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Ifediora, John

University of Wisconsin-Platteville, USA

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# **A Human Rights Approach To An Economic Analysis Of Bureaucratic Corruption**

**John O. Ifediora**  
**Professor of Economics**  
**University of Wisconsin-Platteville**  
**USA**

## **Introduction**

The traditional arena of human rights discourse and practice made little or no allowance for the rapidly growing international phenomenon of bureaucratic corruption.<sup>1</sup> In the recent past, states have consistently maintained that bureaucratic corruption, on the basis of the norm of non-intervention, was strictly a domestic issue and thus outside the competence of international bodies<sup>2</sup>, such as the United Nations. This is no longer the case, for states have now gradually come to grips with the realization that bureaucratic corruption is a debilitating governmental anomaly that admits of no national boundaries, and assaults the social, economic and cultural integrity of all nations, albeit at varying degrees of intensity<sup>3</sup>. The vast literature on corruption approaches its incidence and effects almost invariably from a political and economic perspective, and rightly conclude that where prevalent, social welfare suffers in terms of anemic economic growth and diminished opportunities<sup>4</sup>.

A new approach in analyzing the effects of bureaucratic corruption that looks beyond the traditional areas of inquiry is now, more than ever, imperative. It is here argued that the traditional approach is too limited, and fails to recognize the broader social impact of corruption on individuals and collectivities. This work, therefore, adopts a rights-based approach to the analysis of bureaucratic corruption and its effects on fundamental human rights. The thesis here espoused is that bureaucratic corruption, where endemic and sustained, leads to suppressions of human rights through its damaging effects on economic development. It is further posited that when states, cognizant of prevalent corruptive practices, either fail to take preventive measures or tacitly encourage its observance, are derelict in their duties and the obligations assumed as signatories to the United Nations' International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>5</sup>

### **A Human Rights Approach to the study of Bureaucratic Corruption**

Bureaucratic corruption is always and everywhere a symptom of domestic institutional failures even though its incidence and extent are global.<sup>6</sup> For years social scientists, especially economists, have consistently implicated its incidence as one of the principal reasons for the abysmal economic growth in developing nations.<sup>7</sup> The literature on the subject is decidedly one-dimensional in that the overriding objective has been, and continues to be, inquiries in to the economic and moral considerations of corruptive practices by public officials.<sup>8</sup> There is yet to be a sustained effort to highlight the equally destructive effects of bureaucratic corruption on human rights, and how these rights are marginalized by its endemic and pervasive presence. A rights-based approach to the problems posed by bureaucratic corruption would entail an analysis of how corruption affects internationally recognized human rights, and what can be done to protect and promote such rights. For decades, the UN and other international bodies shied away from this subject on the mistaken belief that corruption is a domestic matter, and should be handled by individual states.<sup>9</sup> The globalization of trade and other worldly affairs, however, soon alerted the international community of the dangers associated with domestic bureaucratic corruption; this includes, among others, its potential impact on world markets and the stability of commodity prices.<sup>10</sup> But more was needed to prompt world leaders into action; the impetus came by way of the 1977 passage in the US of the Foreign Corrupt Practices Act.<sup>11</sup> This act ushered in a new era in the study and treatment of corruption, and for the first time the issue of corruptive practices within national boundaries was elevated onto the international stage thereby providing policy makers and anti-corruption advocates a substantial instrument with which to aggressively address this matter.<sup>12</sup> The ensuing international focus on corruption made it possible to re-define corruption as a transnational phenomenon with serious repercussions on human rights and development in developing countries.<sup>13</sup> States were now obliged to respond differently, and assume the primary role in arresting the prevalence of corruptive practices.

While one of the earliest efforts to combat corruption at the international level was put in place by the Organization of American States (OAS) with its 1996 Inter-American Convention Against Corruption,<sup>14</sup> other international bodies soon became actively engaged with a proliferation of conventions and promulgations. In February, 1999, the OECD adopted the 'Convention on Combating Bribery of Foreign Public Official in International Business Transactions.'<sup>15</sup> In the same year the International Monetary Fund (IMF) adopted policies that would deny financial benefits to countries with endemic corruption, and the potential to subvert economic recovery programs;<sup>16</sup> these policies required recipient countries to adopt meaningful transparency and accountability protocols in their public sectors.

In 1996, the UN General Assembly adopted a declaration against corruption and bribery in international transactions (Res. 51/191,1996).<sup>17</sup> A second declaration by the UN General Assembly (Res. 51/59, 1996),<sup>18</sup> adopted an international code of conduct for public officials in recognition of the disruptive effects of corruption in international transactions. This declaration was followed by UN resolution 'On International

Cooperation Against Corruption and Bribery In International Transactions’ (Res. 52/87, 1997).<sup>19</sup> Finally, on October 31, 2003, the UN General Assembly adopted Resolution 58/4, and thus created the United Nations Convention Against Corruption.<sup>20</sup> In his formal statement before the UN General Assembly on the adoption of this convention, the UN Secretary General, Kofi Annan declared:

“Corruption hurts the poor disproportionately— by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid”.<sup>21</sup>

Given this prominence, a sustained discourse on corruption from a human rights perspective promises to attract the attention needed to find anti-corruption measures by highlighting the responsibilities of states to constantly enact public policies that are conducive and malleable to the furtherance of human rights. Such sustained effort would also serve to educate policy makers on their roles as the principal protectors of the rights of their citizens, and the need to promulgate policies that do not accommodate breaches of fundamental human rights.

### **Objective And Methodology**

This paper seeks to examine the effects of bureaucratic corruption on human rights by constructing competing economic models that illustrate the processes by which the deleterious effects of corruption are felt by individuals and collectivities. This effort, while sympathetic to previous efforts and conclusions, acquires its novelty by looking at the same problem from a human rights perspective, and adopts a fresh approach in its inquiry into the mechanisms by which corruption affects guaranteed rights. Using the principal provisions of the United Nations’ International Covenant on Economic, Social and Cultural Rights, my thesis postulates that when States fail to contain and minimize the incidence of bureaucratic corruption, they necessarily breach their duties, and the obligations assumed as signatories to this convention. To test the viability of this thesis, economic models of corruption will be employed to demonstrate possible economic outcomes of different degrees of bureaucratic corruption, and the attendant impact on development and human rights.

### **A Brief Review of the literature on Modern Human Rights Regime**

Up until the mid 1970s, the literature on corruption focused almost exclusively on its effects on national economies. The consensus then, as earlier noted, was that the operative international norm of non-intervention required nations to treat activities with purely domestic character as internal affairs, and thus outside the competence of international concerns. This approach of treating corruption as a national issue was further justified on the grounds that “Corruption has no single definition, and varies from region to region”.<sup>22</sup> The Council of Europe insists that a precise definition that applies to all forms and degrees of corruption is untenable.<sup>23</sup> Accordingly, Morgan observes that the consequence of a lack of universal consensus on what constitutes corruption has led to an acceptance of a minimalist definition in the literature.<sup>24</sup>

The issue of whether customary practices, legal traditions, and cultural observances should be given sufficient allowance in developing anti-corruption measures is much discussed in the literature. Morgan wonders whether a uniform standard of anti-corruption efforts leads to good governance or simply misguided attempt to impose subjective values that are foreign to specific cultures.<sup>25</sup> Recognizing the existence of multiplicity of cultures and traditional observances, the literature takes full account of the fact that what may be regarded as corrupt in one country may be perfectly acceptable in another.<sup>26</sup> However, many writers insist on highlighting the difference between gift giving and bribery; the former is usually nominal in value, given in public, and purely ceremonial in character; while the later tends to be substantial, and tendered with the expectation of reciprocity.<sup>27</sup> In the same vein, Rose-Ackerman observes that many scholars of developing countries do not believe that traditional gift giving gives rise to the practice and wide spread acceptance of corruption as a social norm. And notes:

“Combating corruption is not an end in itself. The struggle against malfeasance is part of the broader goal of creating effective government. Reformers are not just concerned with corruption per se but with its distortionary effect on development and society. Widespread corruption is a sign that something has gone wrong in the relationship between the state and society”<sup>28</sup>

### **Modern Human Rights Regime**

The notion that human rights should be a matter of international concern is a relatively modern one; and indeed modern international human rights law as currently understood is a ‘post-World War II phenomenon.’<sup>29</sup> But this is not to suggest that the desire to recognize and protect the rights of individuals is of recent origin, for the history of civilization informs us that as far back as the thirteenth century, ‘there were discernable international efforts’<sup>30</sup> to protect the rights of religious minorities. These efforts persisted, and with time, expanded the field to include the protection of ethnic, linguistic, and national minorities. The advent of the United Nations gradually shifted the focus from the protection of minority rights to that of individual rights.

The adoption of the Universal Declaration of Human Rights by the UN General Assembly in 1948 ushered in the modern human rights regime.<sup>31</sup> However, in order to give effect to the ideals and pronouncements contained in the declaration, two covenants were subsequently adopted, albeit decades later. These covenants, the International Covenant on civil and political Rights (ICEPR),<sup>32</sup> and the International Covenant on Economic, Social, and Cultural Rights (ICESCR),<sup>33</sup> together with the Universal Declaration of Human Rights constitute what is commonly known as the International Bill of Human Rights. Thus, while the Universal Declaration furnishes the philosophical and jurisprudential justifications for the covenants, the two covenants in turn provide the substantive and procedural mechanisms for the implementation of articulated rights. In

this regard, civil and political rights of individuals find form and substance in the ICCPR, while the ICESCR serves as the primary repository of economic, social and cultural rights. But this apparent 'division of labour' between the covenants is not without its detractors; and rightly so for international instruments designed to gain sustenance through consensus.

The perennial debate since the adoption of both covenants is whether the core rights contained in one covenant are superior to those contained in the other; and if so, then the covenant with the 'inferior' set of core rights should be implemented with care or risk the potential dilution of the entire human rights' regime.<sup>34</sup> Specifically, proponents of what has commonly been referred to as 'first generation' rights – civil and political rights, have entertained the view that economic, social and cultural rights as contained in the ICESCR cannot be properly defined as rights, but are rather, ideals and aspirations that states should strive to attain. Furthermore, 'treating them as rights undermines the enjoyment of individual freedom, distorts the functioning of free markets ... and provides an excuse to downgrade the importance of civil and political rights.'<sup>35</sup> But proponents of economic and social rights are equally adamant; to them, an illiterate starved to the point of privation has no use for freedom of speech or the right to exercise his political franchise as a citizen.<sup>36</sup> Hence, they argue for the pre-eminence of economic and social rights in the advocacy and implementation of human rights.

This work adopts the view that while advocates of the two sets of rights have merits in their arguments, they are, however, mistaken in their conclusions for the simple reason that the premise on which they erect their respective arguments is faulty --- the divisibility of rights. It will be argued that human rights, regardless of the instruments that define their form, are interdependent and indivisible, for each set of rights provides anchor and nourishment for other rights, and these other rights do the same for the first set of rights; and at the end, a symbiotic relationship of rights that informs the 'whole' is ultimately created. The Vienna Declaration and Programme of Action of 1993 adopts this view,<sup>37</sup> and it is the view adhered to by many nations.<sup>38</sup> Indeed the Limburg<sup>39</sup> Principles on the implementation of the ICESCR, and the 1997 Maastricht Guidelines<sup>40</sup> on Violations of ICESCR clearly hold that the different obligations emphasized by both covenants do not imply inequality.

While an increasing body of jurisprudence adopts the view that rights articulated in both covenants are indivisible,<sup>41</sup> it is the case that the operational effects of bureaucratic corruption are largely felt through the debasement of rights contained in the ICESCR, which in turn infects the core rights contained in the ICCPR. This is a fundamental premise of this discourse.

### **The Maastricht Guidelines on Violations of Economic, Social, and Cultural Right**

The ICESCR provides more details of the economic, social and cultural rights articulated in the Universal Declaration of Human Rights, and encompasses, among others, the following rights: to a reasonable standard of living, to work, to just and favorable conditions of work, to education, to the highest possible standard of health, to family life, and to take part in cultural life. It requires countries that have ratified to ensure the equal

rights of both sexes, and prohibits all forms of discrimination in the exercise and enjoyment of these rights.<sup>42</sup> The Maastricht Guidelines provide a functional interpretation of these rights, and the obligations of states.

The Maastricht Guidelines, which are based on the Limburg Principles,<sup>43</sup> are now widely accepted as authoritative guides on the responsibilities placed on states by the ICESCR, and their culpability when rights are violated. The relevant portions of this document to the present discourse are to be found in Art. II, paragraphs 14 and 15; and are as follows:<sup>44</sup>

Art. II. The meaning of violations of economic, social and cultural rights<sup>45</sup> ....

14. Violations can occur through the direct actions of states or other entities insufficiently regulated by states. Examples of such violations include:

(g) The reduction or diversion of specific public expenditure, when such reduction or diversion results in the non-enjoyment of such rights and is not accompanied by adequate measures to ensure minimum subsistence rights for everyone.

15. Violations can also occur through omissions or failure of states to take necessary measures stemming from legal obligations. Examples of such violations include:

(d) The failure to regulate activities of individuals or groups so as to prevent them from violating economic, social and cultural rights.

(e) The failure to utilize the maximum of available resources towards the full realization of the Covenant.

(f) The failure to monitor the realization of economic, social, and cultural rights, including the development and application of criteria and indicators for assessing compliance.

...

(i) The failure to meet a generally accepted international minimum standard of achievement, which is within its powers to meet.

The principal contention of this discourse is that bureaucratic corruption, wherever it flourishes, is a symptom of a failure in governance with serious repercussions on fundamental human rights, and thus a breach of obligations assumed by states as signatories to the ICESCR. The process by which this breach occurs is the subject of the next section.

### **An Economic Model of Corruption**

Corruption and its distortionary effects are perhaps better understood when analyzed within the industrial organizational framework of Homogeneous Oligopoly.<sup>46</sup> The work by Shleifer and Vishny utilized the monopoly model of price theory<sup>47</sup> to shed light on the consequences of corruption, and to draw parallels between market outcomes under monopoly and what obtains in countries with endemic corruption. The preference here for the oligopolistic model<sup>48</sup> stems from the fact that only a small number of government officials are, at any given time, in positions conducive to bribery; and whereas

individuals in these positions exercise monopoly powers over services that are mostly related, and often interdependent, a situation of competition amongst the few exists.

Because bribery is an extra-legal activity<sup>49</sup>, participation elicits two specific risk factors; the prospect of penal sanctions, and the likelihood that the other party will not fulfill his promise. But since there is no legal recourse in the event of defaults, this introduces an element of the prisoner's dilemma.<sup>50</sup> However, the sustained presence and pervasiveness of bribery and corruption in developing countries arise from the fact that bribery amongst participants is usually not a one-time deal, but rather a repeated affair that gradually fosters mutual trust and dependability.<sup>51</sup> Thus, when such cooperation is practiced long enough, there is a tendency to reach a state of equilibrium where corruption is the norm.<sup>52</sup>

For expositional simplicity, the ensuing analysis will assume the following:

1. Services provided by government agents are identical, i.e. export-import licenses, drivers permits, housing contracts are identical regardless of the issuing source.
2. The Principal-Agent relationship holds. A lower ranking government official (agent) collects bribes to be shared with a higher-ranking official (principal). However, agents may seize the opportunity to enhance personal benefits, and may do so without reporting the proceeds to principals.
3. Agents have the power to restrict the supply of services, and may exercise this power in order to maximize bribe proceeds. Given the abysmal levels of salaries for low ranking officials and the infrequency of payments, this may well be the intended effects of the numerous rules and regulations frequently issued by government agencies.
4. Since the product or service is produced by the government, the agent's cost of provision (marginal cost)<sup>53</sup> is zero, except in instances where significant effort is expended to complete the transaction. For this unique reason, the benefit-maximizing decision variable will be the amount or quantity of service rendered, not price.<sup>54</sup>

In analyzing the economic outcomes of bribery and corruption within the context of homogeneous oligopoly, one can look at corrupt government officials as a group with similar interests which offers a specialized set of services to the public. Police officers that man the network of roads can be regarded as such; same applies to customs officers, and heads of ministries responsible for granting government contracts.

If bribery and corruption were legal, the opportunity for intra-group or inter-group collusive practices would be present. Thus, as cooperating monopolists, the bribery-maximizing decision rule will approximate that of a monolithic monopoly,<sup>55</sup> exacting the highest cost of corruption on the public through a relatively smaller supply of government services. But the need for secrecy and the fear of detection foreclose such cooperation among agents. We are thus left with two possibilities: (1) The case of competitive corruption, or (2) The case of imperfectly competitive corruption.



### **The Case of Competitive Corruption**

If cooperation and, hence, collusive behavior are impossible, perhaps due to heightened political activity or stricter rules of accountability, agents may engage in mutually destructive competition, wherein each attempts to maximize his selfish interest in the short-run. Under competitive corruption, oligopolistic agents will behave like price-takers,<sup>56</sup> thus equating marginal cost (MC) to price (P). But since  $MC = 0$ , they are obliged to accept any price above zero, and in turn supply indefinitely large amounts of their respective goods. The final outcome will be a competitive equilibrium in which price or bribery proceeds equal zero; in this state of affairs, corruption becomes pecuniarily unprofitable. Potential customers are here serviced by very competitive price-takers (agents) that must now provide their services at no extra cost to customers, and require no further encouragement to facilitate services ordinarily called for by their offices. This outcome is usually a product of both political and economic competition that ultimately constrains bureaucratic corruption.

### **The Case of Imperfectly Competitive Corruption**

In the normal run of things, agents in non-collusive oligopoly<sup>57</sup> tend to compete amongst themselves, albeit imperfectly. Not yet able to overcome the prisoner's dilemma, agents, realizing that they can improve their individual lot through bribery, increase individual efforts to this end by offering more services than are mutually beneficial. This reduces overall benefits and conduces to an unstable equilibrium condition. Here, the level of corruption remains remarkably high, but the size of benefits will be well below the optimum level. This model of corruption provides a better description of the bureaucratic corruption that exists in sub-Saharan Africa. At lower ministerial appointments, and in law enforcement agencies, corruption is endemic, and because of this, the size of bribe benefits is lower than what would have obtained if agents were oligopolistically collusive.<sup>58</sup> But while the overall level of benefits is reduced in this instance, it remains above zero.

From both models of corruption, it follows that neither collusive nor explicit competition exists proper because of the need for secrecy. Thus the size of benefit from corruption would remain lower than what would have obtained under collusive corruption, but would, however, remain higher than potential proceeds under competitive corruption. Thus the most damaging effects of corruption occur when agents are able to collude, e.g. the former Soviet Union<sup>59</sup> under communism where party leaders were able to exercise effective control of subordinates; and the Philippines under Marcos<sup>60</sup> where bribes are shared by civil servants, and in return agree not to demand further bribe for the original transaction. The second most damaging effects of corruption arise when agents are imperfectly competitive, e.g. Sub-Saharan African countries like Nigeria where the dictatorial control of government agencies is weak and often feckless.<sup>61</sup> The least damaging effects of corruption will, therefore, be those of competitive corruption. Herein lies the social need for political competition, the assignment of property rights, a fair and free press to serve as the public's eye, a strong and independent judiciary, and

transparency in government. When these conditions exist, corruption is reasonably contained.

### **Application of the Maastricht Guidelines to Bureaucratic Corruption**

At the outset, it must be emphasized that rights-based initiatives adopted by states in furtherance of public welfare must normatively reflect international human rights standards with operational outcomes that promote and protect specific rights. It is also the case that rights-based analysis of government practices and public policies must be coherently broad and sufficiently robust in order to touch upon all conceivable effects on human rights. The difficulty with this requirement is that it is extremely difficult to gather empirical evidence in many instances where government actions have led to degradations of protected rights; this is particularly the case with bureaucratic corruption where, because it is practiced in secrecy, empirical evidence is hard to come by even though there is knowledge of its incidence, and the repercussions are widely felt. In such instances of failure in governance, knowledge, and consequences are reasonable substitutes for empirical evidence.

### **Violations of Economic Rights**

Reports from international organizations, such as Transparency International,<sup>62</sup> and information obtained from complaints filed against states by its citizens<sup>63</sup> show that corrupt government officials routinely embark on large-scale public projects in order to maximize their opportunities and benefits from graft. Examples include awarding major road constructions to friends and relatives that lack the capacity to execute the contracts,<sup>64</sup> purchases of out-dated military equipments from Western countries at inflated prices,<sup>65</sup> or receiving bribes from foreign firms for the privilege to produce goods or services in the country<sup>66</sup>. The common economic consequence of these activities is misallocation of resources – the roads remain in perpetual construction, and the same contracts are awarded repeatedly year after year;<sup>67</sup> purchased military armaments are either used to suppress civil rights or are abandoned in warehouses;<sup>68</sup> goods and services produced by foreign firms would now cost more to produce. A powerful repercussion of continual misallocation of resources is retardation of economic growth, and hence continual contractions of developmental opportunities for individuals.

These activities and their consequences on individual and collective opportunities violate various articles of the ICESCR, specifically, the right to work (ICESCR 6)<sup>69</sup>, the right to an adequate standard of living, including adequate food, clothing and housing (ICESCR 11.1 & 11.2)<sup>70</sup>. A reference to the Maastricht Guidelines also shows in Art.II, 14(g)<sup>71</sup> that States would be in breach of their duties and obligations when such contractions in economic opportunities occur as a result of graft and bureaucratic corruption.

### **Violations of Social Rights and cultural Rights**

The annual reports of the United Nations Development Programme<sup>72</sup> is rife with documentations of human rights abuses that stem from local efforts at development. The opportunities for such abuses generally occur when government officials lease territories to domestic or foreign companies for mining or oil explorations.<sup>73</sup> Without proper

consideration to the consequences on the welfare of the local residents or indigenous groups that call the territory home, such projects invariably impose inordinate losses to these groups through degradation of the environment, and displacement without adequate compensations from the government.<sup>74</sup> A good example of this is what happened to the Ogoni people<sup>75</sup> in Nigeria where thousands were displaced from their traditional homeland, thus depriving them the right to self-determination, the ability to enjoy and pursue their cultural observances, and loss of their means of subsistence.<sup>76</sup>

In these instances of displacement without adequate compensation, the rights to self-determination (Art. 1, ICESCR), the right to freedom of cultural practices (Art. 15, ICESCR), the right to social security (Art. 9, ICESCR), and the right to education (Art. 13, ICESCR) are all jeopardized, and possibly abridged. Never mind that Art. 2.1 of the ICESCR requires States “to take steps... to the maximum of available resources with a view to achieving progressively the full realization of recognized rights.”<sup>77</sup>

## **Conclusion**

The current literature on bureaucratic corruption has, to a large extent, concerned itself almost exclusively with the economic and wealth effects of corruption. This work, however, went beyond the conventional paradigm by introducing the human rights dimensions of bureaucratic corruption, and emphasized instances where certain kinds of official graft would lead to serious human rights abuses.

Economic, social and cultural rights are not backward-looking or anti-progressive, and are very much as real as civil and political rights. To disengage one from the other is to marginalize the totality of rights, for each is an essential, albeit different, component of a comprehensive whole. President Roosevelt, in his 1944 State of the Union address could not have summarized this point any better when he remarked:

“We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. Necessitous men are not free men. People who are out of a job are the stuff of which dictators are made.”<sup>78</sup>

These words remain cogent today as they were more than half a century ago. The least tenable position commonly taken by critiques of economic and social rights is the proposition that a formal declaration or guarantee cannot co-exist with actual provisions of benefits. On this ground, the erstwhile American Assistant Secretary of State, Schifter remarked:

“I once asked a representative from Zambia: ‘If children in your country are starving would they want a United Nations declaration on the right to food or would they want something to eat?’ What the world needs regarding

economic and social development is action-oriented programs, not declarations.”<sup>79</sup>

This is faulty reasoning to say the least, for there is no good reason why formal declarations of principles and the delivery of guaranteed benefits should be mutually exclusive. The effects of bureaucratic corruption, while initially felt through the degradation of rights contained in the ICESCR, ultimately perverts rights commonly found in ICCPR. The fact that we live in a world of rapid changes in economic, social and cultural affairs suggests that the way and manner governments address societal needs must change accordingly; this also means that human rights laws must be flexible enough to accommodate the changing needs of society.

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<sup>1</sup> A Shleifer and RW Vishny ‘Corruption’ (1993) 108 *The Quarterly Journal of Economics* 599-617

<sup>2</sup> C Scott ‘The Interdependence And Permeability of Human Rights Norms: Towards a Partial Fusion of The International Covenants on Human Rights’ (1989) 27 *Osgoode Hall Law Journal* 769

<sup>3</sup> P Mauro ‘Corruption and the Composition of Government Expenditure’ (1995) 69 *Journal of Public Economics* 263-279

<sup>4</sup> *ibid.*

<sup>5</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

<sup>6</sup> JL Graf ‘How Corruption Affects Persistent Capital Flows’ (2003) 4 *Economics of Governance* 229-243

<sup>7</sup> A Shleifer and RW Vishny ‘Corruption’ (1993) 108 *The Quarterly Journal of Economics* 599-617

<sup>8</sup> P Mauro ‘Corruption and the Composition of Government Expenditure’ (1995) 69 *Journal of Public Economics* 263-279

<sup>9</sup> D Osterfeld *Prosperity Versus Planning: How Government Stifles Economic Growth* (Oxford University Press Oxford 1992)

<sup>10</sup> *ibid.*

<sup>11</sup> See H Steiner and P Alston *International Human Rights in Context Law, Politics, Morals* (Clarendon Press Oxford 1996) 212

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<sup>12</sup> S Wei and A Schleifer 'Local Corruption and Global Capital Flows' (2000) 2 Brookings Papers on Economic Activity Vol 2000 303-354

<sup>13</sup> *ibid.*

<sup>14</sup> Convention on Combating Bribery of Foreign Public Official in International Business ( adopted in February 1999) OECD< <http://www.oecd.org> > (15 August 2004)

<sup>15</sup> Fighting Corruption to Improve Good Governance UNDP (adopted 1999)

<sup>16</sup> UNGA Res 51/191 (1996)

<sup>17</sup> UNGA Res 51/59 (1996)

<sup>18</sup> UNGA Res 52/87 (1997)

<sup>19</sup> UNGA Res 54/4 (2003)

<sup>20</sup> UNGA Res 54/4 (2003)

<sup>21</sup> Statement made by UN Secretary General, Kofi Annan, on the adoption of the UN Convention Against Corruption. See< [http://www.unodc.org/unodc/en/crime\\_convention\\_corruption.html](http://www.unodc.org/unodc/en/crime_convention_corruption.html) > (2 October 2003)

<sup>22</sup> P Mauro 'Corruption And Growth' (1995) 110 The Quarterly Journal of Economics, CVI 681-711

<sup>23</sup> R Binayak 'Can Development Survive Corruption?' (1996) Contemporary Economic Policy Vol 25 Issue 3 36-42

<sup>24</sup> A Morgan *Corruption: Causes, Consequences, and Policy Implications* (The Asian Foundation, San Francisco, 1998) 11-13

<sup>25</sup> A Morgan *Corruption: Causes, Consequences, and Policy Implications* (The Asian Foundation, San Francisco, 1998) 13-17

<sup>26</sup> S Bragnuinsky 'Corruption and Schumpeterian Growth in Different Economic Environment' (1996) Contemporary Economic Policy Vol 14 Issue 3 14-26

<sup>27</sup> S Alatas *Corruption: Its Nature, Causes and Functions* (Aldershot, Avebury, 1990) 100-117

<sup>28</sup> S Rose-Ackerman *Corruption: A Study in Political Economy* (Academic Press New York 1978) 7

<sup>29</sup> C Scott 'The Interdependence And Permeability of Human Rights Norms: Towards a Partial Fusion of The International Covenants on Human Rights' (1989) 27 Osgoode Hall Law Journal 769

<sup>30</sup> *ibid*

<sup>31</sup> R Afshari 'An Essay on Islamic Cultural Relativism in the Discourse of Human Rights' (1994) 16 Human Rights Quarterly 235-276

<sup>32</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

<sup>33</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

<sup>34</sup> R Kunnemann 'A Coherent Approach to Human Rights' (1995) 17 Human Rights Quarterly 323-342

<sup>35</sup> A Belden Fields and W Narr 'Human Rights as a Holistic Concept' (1992) 14 Human Rights Quarterly 7

<sup>36</sup> A Kinley and P Martin 'International Human Rights Law at Home: Addressing the Politics of Denial' (2002) 26 Melbourne University Law Review 466

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<sup>37</sup> C Scott 'The Interdependence And Permeability of Human Rights Norms: Towards a Partial Fusion of The International Covenants on Human Rights' (1989) 27 Osgoode Hall Law Journal 769 - 798

<sup>38</sup> *ibid.*

<sup>39</sup> Limburg Principles UN Doc E/Cn.4/1987/17/Annex

<sup>40</sup> Maastricht Guidelines UN Doc. E/C.12/2000/13

<sup>41</sup> R Kunnemann 'A Coherent Approach to Human Rights' (1995) 17 Human Rights Quarterly 323-342

<sup>42</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

<sup>43</sup> Limburg Principles UN Doc E/Cn.4/1987/17/Annex

<sup>44</sup> *ibid.*

<sup>45</sup> *ibid.*

<sup>46</sup> Homogeneous Oligopoly is a market structure in which a standardized product or service is produced in an industry dominated by a few large firms.

<sup>47</sup> A Shleifer and W Vishny 'Corruption' (1993) The Quarterly Journal of Economics CVI 559-617

<sup>48</sup> An oligopolistic market maybe one characterized by the presence of a standard product, such as the steel industry, or one with diversified products, such as the car industry

<sup>49</sup> A Krueger 'The Political Economy of a Rent-Seeking Society' (1974) LXIV American Economic Review 291-303

<sup>50</sup> The prisoner's Dilemma is a story commonly used by Economists to illustrate an efficient outcome in an oligopolistic market setting. See J Ifediora *Price Theory: An Economic Analysis of Markets* (Ginn Press Boston MA 1996) 230-235

<sup>51</sup> C Bicchieri and C Rovelli 'The Dynamics of Corruption' (1995) 7 Rationality And Society 201-224

<sup>52</sup> *ibid*

<sup>53</sup> Marginal Cost or MC is the additional cost of producing an extra unit of a commodity or, in the case of services, the additional cost of generating the same service again. See J Ifediora *Price Theory: An Economic Analysis of Markets* (Ginn Press Boston MA 1996) 108-110

<sup>54</sup> *ibid* 230

<sup>55</sup> The standard economic analysis of monopoly as a market model is that a profit-maximizing monopolist would has the option to set the price of its services and the forces of supply and demand would determine the quantity it can expect to sell at that price. However, the price it sets for its services would generally be higher than what would prevail in competitive markets because, as a monopolist, there are no reasonable substitutes for its services. See M Lieberman and J Ifediora *Microeconomics* (Thomson Learning Publishing Mason OH 2004) 261-284

<sup>56</sup> Under a market model of Perfect Competition, market participants are called price-takers because they have no influence over prices, and thus accept the prices already established by the forces of supply and demand. See M Lieberman and J Ifediora *Microeconomics* (Thomson Learning Publishing Mason OH 2004) 237-258

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<sup>57</sup> Non-collusive Oligopolies are characterized by competition as opposed to Collusive Oligopolies that collude to set prices and output. See J Ifediora *Price Theory: An Economic Analysis of Markets* (Ginn Press Boston MA 1996) 215-232

<sup>58</sup> *ibid*

<sup>59</sup> A Ledeneva *An Economy of Favors: Informal Exchanges and Networking in Russia* (Cambridge University Press Cambridge 1998)

<sup>60</sup> S Rose-Ackerman *Corruption and Government: Causes, Consequences and Reform* (Cambridge University Press Cambridge 1999) 10

<sup>61</sup> World Bank *Anticorruption in Transition: A Contribution to the Policy Debate* (The World Bank Washington DC 2000)

<sup>62</sup> Transparency International 'National Integrity Systems'  
<[http://www.transparency.de/sourcebook/Part\\_A/Chapter\\_2.html](http://www.transparency.de/sourcebook/Part_A/Chapter_2.html)> (10 September 2004).

<sup>63</sup> Lansman et al v Finland (1995) UN Human Rights Committee Communication No 671/1995 UN Doc CCPR/c/58/D/671/1995.

<sup>64</sup> C Ledivina *Bureaucratic Corruption in Asia: Causes, Consequences, and Controls* (JMC Press Quezon City The Philippines 1986)

<sup>65</sup> D Hernando *The Other Path* (Harper and Row New York 1989)

<sup>66</sup> R Klitgaard *Tropical Gangsters* (Basic Books New York 1990)

<sup>67</sup> *ibid*

<sup>68</sup> A Shleifer and R Vishny 'Pervasives Shortages under Socialism' (1992) XXIII *Rand Journal of Economics* 237-246

<sup>69</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

<sup>70</sup> *ibid*.

<sup>71</sup> Maastricht Guidelines UN Doc. E/C.12/2000/13

<sup>72</sup> UN Development Programme's Website <<http://www.undp.org>> (20 October 2004)

<sup>73</sup> See Green Peace <<http://www.archive.greenpeace.org/comms/ken/murder.html>> (5 September 2004)

<sup>74</sup> These are well documented at this UN Website <<http://www.unpo.org/news>> (25 September 2004)

<sup>75</sup> See Green Peace <<http://www.archive.greenpeace.org/comms/ken/murder.html>> (5 September 2004)

<sup>76</sup> *ibid*.

<sup>77</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)

<sup>78</sup> See H Steiner and P Alston *International Human Rights in Context Law, Politics, Morals* (Clarendon Press Oxford 1996) 212

<sup>79</sup> J O'Monique 'Development, Human Rights and Law' (1992) 3 *Human Rights Quarterly* 372