

Conflict of Interest: A Historical and Comparative Perspective

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1. Conflict of interest amongst political leaders and public officials, as we understand it today, has existed as long as there has been public administration.¹ In most pre-modern societies, the very concept of conflict of interest would not have been recognized. There were a few societies, such as Sasanian Iran and early Tang China, where public officials were expected to administer purely in the interests of the state or of the supreme ruler. Whether they did so is another matter. But in most societies, whether it was 17th century England or 18th century Java, it was automatically assumed that political leaders and officials would take advantage of public office to advance their own personal interests.

2. It is really only since the advent of the modern industrialising state that the notion has taken hold that public officials and their political masters should be expected to act exclusively in the interests of the state. States with large military ambitions, such as England in the 18th century and Bismarck's and Hitler's Germany, needed an efficient and relatively incorrupt civil service if their ambitions were to be fulfilled. The Soviet Union needed officials who were dedicated wholly to the social and economic transformation envisaged by Lenin and Stalin. When countries in Western Europe and elsewhere democratised and their governments became accountable to their publics, the people as "sovereign" began to insist via the ballot box that politicians and officials should act in the public, as opposed to their own personal interest.

3. In most countries, expectations as to the proper duties of politicians and officials have changed over time in the direction of greater transparency and clearer division between their public duties and private aims. But in countries that have yet to achieve any great measure of democratic control, expectations in this regard remain low; and the same applies to countries that have only recently democratised which have a previous history of corruption and abuse of power.²

4. In this paper, I first offer some definitions and an analytical framework for considering the issues. I then discuss the experience of Britain over the last few hundred years. This is followed by a brief commentary on the more recent experience of six other countries: U.S.A., Russia, China, India, Indonesia and Singapore. Annex 1 gives a snap-shot of how Britain and these six other countries ranked in terms of how the control of corruption was perceived in 2006 (and ipso facto how they ranked in terms of their control of

¹This paper deals only with conflict of interest in respect of politicians and non-elected officials. It does not address conflict of interest in the private sector.

²For example, although the Transparency International Corruption Perceptions Index for 2006 showed the UK about one hundred places above Russia, according to the TI Global Corruption Barometer 2006 the proportion of British and Russian respondents who felt that their governments' actions against corruption were ineffective was about the same.

conflict of interests). Annex 2 shows the data for these countries going back to 1996. The data are taken from the World Bank Institute's recently published Worldwide Governance Indicators (WGIs) and are based on surveys undertaken inside and outside each country.

Analytical Framework

5. As seen at least through modern Western eyes, conflict of interest is at the root of the abuse of power by politicians and public officials for private ends. It arises when the personal interests of the politician or official are not fully aligned with the goals of the government or agency with which they are associated. There will always be some (whom we may call the "altruists") who will dedicate themselves automatically and unreservedly to these goals. There will be others (the "self-interested") who, unless there are countervailing mechanisms in place, will allow their personal interests to interfere with their public duties and will use their public position for personal gain. This may take the form of illicit payments for services rendered; taking advantage of "inside information" for personal financial benefit; providing advice and taking decisions in ways that will provide personal benefit; and favouritism for associates or family members in appointments, promotions and the award of contracts. In a similar way, politicians may take actions that are designed to benefit their party at the expense of the wider public. Where there is abuse of power for personal or purely party gain, we may say that the transgressor has allowed a conflict of interest – i.e. a private or party interest - to interfere with or override his public duties.

6. The personal interests of politicians and officials can be considered in the **narrow** sense that they may have a specific, identifiable conflict– e.g. if they own shares in a company bidding for a contract whose award it is their job to decide on. Or, their personal interests can be considered in the **broad** sense that they may have a personal interest that diverges from the aims of their government or agency – e.g. if they are inclined to seek a bribe for providing a service. The broad definition is preferable if one wishes to understand how abuse of power and corruption originate and how to address the issues. The rest of this paper assumes this broad definition.³

³The broad definition of conflict interest follows that of the "public choice" theorists. See Gordon Tullock, "The politics of bureaucracy", Public Affairs Press, Washington DC, 1965, and Anthony Downs, "Inside bureaucracy", Little Brown, Boston, 1967. The broad definition in their work covers not just the situation where the official or politician is seeking financial gain. It also covers non-financial conflicts where the official or politician might be working towards a personal policy agenda which is at odds with the official policy agenda. In contrast to the pursuit of personal interests for financial gain, this may not always be at the expense of the public interest - for example, if the official is working for a government whose policies are patently unethical. In this paper, I deal only with conflicts of interest which result in personal or party financial gain. But even here the conflict may not always be at the expense of the public interest – see paragraph 18 below. In suggesting that the vast majority of politicians and officials are driven primarily by self interest, the "public choice" theorists are apt to under-estimate the extent to which politicians and officials in most societies are in fact "altruistic". Their typology nonetheless provides a useful framework for considering how bureaucracies work.

7. Politicians are routinely faced with a particular conflict of interest relating to their election or re-election. This is the conflict on the one hand between their duties, if elected, to the wider public; and on the other hand, their duties to their political parties and their wish to be elected or re-elected. Abuses arise in two principal ways: private individuals or interest groups make payments to politicians or their parties in return for past or future favours; and politicians use these monies, or monies they have embezzled from the state budget, to fund their election campaigns or to bribe voters.

8. The challenge for governments and civil society is to ensure that there are adequate institutional mechanisms to encourage the “altruistic” and prevent the “self-interested” from pursuing their personal interests at the expense of the public. In the case of **officials**, these mechanisms may include:

- appointment and promotion on merit, including having regard to the integrity of the individual;
- adequate compensation;
- clear rules for handling specific conflicts of interest (for example, “declaring an interest” when dealing with issues in which the official has a personal interest) and to ensure ethical behaviour in general (for example, competitive tendering for contracts);
- good management to ensure compliance with the rules;
- “altruistic” leadership;
- a legal framework that can act as a back-stop and punish wrong-doing
- oversight by the legislature;
- oversight by civil society organizations;
- freedom of information legislation to allow public access to internal government documents;
- an independent press that investigates abuses of power.

9. The position in the case of **politicians** is slightly different. Some of the above mechanisms apply but not all. Where political leaders are elected, there is the additional incentive for good behaviour, and deterrence against bad behaviour, provided by the electoral process. And in a presidential system, the legislature can provide a further check on the abuse of power by the president – provided the legislators themselves are clean and not conflicted. Where civil servants at the most senior levels are professionals rather than political appointees, they too may provide a check on the activities of their ministers.

10. However, the efficacy of the electoral process in controlling corruption and the abuse of power should not be exaggerated. Voters choose their candidates on the strength of a number of qualities and sometimes without knowing what their qualities are. And once the election is over, voters have to wait for a period of years before they can reward or punish good/bad behaviour. They also face a “coordination problem” - in that a single vote has a negligible impact. Parties exist partly to address this “coordination problem” but are not always successful in doing so. Voters will, by definition, fail to punish bad behaviour if they have been bribed by politicians to keep them in power.

12. Where political leaders are **not** elected, the institutional mechanisms or checks and balances outlined in paragraph 8 above are likely to be weak or non-existent. Consequently, unless the leader is an “altruist”, corruption is likely flourish. If political

leaders **are** elected and if adequate checks and balances are not in place, corruption can be just as bad or even worse. This is especially true of resource-rich democracies.

13. Electoral competition, especially in newly emerging democracies, provides a strong temptation for politicians to embezzle public funds in order to indulge in political patronage. The high level of “resource rents” accruing to the government of a resource-rich country allows general taxation to be correspondingly lower. When general taxation is low and “resource rents” are high, the general public has less incentive to scrutinise the actions of their political leaders. The latter therefore find it easier to embezzle public funds for personal and party gain, and instead of attempting to win the support of voters on the basis of commitment to providing good public services, they win support through patronage and bribery. Adequate checks and balances to prevent corruption are needed in all democracies, but in resource-rich democracies they are all the more important. However, because they can get their hands on “resource rents” more easily than on the revenue from general taxation, political leaders will resist stronger checks and balances. So this is not an easy cycle for resource-rich democracies to get out of.⁴

14. In poor democratic societies, the low level of revenue resources will also tend to encourage political corruption. If funds are not available to provide for even the most essential public services, conflicts over resources are likely to be intense. Factional groups may organize themselves along ethnic, religious or class lines in competing for these resources – and for jobs and contracts. Since resources are not sufficient to provide public services to everyone who is legally entitled to them, these factional groups may bribe politicians to give preference to them in the provision of services and jobs and contracts. In return, the factional groups will “deliver the vote” so that the politician is elected. Until revenue resources and state capacities are improved, or unless large, inclusive political parties exist or can be developed, this tendency is likely to persist.⁵

15. When political leaders, whether elected or not, do abuse their position of power for their own personal gains, it is impossible for them to provide leadership on the conflict of interest/corruption issues; and it is all too likely that officials in the various ministries and agencies, even where there has been a tradition of transparency and good conduct, will take their cue from the example that the politicians have set and imitate their behaviour.

16. The mechanisms mentioned above for controlling conflicts of interest are likely to be more effective if:

- the society’s informal norms, codes of conduct and conventions are supportive of the formal rules;
- there is a tradition of altruism in public life and wishing to serve the public interest;
- informal links between the private sector and politicians and officials are relatively limited ;

⁴See Paul Collier and Anke Hoeffler, “Testing the Neocon Agenda: Democracy in Resource- Rich Societies”, 2006 (mimeo available on Hoeffler’s website).

⁵This argument is developed in Mushtaq Khan, “Corruption and Governance in South Asia,” in “South Asia 2006,” Europa Publications. It helps to explain why, other things being equal, there tends to be more corruption in poor countries than in richer countries, and why corruption reduces as countries develop.

- the prevailing ethical system supports individual honesty and integrity;
- there are strong civic values, emphasising trust and loyalty to the relevant political entity and to the agency for which the politician or official is working;
- the cultural environment is supportive – for example, with reference to how the individual is expected to behave in relation to his family and wider groupings, or how materialistic the society is;
- there is pride in proficient performance at work;
- the rules and controls over which political leaders and officials have discretion can be kept to a minimum;
- the country's recent governance record is relatively good (what political scientists call "path dependence").

If a country is embroiled in serious internal or external conflict, or if there is dramatic political or economic transformation in train, the difficulties are likely to be much greater.

17. Societies need to guard against not just the actuality of conflict of interest intruding into official decision-making but also the **perception** that it may be doing so. For example, a political leader or official may be entirely "altruistic" in the way he behaves, but if he happens to have a financial interest in an issue with which he is dealing, outside parties may **think** he is acting in his self-interest. So there need to be mechanisms in place to avoid any such perception – e.g. making a declaration of personal assets on taking office, establishing "blind trusts" that are managed by an independent trustee, and "declaring an interest" and asking another minister or official to provide the advice or take the decision when there is a clear conflict of interest.

18. The analytical framework outlined above breaks down where the goals and rules of the government or agency lack clarity, are unworkable or are conflicting. In this case, it is difficult for the official to know exactly what his public duties are. He is likely to be serving the public interest best if he interprets them to the best of his ability so as to produce the best outcome for the public. But in a situation where it is routine for the official to "bend the rules", it all too easily becomes routine for him to exact bribes or gifts for doing so. The official has secured a personal financial gain, but the public interest may also have been served. This situation arises particularly in command economies and when they are in transition to a market economy.

The British Experience

19. For most of Britain's history, conflict of interest amongst rulers and their officials was endemic. Until the 18th century, no-one expected the king or his courtiers not to take advantage of their position to enrich themselves. There were exceptions who served the crown relatively altruistically in the interests of the nation. A well known example is Samuel Pepys, the diarist but also great reformer of the Navy in the 1660s. But even he was not averse to using his position to earn some money on the side through smuggling.

20. In the early 1700s, the administrative apparatus was a mixture of the medieval and the modern. In some ministries, there was gross nepotism, corruption, incompetence and negligible salaries supplemented by handsome fees; in other ministries, civil servants worked long hours, were reasonably honest and were reasonably paid.

Gradually, the honest professionals supplanted the corrupt and the incompetent, and the quality of administration across government got better. Several factors contributed:

- recognition by the King's ministers of the need for efficiency in the collection of taxes if Britain was to be successful in its increasingly expensive foreign wars;
- after the "Glorious Revolution" of 1688 when King James II lost his throne and William of Orange was invited to take his place, the Parliament - though representing only the nobility and the landed gentry - became much more powerful in relation to the King and his ministers. It gained control over the collection of taxes, it gained control of the army, and it was reluctant to disburse moneys without good reason – which in turn created a degree of accountability that acted as a powerful constraint on administrative malpractice;
- there was a growing band of lobbyists, and a flourishing press which published information on matters of state; together, they began to act as a check on secrecy and malfeasance;
- there was an independent judiciary which could enforce limits on the executive's power and on its abuse.

21. By the early 1800s, standards of governance were still a long way short of anything that might be called transparent and clean. Further advances took place in the 19th century thanks to the following:

- extension of the vote to all males, which created a stronger constituency for honest and effective government;⁶
- the influence of political philosophers like Adam Smith, Tom Paine, J.S. Mill and Jeremy Bentham who placed emphasis on the limits and efficiency of government;
- the growth, partly through the revival of religious belief, of so-called Victorian values – with their emphasis on honesty, duty and hard work;
- reforming political leaders, especially four-times Prime Minister William Gladstone;
- the creation of a professional civil service appointed through competitive examination following the Northcote-Trevelyan report in 1854;
- the spread of education, making people more politically aware and providing the basis for a competent civil service;
- passing of legislation aimed at curbing corrupt practices in elections (including introduction of the secret ballot) and in other areas of public life;
- establishment of an independent National Audit Office reporting directly to Parliament.

22. By the early 20th century, public life in Britain was relatively clean. The control mechanisms that had developed over the previous two hundred years, plus a supportive culture, ensured that the misuse of public position for personal or party gain became rather rare. There were a few high-profile scandals such as Prime Minister Lloyd-George's award of Peerages (and therefore membership of the House of Lords) to his cronies as a reward for financial support – and this led in 1925 to legislation outlawing such behaviour. Probably the most persistent abuse of power was at local level – in the zoning of land for development and the award of contracts.

⁶ Women didn't get the vote until 1916.

23. Government at national and local level became more transparent as the 20th century progressed. Government decisions became more open to public scrutiny, the electorate became politically more aware, and the opportunity for politicians and officials to place contracts with their favourites was sharply constrained by the extension of competitive tendering. Britain was generally reckoned to be amongst the cleanest in the world in terms of governance.

24. Nonetheless, there continued to be the occasional scandal and the press became much more aggressive in spotting relatively minor transgressions. As a consequence, in the early 1990s there were demands for more effective measures of control. This was sparked off by the “cash for questions” scandal in which Conservative MPs were shown to have accepted cash for asking questions about particular issues in the House of Commons. The amounts were quite trivial (in the hundreds of pounds) but the scandal reinforced the public’s growing distrust of politicians. The biggest concern in fact concerned the funding of political parties. This came to a head under Tony Blair’s premiership

when the Labour party first of all received a £1 million donation from the boss of Formula 1 racing who, it was alleged, in return received exemption from a ban on promotions by the tobacco industry. Secondly, there were accusations that the government had awarded Peerages in return for donations to the Labour party in contravention of the 1925 Act. There was a 16 month police investigation, but eventually the prosecution authorities decided not to bring any charges.

25. Prior to these particular events, in 1994 a new standing Committee on Standards in Public Life was set up, chaired initially by a senior judge. This committee produced a series of reports which, along with pressure from other quarters, led to new or strengthened mechanisms for regulating the conduct of MPs, political parties, ministers and civil servants. These included:

- a new Code of Conduct for MPs requiring them to act solely in the interests of their constituents and the wider public;⁷
- requiring MPs to give more detail of their outside interests in the compulsory Register of Members’ Interests;
- establishing a Parliamentary Commissioner for Standards with the task of overseeing the Register of Members’ Interests and the operation of the Code of Conduct, and investigating specific complaints against individual MPs;
- establishing a House of Commons Committee on Standards and Privileges whose task is to supervise the Parliamentary Commissioner;
- passing of the Political Parties, Elections and Referendums Act which requires political parties to report to an independent Electoral Commission on their spending during election campaigns and on the sources of their funding;
- a new Ministerial Code which sets out in some detail how ministers are expected to conduct themselves in relation to their private interests⁸;
- appointment of an Adviser on Ministerial Interests (reporting directly to the Prime Minister) whose task is to advise individual ministers on how they should handle potential conflicts of interest and investigate any alleged breaches of the

⁷ <http://www.publications.parliament.uk/pa/cm/cmcode.htm>

⁸ http://www.cabinetoffice.gov.uk/propriety_and_ethics/ministers/ministerial_code/

- Ministerial Code (this task was previously undertaken by the Cabinet Secretary or by Permanent Secretaries⁹);
- a new Code of Practice for Ministerial Appointments to Public Bodies (to make sure that ministers make appointments on merit alone) and appointment of a Commissioner for Public Appointments whose task is to regulate and monitor such appointments¹⁰ ;
 - a revised Civil Service Management Code which covers the whole range of management issues, and a separate Civil Service Code which sets out the values and the standards that civil servants are expected to uphold¹¹;
 - Civil Service Commissioners (appointed by the Prime Minister) to audit recruitment by individual ministries to make sure they comply with the principle of selection and promotion on merit and fair and open competition;
 - the Freedom of Information Act 2002 which enables citizens to have access to all government papers – other than those pertaining to an individual staff member - unless the agency in question can demonstrate (to the satisfaction of the independent Information Commissioner) that, in providing the information, the nation's security would be put at risk or that commercial confidentiality would be breached.

26. The funding of political parties – which is probably the most pressing issue substantively – remains to be adequately tackled. Yet another committee under the chairmanship of a retired Permanent Secretary has recently reported on this issue. It recommends caps on donations, reductions in spending on general election campaigns, and some limited public funding (£20-25 million per year) for political parties.¹² The government and opposition parties have yet to express a view on the proposals.

27. Thus, it can be seen that over the past ten years or so, despite the fact that corruption and the abuse of power were already very limited by international standards, the control system has developed quite considerably. It continues to rely principally on internal self-regulation and independent scrutiny, although there are laws on corruption and other forms of misconduct to back these up if necessary. It is too early say definitively what impact these latest changes have had. The public remain somewhat cynical about politics and politicians, but this may have as much to do with policy failures as with continuing concerns about the abuse of position for personal or party purposes.

USA

30. Conflicts of interest abound in American politics and public administration owing principally to the dominance of business in the political and cultural life of the country. Politicians and senior officials very often come from the private business sector, and return to it when they have completed their term of office. The rotation of people from the private sector into and out of government is high. Big business is a major funder of election campaigns. "The pursuit of the moneyed life", wrote the sociologist C. Wright Mills, "is the commanding value, in relation to which the influence of other values has declined, so men easily become morally ruthless in the pursuit of money."¹³ In this

⁹In the British system, Permanent Secretaries are the civil service heads of government ministries.

¹⁰<http://www.ocpa.gov.uk/>

¹¹ <http://www.civilservice.gov.uk/publications/code/index.asp>

¹²<http://www.partyfundingreview.gov.uk/download.htm>

¹³C.Wright Mills, "A Diagnosis of Our Moral Uneasiness", New York Times Magazine, 1952, reprinted in "Power, Politics and People", Ballantine Books, New York.

cultural climate, politicians and officials may be all the more susceptible to accepting favours, and private individuals or organizations to offering them.

31. In the nation's early years, the ideals and altruism of the Founding Fathers ensured that those appointed to public position were competent and honest. One historian has written that "during the formative years of the American national government its public service was one the most competent in the world. Certainly it was one of the freest from corruption."¹⁴

32. This soon changed. Standards in public life declined as the gentlemen and intellectual political leaders of the revolutionary period were replaced by self-interested politicians. The partisan use of patronage became standard practice and access to public office became dependent not on a man's competence and integrity but on his political connections. Contrary to the premise that democracy favours good governance, in the US case in the 19th century the spread of democracy seems to have had the opposite effect. When a reforming minority proposed reforms to the civil service so that appointments would be made by competitive examination, these were routinely opposed as being elitist and anti-democratic.¹⁵

33. Civil service reform at the federal level was eventually enacted in 1883, but this did not affect the politicians. The railroad boom, the concentration of economic power in the "robber barons", the dominance of self-interested party bosses and other factors led to corruption and abuse of power in the public domain on a large scale. In the 20th century there was a gradual cleansing of public life thanks to the rise of progressive politicians (such as the two Roosevelts), a more vigilant press, and the recognition that for the USA to be a successful world power it needed an efficient and incorrupt administration.

34. The American approach, much more than in Britain, was to rely on the law to enforce rectitude, rather than self-regulation. This is reflected in a vast array of "ethics legislation" which goes into great detail on the duties and obligations of elected and appointed officials.

35. Today, political patronage remains more widespread – and accepted – than in most western democracies. For example, ambassadors are routinely chosen on the basis of a connection with the President – friendship or financial support for his election. And thousands of other senior officials in the federal government are appointed on the basis of their political affiliation. Furthermore, conflicts of interest are not adequately controlled, especially in the area of public procurement and public spending more generally.

36. It is rare for the formal rules to be broken, but private businesses often have a major influence on how the rules are formed and implemented. Recent examples include the extensive use of sole source contracting in Iraq, the pricing of pharmaceutical products under Medicare, and the exorbitant margins paid to the banks for funding guaranteed student loans. In return, politicians receive funding for their election campaigns. Even more so than in Britain, a major concern is the whole question of election funding. Effective restrictions on donations don't exist and the length and huge expense of electioneering encourages political corruption of the type just mentioned. All that said,

¹⁴Paul Van Riper, "History of the United States Civil Service", Evanston, Illinois, 1958.

¹⁵Richard Hofstadter, "Anti-intellectualism in American life", Vintage Books, 1963.

the USA does have a very tough legal framework and a vigilant press, and its WGI ranking at Annex 1 is only just below the top decile – though, as the world’s wealthiest nation, one might expect it to be higher.

Russia¹⁶

37. During the Soviet period, the personal goals of all citizens were supposed to be aligned with the goals of the state. In practice, of course, they were not, especially when the state failed to deliver on its promises. Under Stalin, citizens were forced into line or perished in the gulag. In the later period, it was well-known that Communist Party leaders took advantage of their positions to advance the interests of themselves and their families.

38. For employees of the state at lower levels, the position was more ambiguous. For the economy to work as well as it did, the formal rules and controls had to be selectively side-stepped by the managers of state businesses with the complicity of officials. In going along with these “informal practices”, officials were arguably acting in the public interest whilst also often benefiting personally by accepting favours in return. In these circumstances, concepts of public duty and honesty became blurred, and most officials were in one way or another conflicted. Most people were forced by the contradictory demands of the system into breaking the rules for personal ends, though some were more greedy and less honest than others.

39. The introduction of a market economy and a democratically elected government post-1989 might in theory have put an end to all this. It did not for several reasons. Firstly, the new economic rules were often defective, and it was necessary for the managers of newly privatised businesses to continue to use “informal practices” if they were to survive. Secondly, the “informal norms” - i.e. codes of conduct and ethics – of the earlier period continued to prevail, so that officials and managers saw nothing wrong with continuing with the old “informal practices”, though sometimes in modified form.

40. Thirdly, the opportunities for officials to extract rents from the economy for their own personal benefit – particularly with the sale of state assets – increased enormously. And fourthly, the checks and balances outlined in paragraph 8 above were grossly inadequate. There was no serious attempt by political leaders to control the abuses, since they themselves were also indulging. Neither the parliament, the courts nor the press proved effective in stopping them either.

41. Rent-seeking and paying bribes have been associated with both the formation and the implementation of the rules and policies, and on a vast scale. Major business interests (known as the Oligarchs) effectively “captured” the state. And there is now a further sinister twist: the Federal Service of Security (formerly the KGB) has effectively gained control of some of Russia’s largest assets.

¹⁶This section draws on Alena Ledeneva, “How Russia Really Works – the Informal Practices that Shaped Post-Soviet Politics and Business”, Cornell University Press, 2006, and on Joel Hellman and Daniel Kaufman, “Confronting the Challenge of State Capture in Transition Economies”, Finance and Development, September 2001, Vol 38, No 3.

42. The interdependence between big money and the political leadership has become endemic and seriously undermines both the working of the economy and the legitimacy of the state. The Oligarchs depend on the politicians for preferential treatment and have a major influence on policy; the politicians rely on the Oligarchs for large financial rewards and for their political survival. Conflict of interest in government remains rampant and largely unchecked.

45. Russia finds itself in a vicious circle because the Oligarchs (now joined by the FSB), having won control of the rules and of policies, strongly resist any attempts at reform, and the politicians resist reform because it would weaken their hold on power. The situation has been aggravated, for the reasons explained in paragraph 13, by the fact that Russia has become flush with “resource rents”.

46. Although the WGI data at Annex 2 show some improvement since the late 1990s, Russia remains in the bottom quartile.

China¹⁷

47. There are some similarities between China and Russia. Under Mao’s command economy, there were conflicts of interest and corruption at the top; and there were “informal practices” lower down that were outside the formal rules. Following the movement to a market economy starting in 1978, corruption also took off. The co-existence of planning with the free market (especially the co-existence of market and controlled prices) offered huge opportunities for fraud; and when power was decentralised from Beijing to the regions in the early 1990s, the abuse of power by local officials for personal gain increased dramatically.

48. The media was discouraged until very recently from exposing corruption; local officials lacked supervision as power from the centre weakened; and voting at village and township level had limited impact because of the practice of vote-buying. Moreover, illegal activity in the economic domain was sometimes countenanced if it could be seen to enhance development prospects. As faith in Marxism-Leninism declined, there was nothing to take its place from the point of view of restraining the pursuit of self-interest. With the economy growing so rapidly, officials could get rich quickly by “bending the rules” and giving preferential treatment to favoured entrepreneurs. The “informal norms” – codes of conduct and ethical standards - inherited from the Mao period seem to have encouraged this, or at least not discouraged it. The tradition of *guanxi*, the respect for social relations and for reciprocity, may have played a part too.

49. On the other hand, one of the main causes of the political demonstrations of 1986 and 1989 was disgust with the level of corruption, and as of today this remains the Chinese public’s greatest concern after unemployment. The central leadership has taken this seriously and has conducted several major national anti-corruption campaigns. Many institutional changes have been attempted such as requiring officials to declare their income from all sources, stopping them from appointing relatives to posts, and preventing them from setting up “satellite activities” to raise revenue. And there has been

¹⁷This section draws on Z.He, “Corruption and Anti-Corruption in Reform China”, *Communist and Post-Communist Studies*, 33 (2000), and Yan Sun, “Corruption, Growth and Reform – The Chinese Enigma”, *Current History*, September 2005.

a major effort at enforcement with thousands of arrests and exemplary punishments, including the execution of a former regional governor. There have also been attempts at “moral education”.

50. Despite all these efforts, corruption and misuse of position by officials remain a major problem; according to the WGI data at Annex 2 it has got significantly worse over the past ten years. Yet it has not had the adverse effect on economic performance that the text-books say it should. This is where China is different from Russia. Political scientists and economists have long been puzzled as to why it should be so.

51. The most plausible argument seems to be that in China, unlike Russia, national political leaders have been strongly committed to the successful transformation of the economy and have not by and large put their personal interests first. Corruption in the main has been below the top level of government. Consequently, China has avoided the “state capture” by business interests that has blighted Russia. Furthermore, it has been argued that Chinese corruption – because it is primarily at the local level – is of a competitive nature and therefore involves an element of “market clearing”. Unlike monopoly “rent-seeking” in central government, “competitive corruption” can ensure the efficient use of the scarce resources that officials control; if one set of local officials is too greedy, businesses can go to another locality.

India

52. In terms of governance, when India became independent in 1947 it was fortunate in three respects. It had a democratic constitution. It had a professional higher level civil service well known for its integrity and impartiality. It had political leaders who, influenced by Gandhi, lacked material ambition for themselves and were wholly committed to the economic and political transformation of their country. Where corruption and conflict existed, it was at low levels of government and of a petty kind – involving “speed money” paid by the “common man” for various public services.

53. Over the following decades, several things changed. The strict controls on imports and investment offered significant “rent-seeking” opportunities, especially in a situation of severe foreign exchange and capital goods shortage. Punitive tax rates encouraged tax evasion and bribery of revenue officials. As the Congress Party ceased to have a near monopoly of power at the Centre and in the States, it needed increasing amounts of money to fight elections. Other parties also needed money. Factionalism, particularly at State level, and the competition for limited public resources was a powerful driver of political corruption.¹⁸ Corruption by the politicians required the complicity of officials. Although the media have been reasonably effective in exposing political corruption, this has not stopped politicians with corrupt reputations or even criminal records from getting elected: voters seem more interested in whether the politician will deliver on his or her promises.

53. According to a former Central Vigilance Commissioner of India, the tight legal restrictions on donations to political parties actually exacerbated the situation so that “the vast majority of political funds comes in the form of “black money” which is not regulated by the state and was most likely gained by earlier corrupt deals at the expense

¹⁸See Mushtaq Khan, op.cit.

of the state.”¹⁹ As time went on the high ethical standards inherited from Gandhi and from the former Indian Civil Service began to slip. As a consequence of all these factors, by the 1970s high level corruption had become a significant feature of the Indian landscape amongst both politicians and officials.

54. When India liberalised in the 1990s, many assumed that corruption would lessen – particularly as administrative controls on imports and investment were abolished. This, however, does not appear to have happened: if anything, corruption got worse. Politicians and officials have found that there are plenty of other avenues, such as public procurement, the sale of public assets and the award of licences, where they can extract bribes.

55. Other factors that have contributed include:

- the worsening differential between public and private sector salaries as the latter have increased rapidly;
- weak enforcement of the law (and therefore low risk of detection). The Central Vigilance Commission, and its State counterparts, which are charged with conducting investigations into corrupt practices, have a mandate that only covers non-elected officials. Compared with China, their efforts have been weak and they haven’t been helped by lack of support from politicians and slow action by the courts;
- many politicians, especially at the State level, have criminal records and they have not been disbarred from elected office;
- as India has opened up and the economy has taken off, a “get rich quickly” mentality has infected many and made them more likely pay and accept bribes.

56. Petty corruption has shown no sign of letting up. A survey conducted by Transparency International in 2005 reported that 80 percent of respondents who had interacted with the police during the previous year had paid a bribe; for land registration and records, the figure was 48 percent, and for the lower judiciary it was 47 percent. A large majority of respondents felt that corruption in their day-to-day experience was getting worse. Clearly, therefore, a high proportion of lower level public servants are conflicted and are pursuing aims outside their public duties.²⁰

57. According to the WGI data, India’s record is considerably better than that of China, Russia or Indonesia, notwithstanding the fact that it is a considerably poorer country in per capita income terms. Despite the fact that electoral competition has had some negative effects as noted above, India’s better performance is probably a tribute to the fact that it has been democratic for 60 years, the rule of law has more or less prevailed, and there has been an independent press. The WGI data show some improvement between 2005 and 2006.

¹⁹N. Vittal, “Corruption and the State – India, Technology and Transparency”, Harvard International Review, Vol 23 (3), 2001.

²⁰Transparency International India. “India Corruption Survey”, 2005 (available on TI India’s website).

Indonesia²¹

58. There are some similarities between General Suharto's New Order regime and 18th century England. Under the New Order, the executive was extremely powerful but its power was not absolute; there was a mix of people in government – some were professional and honest, others were appointed on the basis of connections rather than merit and were highly corrupt; and whilst government leaders abused their position for personal gain on a large scale, they were also committed to the nation's success. However, in the last few years of the regime, it deteriorated to something more like Yeltsin's Russia with Suharto (and his family) benefiting hugely from his connections with Indonesia's own "oligarchs" to the detriment of the nation and his own legitimacy. Suharto and many of his colleagues in government were hopelessly conflicted through their close links with the private sector and their revenue raising activities associated with the military and other branches of government. And they exploited these conflicts. Suharto's family members and the "oligarchs" effectively "captured the state" as in Russia.

59. Suharto was forced out of office in 1998 partly on account of growing resentment about corruption. Since then, Indonesia has made impressive strides in terms of institutional reform – the holding of direct (and generally clean) elections for the president, for provincial and local officials, and for national and local parliaments; strengthening the role of these parliaments; removal of the military from government; decentralisation of power from Jakarta to local governments; and the setting up of an array of new institutions aimed at reducing corruption and political patronage – e.g. independent General Elections Commission, Supreme Audit Agency, Anti-Corruption Commission, Anti-Corruption Court; and an Ombudsman's Office.

60. And yet, progress in actually reducing corruption and in controlling conflicts of interest has been slow. Indonesia has significantly improved its WGI ranking on the control of corruption over the past few years - but it is still in the bottom quartile at about the same level as Russia. There have been hundreds of investigations by the Anti-Corruption Commission and some high profile convictions; but corruption remains pervasive. In central government it may have diminished but this is offset by an increase at local level as power has been devolved from Jakarta. (Businesses complain that having to pay bribes at the local level creates greater uncertainty than paying bribes at the centre. However, it is possible that, as in China, it reduces the risks of "state capture"). The media, with its new found freedom, as well as other civil society organizations, have played a useful role in exposing corruption; but the national parliament has been disappointing – indeed, as in Russia, there is routine bribing of MPs by the powerful interests who wish to resist reform.

61. Political leadership on the issue has been variable. President Yudhoyono has a reputation for honesty and has been keen to make progress on the corruption issue; but the same cannot be said of certain other political leaders. As in Russia, booming natural resource revenues have made embezzlement by politicians and officials that much easier. Senior politicians retain major business interests, and directly or indirectly continue to exercise their authority in respect of these interests. Low civil

²¹The views expressed in this section are largely based on work undertaken by the author in connection with an evaluation of the UNDP's support for governance reform in Indonesia, carried out in January 2007 and available from UNDP.

service and parliamentary salaries also encourage bribe-taking. Worst of all, the court system has performed poorly in bringing the corrupt to justice: relative to the scale of the problem, convictions have been few and some of the sentences derisory. Many senior judges have a history of corruption, and the Supreme Court has made it difficult for the Anti-Corruption Court to function. As in other countries in political transition, the informal norms and practices of the past have tended to carry on into the present - not just from the Suharto period but also from the older tradition of offering gifts in return for services. And finally, there has been resistance to reform from those powerful interests that "captured the state" in the late Suharto period.

62. In short, democratisation has to yet to be accompanied by adequately functioning checks and balances or by a sufficiently supportive political and cultural environment.

Singapore

63. Singapore is a paradox. It has one of the cleanest governments in the world. Yet as one scholar has observed, "the line between business and government is systematically blurred". The ties between politicians, civil servants and the private business people are close. They have careers that involve, moving from one sphere to the other; and the structures of ownership provide many opportunities for the abuse of power. Given these ties, "it would not be surprising if government was unable to enforce prudential regulation and resist rent-seeking".²²In addition, Singapore is effectively a one-party state, there is a lack of transparency in the way government conducts its business, the media is controlled and uncritical, and the rule of law lacks full credibility. And there was a history of quite severe corruption before the 1970s.

64. All of these conditions would appear to be inimical to clean government. Why then has Singapore done so well? There appear to be several factors:

- excellent leadership on the whole range of governance issues from former Prime Minister Lee Kuan Yew and his successors;
- tough anti-corruption legislation and vigorous enforcement;
- excellent salaries for civil servants and for ministers;
- strong performance-related management within the civil service;
- ethical values emphasising personal integrity, duty to the community and abiding by the law. These values have not come about automatically; they were encouraged or instilled by Lee Kuan Yew and his associates in preference to some of the traditional Chinese attitudes which give more emphasis to the family and social networks and show less respect for the law.
- It is a very small country and therefore it has been relatively easy for political leaders to change the values and practices of the whole society compared with a much larger country like Indonesia.

²²Natasha Hamilton-Hart, *Pacific Review* Volume 13, No 2. This section draws on her analysis and also that of Tan Tay Keong, "Masters, Mandarins and Mortals: the Constitution of Singapore's National Integrity System", in Simon Tay and Maria Seda (eds), "The Enemy Within – Combating Corruption in Asia", Eastern University Press, 2 2003.

65. While Singapore's record in addressing conflict of interest and avoiding corruption is enviable, conventional analysis would suggest that, without the more "normal" checks and balances seen in Europe and elsewhere, there must be a risk that its performance might deteriorate. Much depends on the continuation of an "altruistic" political leadership.

Conclusions

66. In all seven countries reviewed in this paper, political leaders and officials have encountered, or allowed themselves to encounter, conflicts of interest. Where these have not been held in check, there has been abuse of power for personal or party gain.

67. The following are some tentative lessons from our discussion:

- Societies have different ideas and different degrees of tolerance concerning conflict of interest, depending on the level of development, the political and economic system, and perhaps different ethical and cultural values.
- Getting control of conflicts of interest and reducing corruption is a complex process and may take years to achieve. It is harder for countries when they are very poor. Informal norms and practices inherited from the past, and resistance from those who have been the beneficiaries of previous corrupt practices, make reform all the more difficult. Political elites, as well as the wider public, have to see the need for reform.
- Unnecessary regulations and "red tape" should be got rid of. But contrary to the standard neo-liberal view, economic liberalisation does not automatically result in less corruption and initially may increase it. Although administrative discretion is reduced, there are still plenty of areas where politicians and officials retain discretion and therefore retain opportunities for rent-seeking; and liberalisation often produces a "get rich quickly" culture which makes bribery more acceptable.
- Also contrary to the neo-liberal view, democratisation will not automatically reduce corruption. In the early stages of democratisation, electoral competition may increase corruption, especially in resource-rich countries as well as in poor countries where there is intensive competition for limited public resources. High priority needs to be given to developing well functioning checks and balances.
- There is no magic or unique mix of solutions that will be appropriate everywhere.
- The three most important ingredients are likely to be effective political leadership that drives institutional reform and changes people's attitudes, a strong legal framework and enforcement of the law; and a flourishing, independent press.
- Other helpful ingredients are likely to be a professional, well managed and adequately paid civil service; clear rules on the duties and obligations of elected politicians and officials and systems in place to ensure compliance; and democratic accountability at both national and local level.
- All democratic countries need to consider carefully how to better regulate the funding of political parties and spending on election campaigns.