions reflect the varying patterns of corruption. For example, donors should be cautious of financing extensively in institutional reforms in countries with pervasive levels of corruption among high-level officials and members of the elite. Donors should support lower-level reforms however, when leaders are credible and the predominant challenge is administrative, rather than grand corruption.

The following table suggests how countries might be analyzed in terms of the form(s) of corruption they are experiencing. The categories within the table are not mutually exclusive, as countries may fit into multiple categories, or the different sectors of a country's economy may crossover into different categories, or countries may shift, even in the short term, into different categories between groups. Nonetheless, this framework provides differential strategies based upon an analysis of corruption patterns.

49. See THE WORLD BANK GROUP, *supra* note 12.

Country where the Predominant Challenge is . . .		
Grand Corruption	Administrative Corruption	Consolidating Good Governance
high level diplomatic efforts supplemented by modest anti-corruption resources directly targeted to: political competition; economic competition; civil society; media oversight	significant anti-corruption resources targeted to: public sector reforms (i.e., procurement reform, financial management, audit, anti-bribery measures); horizontal accountability (legislatures, SAIs, judiciary); civil society; media oversight	modest anti-corruption resources directly targeted to: Specific corruption-related vulnerabilities in economic governance; democratic governance; service delivery

This framework suggests that the largest anti-corruption programs may not be in the countries with the greatest corruption overall. Rather, the largest programs will typically be found in countries with high levels of administrative corruption, yet relatively lower levels of grand corruption.

Alternatively, in countries with high levels of grand corruption, USAID programs should target the political and economic drivers of corruption and build constituencies for reform through civic education and support for independent media. For example, in Kenya, ten years of consistent USAID support of this type has yielded results and opened up new opportunities for greater direct assistance to the public sector itself.

In countries that have shown a significant commitment to reform and who have already started addressing grand corruption, administrative corruption may pose the greatest challenge. When assisting these countries, USAID programs should focus on strengthening institutions, supporting public awareness, and improving engagement and oversight, including support for independent media. These "targets of opportunities" often require the greatest financial resources and support for actors both inside and outside the public sector.

In a third category of countries, patterns of corruption may exist, but not at levels that actively inhibit the viability of other development efforts. USAID should make efforts to consolidate good governance in these

countries that have already shown positive results. In addition, USAID should ensure that individual programs across all sectors both incorporate strategies to control corruption and promote transparent and accountable governance.

USAID should also develop innovative strategies to address grand corruption. Oftentimes, elite processes of grand corruption are so opaque, and the entry points for programs are so unclear, that the task can be quite daunting. While many believe the best solution is to leave the problem to U.S. diplomacy, the most effective approach is for both U.S. diplomacy and development programs to work together in this area.

Given the highly political nature of grand corruption, and the requirement to reach far beyond the executive branch to engage independent oversight bodies, political parties, the private sector, and civil society, bilateral donors, rather than multilateral banks, may need to lead in this area. USAID/Bolivia has one such program addressing grand corruption. With technical support from USAID/Bolivia, a modern "anti-money laundering law"⁵⁰ was developed in Bolivia, passed by Congress, and signed into law.⁵¹ The law established an independent financial investigation agency.⁵² This agency serves as an administrative investigative unit that has access to accounts and, in compliance with Bolivia's bank secrecy act, acts as a filter for information to the public ministry, which is the entity responsible for criminal investigations. USAID also provided leadership in advancing an inter-institutional agreement on money laundering. This agreement establishes information on sharing protocols between the independent financial investigation agency, the Public Ministry, and the police. Even before the agreement was formally signed, involved institutions began collaborating on specific money laundering cases.

Naturally, USAID should simultaneously expand and improve approaches to address administrative corruption. USAID has built a strong record of accomplishments in helping countries curb and control administrative corruption. As a result, USAID has learned much about what works and what does not in this context. USAID programs have demonstrated considerable progress in "unbundling corruption" and

50. See USAID, Anti-Corruption News, Anti-Money Laundering Principles Expanded, at http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/anti-corruption/news/403_5.html.

51. USAID, The USAID FY 1998 Congressional Presentation, available at <http://www.usaid.gov/pubs/cp98/lac/countries/bo.htm>.

52. *Id.*

targeting specific dimensions.⁵³ In doing so, measuring the issues become more manageable, and the multi-pronged efforts targeting specific forms of corruption become more affordable.

Lastly, USAID should develop sectoral and cross-sectoral strategies to diminish corruption and improve governance. Each USAID sector is developing explicit anti-corruption approaches to address the unique challenges that corruption poses for that sector. These approaches go beyond simply making efforts to ensure that USAID funds are not negatively impacted by corruption. Rather, it implies a proactive commitment to finding methods to reduce the impact of corruption throughout the sector. USAID should also encourage cross-sectoral collaborations that support the establishment of efforts mission-wide or across several strategic objective teams, to target corruption in a more comprehensive manner.

The "democracy and governance" and "economic growth" sectors of USAID, which are funded through discretionary, non-earmarked accounts, have generally been the most involved in efforts to minimize corruption. Other sectors, such as agriculture, education, energy and health, are equally hurt by corruption, but they appear underrepresented in current USAID anti-corruption efforts.

There are at least two methods of approaching corruption within other specific sectors. At a minimum, anti-corruption efforts should be rooted in broader sector reform strategies. In the alternative, multi-sectoral anti-corruption programs could target specific types of corruption that cut across various sectors. Examples of this approach include efforts to address procurement fraud by monitoring large procurements across several sectors, efforts to reduce expenditure leakages by enhancing treasury systems, parliamentary budget oversight, social auditing by end beneficiaries, and the creation of one-stop-shops that would deter bribery for several types of services.

Other examples of successful activities working across different sectors to address corruption are found in Latin American and the Caribbean. The unprecedented level of accountability built into USAID's Hurricane Mitch reconstruction program was designed to outlive its initial task and become a permanent framework for the efficient and transparent acquisition of public goods and services on a national level in Honduras.⁵⁴ As part of USAID/Honduras' transparency and anti-corruption program, USAID trained 160 controller general staff in the use of a computerized audit

53. See THE WORLD BANK GROUP, *supra*, note 11.

54. USAID/Honduras, *supra* note 36.

recommendation follow-up system and created a website, www.cgrh.net, for publishing audit reports.⁵⁵ To date, the website has published sixteen USAID program audits and a Honduran government reconstruction audit report.⁵⁶

With the passing of a new Honduran law creating an Auditor General office, which combines the Controller with two other control entities, USAID assisted in organizing a coalition of civil society organizations to address the new civil society law, gaining "official" space for civil society to participate in congressional debates on the development of the law.⁵⁷ Additional support is also needed for effective implementation of the new law, which could potentially dilute the effectiveness of the Controller General.

In the area of healthcare, USAID/Guatemala's efforts to reduce leakage of donated contraceptives into the private market led to increased access to family planning services.⁵⁸ Less leakage of contraceptives means increased access to free or low-price contraceptives by the poor, who are the intended beneficiaries of USAID's program.

Within local governments, USAID/Paraguay is supporting revenue enhancement, the provision of services, citizen participation, and anti-corruption efforts with local governments in areas such as improving tax collection and basic services, open budget hearings, citizen control and oversight, and improving fiscal reporting.⁵⁹

B. Expand Agency Resources To Fight Corruption In Strategic Ways

In the recently published *Field Perspectives: A Report on the Field Mission Survey*, seventy-eight percent of USAID missions indicated they would expand anti-corruption programming if additional resources and/or staffing were available.⁶⁰

On March 14, 2002, President Bush announced that the United States will increase its core assistance to developing countries by fifty percent

55. See USAID/Honduras, Overview, at <http://www.usaid.gov/policy/budget/cbj2006/lac/hn.html>.

56. *Id.*

57. *Id.*

58. See USAID/Guatemala, Telling Our Story, Taking Steps to Stop Corruption, at http://www.usaid.gov/stories/guatemala/cs_gt_anticorruption.html, for additional information on USAID/Guatemala's anti-corruption program (last visited Nov. 19, 2005).

59. See USAID/Paraguay's Data Sheet, at <http://www.usaid.gov/policy/budget/cbj2005/lac/pdf/526-004.pdf>, for additional information on USAID/Paraguay's transparency and accountability program (last visited Nov. 19, 2005).

60. USAID, *supra* note 34, at 16.

over the next three years, resulting in a five-billion-dollar annual increase over current levels by the 2006 fiscal year.⁶¹ This increased assistance will go to a new MCA that funds initiatives to improve the economies and standards of living in qualified developing countries.⁶² The MCA's primary objective is to reward good policy decisions that both support economic growth and reduce poverty.⁶³

The MCA sends a powerful message that a commitment to fighting corruption exists at the highest levels of the U.S. Government. The MCA has already raised the profile of corruption in high-level policy dialogue with MCA-candidate countries. These countries already recognize the benefit of addressing corruption, thus opening new opportunities for USAID technical assistance programs to succeed. USAID bureaus and missions must be prepared to take advantage of these opportunities as they emerge. Additionally, the Millennium Challenge Act of 2003⁶⁴ requires that nations develop plans to ensure fiscal accountability,⁶⁵ that grants and procurement be open, transparent, and competitive,⁶⁶ and that USAID be involved in the design, implementation, and monitoring of funded programs.⁶⁷ Therefore, USAID must also be prepared to conduct vulnerability assessments to identify potential weak points in these elements of countries' MCA Plans.

For those nations that do not qualify for immediate participation in the MCA, the Millennium Challenge Act of 2003 requires that USAID "play a primary role in preparing candidate countries to become eligible countries."⁶⁸ Thus, USAID should consider extensive anti-corruption efforts in these countries in order to consolidate efforts in addressing grand corruption, and to strengthen institutions to control administrative corruption.

C. *Realign Organizational Incentives and Structures to Mainstream Anti-Corruption.*

To make anticorruption programming more effective, donors must

61. Source Watch, Millennium Challenge Corporation, at http://www.sourcewatch.org/index.php?title=Millennium_Challenge_Corporation (last visited Nov. 19, 2005).

62. *Id.*

63. *Id.*

64. 22 U.S.C. §§ 7701-7718 (2004).

65. 22 U.S.C. § 7708(b)(G) (2004).

66. 22 U.S.C. § 7708(b)(I) (2004).

67. 22 U.S.C. § 7708(b)(K) (2004).

68. 22 U.S.C. § 7714(b) (2004).

provide internal organizational incentives and structures. Within organizations, high-level policy messages and hard-won lessons from the front lines have converged to create strong leadership. Some USAID missions place anti-corruption at the center of country strategies. Other missions are weaving it throughout mission portfolios as a cross-cutting issue. Fifteen missions have indicated that ad hoc structures were in place to coordinate anti-corruption work across the country team. Other missions have described anti-corruption donor-coordination mechanisms. These types of leadership efforts should be recognized and encouraged.

An example of how this is happening already is with programs that address the civil service. In working with the Office of the President, USAID/Colombia has supported a landmark program for the merit-based recruitment of 120 regional directors of the Ministries of Labor and Health.⁶⁹ This program is a major departure from traditional patronage-based appointments toward a government-wide system of merit-based, transparent public sector recruitment.⁷⁰

D. *Build Anti-Corruption Knowledge*

Since anti-corruption assistance is a relatively new area of practice in some respects, such assistance programs face a credibility gap. Therefore, not only host government leaders, but also donors themselves, must demonstrate that it is possible to achieve tangible impacts in this area. In light of the crucial gaps in knowledge, and consistent with other initiatives, donors should strive to become learning organizations, especially in terms of corruption.

This also requires that donors be more able to measure and improve the effectiveness of anti-corruption programs. There is little systematic evidence that demonstrates which types of strategies in which types of settings are most effective in addressing and controlling corruption. More work is needed to better understand which types of interventions provide the biggest return for the varying objectives of promoting economic growth, consolidating democracy, mitigating conflict, and improving service delivery. For USAID's part, *The FY2004-2009 Department of State and USAID Strategic Plan* considers conducting two multi-phase evaluations of anti-corruption programs.⁷¹

The issue of gender and corruption also presents a number of important

69. USAID, *supra* note 34, at 5.

70. *Id.*

71. See U.S. Department of State, Appendix C: USAID Evaluation Plan, Evaluation Tools and Methods, available at <http://www.state.gov/m/rm/rls/dosstrat/2004/23511.htm>.

and challenging issues that have received insufficient attention to date. For example, it is intuitively assumed that corruption disproportionately impacts the weakest and most vulnerable members of society, thus being a major issue for women. However, little information is actually known about the impact of corruption on women, nor about the ways in which women cope with corruption, or attempt to reduce it.

Another topic of interest is the notion that women are less susceptible to corruption, or more likely to be committed toward fighting it. Various efforts have been made to enlist women as traffic police officers, or to increase their presence in legislatures, as strategies to reduce corruption.⁷² However, the perception that women are inherently less corrupt, or by nature more likely to fight corruption is strongly disputed. Rather, some argue that it is the access to power, to the decision-making process, and to money that determines women's behavior regarding corruption.⁷³

E. Model Anti-Corruption Best Practices Within Operations

In order to be seen as a credible provider of anti-corruption assistance, donor's representatives must model best practices in all of their operations. This includes conforming to policies and regulations, behaving according to the highest ethical standards, and modeling the values of civil service, which underpin these standards. Furthermore, donors must also make explicit efforts in communicating these high standards and controls, and in demonstrating transparency in its operations to all external stakeholders.

To avoid the corruption vulnerabilities concomitant with massively funded streams, such as the *President's Emergency Plan for AIDS Relief*⁷⁴ and the MCA, the program design for these initiatives should incorporate specific requirements for anti-corruption program elements. As was done in the case of Hurricane Mitch, the design might include specific transparency and reporting requirements, fraud awareness training for implementers, oversight opportunities for civil society, host country government and the media, and requirements for interim and/or concurrent audits.

72. Arnand Swamy, Stephen Knack, Young Lee, & Omar Azfar, *Gender and Corruption*, 64 J. DEV. ECON. 25-27 (2001).

73. *Id.* at 33, 48.

74. See OFFICE OF THE UNITED STATES GLOBAL AIDS COORDINATOR, THE PRESIDENT'S EMERGENCY PLAN FOR AIDS RELIEF (2004), <http://www.state.gov/s/gac/rl/or/c11652.pdf>.

VII. CONCLUSION

Corruption is now seen unequivocally as a major cause of underdevelopment, and its reduction is a top priority for development efforts. Fighting this scourge is also fundamental to advancing U.S. foreign interests. USAID, and donors in general, have made important advances in the few years they have worked in this area. However, current learning, together with recent world events, compels donors to rethink efforts in the area of corruption, and to reevaluate its placement within our priorities.

USAID is currently increasing its investment in anti-corruption efforts. It is also building new knowledge to help design improved interventions. As U.S. foreign policy, through the MCA, supports countries in making real efforts to improve, donors must be prepared to quickly respond to the emerging opportunities. Donors should also strive to develop new methods and seek out new partners with whom to collaborate. New approaches will better position the donor community to make significant and growing contributions to the fight against corruption in the new century.

USAID's efforts to address low-level or "administrative corruption" have not been matched by equally vigorous efforts to address high-level or "grand corruption." In order to confront the problem of corruption, USAID must not only make greater efforts, but it must also acquire better knowledge, understanding, and innovation in its programming approaches. Furthermore, USAID needs to work in concert with the growing ranks of organizations confronting this challenge.