

A Regional Overview Report on National Integrity Systems in South Asia



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Section I: Introduction

This report is primarily based on the findings and observations drawn by the different country studies on National Integrity System (NIS) in South Asia. The respective country study reports include: a country overview; a general profile on corruption, assessing the nature and extent of corruption of the country; and an overview of the core laws, rules and practices that contribute to the strengthening of National Integrity Systems. The country studies also assess the anti-corruption strategy of the respective countries and provide an overview of the anti-corruption activities of donors, offering suggestions for future initiatives.

This regional report is based on the content analysis and review of the country studies. In addition, some selected literature (mostly drawn from open domain web sources) has also been reviewed.

The report attempts to compile regional experiences and observations by reviewing institutional frameworks, key trends and various anti-corruption initiatives. The report collates significant lessons and their institutional implications for strengthening the NIS in the countries concerned. The report also highlights key issues and outlines possible strategic intervention packages. Finally, the report also suggests some approaches for regional cooperation for strengthening National Integrity Systems in South Asia.

Although all of the country studies followed a general format, there were variations in terms of the quantity of data as well as in the depth of analysis. This report attempts to draw broad generalisations based on the observations made in the country specific studies. In some topical areas, insufficient data was contained in the country studies. However, for the purposes of comparative research, such methodological limitations are common and do not grossly limit the overall general observations.

Section II: National Integrity Systems - Conceptual Framework

The integrity system is an approach based on the conviction that all of the issues of contemporary concern in the area of governance-capacity development, results orientation, public participation, and the promotion of national integrity, must be addressed in a holistic fashion (TI Sourcebook 2000).

The NIS aims at the following:

- Public services that are both efficient and effective, and which contribute to sustainable development.
- Government functioning within the law, with citizens protected from arbitrariness (including abuses of human rights) and,
- Development strategies that yield benefits to the nation as a whole, including to its poorest and most vulnerable members, and not just to well-placed elites.

The system is designed to prevent corruption from occurring in the first place, rather than relying on penalties after the occurrence. The ultimate goal of establishing a National Integrity System is to make corruption a "high risk" and "low return" undertaking.

The National Integrity System approach unlocks a new form of diagnosis and potential cure for corruption. Instead of looking at separate institutions (e.g. the judiciary) or separate rules and practices (e.g. the criminal law) and then focusing on stand-alone reform programmes, it is conceived as an inter-dependent holistic approach.

South Asia: An Overview

South Asia has a history of democratic institutions but studies show that democracy as practiced in the region is not at all conducive to the welfare of the people.¹ All the nations face the pernicious evils of endemic corruption, social exclusion and inefficient civil services which plague them uniformly. Income disparities in South Asia are some of the largest in the world with women suffering the most. The systems of governance have become unresponsive and irrelevant to the needs and concerns of the people.² In some South Asian states, democracy has become an empty ritual with elections being the only bridge between the state and society.³

Poverty, social deprivation, poor service delivery and systemic corruption are the real challenges confronting South Asian countries. Although the incidence of corruption in public life is a worldwide phenomenon, in recent years it has assumed frightening proportions in some South Asian countries. Corruption, lack of transparency and accountability in public life continue to be a burden on the economies of the countries concerned.

South Asia has one of the world's most buoyant NGO sectors with over 100,000 non-governmental organisations in the region. Of these, 25,000 are in India, 22,000 in Bangladesh, 10,000 in Pakistan, about 18,000 in Nepal and some 30,000 in Sri Lanka. Some of these NGOs are quite small and exist only on paper. But many NGOs have a national impact and some have emerged as international role models.

Countries in the region have scored poorly in terms of integrity. Empirical observations from most of South Asian countries reveal that there is an inverse relation between corruption and human development indicators. Bangladesh has, however, shown a different pattern where some HDI indicators have shown positive trends in spite of a high degree of corruption and poor governance.⁴

The box below presents the summary of the TI study entitled "*Corruption in South Asia: Insights & Benchmarks from Citizen Feedback Surveys in Five Countries*":

¹ Hasnat Abdul Hye, (ed) *Governance : South Asian Perspective*, Dhaka: UPL, 2000.

² Rahman Sobhan in his comprehensive review of governance on South Asian concludes that "there is unfortunately no evidence that exposure of all countries in South Asia, certainly over the last decade, to plural democracy, has noticeably improved the quality of governance, accelerated development or indeed encouraged more equitable distribution of its benefits. Indeed a more competitive political system has coincided with an increase in the importance of money and violence as instruments of electoral gains, the emergence of a highly confrontational parliamentary culture and progressive degeneration in the morality of the political system' for detail see - Sobhan Rahman, 'Reprioritizing South Asia's Development Agenda: Role of Governance' in Hasnat Abdul Hye, (ed) *Governance : South Asian Perspective*, Dhaka: UPL, pp.341-365.

³ Khadija Haq, President of the Islamabad-based Mahbub Ul Haq Centre for Human Development (HOC) *The Next 5 Minutes 3 Public Debates List*-- <http://www.5m.org>

⁴ Isher J- Ahluwaha and VVahiduddin Mahmud (2004), *Economic Transformation and Social Development in Bangladesh*, EPW, 4-10 September 2004.

Summary results: "Corruption in South Asia: Insights & Benchmarks from Citizen Feedback Surveys in Five Countries", a survey by Transparency International

- Education, health and power emerge as the three most commonly used public services across the region. For a large percentage of the population, public institutions are the sole providers of these services.
- The police is generally perceived to be the most corrupt.
- However, experiences of actual users of services highlight that the police and the judiciary come out as the two most corruption prone sectors.
- Access to public services is a major issue for vast numbers of the population in all five countries surveyed, especially in Bangladesh, Pakistan and Sri Lanka. The findings further also imply that the poor in these countries face the danger of exclusion from public services due to the high artificial barriers, economic and otherwise.
- Petty corruption appears to be endemic in all key public sectors.
- Middle and lower level functionaries are identified as the key facilitators of corruption in all sectors probed.
- An analysis of the nature of corruption finds extortion to be the most prevalent form.
- Evidence of the economic costs incurred due to corruption suggests high levels of income erosion given the high frequency of bribery and the large sums paid.

Source: *Corruption in South Asia - Insights and Benchmarks from Citizen Feedback Surveys in Five Countries*, Transparency International, December 2002.

Section III: Institutional Set-up

Because of a common administrative legacy and colonial past, all South Asian countries tend to have a similar political and administrative set-up for their national integrity system. These institutions include: The Executive, Parliament and Parliamentary committees, Judiciary, Comptroller and Auditor General (C&AG), Central Anti Corruption/Vigilance Agency, Ombudsman and Election Commission. Other relevant institutions or agents are civil society, NGOs and the media.

Parliament

The prime institution for national integration is parliament. As a whole, the integrity of parliaments and political parties is dependant on the effective functioning of national integrity systems. However, the role and function of parliament in South Asian countries shows a mixed picture. In some countries, the continuity of parliament is a key problem which results in a lack of accountability and increases the risk of corruption. Some South Asian countries have initiated the televised broadcasting of parliamentary sessions. This seems to be placing a spotlight on the functioning of the parliamentary system and has both a short and long term impact on accountability and transparency.

The parliament acts as a very vibrant and active institution in **India**, while the parliamentary system in **Pakistan** has proved itself, on the whole, to be weak because the prime minister rules primarily by presidential guidance. The NIS country study reveals that parliament's role in Pakistan has been fundamentally weakened by legislators with low integrity, reflecting the overall political culture where the desire for

power at all costs has meant political expediency.

Nepal is a constitutional monarchy with a multi-party parliamentary political system in which the prime minister is elected head of government. Frequent parliamentary elections, accompanied by instability in government, have created an ineffective working environment. The parliamentary system looks fragile in Nepal, with 15 governments under four parties with 7 prime ministers since 1990. The parliament appears to be busy with what observers term a power game, with "both the ruling and opposition parties [...] engaged in filibustering the passage of some bills not palatable to them". Parliamentary democracy is in a formative stage in Nepal.

In **Bangladesh**, the parliament appears to be relatively strong. However, confrontational politics, a poor parliamentary culture and the dominant and sometimes intolerant attitude of the party in power tend to mar the spirit and modality of its operational business - which in many cases has resulted in continuous boycotting and abstinence by the major opposition party.

Sri Lanka has an executive presidential system vested with enormous powers while continuing with the unicameral system of parliament based on proportional representation. Parliamentary oversight often "suffers from a low attendance record by parliamentarians".

Observations on parliament

- On the whole, South Asian parliamentarians - especially in opposition - tend to be vocal and vibrant in raising accountability and integrity issues in parliament.
- Checks and balances on parliaments that are already in place include executive oversight, legal acts, parliamentary committees and professional codes. Of these, however, only parliamentary committees seem to be performing reasonably well.
- The low skill quotient of technical staff at parliamentary secretariats undermines the effectiveness of parliamentary committees.
- The greatest obstacle to effective parliamentary control has been the apathy shown by the majority of members towards constructive criticism and oversight of government policies. Generally, the debates and discussions in parliament show a dispassionate analysis of government policies, often motivated out of party considerations⁵.
- The experience of the past two decades indicate that there is a declining trend in the image of parliament due to the disruptive activities of political parties.
- There is a growing nexus between criminals and parliamentarians⁶ and, as a result, MPs tend to lose social acceptability and credibility⁷.
- The cost of parliamentary candidates' electioneering is sky-rocketing and is far beyond authorised limits⁸.

⁵ The Bangladesh study reveals that some MPs spent only five percent of their time in the law making process.

⁶ There are various cases of convicted criminals eventually got elected Phoolan Devi, Raja Bhaiya in India are some of the examples. As a matter of fact Raja Bhaiya become a minister in the present UP Government in 2004. For more references see Sunil Sethi, 'Criminal virus in Body Politic', Times of India, 13 February 1998.

⁷ K. Ganesan, 'Crime and Politics : The Growing Nexus', in Hindustan Times, 31 August, 1992, p.11:3-6

⁸ Prime Minister Atal Behan Vajpayee noted in one of his speeches that "every MP elected to the Lok Sabha began his

Judiciary

The Constitutions of the South Asian countries assign the Supreme Court the responsibility of maintaining harmony and balance between the three pillars of the state namely legislature, executive and judiciary. A lack of delivery of justice is present at various levels in all countries. Higher judiciaries generally maintain an acceptable level of integrity, except in Sri Lanka. The lower courts system tends to be ineffective in all countries. Certain national judiciaries have developed innovative approaches to access to justice and public interest litigation. Court administration is a major area of concern and court clerks are often seen to be corrupt. In most countries, lawyers are part of and perpetuate corruption.

The supreme court in **India** is one of the most powerful institutions of the democratic system of government. It is completely independent in character and progressive in its views. It is the custodian of the constitution, both in letter and spirit. The supreme court, as the apex court, occupies a crucial position in the polity of the nation. The Indian Supreme Court has made some landmark judgments to safeguard the constitution and it has also made a few important decisions to free subordinate judiciary from executive interference. Judiciaries are generally constitutionally independent, but this independence is often not reflected in practical terms. Resource deficiencies are a common problem across the entire region.

The higher judiciary, i.e. supreme court, in **Bangladesh** receives a very high rating because it has maintained its independence and has followed judicial activism along with others through public interest litigation. People look upon the supreme court as the upholder of the rule of law and protector of liberties when citizens' rights and liberties are infringed upon. However, the image of the lower courts has been very poor and there are allegations of corruption. The separation of the lower judiciary and the executive is a long-pending item on the government's agenda. In spite of supreme court instruction, the separation process has been delayed. Some of the recent appointments of high court judges are alleged to have been made due to political connections rather than competence. There are also reports of influence by the executive in decision-making in the lower courts.

The judicial system in **Pakistan** is unfortunately not held in high esteem. The introduction of the Federal *Shariat* Court has superimposed an additional layer on the judicial process. This has raised some critical concerns regarding overlap and supremacy between civil and religious laws. The judiciary in general "fails to provide real justice and remedy for wrongs, which only increases corruption across society". The problem of corruption is also acute in the subordinate judiciary where money needs to be paid at virtually every step of the judicial process in order to move cases forward. The Pakistan Bar Council in a white paper⁹ has accused a section of the judiciary to have declared "unlawful acts" as lawful and to have encouraged dictatorship.

The 1990 Constitution of **Nepal** guarantees an independent judiciary. Effective judicial activism has been practiced over the years via some public interest litigation. However, the judiciary in general is subject to criticism because of inconsistency in interpretation of the constitution and laws, its conservative attitude in handling public interest litigation, increasing corruption and delays in delivering judgments. The judiciary and most constitutional bodies in Nepal have been rated as less than average performers.

The judiciary in **Sri Lanka**, as in other South Asian countries, is independent. However, in a household opinion survey, the judiciary has been rated among the top-ranking corrupt institutions. Even the Chief Justice became a controversial figure - his appointment was challenged by three separate Fundamental Right petitions.

parliamentary career by making a false statement—the statement of account of his election expenses. The amount of money that any legislator spends on his elections is many times more than the farcical ceiling laid down by the Government". (Quoted from Indian NIS study, Also for Bangladesh reference see *Developing a Policy Agenda for - Civil Society Tjisk Force Reports*, 2001, Dhaka: CPD, 2001

⁹ NIS Country Study Report Pakistan 2003, p.57.

A parliamentary Select Committee has been set-up to study the purview of the courts-system and the judiciary.

Observations on the judiciary

- In general, the judiciary in South Asia is independent, but its role has become controversial in some South Asian countries, particularly in Pakistan. A lack of delivery of justice is present at various levels in all countries of the region.
- The judiciary has been positive in assessing Public Interest Litigation (PIL).
- There are allegations of politicisation of the judiciary, and, in some cases, it has been accused of siding with ruling regimes.
- Court administration is a major area of concern and court clerks are often seen to be corrupt. In most countries, lawyers are part of and perpetuate corruption.
- Lower courts tend to have poor credibility.

Civil Service

The **Indian** Constitution provides the legal framework for the recruitment, tenure, and discipline of the central government civil service. There are three All India Services, i.e. the Indian Administrative Service (IAS), Indian Police Service (IPS), and the Indian Forest Service. Members of these services are recruited by the Union Public Service Commission. They are also assigned to the States on deputation which strengthens the unitary character of the State of India. The Central Civil Service (Conduct) Rules designed to check the financial improprieties of officials, are considered to be socially sensitive, participatory, and, above all, accountable to the people. However, the Indian civil service manifests the feature of "loose or poor governance", lacks credibility and is characterised by endemic corruption.

The civil service in **Pakistan** is elitist by nature. It is also perceived as resistant to change. There is also a crisis of competence in the civil service, linked to low pay, and there are difficulties in recruiting high quality candidates. Civil servants tend to collude with ministers in the manipulation of laws. They are mostly found to be inefficient and unsympathetic to public problems. Senior officials of the government operate in a political environment and rely upon the patronage of politicians and/or other influential contacts. In sum, the civil service in Pakistan suffers from inadequate recruitment policies based on patronage, political links and nepotism; insufficient remuneration (which breeds corruption); transfers and postings that are gained by bribes and influence; promotions that are not based on professionalism, a low level of professional ethics and integrity; weak and obsolete organisational and management structures; poor accountability mechanisms; and a lack of internal controls and discipline.

The predecessor of the **Bangladesh** Civil Service is the Civil Service of Pakistan (CSP). Critics of the civil service argue that most civil servants in Bangladesh are impervious to public sensitivities, highly bureaucratic and self-serving, and increasingly incapable of managing a modern government within a pluralist democracy. Even competent civil servants cannot render their best because of unhealthy service conditions and built-in contradictions and hindrances in the management of the system. Civil servants are required to be non-partisan but political interference has often vitiated the process of recruitment, postings, transfers and promotions of civil servants. It is a matter of concern that, over the years, the civil bureaucracy has earned an unsavoury reputation for insensitivity to service ethics, self-centeredness, opportunism, rent-seeking and other corrupt practices. Public bureaucracy favours policy development behind closed doors. The official secrets act is often used to justify this and is frequently used as a mean to further corrupt practice.

In **Nepal**, all services and positions in His Majesty's Government are considered to be included within the civil service. The appointment and promotion of civil servants and departmental actions against them are regulated by the Civil Service Act of 1992. There are also civil service rules that provide political independence of the civil service, but political affiliation is mostly rewarded. There are no specific rules to prevent nepotism or cronyism, both of which are very much instrumental. Nepotism and cronyism play a key role in career development.

The Public Administration system in **Sri Lanka** employs close to one million people. The Public Administration system is composed of 59 ministries, which cascade into a plethora of departments, semi-government and public institutions. The constitution states that all public servants are under the control of politicians. If a new party comes to power, therefore, the whole system can be overturned. There has been an amendment to this, but it does not apply to all levels of public servants. The Public Administration system is a highly fragmented civil service and is plagued by ineffectiveness and inefficiency, which makes it highly susceptible to corruption. Salary levels are also low. It was only under the 17th amendment of the 1978 Constitution that the Public Service Commission (PSC) was vested with the powers of appointment, transfer, disciplinary control and dismissal of public officers. Prior to that, recruitment was controlled by political ministers. The PSC has yet to make its mark, while the old habit of political appointments has not died and is still to be addressed. All government employees are required every year to complete a Declaration of Assets and Liabilities under Law No. 1 of 1975 and to submit it to the Head of Department or higher official.

Observations on the civil service

- In general public bureaucracy in South Asian countries are elitist, powerful and resistant to change.
- Bureaucrats generally lack orientation to the values of new public administration and dynamics of development management.
- Lacks credibility and characterized by endemic corruption.
- In some of the countries there is a tendency to politicize the bureaucracy especially at the higher level to gain undue political benefits.
- Public bureaucracy favours policy development behind closed doors and policies are frequently used as a mean to further corrupt practice.

Audit Institutions

The Comptroller and Auditor General (C&AG) office in **India** is an independent position on a par with the Justice of the Supreme Court. Accountant Generals (AG) are located at all the State headquarters. The office of the Accountant General in States is the representative of the CAG in the State. The AGs are the regional offshoots of the C&AG, but function independently of the state governments and are accountable to the C&AG. According to a perceptive analysis and evaluation, the C&AG in India has contributed immensely to the public good and accountability of the executive through his numerous reports spanning from civil departments to defence¹⁰. Numerous suggestive and corrective measures contained in the reports have helped the financial administration to plug serious loopholes and improve efficiency of administration. The CAG's reports and suggestions do not often find the response that is needed, as the position has no authority to ensure compliance. There has also

¹⁰ For detail NIS Country Study India 2003, p. 53.

been a shift from transaction-oriented auditing to performance auditing, capacity for which is still missing in the CAG staff.

The Auditor General in **Pakistan** is established under the Constitution. The Head of State appoints the AG, who can be removed at the recommendation of the Supreme Judicial Council in the same manner as a judge of the supreme or high court. The AG is independent of all other agencies and is also financially independent. The effectiveness of the AG has been constrained by a number of reasons, including a lack of modern technologies and techniques to uncover corruption; the poor state of financial controls; and outdated and complex rules and procedures. Furthermore, the AG staff lack technical ability to uncover or follow-up on corruption cases. There are also allegations of collusion between the auditors and corrupt bureaucrats. The lack of independence of Pakistan's Supreme Audit Institution is a major problem. Though it is supposed to act as a check on the executive, it is situated within a ministry of the executive itself.

The independence of the CAG in **Bangladesh** is enshrined in the Constitution. Nonetheless, the independence of the CAG's office is severely constrained by the operation of the Rules of Business of the Government under which the CAG is subject to the direction and control of the Finance Ministry. The Comptroller and Auditor General (CAG) in Bangladesh submit audit reports to the President through the Prime Minister, which are to be placed before the Public Account Committee (PAC) of the Parliament. This unprecedented practice pre-empts the independence and objectiveness of the reports prepared by this office. In addition, CAG's reports do not always draw the immediate attention of the Public Accounts Committee of the Parliament.

The Auditor General in **Sri Lanka** is a constitutional position appointed by the President after the approval of the Constitutional Council. The Auditor General's Department, which functions at the national level, audits all government entities, whether at the national, provincial or local tiers of government. The Auditor General's focus is on compliance audits, and there is an absence of system-based audits where an organisation's effectiveness and its system of operation can be audited. The Auditor General's parliamentary reports are presented to the Committee of Public Accounts (COPA) and Committee of Public Enterprises (COPE) - which meet very infrequently. Public Officials are not required to respond to the recommendations of the parliamentary committees within any stipulated time - which ultimately makes the role of AG insignificant.

The Office of the Auditor General is (AG) responsible for carrying out an audit of the accounts of all public offices and public corporations in **Nepal**. The Constitution ensures its independence of observations, recommendations and findings. The AG is selected by the Constitutional Council members consisting the Premier, Chief Justice, Speaker, Upper House Chairman and Opposition leader. All public expenditures are audited annually, but reporting is not always on time and up to date. Its report is laid before parliament.

Observations on supreme audit institutions

- The positions of CAGs/AGs in South Asian countries are constitutional. However, in some cases, the independence of the national auditor general is compromised since this position is, in practice, subordinate to the ministry of finance.
- The offices lack technical capacity and are constrained by inadequate staff. They are not well-suited to conducting performance audits.
- CAG/AG reports do not always receive the immediate attention of the parliament and government.

- There are huge backlogs of audit reports and there is evidence of ineffective follow-up of audit observations in most of the countries in the region.

Political Parties

There are two major categories of political parties in **India** - national and state - which are recognized by the Election Commission of India on the basis of certain specified criteria. As of June 2001, there were seven national parties and 38 regional parties recognised as such by the Election Commission of India. This Commission has the ultimate power to accord recognition and status to political parties. It has the power to decide whether or not to register an association or body of individuals as a political party. The party can only be unrecognised when it is found that it has obtained its registration through fraudulent means, when it has been declared by the government as unlawful or when the party itself intimates to the Commission that it has ceased to function or had changed its party constitution. Findings from TI's Global Corruption Barometer have recently confirmed that political parties and politicians are leading the way in terms of corruption in the country.

All political parties need to be registered with the Commissioner of Elections in **Sri Lanka**. There are 51 political parties registered and recognised by the Commissioner of Elections. Each party receives 50 cents per voter from the public purse at the next election, based upon the number of votes that the party won in the previous election. Sri Lanka has no law that requires political parties or political candidates running for election to declare to the public their sources of funding or their campaign expenditures. In the past 30 years, no Sri Lankan politician has been convicted of corruption despite the plethora of corruption allegations in newspapers.

In **Pakistan**, the Code of Conduct for General Elections 2002 and the Political Parties Act 1962 (with subsequent amendment) requires all political parties for registration to take part in election. The Pakistan political system is highly elitist, with candidates and political leaders largely drawn from the feudal classes and, in recent years, the affluent business classes. Most political parties are personality-driven, with virtually no alternative leadership. The Political Parties Order 2002 stipulates that every political party should submit a consolidated statement of accounts of the financial year to the Election Commission. Political parties in Pakistan have suffered from a low-level of institutionalism and do not play an active role in a non-electoral context. Observers note that political parties have not only been a part of unfair and rigged elections, but they have also been a cause for the destabilisation of politics and of the institution of democracy.

The Election Commission of **Bangladesh** makes a non-mandatory provision for registration of political parties willing to compete in the elections and has offered some incentives in return. A registered party would enjoy some privileges such as reservation of election symbol and coverage by state-run media. With the exception of one, none of the major political parties have registered with the Election Commission. The current election regulations only require disclosure of campaign funds of individual candidates. Party candidates are required to file a 'return of election expenses'. Currently there are no disclosure rules applicable to political party funding. Substantial donations and their sources are not typically made public. Reports of extortion from business and other sources to raise campaign funds have been published in local media. Political parties in general have a poor image among citizens.

The transition from non-party to multi-party politics in 1990 allowed the political parties in **Nepal** to play a significant role in changing the mechanism of governance, developing plans for nation-building, restructuring socio-economic development and consolidating democracy and pluralistic culture. However, a power-oriented approach, internal squabbling and conspiratorial politics among political leaders are some of the factors that have led to citizen disappointment with political parties. There are rules on political party expenditures for election purposes under the 1997 Code of Conduct. All Nepalese political parties must be registered with Election Commissions to participate in the election. Political parties in Nepal appear committed to countering corruption when in

opposition, but fail to provide governments that deliver even essential services. Further, political instability is having a considerable impact on the fight against corruption.

Observations on political parties

- There is a tendency among the elected political parties to treat Government as an apparatus of their own political party.
- Overall image of the political parties is poor.
- There are allegations of political corruption master-minded by political leaders.
- Political parties in general lack the practice of internal democracy. Registration of Political parties are not compulsory.
- There is no transparency in political fundraising and use.
- Confrontational politics is rampant among the parties.
- For most of the political parties, respective election manifestos speak highly about corruption but political parties hardly take any major initiative to address corruption issues.

Media

The media has been the mainstay of **Indian** democracy. It is immense, varied, and open in all respects. The media has assumed the role of a fourth pillar of democracy in all respects, thus representing the voice of the people and exposing corruption through investigative journalism. Supreme Court decisions have granted freedom to the media in spite of the government's subtle attempts to interfere. The state cannot abridge the freedom of expression by imposing a tax upon a particular newspaper, thus forcing it to raise its price and indirectly reducing the circulation or making it dependent upon the government for patronage¹¹.

The Constitution of **Pakistan** provides for freedom of speech and of the press. The private media enjoys a relative level of freedom since the Press and Publications Ordinance of 1963 was repealed. The present government has given the print media a substantial amount of freedom; nonetheless, the media has to work in compliance with a number of Ordinances promulgated in 2002. The Freedom of Information Ordinance 2002 is one of such ordinances. In spite of certain limitations, this ordinance has paved the way for improving media freedom in Pakistan.

Although the constitution guarantees freedom of the press in **Bangladesh**, this guarantee clause does not mean absolute freedom of the press. Article 39 of the Constitution states that "the freedom of press is guaranteed" subject to "any reasonable restriction imposed by law, national security, and friendly relations with foreign state, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence." The Bangladesh press is governed by at least 25 restrictive laws. These restrictive laws date from 1923 to 2003. Most print journalists practice self-censorship to some degree, and are reluctant to criticise politically influential persons either in the government or in the opposition, fearing possible harassment, retaliation or physical harm. Nevertheless, the media has emerged to be a strong component in the fight against corruption.

The print media in **Sri Lanka** is actively engaged in pursuing anti-corruption matters. There are various instances where journalists have been at the sharp-end of threats and

¹¹ (*Express Newspapers v union of India*; AIR 1958 SC 578; and *Bonne!! Coleman v Union of India*; AIR 1995 SC 106)

attacks when investigative journalism has probed the corruption arena. The leading Sinhala newspaper has led the campaign on reporting corruption. However, there was very little follow-up by the rest of the media and/or government authorities.

Nepal's media sector enjoys democratic freedom through constitutional provisions expressed in Article 12 - all citizens shall have freedom of opinion and expression - and Press and Publication Right of Article 13. However, because of the conflict situation in the country, the media is compelled to practice self-censorship. The media also finds it difficult to have access to information. Reporters Sans Frontiers, in its 2004 index of press freedom, said "Nepal has the worst press freedom in South Asia." The report further noted that "Nepal's picture is grim due to escalating violence from both the government and Maoist side over the years. Successive governments are partly to blame; but political groups, especially the rebels in Nepal as well as organised crime, have also persecuted journalists."

Observation on the media

- The print media in South Asia is relatively free and being treated cautiously by political leaders.
- The media has played a significant role in addressing corruption.
- Journalists tend to practice 'self-imposed censorship' fearing possible retaliation.

Civil Society

Civil society has a long history in **India**. Over the course of time, a robust civil society has emerged at national and local levels. Civil society has been making "interesting, insightful, relevant, appropriate suggestions for the conduct of public policy", based on experience and thereby "rejecting or resisting negative public policy formulations that seemed anti-poor"¹². Civil society organisations are creating a pressure for transparency and are neutralising the hegemonic discourse of the state by challenging its priorities of development, procedures and pressurising for openness'¹³. Along with work on many other critical issues, civil society is campaigning for election reforms, proper utilisation of MPs Area Development Funds, issue of Citizen's Charters by the departments. Some civil society groups have established help-lines for reporting government corruption.

Because of built-in mistrust, the level of cooperation between various governments and civil society has been minimal in **Pakistan**. Non-Governmental Organizations (NGOs) and civil society organisations (CSOs) have been perceived as "enemies of the state". However, the present government, for the first time, is not only supporting Civil Society and Non-Governmental Organisations, but is involving them very intimately in its own corporations and departments as members of managing and executive committees and as members of boards. Local government is now required to establish various public safety and citizen community boards as part of its program for monitoring the workings of the administration. The promulgation of the "Freedom of Information Ordinance 2002" has further helped civil society play its part in combating corruption. In addition, other ordinances (such as the Press Council and Press,

¹² Rajesh Tandon, , *Voluntary Action: Civil Society and State*, New Delhi: Mosaic Books, 2002

¹³ Sangeeta Kamat, *Development Hegemony: NGOs and the State in India*, New Delhi : Oxford University Press, 2002.

Newspapers, News Agencies and Books Registration Ordinance) promulgated by the present regime have reinforced the hand of civil society.

Civil society in **Bangladesh** is emerging as a vibrant and recognisable force. It cooperates with state functionaries for achieving objectives such as a free and fair election and citizen participation in the decision making processes at all levels. Civil society strives for transparency in governance, election monitoring, accountability of state functionaries, realisation of human rights, alleviation of poverty, illiteracy and gender discrimination. Civil society has been able to articulate views vociferously and the state has responded appropriately with, for example, enactment of the Environmental Act of 2000, which aims at preserving and protecting open spaces, playing fields, orchards and natural water reservoirs. Under pressure from the Bangladesh Environment Movement, several structures built by private individuals, companies and even parastatal bodies in violation of environmental laws, have been demolished by the Government Housing Authority.

In **Sri Lanka**, civil society in the shape of journalists, academics and NGOs are all working actively against corruption. Work in exposing the state of affairs to the public's attention is gradually generating a common civic voice. A Freedom of Information Act is under negotiation between civil society groups (led by the Free Media Movement) and the Prime Minister's Office. Since August 2003, and under the banner of Transparency International Sri Lanka, civil society has begun to canvass support for a Whistleblower Protection Act, an independent audit statute and a stronger anti-bribery commission.

Civil society in **Nepal** has also been very active in venting public feeling and views. The need for representation of civil society in most forums and sectors these days has been recognised and accepted. On many issues it has played the role of a pressure group. The government, however, has not been able to fully appreciate the proper role of civil society.

Observations on civil society

- Civil society as a whole is emerging as vibrant agent for advocacy and a pressure group for governance reforms.
- Civil society has increasingly been given recognition and acknowledgement by government. In some countries, civil society is actually being incorporated into government bodies.
- The noticeable impact of civil society activities have been observed in terms of policy and legal reforms.
- Civil society has played a significant role in initiating public interest litigation.

Institutional Watchdogs

Anti-Corruption Agencies

The Central Vigilance Commission (CVC) is an apex body for exercising control over vigilance matters in administration in **India**. The CVC is empowered to undertake an enquiry or cause an enquiry or investigation to be made into any transaction in which a public servant for the Government of India is suspected or alleged to have acted for an improper purpose or in a corrupt manner. The CVC also reviews the progress of investigation conducted by the Central Bureau of Investigation (CBI). The Commission is conceived as a multi-member Commission, consisting of the Central Vigilance Commissioner (Chairman) and not more than four Vigilance Commissioners as its members. The appointments of CVC and VCs are made by the president on the recommendation of a committee consisting of (i) the prime minister, (ii) the minister of

home affairs, and (Hi) the leader of the opposition in the House of People.

The National Accountability Bureau (NAB) in **Pakistan** has been empowered to deal with corruption crimes at the top political and official levels. It enjoys exceptionally high levels of autonomy and political support with the chairman directly reporting to the prime minister. It is generally considered to be an efficient and effective organisation. However, there are some concerns that both the military and the judiciary are excluded from the mandate of the NAB. The Auditor General's office has also sent cases to the NAB. Its performance in terms of convictions and recoveries far exceeds the other two organisations present, i.e. the Federal Investigation Agency (FIA) and the Anti-Corruption Establishment (ACE).

With the passage of the 2004 Anti-Corruption Act, a three-member Anti-Corruption Commission was established in **Bangladesh** in November 2004. The prime responsibility of the newly established ACC is to check corruption in all government, non-government and commercial institutions. The commission has a mandate to discharge its responsibility independently. It can investigate any allegation through its own initiatives and it will have its own investigative unit and prosecutors. The commission can investigate the sources of income of anyone, including ministers, public representatives and government officials, without requiring prior government approval, and can file cases against them if any irregularities are found in their income. All cases under investigation, or already investigated by the now dissolved Bureau of Anti-Corruption, have been handed over to the commission for further processing. The commission is planning to recommend to the government the necessary amendments to relevant laws that deal with corruption.

The Commission for Investigation of Abuse of Authority (CIAA) in Nepal is considered to be the most prominent among public watchdog institutions. The CIAA has been established as a constitutional body in order to conduct inquiries and investigations into cases of improper actions and corruption committed by persons holding public posts. It is described as the only official body authorised to conduct inquiries and investigations and file lawsuits in order to prevent corruption. The commission is independent and its appointees are protected from removal without relevant justification. Their reports are published and presented before parliament. Observers note that the CIAA has not been able to make an impact on the act of combating corruption. It lacks the necessary legal provisions, physical facilities and efficient manpower. Nepal does not have an institution that could be construed as that of an ombudsman.

Ombudsman

In 1968, for the first time the Government of **India** sponsored a bill to establish the institution of Lokpal (ombudsman) at the central level. Unfortunately, the bill has not been passed to date. Since 1968, as many as five different ritualistic bills have been presented to parliament, but none have been approved. The various state governments in the last three decades have experimented with the formation, abolition, and reconstitution of Lokayuktas (state ombudsman). The experience of the functioning of Lokayuktas has not been encouraging. Lokayuktas were set up in Orissa (1970), Maharashtra (1971), Bihar and Rajasthan (1973), Uttar Pradesh (1975), Madhya Pradesh (1981), Andhra Pradesh and Himachal Pradesh (1983), Karnataka (1984), Assam (1985), Gujarat (1986), Kerala (1987), Punjab (1995) and Delhi-NCT (1996). The state of Orissa was the first to establish a Lokayukta in 1970 and was also the first to abolish this office in 1994 (although it was again revived in 1995). This experience indicates that the institution is not only hampered by "unsympathetic legislation and too few resources", but also bogged down "by little power, limited funds, and a lot of political encumbrances".

The office of the ombudsman (Wafaqi Mohtasib) in **Pakistan** was established through an Order of the President in 1983 and amended in 2002. The office of Federal Ombudsman was created to deal with maladministration and corruption. The office of the Ombudsman has, both in the past and in recent years, been one of the most successful instruments of the government in serving the people. A very high percentage of its decisions have gone against government agencies and public officials.

Article 77 of the Constitution of **Bangladesh** provides for provision of the office of the ombudsman and, accordingly, the government enacted the Ombudsman Act in 1980. As of the time of writing, it is still not known if and when such an institution will come into

being. It is also unclear how complaints would be made to such an office.

In **Sri Lanka** (Under Act No. 17 of 1981 and Act No. 26 of 1994), the ombudsman, known as the Parliamentary Commissioner for Administration (PCA) has been created to investigate complaints against Government Departments, Statutory Boards, Corporations, Government Authorities and other Local Government Institutions. The PCA also examines the infringement of fundamental rights, general public maladministration, failure to afford access to public information and acts of administrative abuses. Negligence and omissions are the subject matters of most complaints.

There appear to be some basic unresolved issues which have hindered the formation of the role of ombudsman in India and Bangladesh. These include questions such as whether the prime minister should be included within the jurisdiction of the ombudsman. In addition, it remains to be clarified whether the ombudsman should be given power to enquire into complaints with regard to "allegations" or "grievances" or both? Finally, other areas of concern involve the ombudsman being given power of *suo motu* investigations and the issue of whether the ombudsman should be supervised by a parliamentary select committee.

Observations on watchdog bodies

- In almost all South Asian countries there are independent bodies to address corruption.
- Some of these institutions lack technical skills, competent manpower and other logistical resources.
- There appears to be some overlapping of jurisdiction of the role of the central vigilance body and the ombudsman or other equivalent bodies.
- There are a number of laws, acts and regulatory frameworks to address corruption and irregularities by government functionaries. However, a significant percentage of these rules/regulations are non-functional and, to some extent, obsolete.

Public Procurement

Public procurement rules exist in all five South Asian countries, though some are more advanced and better structured than others. However, a problem lies in the implementation and enforcement of these rules. The South Asian experience clearly establishes that there are strong links between political corruption and corruption in procurement. Pakistan has moved ahead with the setting-up of a central authority, namely the Public Procurement Regulatory Authority. In other countries, institutional arrangements are in place, though these may not take the form of a central or umbrella body. Features that keep public procurement processes transparent include: clear evaluation criteria in tender documents; the availability of evaluation reports for public information; transparent advertisement policies; and procurement guidelines that include generic specifications only.

Section IV: Key and Significant Trends

Each of the countries of the region has its unique characteristics and features but there appears to be some trends which are common across the countries.

Trends across South Asia

- Some South Asian countries suffer from the criminalisation of politics. The most pernicious method has been the use of anti-social elements by politicians around the time of elections. In some cases, listed criminals have been elected with the support of national parties. The criminalisation of politics has a direct bearing on

corruption and governance.

- Corruption as a concern is incorporated in the manifestos of political parties only ritualistically.
- Implicating leaders of the political opposition on false corruption charges is used more as an instrument to harass and contain political opponents than addressing corruption as a genuine concern.
- Authoritarian rulers tend to take more aggressive and affirmative initiatives in undertaking anti-corruption interventions.
- International procurement is one of the most attractive areas for corruption to take place.
- High value defence purchases are an area of common concern for corruption.
- In some cases, there are allegations of political influence in the appointment of the higher level judiciary.
- Public interest litigation (PIL) is increasingly popular and the highest courts have given some remarkable trend-setting verdicts on the basis of PIL.
- The media is emerging as the most effective and leading whistleblower.
- Civil society is gradually taking a lead role in mobilising popular opinion against bad governance and corruption.
- In some countries, governments have increasingly been seeking assistance from civil society and NGOs to combat corruption.

Section V : Various Anti-Corruption Initiatives in South Asia

Over the last few years, countries in the South Asian region have tested and introduced innovative institutions, approaches and practices. Most, but not all, have been government-led initiatives, though donors have also been instrumental in some areas. The following is a selected account of anti-corruption initiatives in the region.

Government Initiatives

India

The state government of Andhra Pradesh (AP) has launched a website on good governance. The website contains various types of information about the organisation and activities of the state government which citizens can use to keep a track of the activities of departments and officials.

An e-governance project entitled "Computer-aided Administration of Registration Department" (CARD) was introduced in Tamilnadu, assisting online property-title registration and stamp-duty payment. *E-seva* is another information technology service that facilitates online application for utilities such as electricity, water and property.

Pakistan

The Promulgation of Freedom of Information Ordinance 2002 provides great scope and access to public information in contrast to the strict Public Safety Act of 1923.

The National Anti Corruption Strategy has been devised with the active collaboration of Transparency International-Pakistan and 50 other stakeholders.

The National Accountability Bureau Ordinance of 1999 was promulgated to eradicate corrupt practices and to hold accountable all those persons accused of such practices.

A Regulatory Authority called Public Procurement Regulatory Authority (PPRA) was created in 2002. The PPRA Monitors application of the laws, rules, regulations, policies and procedures relating to procurement.

The Government of Pakistan has incorporated "integrity pacts" in all contracts for goods and services where the estimated cost of the project is over Rupees 5 million for consultancy, and over Rupees 50 million for construction contracts.

The National Accountability Bureau has developed a website (<http://www.nab.gov.pk>) to promote greater transparency, social participation and awareness of corruption.

The Auditor General's office in Pakistan has developed a Corruption Rating Index (CRI) and Financial Governance Rating (FGR) system.

Bangladesh

The constitution has been amended and a system of "caretaker government" introduced to ensure free, transparent and impartial elections. Under the new system, the Election Commission has conducted three successive general elections that have been considered transparent and impartial both by the people of Bangladesh and a host of foreign observers.

In order to make the public audit and accounting system transparent and efficient, the Audit and Accounting Functions have been institutionally separated in Bangladesh.

A Performance Audit System has been introduced by the Audit Directorate. The introduction of performance audits has added a new dimension to ensuring transparency and accountability in public administration.

Nepal

An interesting new trend in mobilising public opinion for legislation was established when the Parliamentary Committee in Nepal solicited nationwide suggestions regarding the Property Rights Bill for girls.

Donor-sponsored Initiatives

Donors can play a role in improving government effectiveness by analysing the extent of corruption, its causes and effects; making policy recommendations; providing training and diagnostic tools; and, at home, prosecuting offences with trans-national implications relating, for example, to the illegal flow of money via unauthorised channels.

Donor priorities in South Asia generally concentrate on issues such as poverty, gender, macro-economic stability, government effectiveness and the sustainability of livelihoods. In recent years, governance and corruption issues have become the central focus of attention at donor consortium meetings. Leading donors have also emphasised the importance and necessity of transparency and financial discipline in public sector management.

The following are some selected examples of donor supported projects/programmes recorded in the NIS country studies.

India

Donor agencies in India do not have direct programmes or projects that support anti-corruption measures. However, some efforts are underway to offer support for promoting international cooperation in preventing and detecting international offences like money laundering. Bilateral donors have not directly funded any anti-corruption work, but the Asian Development Bank has supported some training courses and studies in this regard¹⁴.

Pakistan

The Asian Development Bank has initiated a number of projects which have direct and indirect bearings on the country's national integrity system. The projects are mostly aimed at institutional reform and capacity building, including: establishment of Islamabad Accounts and Audit Academy, Separation of the Accounts and Audit Functions, Amalgamation of Accounting Bodies, Independent Pakistan Accounting Standards Board, Strengthening of the Public Accounts Committees (PACs), Establishment of Internal Audit Function. The ADB is also supporting some training programmes under the ADB/OECD Anti Corruption Initiative¹⁵.

One of the goals of the UNDPs country cooperation framework (CCF) for Pakistan aims to create an enabling environment within which citizens can influence the direction and conduct of their governing institutions. The UNDP programmes seek to strengthen capacity in areas such as democratic processes, policy development and strengthening of civil society. Expected outcomes include, among others: to strengthen NGOs and CSOs, as deliverers of development services as well as an expression of a vigorous civil society; initiation of the reform of legislative and legal processes; improved access to development information for citizens; and support of e-governance.

Bangladesh

Donor agencies have expressed serious concern about wide-spread corruption in Bangladesh and have urged the government to mount a vigorous campaign against it. In aid negotiations, donors have made it a point that, in many sectors, continued assistance will depend on more effective government anti-corruption measures. Consequently, in the Memorandum for Bangladesh Development Forum 2002-2003, donors have formed a local consultative group (LGC) chaired by the World Bank to interface the positions of donors vis-a-vis the government.

The World Bank, UNDP and other donors have suggested a strategic prioritisation of issues and a medium-term government action plan to address governance issues. Poor governance and corruption are two major problems identified as priority areas.

DfID has implemented three development projects in order to provide better training of the CAG's staff in terms of modernisation of audit methodology. Specific projects are: Strengthening the Office of the Comptroller & Auditor General (STAG); Reforms in Government Audit (RIGA) and Enhancing Training Facilities of Financial Management Academy (FIMA).

With assistance from DfID and the Dutch government, a project called the Financial Management Reform Programme is ongoing. The project primarily aims to strengthen the financial reporting system, modernise the audit and accounting system and build institutional capacity of the audit department.

The World Bank and UNDP jointly supported the Country Financial Accountability

¹⁴ Under an ADB/OECD project, the Government of India carried out the project entitled "Review of Existing Conduct Rules Specified for Members of Central and All India Services and Training of Officials Performing Vigilance functions in /ministry/ Department/Public Sector enterprise".

¹⁵ These include National Anti-Corruption Strategy linkages with Education (2004) and Strengthening of Investigation and Prosecutorial Capacities (2003).

Assessment (CFAA). The study provides a broader framework for designing a system of financial accountability.

CIDA has supported projects for staff training and computerisation of the CAG office to ensure reliable and easily accessible accounting data.

DFID has provided help to increase the capability of the CAG office to provide audit functions to the government.

UNDP has also supported a project for strengthening the CAG office with a view to enhancing the capacity of the CAG's office for quality auditing.

The Danish government has provided technical support to revise the Ombudsman Act of 1980 as well as preparatory assistance to install the office of ombudsman.

Sri Lanka

Neither the Sri Lankan government nor its donor agencies have an anti-corruption strategy for Sri Lanka. The Administrative Reform Committees as well as Administrative Reforms Action Plan 2002 do not mention addressing corruption. The Auditor General's Department is negotiating with the World Bank to fund a capacity-building project for the Auditor General's Department.

The World Bank has prepared a Public Financial Accountability Assessment Report ¹⁶.

Nepal

Donors have lately initiated various anti-corruption projects in Nepal. USAID awarded a three year anti-corruption project contract to a US firm and DANIDA/DfID jointly agreed to assist CIM in their ten district corruption-control projects. With DfID support, FNCCI has begun the task of drafting a code of conduct for the business sector. In general, DANIDA, DFID and USAID aim to provide support for strengthening rule of law, anti-corruption programmes, judicial sector reform and civil society participation.

The ADB provides assistance in terms of governance reforms and also in implementing the Asia Pacific Action Plan against corruption. SDC aids civil society organisations such as TI Nepal and Pro Public in their work against corruption.

Observations on donors

- Donors have yet to develop a comprehensive strategy to address corruption in South Asia.
- Donors generally tend to take a cautious approach and do not want to be seen as "imposing conditions" or making corruption "politically sensitive".
- Corruption issues are, however, increasingly being brought into donor consortium meetings as a major concern.
- Inter-donor coordination appears to be lacking in assisting recipient countries to develop a comprehensive anti-corruption strategy under a broad governance reform package.

Section VI: Lessons Learnt and their Implications for the Region

Corruption is perceived as a cultural process which is the result of the degradation of moral values, norms and ethical standards due to poverty and other economic factors.

¹⁶ World Bank (2002) Sri Lanka Country Financial Accountability Assessment Study, Draft Report (December 2002)

Overall public awareness with regard to corruption and poor-governance is noticeably low. People, in general, have accepted corruption as a given and have become apathetic about corruption issues.

The Political Framework

The South Asian experience reveals that there appears to be no relationship between the transition to democracy from monarchy or authoritarian rule on levels of corruption. Problems and issues related to national integrity systems have been addressed in a fragmented way rather than holistically.

In most South Asian countries, political will to enforce various constitutional, legal and institutional provisions to combat corruption appears to be lacking. This is perhaps one of the major factors responsible for the rise of the phenomenon of corruption during recent years.

The Legal Framework

Most countries do not have any composite legal framework as a strategy to fight corruption, though this does not necessarily translate into a lack of legitimacy of legal frameworks. These frameworks, however, do not appear to function in an autonomous manner and are not immune to all kinds of pressures - political, bureaucratic, peer groups, vested interests, trade unions, mafia groups and violent criminal elements.

There are plenty of rules and legal regimes to address corruption, but there seem to be inconsistencies and overlap between these laws. Some of the anti-corruption rules, acts and regulatory frameworks are outdated and appear to be obsolete.

Political Parties

Political parties often use dubious means to get into power during elections, leading to the criminalisation of politics and the increased role of money and muscle-power. Methods of public agitation are now increasingly being used by political parties via the holding of demonstrations, *hartals* (sit ins), *bandhs* (halting of transport and other activities) and rallies (processions) to make their demands¹⁷.

Political manifestos generally consider corruption issues in a ritualistic manner and use this issue as political rhetoric.

Political leaders in power tend to maintain a soft stand for powerful, senior party leaders and cabinet ministers on corruption-related issues. There appears to be built-in resistance among political leaders, especially from parties in power, to ignore and or not to recognise corruption as an issue of governance.

Political parties lack internal democracy. Party funds are not generated and used in a transparent manner. Authorised limits on election expenses as set by Election Commissions are not respected by the election candidates backed by political parties.

Reforming the Executive

The formation of Jumbo Councils of Ministers has become a trend in South Asian countries¹⁸. Such large cabinets enhance the possibility of political corruption.

There are number of structures and institutions responsible for the enforcement of anti-corruption drives but these are found to be ineffective and lacking comprehensive strategies. The jurisdictions of some of these agencies overlap and are not adequately defined.

There appears to be a general lack of awareness among public officials with regard to

¹⁷ In the case of Bangladesh, the main opposition parties with an aim to gear up antigovernment movement, enforced 41 days of *Hartals* in 2004 alone.

¹⁸ The classic example comes from Indian State of Bihar where almost all 66 members of Congress Party who lent support to the coalition government were given berths in the council of Ministers. Bangladesh has a cabinet of 60 members out of total of 300 MPs. According to NIS Sri Lankan Country Study Report, there are 67 ministers in house of 225 members.

various rules and regulations relating to corruption.

Anti-Corruption Agencies

In some countries anti-corruption bodies are slow in their performance and lack credibility and professional competence. There is also political control over some of the agencies which curtails their performance and credibility. These bodies have often been affected by inadequate funding, inadequate facilities or logistical arrangements provided to them by the concerned authority.

Other Stakeholders: Civil Society and Donors

A robust civil society has emerged at the national and local levels in order to mediate tensions between groups and protect the interests of the poor. Grass-root organisations are creating pressure for transparency and are neutralising the hegemonic discourse of the state by challenging its priorities and applying pressure for openness. Civil society, though *very* active and vibrant in addressing corruption issues, has yet to properly strategise its anti-corruption role.

Most donors have highlighted corruption as one of their key concerns, but donor support has been insignificant in building human capacity to address corruption.

Anti-corruption is not an isolated process but, rather, needs to be addressed in a comprehensive and strategic manner. It must also be examined from a politico-cultural perspective. Given their complexity, integrity issues should be reviewed and addressed within a broader governance framework.

Political corruption in its various forms is perhaps the most critical concern. Thus, political reform and social mobilisation for such reform are priority areas. The overall awareness-level of communities with regard to rights and entitlements is low. Demand for better governance is therefore almost entirely absent, especially in rural areas. Local government and civil society have the potential to contribute to mobilising the public against corruption and creating greater demand for governance reform. A lack of human capacity at various levels is one of the most critical concerns for addressing corruption issues and taking subsequent initiatives for action. Creating and strengthening public reporting mechanisms for could be an effective strategy to raise demand for good governance and anti-corruption reform.

Section VII: Summary of Observations, Strategic Interventions and Recommendations

The problem of systemic corruption in South Asia must be seen against a background of extreme poverty and social deprivation. There are major gaps in the institutional and legal frameworks underpinning national integrity systems in all South Asian countries. Politicians are often seen to be "leading the field" in terms of corruption at a time when there is an overwhelming need for political leadership to support anti-corruption efforts. A culture of impunity has developed across the region where many of those in power simply do not expect to be held accountable for their actions. Even when appropriate laws and institutions are in place, their proper functioning is often hampered by a lack of political will. There are, however, some positive regional trends, including increased use of public interest litigation, strengthening of the media's watchdog role and movement in some countries towards greater government-civil society cooperation in the fight against corruption.

In summary, the most critical concerns in South Asian countries are:

- weak parliamentary oversight;
- political corruption;
- criminalisation of politics;
- weak and, to some extent, obsolete legal mechanism;

- absence of exemplary punishment for corruption;
- culture of non-compliance to rules;
- poor enforcement of law;
- lack of technical and professional competence of the enforcing agencies;
- low wages commensurate to market;
- lack of access to information;
- low level of public awareness about their rights.

The NIS country studies proposed the following broad recommendations for strengthening the fight against corruption:

- Establishment and strengthening of watchdog institutions such as the ombudsman and independent anti-corruption bodies;
- Introduction of compulsory audits and publication of the accounts of political parties;
- Filling court vacancies and computerisation of the judicial system;
- Enactment of Right to Information/Access to Information legislation;
- Scrapping of obsolete laws;
- Introduction of e-governance;
- Introduction of citizens' charters;
- Making simpler and clearer rules and making them transparent to the client;
- Insulating civil servants from partisan politics;
- Mobilising the public against corruption;
- Using public interest litigation as a safeguard measure;
- Ensuring adequate living wages for public officials;
- Civil service training to orient public servants of the requirements of new public management and anti-corruption strategies;
- Strengthening internal accountability systems;
- Deregulation to reduce government involvement beyond the essentials;
- Enactment of whistleblower protection legislation;
- Electoral reform to address the criminalisation of politics;
- Strengthening of public procurement systems;
- Measures to make CAG reports public;
- Enhance watchdog and awareness-building role of media;
- Strengthen civil society to consolidate its activism against corruption;
- Facilitate local government efforts to address local accountability and combat corruption.

These recommendations can be clustered into the following broad areas of interventions in the light of the Anti-Corruption Action Plan for Asia Pacific being designed by ADB/OECD¹⁹.

Developing Effective and Transparent Systems for Public Administration

- Development of systems for compensation adequate to sustain appropriate livelihood and according to the level of the economy of the country in question;
- Development of systems for transparent hiring and promotion to help avoid abuses of patronage, nepotism and favouritism;
- Development of systems to provide appropriate oversight of discretionary decisions and of personnel with authority to make discretionary decisions;
- Establish ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources, and promote

¹⁹ The Action Plan was discussed and endorsed 17 Asia Pacific Countries at Tokyo on 30 November 2001. As of 5 July 2005, 23 countries had endorsed the Anti-Corruption Plan. Except Sri Lanka all South Asian countries have endorsed the Anti-Corruption Strategy.

the highest levels of professionalism and integrity through: a) prohibitions or restrictions governing conflicts of interest; b) systems to promote transparency through disclosure and/or monitoring of personal assets and liabilities;

- Promotion of codes of conduct taking due account of the existing relevant international standards as well as each country's traditional cultural standards.
- Upgrading of existing training facilities for anti-corruption investigation and prosecution bodies, including development of Information database and training expert pool, development of anti-corruption training syllabus.
- Developing effective legal frameworks, management practices and appropriate auditing procedures and introduction of public reporting system.
- Appropriate transparent procedures for public procurement.
- Enhancing and strengthening institutions for public scrutiny and oversight.
- Simplification of the regulatory environment by abolishing overlapping, ambiguous or excessive regulations.

Strengthening Anti-Bribery Actions and Promoting Integrity

- Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat the offence of bribery of public officials.
- Ensuring the existence and enforcement of rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities.
- Take effective measures to promote corporate responsibility and accountability on the basis of existing relevant international standards.

Supporting Active Public Involvement

- Take effective measures to encourage public discussion of the issue of corruption through initiation of public awareness campaigns at different levels.
- Support of non-governmental organisations that promote integrity and combat corruption by raising awareness of corruption and its costs, mobilising citizen support for clean government, and documenting and reporting cases of corruption.
- Preparation and/or implementation of education programs aimed at creating an anti-corruption culture.
- Encourage public participation in anti-corruption activities, in particular through:
(a) co-operative relationships with civil society groups such as professional associations, NGOs, labour unions, the media, and other organisations; (b) ensuring the protection of whistleblowers; (c) involvement of NGOs in monitoring of public sector programmes and activities.

Access to Information

- Ensure that the general public and the media have freedom to receive and

impart public information through:

- Implementation of measures providing for a meaningful public right of access to appropriate information.
- Establishment of public reporting requirements for justice and other governmental agencies that include disclosure about efforts to promote integrity and accountability and combat corruption.

Political Reform

- Strengthening parliamentary oversight functions
- Registration of political parties and reform of electoral system
- Transparency of the funding of political parties and electoral campaigns and expenditure
- Strengthening decentralisation processes

Section VIII: Framework for Regional Cooperation

There is a clear need to accumulate and disseminate best practices in reducing corruption, by function, sector, level of government, and other relevant categories. International cooperation could help to assemble and disseminate examples of best practice, as well as frameworks for policy analysis - a combination that might be a model for fighting corruption²⁰. Although corruption has been rampant in most of the South Asian countries, the detailed modalities and processes of corruption have not been fully researched. Each of the countries may consider undertaking some country-specific research projects. The following are a few suggestions:

- Review of existing anti-corruption rules, working procedures and operation manuals and drafting of necessary amendments to these rules, procedures and manuals, and their enforcement.
- Assessment of the trends and cultural traits of corruption.
- Undertake research to develop course curriculum on anti-corruption themes for various levels of educational institutes.
- Identifying effective strategies for awareness-raising against corruption.

Because of their common administrative tradition and commonalities in governance processes, South Asian countries may develop some regional programmes to address corruption and poor governance. Using SAARC as a platform, member countries may explore the following possibilities:

- Strengthening investigative and prosecutorial capacities of anti-corruption agencies personnel, vigilance groups, and social watch groups by using regional resource centres and facilities.
- Undertaking comparative diagnostic research projects on developing strategies for fighting corruption.
- Regional workshop and training for civil servants, political leaders, parliamentarians and other stakeholders.
- Networking on anti-corruption information on experiences, process, practices and strategies on corruption.

²⁰ United Nations Convention against Corruption (UNCAC) call for strengthening the capacity to combat corruption and enhance international cooperation and technical assistance to address graft and corruption. So far, 113 countries have signed the United Nations Convention against Corruption while 10 countries ratified it as of November 2004. At the time of writing, Pakistan, Sri Lanka, Bhutan and Nepal had signed the convention but only Sri Lanka had ratified it.

Section IX: Conclusions

This report has attempted to provide an overview of South Asian perspectives of corruption. The country studies have collectively concluded that the role, functions and quality of the NIS institutions in South Asia are much weaker than desired and could be significantly improved. The reasons for these limitations as identified, ranging from 'systematic' to 'historical'. Various reform and intervention measures have been suggested. Empirical evidence from the countries indicates that the alarming level of criminalisation of politics has served to fuel corruption and violence in the body politic. On the positive side, the country studies noted that civil society, NGOs and the media have carved out a place in the body politic and play a significant role in addressing corruption and governance issues in South Asia.

Corruption has significant distributional implications on growth, equity and poverty. South Asian countries are now in a process of formulating respective Poverty Reduction Strategy Paper (PRSP). Addressing corruption should also be one of the core concerns in this process.

It is imperative to develop a comprehensive strategy in the broader framework of governance to address corruption. However, it is important to recognise that, as the country studies point out, the success of any reform initiative requires strong *political will and commitment*.

Annex: Evaluation of the NIS approach in the context of South Asia

NIS country studies provide a valuable picture of the anti-corruption system in place in a given country, pointing to particular institutional strengths and weaknesses. Further consideration should be given to improving the practical value of the studies for key audiences i.e. government bodies, civil society activists, researchers. The studies should be packaged in a more user-friendly manner and key recommendations highlighted more prominently. The following are some specific observations on the methods and approaches of the NIS:

- The studies should take the overall political and economic situation in a particular country into account when assessing the development of anti-corruption institutions.
- Further tightening of the editorial process is required to ensure consistent use of citations and references among the studies.
- The terms of reference for the studies should be revised and simplified. Consideration should be given as to how best to ensure a consistent level of detail among the studies.
- Further consideration is needed with regard to the level of any quantitative data the country studies should try to present.
- Consideration should be given to the relative benefits of standardisation versus adaptation of the NIS methodology from region to region. In South Asia, it is suggested that additional sections be included to address the role played both by the armed forces and the monarchy.