

BUREAUCRATIC CORRUPTION IN AFRICA: THE FUTILITY OF CLEANUPS

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Recent interest in the political dimension of economic growth has had a significant impact on the study of the behavior of bureaucrats and how their activities affect macroeconomic performance. Most of the research has been devoted to the study of bureaucratic compensation (Kimenyi 1987; Mbaku 1991a; Couch, Atkinson, and Shughart 1992) and bureaucratic corruption. Little attention, however, has been given the problem of corruption cleanups.

An effective cleanup program can be designed and implemented, but only if the researcher puts bureaucratic corruption in the right context. Unless it is understood that bureaucratic corruption is opportunistic (rent-seeking) behavior and is related to the scope and extent of government regulation of economic activities, cleanup programs are unlikely to succeed. This study examines bureaucratic corruption and cleanup strategies in Africa and seeks to advance the public-choice approach as the most effective and intellectually satisfying framework for corruption cleanup.

In Africa, bureaucrats attempt to increase their level of compensation by lobbying lawmakers and politicians and by engaging in other activities to influence the political system and maximize benefits accruing to them. Many civil servants also illegally increase their compensation by providing services to interest groups that seek favors from the government. Political coalitions seeking ways to subvert the existing rules to redistribute national income and wealth in their favor can achieve their objectives by bribing civil servants whose job is to enforce state regulations and implement national development plans. If

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bureaucrats discover they can earn more income from providing services to groups seeking state favors than from their regular (public) jobs, they may pay more attention to the demands of such interest groups than to the proper enforcement of state laws and regulations and the effective implementation of national development plans. In societies where civil service compensation levels are relatively low, a significant part of the public employee's total compensation may be derived from engagement in outside activities, resulting in a significant increase in bureaucratic corruption (Mbaku 1991a).

The rules that regulate socio-political relations in a country have a significant impact on the ability of civil servants to seek and secure (either legally or illegally) outside income. In nondemocratic societies, as has been shown by Mwangi Kimenyi (1987), bureaucrats are less constrained in their employment of public resources to lobby legislators and influence those individuals with direct responsibility for determining levels of compensation for the public sector. In fact, in many African countries, most civil servants are members of the politically dominant group and have significant influence over the allocation of resources. Under these conditions, civil servants behave like interest groups whose primary objective is to put pressure on the political system in an effort to redistribute wealth to themselves.

In countries with poorly constructed, inefficient, and non self-enforcing constitutional rules, opportunistic behaviors (including rent seeking) are usually quite pervasive. In such countries, the rules that regulate socio-political interaction have failed to adequately constrain the government. As a result, state intervention in private exchange is equally pervasive. Excessive regulation of economic activities creates many opportunities for rent seeking, including bureaucratic corruption.

Corruption has been an important subject of analysis by social scientists for many years. In the 1960s, however, two major events rekindled interest in the study of corruption, especially in developing countries. First, the development by Samuel Huntington (1968, 1990) and others of theories of modernization and political development renewed discussions on bureaucratic corruption and the role of laws and institutions in economic growth and development (Leff 1964, Huntington 1990, Myrdal 1990). Second, the economies and markets of the newly independent countries of Africa and Asia were overwhelmed by corruption, bureaucratic inefficiency, and incompetence. Since the early 1960s, researchers have devoted significant effort to the examination of bureaucratic corruption in the developing economies, paying much attention to the effects of the behavior of civil servants on economic growth and development (Heidenheimer, Johnston, and

LeVine 1990). Despite this emphasis on the study of corruption in post-independence Africa, there has been insufficient attention paid to the problem of corruption cleanup in Africa.

The Concept of Corruption

Corruption in developing countries is often believed to arise from the clash or conflict between traditional values and the imported norms that accompany modernization and socio-political development. Bureaucratic corruption is seen by some researchers, then, as an unavoidable outcome of modernization and development (Alam 1989, Bayley 1966). David Bayley (1966: 720) argues that "corruption, while being tied particularly to the act of bribery, is a general term covering the misuse of authority as a result of considerations of personal gain, which need not be monetary." Herbert Werlin (1973: 73) defines political corruption as the "diversion of public resources to nonpublic purposes." In Africa many people see corruption as a practical problem involving the "outright theft, embezzlement of funds or other appropriation of state property, nepotism and the granting of favours to personal acquaintances, and the abuse of public authority and position to exact payments and privileges" (Harsch 1993: 33). Joseph Nye (1967: 419) argues that corruption involves "behavior which deviates from the normal duties of a public role because of private-regarding (family, close clique), pecuniary or status gain; or violates rules against the exercise of certain types of private-regarding influence."

Jacob van Klaveren believes that a corrupt bureaucrat regards his office as a business from which he is able to extract extra-legal income. As a result, the civil servant's total compensation "does not depend on an ethical evaluation of his usefulness for the common good but precisely upon the market situation and his talents for finding the point of maximal gain on the public's demand curve" (Klaveren 1990: 26). As part of his definition of corruption, Nathaniel Leff (1964: 8) includes "bribery to obtain foreign exchange, import, export, investment or production licenses, or to avoid paying taxes." According to Carl Friedrich (1990: 15), individuals are said to be engaging in corruption when they are granted power by society to perform certain public duties but, as a result of the expectation of a personal reward or gain (be it monetary or otherwise), undertake actions that reduce the welfare of society or damage the public interest.

Bureaucratic corruption provides civil servants with the opportunity to raise their compensation above what the law prescribes. Through the practice of corruption, private entrepreneurs are able to capture

and maintain monopoly positions in the economy. Politicians, who serve as wealth brokers, obtain the resources they need to purchase security and continue to monopolize the supply of legislation. The biggest loser from corruption is society as a whole. Corruption allows inefficient producers to remain in business, encourages governments to pursue perverse economic policies, and provides opportunities to bureaucrats and politicians to enrich themselves through extorting bribes from those seeking government favors. Thus, corruption distorts economic incentives, discourages entrepreneurship, and slows economic growth (Mbaku 1992, Gould 1980).

In examining bureaucratic corruption in Africa, it is important to discuss the supply side. Unless entrepreneurs and groups seeking government favors supply the bribes, then most bureaucratic corruption would be limited to nepotism, illegal levies, and the illegal appropriation of public resources. In African countries, payments from entrepreneurs seeking state favors represent an important source of extra-legal income for civil servants. A society's laws and institutions have a significant impact on the level of bureaucratic corruption. State regulatory programs can place a significant burden on business enterprises and entrepreneurship and encourage investors to seek ways to minimize these state-imposed costs. Most intervention schemes, of course, create rents that are usually competed for through a political process. Paying bribes to civil servants has emerged as an important method to compete for those rents. For profit-maximizing enterprises faced with ruinous government regulations, bureaucratic corruption can be viewed as a survival mechanism (Mbaku 1992, Harsch 1993).

It is important to distinguish between political and bureaucratic corruption. While the latter involves efforts by civil servants to enrich themselves through illegal means, the former is used by political coalitions to capture the apparatus of state or maintain a monopoly on power. Political corruption usually includes activities such as vote-rigging, registration of unqualified, dead, or non-existent voters, purchase and sale of votes, and the falsification of election results (Goodman 1990).

David Osterfeld (1992: 204–18) has argued that in a heavily regulated economy, one can find two distinct types of corruption: "expansive corruption," which involves activities that improve the competitiveness and flexibility of the market; and "restrictive corruption," which limits opportunities for productive and socially beneficial exchange. This latter type of corruption, Osterfeld (*ibid.*: 209–10) argues, is characterized by redistribution of income and wealth in favor of individuals or groups. Most public-sector corruption falls in the restrictive category

and involves illegal appropriation of public resources for private use (e.g., outright embezzlement by a civil servant) or the illegal use of an individual's public position for his own personal enrichment. Public-sector corruption hinders the proper functioning of the market system, retards economic growth, and thus is restrictive corruption. As examples of expansive corruption, Osterfeld (*ibid.*: 212–17) mentions the bribing of judges, politicians and bureaucrats by members of the private sector. The payment of bribes to the right officials, he argues, can help mitigate the harmful effects of excessive government regulation and improve economic participation.

Although certain types of corruption may have beneficial economic and political effects, corruption can permit inefficient firms to remain in business indefinitely. Contrary to Osterfeld's (1992: 213) claim, the firms offering the highest bribes are not necessarily the most economically efficient ones but the ones that are efficient at rent seeking. Indeed, in a study of the Yucatan, Margaret Goodman (1990: 642–43) found that corruption did not benefit efficient producers, but instead protected incompetent entrepreneurs. The firms that survived under institutionalized corruption were those that had become efficient at rent seeking, not at properly and effectively servicing their markets. The expertise that improved their ability to survive was their knowledge of the political process, who to bribe, and how to effectively manipulate the political system to their advantage. In addition, Goodman found that corruption in the Yucatan did not ensure new groups or entrepreneurs opportunities to enter the market. Instead, corruption allowed the old and more established groups to totally dominate and monopolize markets.¹

The primary emphasis in this paper is on the type of corruption that involves the purchase of state favors from bureaucrats who have been charged with the job of formulating and implementing national development plans, enforcing state regulations, and protecting private property rights. Thus, activities of interest include payment of bribes to obtain import and export licenses, foreign exchange permits, and investment and production licenses. To minimize costs imposed on their enterprises by the state, owners of capital may bribe civil servants and other members of the enforcement community in order to receive favorable tax treatment. Civil servants are also able to extort bribes

¹For a thorough examination of challenges to the pro-corruption arguments, see Goodman (1990) and Leff (1964). Despite the taxonomy for corruption provided by Osterfeld (1992), corruption, regardless of the type, is a serious problem for most developing countries and should be minimized. The latter can be accomplished, as discussed in this article, through proper institutional reforms.

from individuals and groups seeking access to government-subsidized goods and services. The resources expended by entrepreneurs on bribes represent an illegal tax on economic activity and can be viewed as an attenuation of property rights. In many African countries, incumbents do not seem to be genuinely interested in effective cleanup programs because corruption represents an important source of revenue and a means through which incumbents channel resources to supporters and to elites who use the threat of violence to extract rents (Mbaku 1992, 1994).

What Causes Bureaucratic Corruption in Africa?

Much research has been done to determine the causes of bureaucratic corruption in Africa. According to David Apter (1963), African civil servants may be obliged to share the proceeds of their public offices with their kinfolk. The African extended family places significant pressure on the civil servant, forcing him to engage in corrupt and nepotistic practices. Bureaucrats are believed to exploit their public positions to generate benefits for themselves, their families, and their ethnic or social cleavage. Thus, in studying corruption in Africa, researchers have tended to place emphasis on the structural and individual conditions that contribute to corrupt behavior. Investigators have identified several structural factors that contribute to bureaucratic corruption in Africa. One such structural factor is the "soft state" that is said to embody "a weak or diffuse sense of national interest and the absence of a commitment to public service" (Gould and Mukendi 1989: 434). Many researchers have argued that there appears to be an absence of a commitment to public service among citizens of many developing countries and that excessive levels of bureaucratic corruption in these economies are related to the lack of devotion to serving the public interest. In many African countries, civil service employees view public service as an opportunity for self enrichment. Pita Agbese (1992: 229-30) has observed that in post-independence Nigeria, all political coalitions and groups have been engaged in determined efforts to capture the apparatus of state in order to use the state's redistributive powers to amass wealth for themselves. Soon after capturing the government, the incumbent regime usually erects significant barriers to entry and monopolizes the supply of legislation, thus making certain that other groups do not participate in the allocation of resources. For locked-out groups, participation in the economic systems must be obtained through payment of bribes to incumbent bureaucrats, all of whom are members of the politically dominant group.

Nigeria is not the only country in Africa in which the apparatus of government has become an instrument for the enrichment of members of the politically dominant group. South Africa, long regarded by many scholars in the West as a bastion for free enterprise in Africa, has for many years promoted laws that allowed the white minority to use the redistributive powers of the state to enrich itself while sentencing the black majority to perpetual poverty and deprivation (Hazlett 1988; Mbaku 1991b, 1993; Williams 1989; Doxey 1961; Hutt 1964). Throughout Africa, from Algeria to Zaïre, bureaucrats and politicians promote perverse economic policies, which while impoverishing most of society, provide concentrated and significant benefits to the national elites and interest groups.

Incompetence and inefficiency among civil servants have been given as other institutional issues associated with bureaucratic corruption in Africa. Sustainable economic and social development requires an efficient and professional civil service. To effectively carry out national development plans and promote entrepreneurship and innovation in the economy, the government bureaucracy must be responsive to the needs of the entrepreneurial class. Additionally, public goods and services should be delivered efficiently. The implication is that the nation's civil service must be competent and possess a significant level of professionalism. Hiring decisions should be based on merit and qualification, and senior positions should be awarded only to candidates who have distinguished themselves and possess the ability and expertise to efficiently perform the duties assigned them. Civil service positions should not be used as rewards for political support or swapped for bribes, or used to meet obligations to one's ethnic cleavage. Incompetent, unqualified, and unprofessional civil servants contribute significantly to failures in development and force the country to remain essentially underdeveloped.

Shortly after independence, many African countries adopted statism as their development model. This approach to resource allocation emphasized state control and eventually turned many African governments into major economic units. Today, African governments are the primary investors, exporters, importers, and bankers. In addition, the state also employs a significant proportion of the national labor force and is quite involved in income redistribution. Through a series of regulations and statutes, the state is able to extract wealth from the poorly organized rural farm sector for use in subsidizing the relatively well-organized and politically volatile urban sector. In many African countries the beneficiaries of excessive state intervention in private exchange have been public employees whose job it is to enforce the laws. Control of an enormous amount of public resources by

bureaucrats has allowed them to manipulate public policies to amass wealth for themselves at the expense of the rest of society. In several instances, bureaucrats have created artificial shortages in order to extort bribes from prospective demanders. The enforcement of state regulations and statutes in most African countries is poor, arbitrary, capricious, and ineffective. As a consequence, individuals and groups affected by the regulations are forced to engage in opportunism, including the payment of bribes to civil servants. Several scholars have cited the transformation of the post-independence African state apparatus into an instrument for the enrichment of members of the politically dominant group as a significant contributor to corruption (Agbese 1992, Ihonvbere and Ekekwe 1988).

Pervasive and chronic poverty, extremely high levels of material deprivation, and severe inequalities in the distribution of resources also have been advanced as major determinants of corruption in the African countries (Leys 1965). Many regions of the world have made significant advancements in economic and human development during the past 40 years. Yet Africa has remained essentially poor and severely deprived. Evidence shows that Africa is today the poorest region of the world (UNDP 1990, 1995). The emergence of the African military, in the post-independence period, as an important force in the allocation of resources has further distorted income distribution. In many African countries, the armed forces receive a disproportionate share of the public budget. It is argued by many researchers that these post-independence developments have contributed significantly to increased corruption, underdevelopment, and pervasive poverty and deprivation (Mbaku 1994).

Some scholars believe that corruption in Africa and other developing regions arises from the existence of defective cultural norms and behaviors (Jabbara 1976). Other researchers believe that corruption in Africa is related to the clash between traditional and foreign norms that accompany modernization and industrial development. As such, corruption is seen as an unavoidable consequence of economic modernization and political development (Alam 1989, Bayley 1966).

In the majority of developing societies, individual rights are often subordinate to the rights of the group or social cleavage. As a result, loyalty to the ethnic group is considered more important than individual rights or personal accountability. In Africa, these particularistic attachments are quite strong and have been cited as important determinants of bureaucratic corruption. Individuals who become successful in the public sector or the exchange economy are expected to share the benefits with their extended family and their ethnic cleavage. Thus, a civil servant may engage in corrupt activities in an effort to

meet personal obligations to members of his family or ethnic group (Alam 1989, Gould and Mukendi 1989).

In contrast, public choice theory contends that bureaucratic corruption is related primarily to government control and regulation of economic activities. Once constitutional rules have been selected and adopted, and a government established, political coalitions will try to use government to redistribute income and wealth in their favor. Unless the adopted rules effectively constrain the ability of the government to supply special-interest legislation, rent seeking will become pervasive as groups seek ways to enrich themselves at the expense of the rest of society. At the same time, civil servants will be able to extort bribes from entrepreneurs seeking ways to minimize the burden of state regulations on their enterprises and attempting to enter economic sectors closed by state intervention in markets.

Most Africans live in societies with weak, inefficient, and poorly designed constitutional rules, which provide the government with almost unlimited power to intervene in private exchange. In such economies, resource allocation is totally politicized and the civil service has replaced the market as the principal instrument for the allocation of resources. Civil servants are aware that lucrative monopoly rights created by government regulatory activities provide their owners with enormous monopoly profits. As a result, bureaucrats try to capture rents by extorting bribes from entrepreneurs who request them. Where government regulation imposes significant costs on a business, the entrepreneur can minimize those costs by paying bribes to members of the enforcement community. The bribe is expected to either exempt the business from the laws or to have the individual's enterprise taxed at a lower rate. If these restrictions on economic activity are eliminated, bureaucrats would be unable to extort bribes from entrepreneurs. Thus, bureaucratic corruption is primarily rent-seeking behavior, which is directly related to the level and extent of government activity in the economy (Mbaku 1992).

Traditional Strategies for Corruption Cleanup

The literature on corruption cleanup identifies four types of strategies to minimize or eliminate corruption. They include societal, legal, market, and political strategies (Gillespie and Okruhlik 1991: 80). Societal strategies place emphasis on the determination of a common standard of morality against which corrupt behavior can be measured. Vigilance by members of society and education to make it relatively costly for individuals to engage in corruption are also emphasized (Dobel 1978, Etzioni-Halevy 1979, McMullan 1961). It is believed

that bureaucratic behavior can be constrained effectively by the law; special commissions of inquiry or special prosecutors can be chosen to investigate individuals and groups accused of corruption; and, where the evidence gathered points to corruption, the judiciary system can judge and punish the guilty according to national laws (Padhy 1986, Ali 1985). Market-related strategies for the cleanup of corruption are based on the belief that there is a relation between the structure of the market and the incidence of corruption. The prescribed remedy is less government regulation and greater reliance on markets for the allocation of resources. Such an approach, however, appears to emphasize the manipulation of outcomes within existing rules instead of proper reform of the rules. The fault is not with the market, but with the rules that regulate the market. Since rules define market outcomes, greater reliance on markets for the allocation of resources without reforming existing rules will have little effect on outcomes, including bureaucratic corruption. Unless there is effective reform of the socio-political rules within which the market functions, incentives for opportunism will remain and corruption will continue unabated (Bayley 1966, Macrae 1982, Rose-Ackerman 1978, Tilman 1968).

Political strategies for corruption cleanup emphasize the decentralization of the public sector. It is argued that corruption arises from the concentration of power in the hands of a few politicians and bureaucrats, and that a process which provides citizens with greater access to public institutions will significantly minimize opportunities for corruption within the country. Under this approach, an effective cleanup program is expected to emphasize political deregulation and the subsequent expansion of opportunities for citizens to participate in governance. Social scientists and policymakers who favor administrative reform as a way to minimize the incidence of corruption support increasing the legal compensation of bureaucrats in order to reduce the chances that civil servants will seek extra-legal income (Gillespie and Okruhlik 1991; Dobel 1978; Nas, Price, and Weber 1986; Wade 1982).

The impetus to clean up corruption can be provided primarily by political exigency rather than by genuine interest in the efficient functioning of the nation's political and economic institutions. In several countries, including those in Africa, postcoup commissions of inquiry are usually designed to discredit the ousted government and help incoming elites gain recognition and legitimacy. Incumbents also use cleanup programs to help them stay in power and continue to monopolize the supply of legislation and the allocation of resources. An incumbent leader faced with deteriorating economic and social conditions and a challenge from opposition parties or groups may

initiate a campaign to clean up corruption within his administration in an effort to direct attention away from existing problems and the government's inability or unwillingness to provide effective solutions for those problems. Whether or not corruption cleanups are used for political exigency and how often is determined by several factors—including “the personal values of the head of state, challenges from a counterelite, and popular discontent arising from socioeconomic conditions” within the country (Gillespie and Okruhlik 1991: 82).

In several African countries, politicians regularly use cleanup campaigns to help them stay in power. Cleanup programs can be used to discredit members of a previous regime, to destroy the reputations of leaders of the opposition, and to improve support among the population for the incumbent regime. Even if a government seriously and honestly wishes to clean up corruption, existing approaches suffer from at least one obstacle: their success depends on the effectiveness of the counteracting agencies. In Africa cleanup programs depend primarily on the police, the national judiciary, and the press, and assume that those agencies are appropriately constrained by the law and are free of corruption. In addition to the fact that few African countries have a press that is independent and free of government manipulation, the police and national judiciary systems of most African countries are pervaded by very high levels of corruption. As a result, a cleanup program backed by those agencies is unlikely to be effective. Present cleanup programs are based on the manipulation of behaviors within what are inefficient rules and as a result, are unlikely to be effective. The first step in an effective cleanup program is to select appropriate new rules, making sure that the new social contract is capable of generating the outcomes desired by society.

The Public-Choice Approach to Corruption Cleanup: The Importance of Rules

Geoffrey Brennan and James Buchanan (1985) argue that the rules that regulate the activities of individuals within a society matter and are a major determinant of how individuals and organizations behave. The behavior of bureaucrats and the entrepreneurs who bribe them can be analyzed effectively only within the context of existing rules. Thus, without a clear understanding of a country's laws and institutions, any effort to analyze or understand corruption within that society would be futile. Any cleanup program that is designed without taking into consideration the impact of existing rules on the behavior of individuals (including bureaucrats, entrepreneurs, voters, and politicians) within the society would be ineffective. Rules define how indi-

viduals can interact with each other, provide a means for the settlement of conflict, and generally place constraints on individual behavior, as well as that of the group and collectivity (Brennan and Buchanan 1985).

Effective rules allow individuals to pursue their private ends in such a way that they do not infringe on the ability of others to do the same. The rules that regulate socio-political interaction can be explicit (e.g., a written constitution) or based on custom and tradition. Given an existing set of rules, corruption can be viewed as opportunistic behavior on the part of individuals or groups. In this vein, corruption can be seen as a problem of constitutional maintenance that can be handled appropriately only through rules reform.

In an effort to explain the relevance of rules, Brennan and Buchanan (1985: 13) return to the "tragedy of the commons," an illustration that is used quite often in economics. If, for example, the rules of a society require that agricultural land be owned communally, and farmers are assumed to be utility maximizers in the traditional sense, then overgrazing will be the outcome. The overgrazing is not a result of market failure, as is often assumed, but a problem associated with the nature of the rules that regulate socio-political relationships in this society, including the behavior of farmers. In other words, given the existing rules, utility maximization will lead to overgrazing. As is the case in many African societies, policing is usually the method employed to minimize the problem of overgrazing. Unfortunately, in the absence of privatization and appropriate institutions to protect and enforce property rights, efforts to force certain outcomes within the existing set of rules are rarely successful.

Present cleanup programs in Africa suffer from several problems. First, they are being carried out within inefficient and nonviable rules. Second, corruption cleanup involves efforts to manipulate outcomes within existing rules through policing. Third, the counteracting agencies charged with policing and enforcement of the laws and the bureaucrats who work in those agencies are not properly constrained by the laws. Finally, many bureaucrats are themselves corrupt and cannot be counted on to provide the leadership needed to run effective cleanup programs. Thus, effective corruption cleanup needs to begin with rules reform to make certain that the outcomes generated within the rules are those desired by society.

Efforts to clean up corruption would be futile if the rules that regulate socio-political relations provide an incentive system that makes opportunism highly lucrative. If, as a result of the adopted rules, rent-seeking activities, as opposed to genuine entrepreneurship, are highly rewarding, entrepreneurs are likely to devote most of their time and effort to rent seeking. In such a case, using the police force

to prevent individuals from taking advantage of lucrative rent-seeking opportunities is unlikely to be effective, especially if members of the police are corrupt and inefficient. Again, the fundamental problem is the absence of a rule of law, not the corrupt outcomes. Thus, appropriate procedures for effective control of rent seeking and other opportunistic behaviors, including bureaucratic corruption, is to reform the rules of the game and change the incentive system.

Dealing with corruption and other opportunistic behaviors, according to public choice theory, is a problem of constitutional or rules maintenance: Besides corruption, opportunistic behavior includes *shirking*, *adverse selection*, *moral hazard*, and *free riding* (Ostrom, Schroeder, and Wynne 1993: 43–72). Even if individuals select an efficient set of rules (i.e., rules that generate mutual gains for all parties), opportunistic behavior (including corruption) would still be a problem for the post-constitutional society. Making certain that opportunism is minimized in the post-contractual society requires an efficient and effective enforcement system to ensure cooperation and compliance. Unfortunately, third-party enforcement of constitutional rules is usually unreliable, inefficient, and not particularly viable. Some scholars have suggested that the national judiciary and police be allowed to serve as counteracting agencies to enforce compliance and minimize opportunism. Those institutions, however, are themselves subject to interest-group pressure. In addition, in most African countries, those institutions are not properly constrained by the law and are pervaded by high levels of corruption. Consequently, the national judiciary and police are not appropriate instruments for corruption cleanup or enforcement of constitutional rules (Lowenberg 1992, Lowenberg and Yu 1992, Wagner and Gwartney 1988).

The problem of rules maintenance has been examined by several researchers. Emerging from these studies is a theory of constitutional maintenance whose main objective is to find ways to minimize opportunism in the post-constitutional society (Anderson and Hill 1986, Buchanan and Faith 1987, Aranson 1988, Niskanen 1990). It is generally believed that making the constitution or the set of rules selected *self-enforcing* will eliminate most opportunities for rent seeking and other opportunistic behavior. A constitution can be made self-enforcing by endowing it with principles and procedural rules that introduce, maintain, and enhance political and economic competition in the post-constitutional society. In other words, during constitutional negotiations, the rules are designed to make both political and economic markets competitive and accessible to all members of society. An important characteristic of a self-enforcing set of rules is its ability to constrain government and limit the exercise of government agency.

If the state's ability to intervene in private exchange is constitutionally restrained, political coalitions will find it very difficult to engage in inefficient redistributions. Constitutionally constraining the ability of the government to engage in ex-post resource redistributions will significantly limit redistributions of income induced by majority vote and rent seeking. Once the constitution limits the ability of the state to redistribute income and wealth, interest groups are unlikely to invest in rent seeking, because such investments would either yield relatively meager returns or be unprofitable.

In addition to extorting bribes from individuals and groups seeking government favors, bureaucratic corruption includes the illegal appropriation of public resources by civil servants, nepotism, illegal taxation, and other illegal activities designed to increase the compensation of bureaucrats above the legal limit. Not all of these activities, however, qualify as rent seeking. Paying of bribes by an entrepreneur to a civil servant in an effort to lower taxes is a form of bureaucratic corruption and is also rent-seeking behavior. Although the illegal appropriation of state resources by a bureaucrat for his personal use is bureaucratic corruption, it is not rent seeking. If, however, civil servants lobby legislators in an effort to secure additional privileges for themselves, this behavior is rent seeking, but is not generally considered a form of bureaucratic corruption. To effectively minimize all the above forms of behavior, there must be real reform of existing rules.

Rules and Corruption Cleanup in Africa

Most African countries today operate under constitutional rules that were adopted at independence. Despite many attempts at post-independence rules reform, most African countries have not succeeded in designing appropriate laws and institutions, especially those that would guarantee the types of outcomes desired by members of society. Instead, what pass as constitutions in many African countries are basically adaptations of European constitutional models that have allowed politically dominant groups to continue to maintain a monopoly on power.

The institutions brought to the African colonies by the Europeans were primarily "structures of exploitation, despotism, and degradation" (Fattouh 1990: 457). As argued by Michael Crowder (1987: 11-12), "the colonial state was conceived in violence rather than by negotiation." Thus, the rules established to regulate socio-political relations in the African colonies were not the outcome of negotiations among representatives of relevant population groups in those societies. Instead, those rules were imposed by Europeans and designed to satisfy their desired outcomes.

When it became evident that the colonies would be granted independence, the colonialists quickly developed a reform program that was unable to fully address fundamental issues related to the effective participation of the indigenous peoples in post-independence development. Robert Fatton (1990: 457) states that these last-minute reform efforts failed to allow for "fundamental transformation in the economic, cultural, or bureaucratic domains." Thus, the Europeans left behind rules and institutions that were weak and potentially unstable.

Most of the constitutional rules that African countries adopted at independence were developed abroad with the interests of the *indigenous peoples represented by urban elites*, most of whom had been educated in Europe and had accepted Western political norms and beliefs. In addition to the fact that these urban elites were not well informed on conditions in the rural sectors of their countries, they usually had objectives and interests that were significantly different from those of their peasant countrymen. Since the design of rules often excluded a significant part of national political opinion, the documents adopted were not efficient.²

Many African countries later abandoned the rules that they had adopted at independence and undertook constitutional reforms in an effort to design more efficient and appropriate rules. Unfortunately, constitutional discourse was still limited to a few urban elites with a significant part of national political opinion excluded from participation. In some countries, governance was by military decree with the constitution suspended. In fact, several African countries (including Ghana, Zaïre, Nigeria, Libya, and Somalia) have been ruled by military elites during most of their existence as sovereign nations.

In addition to the fact that constitutional discourse was dominated by urban elites, the process did not seriously consider the aspirations, desires, and needs of the rural populations, and the people were not enfranchised and provided the facilities to participate effectively in the selection of rules. In South Africa (until 1994), participation in rules selection was limited to whites (Cowen 1961). The constitutional rules produced by post-independence efforts produced *Leviathan* states, whose redistributive powers were used by political coalitions to amass wealth for themselves while impoverishing the rest of the

²See, for example, Cowen (1961) for a discussion of how the majority black population was excluded from the development of the first constitution of the Union of South Africa. For a discussion of the first constitution of the Republic of Cameroon (the former French Cameroons), see LeVine (1964). Note that in addition to the fact that the Republic of Cameroon's first constitution was practically a copy of the constitution of the French Fifth Republic, the UPC party, the largest indigenous political party in the colony, was eliminated from participation in the design of constitutional rules.

people. Many Africans today live under rules that were not unanimously agreed upon by the relevant population groups within each country or by their representatives. To ensure that the outcome is an efficient set of rules, agreement must be unanimous and must be achieved voluntarily.

Since post-independence attempts at rule reform have failed to produce more efficient constitutions, the last several years have witnessed a tremendous increase in levels of bureaucratic corruption in Africa.

Conclusion

The purpose of this paper was to reexamine corruption cleanup strategies in Africa and seek to show why they have been ineffective. African countries, like many developing countries, have tried several strategies in an effort to minimize levels of bureaucratic corruption. These include societal, legal, market, and political strategies. All those approaches to corruption cleanup represent the manipulation of outcomes within a given set of rules and presuppose the existence of efficient counteracting institutions. The evidence shows, however, that most judiciary systems and police forces in the African countries are not properly constrained by the law and that most civil servants (including judges and police officers) are themselves corrupt. As a result, most cleanup programs in Africa have been unsuccessful.

Bureaucratic corruption is an outcome generated within a given set of rules. An effective normative evaluation of such an outcome can only be undertaken after a thorough understanding of the rules that generate the outcome. Thus, to understand why people engage in corruption requires an examination of the rules that regulate the socio-political behavior of individuals. Since these rules determine how individuals behave and relate to each other, they also determine the outcomes to be generated in the post-contractual society. Thus, effective corruption cleanup should not involve efforts to manipulate outcomes within rules. Instead, an effective approach should involve reform of existing rules and the subsequent selection and adoption of new rules that can generate the outcomes desired by society. Since the rules determine the incentive system that will prevail in the post-contractual society, society can effectively impose the outcomes it wants through rules design. For example, the problem of overgrazing of agricultural lands can be minimized by establishing private property rights in land during rules selection. Usually, the establishment of political rules and a political order precede the establishment of an

economic order. The rules of political order include the "definition of the rights of persons, [and] can be legitimately derived only from the agreement among individuals as members of the polity" (Brennan and Buchanan 1985: 26). The rights of persons are not defined by the government. Instead, individuals or members of society form governments to protect and guarantee their rights as defined and agreed upon in the social or constitutional contract. Any attempt by the government to modify or abrogate those rights invariably violates the basic rules. It is important to note that problems of control in the post-constitutional society do exist. In establishing the polity, the government is granted the power to monopolize legitimate force. Once established, government may try to exceed the limits of the authority delegated it by the people—and if it does, it may render itself illegitimate.

Gary Becker (1994: 18) remarked that "corruption is common whenever big government infiltrates all facets of economic life, never mind the political and business systems." If the country's rules make the political system the primary determinant of firm profitability, then entrepreneurs are likely to devote most of their resources, including their time, to rent seeking. For example, if state subsidies, discretionary tax relief, and other forms of regulations—instead of managerial expertise, business acumen, and competition—become the primary determinants of the profitability of firms, rent seeking, including bureaucratic corruption, would become pervasive. Entrepreneurs in such an economy will devote a significant portion of their activities to lobbying and bribing politicians and civil servants in an effort to maximize profit levels.

Given the incentive system provided by existing rules, legal strategies and other forms of corruption cleanups are unlikely to be effective. In addition to the fact that manipulating outcomes within the rules is not an effective way to secure the outcomes desired by society, these strategies can only function effectively if the counteracting agencies and those who manage them are properly constrained by a rule of law and are free of corruption. Many of the police officers and judges who are called upon to cleanup corruption are themselves beneficiaries of the corrupt system of resource allocation. It is unlikely that those individuals will perform their jobs effectively. An effective corruption cleanup strategy must fundamentally weaken the link between the government and the economy. That is, the relationship between firm profitability and the state must be severed. The most effective way to achieve that objective, and thus guarantee the outcomes desired by society, is rules reform.

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