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## GLOBAL TRANSPARENCY: FIGHTING CORRUPTION FOR A SUSTAINABLE FUTURE

From National Integrity Systems to Global Integrity Systems

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## Abstract

The primary focus of corruption studies and anti-corruption activism has been corruption within sovereign states. However, over the last twenty years ‘globalization’, the flow of money, goods, people and ideas across borders, has threatened to overwhelm the system of sovereign states. Much activity has moved outside the control of nation states at the same time as nation states have ‘deregulated’ and in so doing have transferred power from those exercising governmental power at the nominal behest of the majority of its citizens to those with greater wealth and/or greater knowledge in markets in which knowledge is typically asymmetric.

It is now recognized that many governance problems have arisen because of globalisation and can only be addressed by global solutions. It must also be recognized that governance problems at the national level contribute to governance problems and the global level and vice versa. Nevertheless, many of the lessons learned in combating corruption at the national level are relevant to a globalized world – in particular, the need for ethics and leadership in addition to legal and institutional reform; the need to integrate these measures into integrity systems; and the awareness of corruption systems. These are applied to areas of concern within sustainable globalisation raised by the conference – including peace and security, extractive industries, climate change and sustainable banking.

## Introduction

For the last two decades, the primary focus of corruption studies and anti-corruption activism has been corruption within sovereign states. International activism was largely directed at co-ordinating national campaigns and to use international instruments to make them more effective domestically. This reflects the broader fact that, since the rise of the nation state,<sup>1</sup> states have comprised most of the largest institutional actors and have been the most significant institution in the lives of most individuals. This made states the ‘main game in town’ for the ‘governance disciplines’ – lawyers, political scientists, economists and ethicists.<sup>2</sup>

However, over the last twenty years, the flow of money, goods, people and ideas across borders has threatened to overwhelm the system of sovereign states. Much activity has moved outside the control of nation states at the same time as nation states have ‘deregulated’ and in so doing have transferred power from those exercising governmental power at the nominal behest of the majority of its citizens to those with greater wealth and/or greater knowledge in markets in which knowledge is typically asymmetric.

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<sup>1</sup> For which the 1648 Treaty of Westphalia is a conventional landmark for a complex process that developed gradually but never operated in practice as it was imagined to operate in theory.

<sup>2</sup> Although these disciplines were not originally separate and 18<sup>th</sup> century theorists like Adam Smith and Jeremy Bentham would not have considered them severable.

It is now recognized that many governance problems have arisen because of globalisation and can only be addressed by global solutions. It must also be recognized that governance problems at the national level contribute to governance problems and the global level and vice versa. This is true of current issues from the melting Greenland glaciers to the ethical and financial meltdown of Wall St. It is also true of traditional issues involving interlinked domestic and international conflict and the toxic symbiosis of foreigners paying bribes to officials which are deposited in off shore secretive banks.

## **A. Learning lessons from the fight against corruption within sovereign states**

However, before addressing those global problems and potential global solutions, it is useful to quickly review some of the progress in thinking about the nature of corruption within sovereign states and the best means of combating it.

### **Westphalian states, absolute power and the enlightenment**

The strong sovereign nation-states that emerged from the chaos of the thirty years war (1618-48) in seventeenth century Europe were generally highly authoritarian and justified as such. Hobbes (the ‘philosopher of record’?) argued that rational people would mutually agree to subject themselves to an all-powerful sovereign to avoid a ‘state of nature’ in which the life of man would be ‘poor, nasty, brutish and short’.<sup>3</sup> It was better to allow a sovereign to enforce his preferred religion and for those who did not like it to leave than to allow other sovereigns to intervene on behalf of their co-religionists.<sup>4</sup> Once internal order had been restored, this ‘social contract’ did not seem such a good bargain. While sovereigns were entrusted with absolute power to preserve social order, such power was a recipe for corruption for reasons set out clearly by Lord Acton’s aphorism that ‘power corrupts and absolute power corrupts absolutely’. The eighteenth century Enlightenment sought to civilize these authoritarian states by holding them to a set of more refined and ambitious values – notably liberty, equality, citizenship, human rights, democracy and the rule of law. Some of these were adaptations of classical city state ideals to the much larger polities of the time. Nineteenth century thinkers extended the range of rights championed and added concern for environment and for practical and social equality. By the mid-twentieth century, disputes had moved on to the interpretation and ranking of those rights – especially between civil and political rights and social and economic rights.

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<sup>3</sup> Hobbes, T. *Leviathan*, Cambridge: Cambridge University Press, 1991 p. 89.

<sup>4</sup> Other justifications for the acceptance of absolute power can be found in the Confucian ‘mandate of heaven’ and al-Ghazali’s claim that: ‘an evil-doing and barbarous sultan, so long as he is supported by military force, so that he could only with difficulty be deposed and that any attempt to depose him would cause unendurable strife, must of necessity be left in possession and obedience must be rendered to him, exactly as unquestioning obedience must be rendered to caliphs’ (cited in Collomb, R. ‘The Rise and Fall of the Arab Empire’ Spellmount, 2006, p 63.

Values are rarely self-implementing: they require institutions to realize them. Institutional innovations included an independent judiciary exercising judicial review of the executive, representative institutions, bicameral parliaments, federal division of functions, universal education, questioning media and ‘responsible’ (or ‘parliamentary’) government. This development of governance values and the institutions to realize them can be seen as an ‘enlightenment project’.

## Modern developments

While the adoption and institutionalisation of liberal democratic and social democratic values spread and many of the relevant values were enshrined in international instruments, the concentration of power within states provided a temptation to corruption. Various scandals demonstrated that democratic polities could be highly corrupt – and not all states were democracies. More was required and two models emerged.

1. Twenty years ago, the Hong Kong model (a strong law and a powerful agency) was the general model for fighting corruption. Since then, preference shifted to ‘national integrity systems’ (NIS) in which several institutions, agencies and laws sought to simultaneously promote integrity and limit corruption.
2. The choice of the term ‘integrity system’ rather than ‘anti-corruption’ system was inspired. Corruption (the abuse of entrusted power for personal gain) is a derivative concept and a derivative goal. One cannot know what an abuse is without knowing what the legitimate uses of those powers are. Integrity (the use of entrusted power for publicly justified ends) is primary. We want effective institutions that deliver a sufficient proportion of their promises. If all we just wanted to avoid government corruption that goal could be achieved in theory by not having government and in practice from anti-corruption practices that prevented the government doing anything.
3. ‘Personal’ gain is very widely construed. It extends beyond personal enrichment and includes benefits to the power holder’s family, associates, political party<sup>5</sup> – indeed anyone other than those who are the publicly intended beneficiaries of that power.
4. The potential for corruption is built into all institutions because of the dynamics of collective action and agency. The reason why we create and support governments, joint stock companies – and international NGOs – is because so often more can be achieved collectively than individually with the pooling of people power and resources for shared goals. However, that opens the possibility that institutional leaders may turn that entrusted power to their own benefit or use against their citizens/stockholders/bondholders. While it is not true that all power corrupts, it has to be recognized that it will not only attract those who wish to exercise it for its publicly justified purpose but also those who wish to use it for their own purposes.
5. A NIS evolves to increase the probability that entrusted powers will be used for its publicly justified and democratically endorsed ends and reduce the likelihood that those powers are abused.

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<sup>5</sup> In polities where very large donations are required for political campaigning (e.g. US) or rewards for constituents (e.g. Japan), politicians may engage in corrupt behaviour while getting nothing for themselves.

6. NIS will vary from state to state with similar functions being performed by different institutions. A NIS can vary in completeness and effectiveness, but there is almost always some base on which it can be built.
7. Anti-corruption reforms have concentrated on new laws and institutions. Ethics and leadership have been the missing elements of governance reform.
8. Ethics articulates and applies the values which lie at the base of the NIS to the ends that institutions may serve and the norms that will guide officials who seek to act with integrity in serving them.
9. Coalitions of leaders are needed to create, reinforce and integrate the institutions of the NIS and to coordinate their activities. (This was a major conclusion of the first World Ethics Forum held in Oxford in 2006.)
10. While a NIS may be seen as the best way to promote integrity, the corrupt are often far more organized and in some states corruption systems (NCS) may be better organized, better resourced and more effective – with long established patterns of behaviour, strong institutions, clear norms and effective positive and negative sanctions. The NCS will seek to disrupt and corrupt the NIS. As a corollary, the NIS should return the favour. It should not merely seek to deter, detect and prosecute bribe givers and bribe takers but should first set to map and understand the corruption system then plan how to disrupt and destroy it.

## Lessons learned

The first lesson is that corruption does matter. Corruption is not a minor issue, let alone a sustainable alternative route to development. Corruption is linked to the failure of states to achieve the goals they set themselves for the very simple reason that the power, people and resources allocated to achieving those goals are used for other purposes. The second lesson is the approach to be taken in combating corruption. If corruption involves the abuse of entrusted power for personal gain, the attempt to limit corruption in an emerging global order involves identifying:

1. areas of significant power
2. the ostensible purpose (the claimed purposes that are used to publicly justify the existence of that power and the ends for which it may be legitimately used)
3. potential abuses of that power by those who hold it and the benefits they and others will gain from them
4. potential corruption systems that may emerge to organize those abuses of power
5. potential integrity systems that disrupt corruption systems and increase the likelihood that power are used for their ostensible purpose not abused for other purposes.

This paper uses this approach to frame discussion on sustainable globalisation and the particular issues covered by the conference.

## B. Identify and develop relevant global values

What are the values that will inform sustainable global governance, form the base of a potential global integrity system and inform the ethical decisions of officials of multi-lateral, trans-national and global institutions? Put simply: what values should sustainable globalization seek to sustain?

1. Arguably there is a strong parallel to the 18<sup>th</sup> century when the ‘Enlightenment’ sought to civilize the highly authoritarian states that emerged after the Treaty of Westphalia with a set of liberal-democratic values followed by social-democratic values in the 19<sup>th</sup> and 20<sup>th</sup> centuries. The untamed and rather brutal partly globalized world might be seen to need a new ‘global enlightenment’.
2. The source of those values should not be limited to western countries – it needs to be truly global, taking in the insights to governance values provided by all cultures. In so doing, we need to avoid the traps of cultural relativism and over-ambitious claims of universal values. While similar values can be found in all cultures and in the writings of Confucius, Buddha, Christ and Mohamad, they can only be called universal at levels of abstraction that are not particularly helpful and deny the very real philosophical development that has taken place between and since those to whom the relevant writings have been attributed. Truly universal values may appear at the asymptote of infinite dialogue but not before. What can be found is ‘congruent values’, values with similar meaning and effect that are nonetheless subtly different because of the different histories and contexts in which they arose. These form a much stronger base on which to form global values which can inform global governance.
3. Good governance and bad governance are not the preserve of any particular culture. All long standing cultures, religions and traditions have experienced good governance and bad governance (the West managed to produce both Nazism and Bolshevism in a single century as well as some of the finest articulations of human rights, democracy and the rule of law – generally by those like Gandhi and Dr King who were acutely aware that the values were ‘good ideas’ that still needed to be put into practice).
4. Global values may well emerge as versions of good governance values proposed for nation states including:
  - a. Transparency, Rule of Law, Liberty and Human Rights may translate fairly directly from sovereign state to global community (see comments on Transparency in Glossary).
  - b. Equality is a highly contested value within sovereign states with some emphasising formal equality and others advocating substantive equality along at least some dimensions. This becomes all the more complicated when dealing with differences across states as well as within them.
  - c. Citizenship and Democracy will require the most work. These ideas were developed in city states and changed significantly when they were applied to sovereign states. Their application

- to the institutions found in a globalising world are likely to involve further significant development – perhaps embracing claims to membership of, and a say in, the critical institutions that affect lives. When sovereign states were the ‘only game in town, claims to membership and say centred on sovereign states. They may now legitimately extend to international agencies and corporations.
- d. Accountability might not change much as a concept – the key issue is who is to be accountable to whom and for what?
  - e. Environmental values were developed within sovereign states. In 19<sup>th</sup> century England, they led to the formation of the National Trust and attempts to clean up the Thames. These values are now global.
5. Some of these are process values – transparency, rule of law and accountability.
  6. Some are substantive values – human rights and liberties, citizenship and environmental values.
  7. One of the key value questions is whether the millennium development goals (MDGs) are a sufficient and balanced reflection of the needs of the world’s poorest.

### **C. Institutionalizing these values**

The next question at national and global levels is how we can institutionalize these values – i.e. what institutions will best realize those values? It is argued that this will not be through global government – ‘the sovereign state writ large’. The answer lies in global governance – a range of institutions to achieve these values. This requires:

1. Clarity as to the values/public goods the institutions are expected to achieve.
2. The creation of a set of institutions that can realize global values. Some of those institutions will already be established, some will need major reform and some new institutions will have to be created. These will include the UN which, for all its faults, it is the only one we will ever get. While its faults are many, it should be recognized that the UN and its agencies have been remarkably successful in putting a floor under human misery caused by war, famine and pestilence.
3. However, we should not expect the UN to be a ‘sovereign state writ large’. What is true at the national level is even more true at the global level: promoting integrity and combating corruption require a range of institutions – multi-lateral, national, corporate and not-for-profit (NGO/CSO).
4. Recognize that the power, people and resources that are invested in these organisations will create agency problems > potential for abuse.
5. The creation of institutional integrity systems to make it more likely that those values are realized by the relevant institutions.

6. Recognition that the global integrity system involves many institutions and those institutions will need coalitions of leaders to create, develop and lead them
7. The creation of a global integrity system – starting with global institutions (such as the UN and World Bank) and moving to international system more generally (which includes nation states, multi-national corporations and international NGOs):
  - a. Just like national integrity systems, it will not be built to a single plan but built up gradually, starting with what we have.
  - b. Recognize the impediments to achieving those values and that it is necessary to build mechanisms to deal with those impediments into the global integrity system.
8. Sustainable globalisation requires sustainable global governance. If the powers entrusted to global institutions (multilateral agencies, multinational companies and international NGOs) are abused for personal or narrow state-based aims, global governance will break down. The GIS, similar to the NIS needs to be designed to ensure that those powers are used for the purposes which justify those powers rather than abused. In this sense, the GIS > sustainable global governance > sustainable globalisation.

## **D. Recognizing the role of individuals in dealing with these global issues**

While the architecture of sustainable global governance and sustainable globalisation is largely institutional, we should never ignore the individual dimension. We should identify our own actions that can further stated good governance values. We must recognize that we can act at three levels:

- as Citizens/voters;
- as Investors;
- as Consumers.

When we act, we have responsibility for the consequences of our actions. The fact that we are acting as consumers and investors does not excuse us from that responsibility. However, between our actions and the achievement of intended consequences lie a number of institutions:

- As citizens we rely on parties, parliaments and bureaucracies to implement our collective choices.
- As investors, we rely on advisors, trust funds, fund managers and corporations to connect our values with our investments.
- As consumers, we rely on manufacturers, service providers, retailers and advertisers to inform our choices and deliver them.

We empower these institutions by voting, investing and consuming. We must recognize that those institutions may well abuse that power and demand institutional changes to limit those changes.

We should recognize that action on one front can affect action on other fronts and campaigns should press for action on all three fronts. We should especially seek to harness the ultimate owners of most corporations – superannuants.

1. Their interests are long term and not confined to the market return on their shares. They have other economic interests as employees, taxpayers and parents. An action that marginally increases the return on their shares but raises unemployment or requires taxpayer funded clean ups or bailouts is against their overall economic interests. The best entrepreneurs are those who build sustainable businesses. The problem is that the financial intermediaries who handle superannuants' money are driven by short term incentives.
2. They also have values that go beyond economic interests. They are not only entitled to seek to further these through their investments but are responsible for their choices. Shareholders' values may vary but this merely means that funds should differentiate themselves on the basis of the values they seek to further.
3. As most superannuation funds aim for diverse investments and align shareholdings with stock market indices, superannuants are becoming 'universal investors'. Any attempt by businesses to externalize their costs hurts another one of the superannuant's investments – and often the superannuants themselves. Accordingly, the externalization of costs is not a game that superannuants can afford and neither they nor the funds who invest their money should be willing to play.
4. There is a direct line between ethical and socially responsible investment by individuals, funds adopting and implementing the UN's Principles of Responsible Investment (PRI) and corporate social responsibility initiatives such as the Global Compact.

## **E. Peace and Security – the traditional headline issue for global governance/sustainable globalization**

### **Internal conflict**

In a world of sovereign states, the greatest power was that of the sovereign. The justification for such plenary (even despotic) power was the avoidance of civil war and preservation of social peace. For Locke, the sovereign was entrusted with the power for that purpose. Whatever other responsibilities are taken on by states, and whatever erosions of state power made some of those responsibilities difficult to discharge the preservation of internal peace remained central.

The extent of that power (which Weber dubbed 'a monopoly of legitimate force') provides a temptation to some to abuse it for their own purposes or for the purposes of those who paid them to look the other way

when they are engaging in illegal trafficking, money laundering and other activities. It also makes ‘state capture’ an attractive goal for those who wish to wield state power for their own benefit and to ensure that the judiciary and security services are used to persecute enemies rather than to check their own illegal activities. Such state capture may occur through corrupt networks gaining control of key state institutions or it may take the traditional form of a *coup d’état* (one of the most egregious forms of corruption in which coercive power entrusted for the protection of the state and its people is used against them – sometimes at the behest of outside actors). Proposals for concerted domestic and international action to deter and defeat coups<sup>6</sup> have been largely ignored and some states and international organisations still see the promotion of coups as a legitimate even in democracies.

The modern doctrine of the ‘Responsibility to Protect’ (‘R2P’) was proposed by the International Commission on Intervention and State Sovereignty in 2001<sup>7</sup> and endorsed by the United Nations in 2005. It places the primary responsibility on states for the protection of their own citizens from major human rights abuses. However when the relevant state is unwilling or unable to do so, R2P creates a secondary responsibility on the broader community of states. It does so despite the long and sad history of such ‘interventions’, starting with those on behalf of co-religionists in the thirty years war – not least because there are now institutions which can authorize such action (UN Security Council, UN General Assembly under the ‘Uniting for Peace’ procedure or validation of the intervention by the International Court of Justice).

## External conflict

R2P illustrates the inter relationship of national and global governance and how weaknesses in each compound weaknesses in the other. It also indicates the powers given to international agencies and the limited basis for establishing integrity system(s) to prevent their abuse. One of the issues that needs to be confronted is whether members of the UN Security Council which are entrusted with the power to authorize ‘all necessary means’ (what would once have been called ‘war’) must exercise that power for the purposes for which it is given rather than for the benefit of the relevant country. Is it appropriate for some countries to secure the votes of security council member states through inducements? It could be argued that such attempts constitute the most egregious forms of corruption and that member states which offer or accept such inducements are not fit to take part in such decisions. Whether or not interventions are authorized by the UNSC or some other legitimate international authority (e.g. ICJ), such interventions involve the delegation of massive powers which are subject to abuse in that they may be used for purposes other than those for which the use of force is authorized. Even where international action involves aid and assistance, the large inflow of cash and highly paid foreigners can distort the local economy and provide opportunities for the abuse of power. Good governance, transparency,

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<sup>6</sup> ‘Threats to Democracy: Prevention and Response’ Council on Foreign Relations International Task Force on Threats to Democracy chaired by Madeleine Albright and Bronislaw Geremek, 2002. See Morton H. Halperin and Mirna Galic (eds) ‘Protecting Democracy: International Responses’, OSI,2005

<sup>7</sup> <http://www.iciss.ca/report-en.asp>

accountability and the rule of law must be built into all interventions to prevent corruption and to provide a model for the operation of local institutions post-intervention.

### **Combating terrorism**

The response to 9/11 has generally involved handing significant powers to bodies which seek to avoid accountability to domestic and international transparency, accountability and the rule of law. Terrorism is one of several problems that require co-ordinated domestic and international responses. In the absence of effective global integrity mechanisms such responses will fail and other countries will be reluctant to become involved and may do only half-heartedly. This would be most unfortunate because such co-ordinated action is necessary and some of the means for combating terrorism are extremely useful for combating corruption and tax avoidance (especially tracing of money flows which some countries had been reluctant to implement before 9/11).

### **F. Natural Resources and Energy – the honey-pot for corruption**

The opportunities for corruption in avoiding taxes or in stealing the annual revenues of government are significant. The opportunities for corruption in dealing with national assets are far greater – and in many states, the most important national assets are natural resources and energy. Extensive corruption systems that cross national borders may have been established to take advantage of those opportunities. These need to be tackled by a combination of national integrity systems, a global integrity system and sectoral integrity systems. As in other areas, the first step is to identify the relevant powers with a significant capacity for abuse and to ensure that relevant integrity systems include measures to increase the likelihood that such powers are used for publicly stated purposes rather than abused to transfer gains to other parties.

### **G. Carbon and climate change – the recent headline issue for sustainable globalization**

Unlike the increasing flows of money, goods, people and ideas across national borders that constitute the heart of globalization, carbon flows across borders independently of human action. It is a headline issue because: (a) all the above-mentioned global flows have exacerbated climate change, (b) solutions involve global agreement on goals the creation of untried institutional mechanisms. If global warming is to be halted this century, total emissions have to be capped and cut and all states will have to participate in securing that outcome.

## Relationship to other issues:

Carbon and climate changes are related to other issues considered in this conference:

1. Peace and conflict: war makes massive contributions to carbon emissions (and individual armies are more expensive than collective security forces of the kind provided for in the UN Charter but never implemented).
2. Poverty – how do we persuade those who have not caused the problem to refrain from the behaviours that made us rich? We cannot pursue means that will create poverty in other countries – let alone famine through the use of potentially food producing land for growing oil substitutes or creating carbon sinks;
3. Energy is a large part of extractive industries and most energy is produced by extracted resources.
4. Corruption will hinder any attempts to accurately measure carbon emissions and implement measures for their reduction.

## The fundamental problem – an unsustainable version of the ‘good life’

1. Resource-intensive, high-carbon, western lifestyles are frequently criticized as unsustainable and deeply unsatisfying (with little evidence of increased happiness and increased indicators of unhappiness in depression, works stress and suicides). However, these lifestyles are still attractive to the majority of westerners and to a high proportion of the developing world’s middle classes. Even if confined to the west such lifestyles are unsustainable: their extension to the rest of the world increases the downward spiral to ecological catastrophe.
2. Since the 1970s, there have been many pleas for western nations to desist from unsustainable aspects of their lifestyle and more ascetic lifestyles have been advocated. While some will choose less energy intensive and environmentally damaging versions of the goods and services they desire, self-denial has rarely been widely popular among those who can indulge themselves and the numbers pursuing unsustainable lifestyles has increased over the last 30 years rather than decreased.
3. In summary, the key problem is that the West has invented and proselytized an unsustainable version of the ‘good life’ that other countries seek to emulate.
4. There can be no solution to climate change until we can develop sustainable conceptions of the good life that we in the west want to live and which others might want to live. A dialogue between east and west might be very instructive in imagining such conceptions of the good life.
5. Fortunately, many of the things that human beings value most do not require huge investments of energy and an unsustainable use of resources – for example: companionship, conviviality, conversation. None of Nussbaum’s list of human values<sup>8</sup> need break the ecological bank: life (not

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<sup>8</sup> Nussbaum, M. (1997). "Capabilities and human rights." *Fordham Law Review* 66(2): 273-300

dying prematurely), bodily health, bodily integrity, pleasurable experiences/absence of pain, emotions, practical reason, affiliation, living with concern for other species, play, control over one's political and material environment.

6. Other alternatives are coercing developing countries to cap their emissions (not possible even if it were morally acceptable) and paying those countries to cap their emissions (self defeating while unsustainable images of the good life prevail because, one way or another, those being paid to live more sustainable lifestyles will seek the unsustainable 'good life').

### Concerns about carbon trading schemes

While the ultimate solution to climate change is the development of low carbon lifestyles, it is important that economic incentives support that search. The currently favoured approach is to set a cap and then cut total emissions with the trading of emission rights to provide incentives to those who can most efficiently cut their carbon and minimize the cost. This is unsurprisingly popular in states emitting the most carbon because it effectively gives them a property right to emit – something that is acknowledged in the literature ('issuing permits free of charge (or at low cost) explicitly recognises the property rights which emitters have had in the past.'<sup>9</sup>). Where an activity is shown to be harmful, it is not immediately obvious that we should create property rights to continue the harmful activity and to give the greatest property rights to those who have done the most harm.

1. This leads to a rush to create property rights in unsustainable activity – and given to those who have been the worst offenders among nations and within nations. This idea is popular in west and with those who would operate the markets. It is unpopular with non-western countries who would be given less rights. Why would they agree?
2. Giving concessions to those countries or corporations who are already engaged in the unsustainable activity effectively concedes a 'right' to engage in unsustainable activities.
3. It also has the perverse effect of encouraging market players to look for the next unsustainable activity in which they can invest to benefit from 'grand fathered' rights.
4. Faith in markets may be misplaced in this case. The relevant commodity (carbon) is not well understood and knowledge will be asymmetric – allowing market players many opportunities for arbitrage and taking advantage of the ignorance of those who need to access the market to continue their businesses. This leads to the possibility that much of the extra cost of doing business will end up in the hands of market players rather than consumers or producers who have to pay higher prices. There is also the possibility that everybody loses. New markets often get it wrong. The creators and 'market makers' for derivatives were very keen to enter into carbon trading. While many are wary of entrusting them with the contents of their piggy banks, it is unlikely that they will be entrusted with the future of the planet.

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<sup>9</sup> D Gunasekera and A Cornwell, 'Essential elements of tradable permit schemes', in *Trading Greenhouse Emissions: Some Australian Perspectives* Bureau of Transport Economics, Commonwealth of Australia 1998, 11 at 17

5. New markets are always prone to fluctuation and profiteering from asymmetric knowledge.

### **Revisiting carbon taxes in a new form – the ‘Carbon Added Tax’**

1. The alternative approach involves the taxation of unsustainable activity rather than granting rights to it. I would suggest a ‘carbon added tax’ (CAT) to operate like a VAT. If it operates like a VAT, carbon taxes are passed on up the line until paid by the consumer of the relevant goods and services. The VAT treatment of imports means that those who keep outside the system of carbon taxes would still face the CAT when the goods are imported into a market within the system. It also means that the burden is on those countries which consume high carbon goods and services rather than those who produce them.
2. Revenue could be returned to individuals through cuts in consumption tax (either across the Board or targeted in areas such as food where the poor pay more) to prevent inflationary impact while retaining a strong price signal. Indeed, it provides both negative and positive price signals as low carbon products actually decline in price (though slowly enough to avoid deflation of low carbon products).
3. In general, we should move from taxing consumption to taxing carbon and return the proceeds to individual citizens – or to individuals globally through a global minimum income. Replacing consumption taxes with a carbon tax would massively change the incentives for reducing green house and other emissions without affecting inflation.

## **H. Financial Globalization – the current headline issue for sustainable globalization**

If globalization involves the flow of people, ideas, goods and money, the last has grown most rapidly – indeed well in excess of the flow of goods and investment that it is supposed to support. Developing countries have entrusted their enormous and growing surpluses in western banks and other financial intermediaries. Some (such as East Timor) have been pressed by western run multi-laterals to entrust the proceeds of extractive industries in Wall St on the basis that it was less likely to be eroded by corruption.<sup>10</sup>

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<sup>10</sup> The author was deeply sceptical of this approach during a World Bank mission in 2005. Not only is East Timor and many other countries desperate for investment but the rate of return in developing economies should be higher than the rate of return in highly developed countries. While this means that a robust and effective integrity system needs to be completed as soon as possible, this seems to be one more example of funds flowing in the wrong direction. There is a particular poignancy in this example. The author and Lt Gen John Sanderson proposed in 1999 that funds should be provided to employ unemployed Timorese (especially the ‘young men with guns’) to rebuild the destroyed housing stock, channelling funds through local organisations that could become the kernel for new democratic local government organisations. This was rejected. It is ironic that the later investments of East Timor are caught up in the maelstrom generated by the attempt to provide much more expensive homes to American citizens who were not nearly as poor and not nearly as homeless as East Timorese citizens.

The amounts entrusted to such intermediaries in the US and elsewhere on the basis that they would be invested on a secure and conservative basis were unprecedented. It now appears that entrusted powers over vast sums of money were abused for personal gain. Many within financial intermediaries have played with that money in ways that maximized their fees while increasing the risks to their investors. The ratings practices were scandalous and incredibly insulting to well run businesses and governments whose risk was far less than 110 percent non-recourse mortgages on inflated values to NINJA borrowers (no income, no job, no assets). The fact that their risk models were based on the probabilities of individual defaults and ignored the possibility of an overall decline in property markets is merely more evidence of incompetence, negligence and ‘arrogance beyond their means’. Once such ratings could be secured, the signing up of mortgagees, the packaging of those loans, their rating and their sale to local citizens and foreigners looks like a well oiled ‘corruption system’. Even though they did not see themselves as corrupt, several parties were maximizing their fees while squandering profits at the expense of those who entrusted them with their funds. The unedifying subsequent sharp shift from greed to blind panic only adds to the contempt that so many have engendered.

This does not mean that banks should not be rescued. The fact that they were poorly run is not the point. If they had been well run, they would not need to be rescued. Rescues are instigated to protect the wider economy, confidence and depositors who were not accepting suspiciously high rates – while seeking to ensure that the owners and managers of such banks remain as exposed as possible to the consequences of their mistakes.

Neither does this mean that all participants acted unethically or illegally. However, if confidence in the international financial system is to be restored in the long term, and if the proceeds of developing country surpluses and western superannuation are to continue to be entrusted with intermediaries for investment in the globalized economy – thereby supporting sustainable globalization rather than undermining it, then, this can only happen if there is a full investigation of what went wrong and options for the establishment of adequate financial integrity systems are debated, selected and implemented as part of the Global Integrity System. Such an investigation will have to include members of developing as well as developed countries and be supported by the work of international researchers, NGOs and international organizations. In this process the Equator Principles, the UN Global Compact, the UN Principles of Responsible Investment will need to be reconsidered and implemented.

In reforming the international financial system, we should set the goal of ensuring that those who are entrusted with investing funds for others do not abuse that entrusted power to increase their wealth at the expense of those for whom they invest. At the same time, we should set the international banking system the goal of establishing a regime that is sufficiently transparent so that no rational corrupt official or tax avoider would put his money in an offshore bank. This author has long argued that this is the single most important contribution that developed nations can make to the reduction of corruption in developing nations. While some developed nations had resisted such a goal, 9/11 has stimulated the development of relevant tools.

## Conclusion and application to the conference deliberations

The IACC's target is corruption – the abuse of entrusted power for personal gain or other benefits to the power holder's family, associates or party. Over the years, the international anti-corruption movement has come to recognize that this is a subsidiary goal to the primary goal of integrity, the use of entrusted power for publicly justified purposes. Like most others concerned with governance in a world of sovereign states, the movement initially concentrated on the exercise and potential abuse of power by public officials of sovereign states and those who seek to induce them to abuse that power. Even if the bribers were foreign, the problems were essentially national and solutions were seen to lie in 'national integrity systems'. However, the forces of globalization and deregulation have weakened sovereign states and ensured that there are many other loci of power which may be exercised with integrity or corruptly. While corruption by state officials acting within their territorial boundaries is a contributing factor to most problems considered by IACC 13, the magnitude of those problems would be far less if corruption was limited to those officials. Corruption systems will generally involve national and international actors and be far more damaging for that reason.

It is recommended that the international anti-corruption movement broadens its areas of concern to include the powers of institutional actors who operate internationally or trans-nationally, identify the justified uses of those powers and consider the global operation of corruption systems and the kind of global integrity system that is needed to secure a reasonable chance that those powers are used for those justified purposes.

This approach should assist this conference achieve its key objectives and this paper has sought to provide some material and methodology for addressing those objectives.

The first objective of this conference is to '*identify the links between corruption and human security, climate change, natural resources governance and energy security*'. This paper suggests a prior question: what should be the goals of sustainable globalization (i.e. what do we want sustainable globalization to sustain?). The three areas mentioned are undoubtedly among those goals but it is important that other goals be considered in prioritizing our own actions and in designing the Global Integrity System. Since the Agenda of this conference was set, the problems within the international financial system have become both more evident and more acute. Having added a fourth area, this paper has suggested a methodology for establishing such links and given several examples.

In all cases, we should look to those who have been, or will be, entrusted with power to secure the relevant goal. For peace and security, we look to the national security forces that are supposed to preserve the security of individuals and communities but whose abuse of that power may constitute the greatest threat to the security, well being and human rights of those they are supposed to protect – from police running protection rackets to coups run by generals, colonels and even the odd flight lieutenant or master sergeant. The extra powers given to, or taken by, security forces after 9/11 provide other potential sources of abuse. Internationally, the UN Security Council has enormous power to act to preserve or restore peace but it does so on the basis of the interests of those who run their governments. When delegating power and authority to member states to use force, the UN has only recently started to curb abuses by individual members of intervention forces and has been able to do little to avoid the abuse of the member states.

In natural resources and energy, the holders of entrusted power are the government officials (and sometimes tribal elders) who authorize the search for and extraction of natural resources, the corporations who do the extraction, the bankers who finance it and, in some cases, those who provide security for the relevant industries. In all too many countries, those powers have been the subject of massive abuse. In banking, the holders of entrusted power are the various intermediaries with whom individual investors entrust their funds. In climate change, similar intermediaries will be entrusted with the role of making the markets work – while on the ground officials will have to be entrusted with determining whether carbon emitting or carbon absorbing activities are actually being carried out.

This is not an exhaustive list of those with entrusted power in the relevant areas but it is suggested that the relevant sessions consider what powers are or will be entrusted and where the greatest risk of corrupt exercise of those powers lies. As in all risk analysis, it should take into account the likelihood and severity of the risk (with the latter being determined by the effect on poverty, inequality and human rights referred to in the second objective.

The second, third and fourth objectives are to: *‘raise awareness and facilitate the design of strategies to address these links and their effects on poverty, inequality and human rights abuses’*; *‘take stock of anti-corruption best practices that address or are necessary to address the above mentioned challenges’*; and *‘facilitate strategy design, networking and partnership building to address corruption in the areas of sustainable development, human security, climate change, natural resource management and energy security.’*

These objectives will involve a great deal of detailed thought by the assembled experts. However, this paper does suggest some directions for this work:

- learning from national strategies that have worked (bearing in mind some of the lessons from successful international campaigns from Amnesty International to Greenpeace as well as TI);
- developing sectoral integrity systems and an overall global integrity system to raise integrity and combat corruption through the combination of ethical standard setting, legal regulation and institutional reform – with coalitions of leaders to drive the creation of that system;
- co-ordinating the actions of citizens, consumers and investors to press governments and corporations to address the risks identified and to press for the development and later refinement of the suggested global integrity system.

Good luck with your deliberations, the planet depends on you.

## **APPENDIX: GLOSSARY OF TERMS**

### **Individuals and Institutions**

Despite western emphasis on individuals, we live our lives largely in, and through, the institutions in which we work, play, and procreate. Even when we try to act like ‘individuals’, our lives are played out in an environment characterised by powerful institutions. Institutions and their governance are generally part of our most pressing problems (including those relating to national research priorities). Institutions are also almost invariably a key part of solutions to those problems – whether the institutions are non-government organisations (NGOs), corporations, industry groups, regulators, government agencies, regional bodies or international agencies.

### **Governance disciplines**

The importance of good institutional governance is recognised by many disciplines which might make a contribution to institutional governance and reform. The problem is not that it is ignored: the problem is that each discipline has a strongly theorised but limited conception of institutions, which colours and structures their view of the nature of institutional problems and the best means for addressing them. For example, lawyers look at institutions and see sets of formal norms, ethicists see informal norms and the values the institution claims to further, economists see incentives and disincentives, political scientists see power relations, social psychologists see complex webs of interpersonal and group relationships, and management theorists see structures and systems. Accordingly, the problems are seen in the deficiency of laws, ethical standards, incentives etc. and the solutions are seen as lying in remedying those deficiencies. All these partial insights into institutions and their problems are important and any solution that ignores them is likely to fail. However, as proffered solutions tend to be developed from only one disciplinary perspective, they are necessarily limited, perhaps over-emphasising legislative solutions or the impact of economic incentives.

### **Governance**

There are many different definitions of governance. However, at their base, they refer to the way that decisions are made within an organisation – whether a particular corporation, NGO, or government agency OR within government as a whole.

### **Good Governance**

A narrow definition might see good governance in terms of institutional integrity (see above). However, I would prefer to see it as governance subject to ‘good governance values’. Such values include integrity and accountability but are not confined to these values. For governments such values would include:

- democracy;
- respect for human rights and liberties;
- adherence to the rule of law;
- citizenship;
- respect for the environment.

For corporations, good governance values would include:

- adherence to the rule of law;
- adherence to the corporations own constitution;
- respect for customers, consumers and members of the communities in which it operates.

The above values are stated in English and in western terms. In saying that, I seek to avoid cultural relativism and claims to universal values. Values are universal only when stated in their most general terms. Good governance values (and bad governance values) can be found in all cultures and traditions. The good governance values are ‘congruent’ rather than ‘identical’ and arise in particular historical and social circumstances that provide important nuances that can be ‘lost in translation’. I argue that:

- All long standing cultures deal with major social issues and provide a range of answers reflecting different interpretations of its ideals.
- During the 20th century, western culture produced a range of interpretations ranging from Nazism to the inclusive, tolerant versions of liberal democracy.
- Other cultures are likely to generate a similar range of answers from the vicious to the sublime.
- Most cultures will include values that are very similar to western liberal-democratic values.
- However, those values will not be identical to western values but will be nuanced and influenced by the context in which they arose.
- Much can be learnt from comparing the rich and nuanced variations.
- Governance reforms should be based on the local versions of good governance for three reasons:
  1. It avoids giving a ‘free hit’ to the opponents of reform who would otherwise portray governance reform as a western import when in fact it is grounded in local culture.
  2. Good governance will take a firmer root if based on local versions of good governance.
  3. The good governance values will be more easily recognizable by the relevant population.

## National Integrity Systems

While it is now fashionable to see national integrity systems as the answer to corruption, this is a relatively recent development. When corruption scandals strike, one of three responses results – tougher laws, ethical standard setting or institutional reform. Each response has its weaknesses and strengths but is unlikely to be effective by itself. If a new law, ethical code or new institution is successful, it is because it supports or is supported by other measures already in place. Nevertheless, the apparent success of a particular measure in one jurisdiction may lead some to see a panacea or ‘silver bullet’. During the 1980s, the most common response to corruption was the creation of a single, very powerful, anti-corruption agency along the lines of the Hong Kong Independent Commission Against Corruption (ICAC). However, this model was criticized for placing too much reliance on a dangerously powerful, single institution. The NIS does not see the answer to corruption in a single institution, let alone a single law, but rather in the institutionalisation of integrity through a number of agencies, laws, practices and ethical codes.

This approach has been given various names including an ‘ethics regime’ (Sampford 1991), an ‘integrity system’ (TI 1996) and an ‘ethics infrastructure’ (OECD 1997), but the term with the widest currency is TI’s ‘national integrity system’.

Based on this, a ‘National Integrity System’ is a term that encapsulates the interconnecting institutions, laws, procedures, practices and attitudes that promote integrity and reduce the likelihood of corruption in public life.

Given that integrity is the opposite of corruption, one may wonder whether it matters whether it is called an integrity system or an anti-corruption system. However, the distinction is an important one. Integrity systems are not built around the negative goal of limiting corruption but the positive goal of maximising integrity. The negative goal is necessarily implied by the positive one – if power is to be used in officially sanctioned ways, it should not be abused by being diverted to other ends. It is not enough to avoid government corruption (if that were our only goal, it would be achieved by abolishing government!). Institutions need to achieve the goals set for them by the people’s representatives.

In placing power in the hands of individuals or groups, human communities are taking a risk — that the benefits to be gained from use for the justified purposes of the institution outweigh the risks of its abuse. Integrity systems are designed to increase the likelihood of the benefit of the intended use of power and reduce the risk of the abuse.

## Integrity and Corruption

It is interesting that the OECD's preferred term is not 'anti-corruption infrastructure' and TI, despite its central and fundamental focus, does not call it an 'anti-corruption system'. This raises the question of what is meant by 'integrity' (or for the OECD, what is meant by 'ethics').

Integrity and corruption are conceptually linked terms – with one the obverse of the other. TI defines corruption as the 'misuse of entrusted power for private benefit'. By contrast, integrity is 'the use of public power for officially endorsed and publicly justified purposes'. The latter definition is primary because you cannot know what is an abuse if you do not know what the correct 'use' is. The form of official endorsement will vary from system to system but, in a democracy, the officially endorsed uses of public power are those set by the elected government and legislature. Indeed, democratic competition is about differing views as to how public power should be used for the benefit of citizens.

## Accountability

Officials are accountable if they are required to demonstrate that they have used their power in officially approved ways. In National Integrity Systems, it is common for agencies to be 'mutually accountable' rather than hierarchically accountable.

## Institutional Integrity

Where organisations use their power for publicly stated and officially authorized purposes they exhibit 'institutional integrity'. This is analogous to individual integrity. An individual has integrity if they are true to their principles and do what they say they will. Institutions have integrity if they operate to further the goals that are publicly set by democratically elected governments.

## Individual and Institutional Ethics

This is consistent with, and is underpinned by, our approach to ethics. We see ethics acting as the coordinating force because it asks fundamental values questions. For many ethicists, the fundamental ethical question that individuals face is 'how should I lead my life?' For me, ethics is about asking hard questions about your values, giving honest and public answers and living by them. If we do, we have 'integrity'. This is as true of institutions as it is of individuals.

As I see it, members and of institutions face similar questions:

- How should we lead our lives together?
- What is the institution FOR?
- On what basis can we justify the power and authority that we are given despite the fact that there is, as in all concentrations of power, a risk of abuse?
- What values does it further and should we further it in order to justify the power and authority given to us and/or tolerated by the community we claim to serve?

## Transparency

Transparency is a key process value in the practice of ethics and the achievement of integrity (and hence countering corruption), good governance, integrity systems and necessary for accountability.

Transparency involves publicly stating the values we claim to further in both general and specific terms, the means we are taking to achieve them and the extent to which they have been achieved. This is critical to personal ethics and allows us to be ‘true to ourselves’. It is particularly important in institutional ethics to ensure that organizations think about where they are going, how they are going to get there and what progress they are making. Transparency is an essential part of the operation of integrity systems – both of the agencies and institutions monitored and the agencies and institutions undertaking the monitoring.

This might appear to be an imperialistic statement about one governance value. However, similar stories can, and often are, told about other values. At times ‘liberty’, ‘human rights’, ‘the rule of law’, ‘democracy’ and, nowadays, ‘sustainability’. What the statement above actually sets out is the interconnectedness of governance values in theory as well as in the practice of national integrity systems.

Transparency does not mean that all information is provided to everybody about everything. The revelation of some information would totally compromise institutional integrity and the ability of institutions to do their jobs as well as compromising important human rights. Public revelation of those suspected of corruption would both tarnish the innocent and protect the guilty. Revelation of whistleblowers can put lives at risk as well. The details of what information particular kinds of institutions provide to their members and to those they affect may need to be carefully worked out, balancing and respecting a range of important values. However, the above schema provides a clear guide. The focus of transparency demands and the information that is scrutinized should concentrate on claims about values an institution seeks to further, its means for achieving them, the risks of non-achievement especially through the abuse of power and the extent to which those values are being achieved.

However, there is a broader argument for transparency. Where institutions are established to serve a particular community (governments to serve citizens and joint stock companies to their ultimate owners), the presumption must be that the information belongs to the citizens and stock holders and that the information should be readily available to any one of those who want it. It is up to the government or corporation to justify to its citizens/owners that it is in their interests that such information is not available. Such arguments can be made based on national security or competitive advantage. However, that case has to be made and accepted by the citizens and ultimate owners respectively.

Where an organization's claim to benefit a wider group than its members is a key part of its pitch for the privileges that it enjoys (e.g. the claim that the privileges of incorporation further broader societal goals such as prosperity, diversity and liberty), transparency as to those values, means, risks and achievements is also justified.

### **How does globalization affect these values**

Some governance values need major work in a globalized world – especially citizenship and democracy, terms which migrated from the city states of antiquity to much larger entities in the modern era. The competing meanings of 'equality' become even more perplexing when they move outside the nation state to a globalized world.

Values such as the rule of law, liberty, human rights and transparency do not need much development but their application is wider and the institutions and integrity systems that will achieve them will look very different.

