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6.1 INTRODUCTION

The previous chapter was designed to investigate the background of the problem of corruption in Southeast Asia. Hence, it provided a fundamental overview of corruption, in its general sense and form, since the pre-colonial era. Due to the specific nature of the analysis applied in the previous chapter, some issues of corruption in the countries of Southeast Asia have not been subjected to an intensive analysis, which would yield to the need for case studies. The case studies are very helpful in a comprehensive understanding of the pervasiveness of corruption in Southeast Asia. They provide details and pertinent insights into the important aspects of corrupt practices in a specific country within a specific sphere. This chapter, therefore, is an attempt to address various issues of corruption in two of the mainland Southeast Asian countries e.g., Myanmar and Cambodia. These issues include the historical dimension of corruption in Myanmar, reform versus corruption in Cambodia.

Myanmar is a case representing the former British colonies and Cambodia represents the French Indo-Chinese ex-colonies. The selection of these two cases has taken into account that some aspects of corruption have been overlooked, if not the whole country is a forgotten case of corruption whereby the world knows little or nothing about it. The analysis of these cases of corruption would emphasize the most striking phenomenon of corruption in the specific country. On the one hand, issues such as the corrupt military juntas, the corrupt bureaucrats and the corrupt outsiders will be discussed in the case of Myanmar. On the other hand, Cambodia's experience in corruption and reform will be systematically assessed.
6.2 THE HISTORICAL DIMENSION OF CORRUPTION IN MYANMAR

Historical references and archeological findings indicate that Myanmar was inhabited some five thousand years ago. Since the 1st century A.D., the ancestors of present-day Myanmars, particularly the Pyus and the Mons, have established several Kingdoms and Dynasties. King Alaungpaya founded the last Myanmar Dynasty in 1752.1 It was during the zenith of this Dynasty that the British colonized Myanmar and ruled it for more than one century. The Japanese from 1942 until 1945 also occupied Myanmar. It gained independence from the British on 4 January 1948, and by this it became the second country after the Philippines to get independence in the region of Southeast Asia.

In addition to these historical factors, Myanmar is very rich in natural resources, such as petroleum, timber, zinc, copper, natural gas, hydropower, and precious stones and also in its ethnic groups and religions.2 Despite all these factors, Myanmar is one of the countries the world knows little about. As far as corruption is concerned, Myanmar is a country, which is deeply affected by corruption. Absolute military juntas succeeding each other since independence have ruled Myanmar. These military regimes have operated various forms of corruption in the country inflicting much damage on the social, political and economic life of the Burmese. Corruption in Myanmar could be considered as forgotten case. For only a few works have devoted a few pages to discuss some aspects of corruption in the country. These works include the studies conducted by scholars like Mook, Furnivall, Myrdal, Butwell and Williams that were published some three decades ago. Up-to-date information and systematic research on corruption in Myanmar, particularly in the

1 http://www.itu.int/MISSIONS/Myanmar/history.htm
2 http://www.odci.gov/cia/publications/factbook/mongeo.html
1980s and the 1990s, are very rare. Moreover, watchdog organizations, notably Transparency International (TI) has not included Myanmar in any of its Corruption Perception Indexes (CPI) since 1995. It is, perhaps, due to the lack of, or even no, cooperation and commitment from the military regime towards any investigation or assessment of corrupt practices that TI, or any other anti-corruption body, would conduct. However, one may find some clues and hints in other resources mainly the CIA Fact Book 2001. In the profile of Burma, the CIA gives key information that can help us understand the current corruption situation, and find connection with the past of the country. Thus key information includes the refusal of the Myanmar’s military junta to hand over power after the 1990’s multiparty election, the non-independence of the judiciary system from the executive; there is no guarantee of fair public trial. the government’s failure to achieve monetary and fiscal stability, poor government planning, and minimal foreign investment etc.³

These political, judicial, administrative and economic problems are predominantly centered on the issue of corruption. It has been argued throughout the chapters that ‘absolute power corrupts absolutely’; as in Acton’s formula. Monetary and fiscal instability could be directly caused by corruption. Poor government planning is engendered, in part at least, by nepotism and inefficiency in the bureaucracy. Foreign investment and aid funds are usually deterred by corruption particularly bribery.

Therefore, it is very important to bring out the case of corruption in Myanmar under the lens of scientific inquiry by working out a framework that encompasses the historical facts and the systematic analysis of corrupt practices of the Burmese. This framework would, at least, provide a fundamental background for a thorough

³ Appendix 4.
investigation of the issue of corruption in Myanmar past, present and future. In the course of the discussion, three factors that have abetted the existence and prevalence of corruption in Myanmar are going to be highlighted. These factors include, the corruptible ruling military junta since independence, the corruptible bureaucrats, and the corruptible outsiders.

6.2.1 The Corruptible Ruling Military Junta

Since its independence from British colonialism, Myanmar has been ruled by military regimes. Throughout the post-independence history, the military elite in Burma has held the upper hand on almost all aspects of life assuming absolute power. The intervention of the different military junta in the political life, which led them to rule the country, was perceived by many, as an act to bring corruption under control and enhance transparency, efficiency, and honesty. Notwithstanding, the military usually present themselves as advocates of moral integrity and rescuers of the nation from the danger of corruption and inefficiency. Williams says: "Like military officials in political command around the world, those of Burma present themselves as disciplined and efficient patriots equipped with moral qualities than the dispossessed civilian politicians are supposed to have lacked."\(^4\) However, the Myanmar experience as well as that in other countries that have been ruled by the military regime, soon showed that the absolute power in the hands of the military ruling elite usually tends to promote corruption and protect the corrupt in an atmosphere, which is characterized by total absence of accountability where there are only one-sided military commandments to be enforced regardless of whether it is right or wrong. The prevalence of corruption in Burma has been noticed since the

very beginning of the new state of the leadership of U Nu, the first president of the independent Burma. Under the rule of U Nu, from 1947 until 1962, the regime had been suffering from many forms of corruption, irregularities and indiscipline. This condition manifested itself in military officers’ malfeasance, clashes of interest and attempts to outdo one another in acquiring wealth prestige and power. It was reported that U Nu tried to rectify the situation by going into semi-retirement in 1956-57 as to make the corrupt military leaders and officials see their corrupt practices and wrong path. The failure of this method, urged Nu to return to exercise power by forming an alliance, which included members loyal to him and some representatives from the opposition and minority people’s parties, but as Williams puts it: “the coalition was built on shifting sand and soon collapsed.”

The ascendancy of the second military regime leader General Ne Win started, in fact, two years earlier than his coup in 1962. After successfully monitoring the provincial government committed to the political regeneration of Burma, it seemed Ne Win felt more confident to lead the army and seize full power and hold a monopoly over the sources of wealth prestige and power. With the claim of putting an end to corruption Ne Win arrested U Nu and other civilians and assumed absolute power and ran Burma. Ne Win’s absolute power, together with his communist orientation and corrupt officials, has abetted corruption and consequently caused the Burmese to suffer more and more. For instance, Williams reported that: “In 1973, for the first time in its modern history, Burma had to suspend the export of rice. The country’s ability to earn foreign exchange ended.” Taking into account that until the present time the predominant occupation of the Burmese is agriculture (65 percent

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5 Ibid., p. 242.  
6 Ibid.  
7 Ibid., p. 243.
1999) and rice is the topmost agriculture product in Burma,\textsuperscript{8} there was no wisdom in suspending rice exportation for in addition to depriving the country of revenues in foreign currency, it has affected a large number of the public who earn a living from agriculture. Burmese farmers have most likely forsaken their job since the income from the sales of rice became very minimal. This, probably, is what has contributed to the budget deficit, an increase of the population below the poverty line, and unemployment. Williams maintains that the situation of the Burmese in the cities was not better than that of those farmers in the rural and remote areas. It has been noticed that consumers suffered from a shortage in basic necessities, the shelves of the state retail outlets have been permanently bare and goods in the black market have risen in price.\textsuperscript{9} Corrupt practices among the army and civil officers of the Ne Win regime are said to be enhanced further for those officers as Williams says: " Charged with both administering a government and managing commerce, transportation, industry, banking are understandably overextended and undereducated for their tasks."\textsuperscript{10}

Myanmar continued to be ruled by the military junta and the business of corruption remained as usual. However, a striking incident, which the Burmese have experienced, and the whole world has witnessed, was this time not a naive decision to suspend the export of rice, but the suspension of the constitution in 1988.\textsuperscript{11} This action means the death of laws and rights and the destruction of the civil society. Under the circumstances of the multiparty elections in 1990 that resulted in the main opposition party winning a decisive victory, the military junta ruling the country refused to hand over power to the elected government. Moreover, Aung San Suu

\textsuperscript{8} Appendix 4.
\textsuperscript{9} Williams, Southeast Asia: A History, op. cit., p. 243.
\textsuperscript{10} Ibid.
\textsuperscript{11} http://www.globalcorruptionreport.org (regional reports, op. cit., p. 29)
Kyi, the key opposition leader, was put under house arrest from 1989 to 1995 and again in September 2000, but she has been freed later. Her supporters are routinely harassed or jailed.\(^\text{12}\) The 1990 elections show that the Burmese have long been aware of the corruption wrought by the hands of the military leaders and regimes. They have expressed their condemnation of corruption through the ballot boxes, and expressed their will and determination for good government that respects the will and rights of the nation and the ambition of the people. Furnivall says: “It has long been frequently asserted among all sections of the community that corruption prevailed in every branch of government service.”\(^\text{13}\) It also reflect the selfishness of the military junta, which has put self interest above public interest and wants just to protect its private interest and privileges through the monopoly of power. This abuse of power has recently reached a peak in that it has been extended to promote corruption and illegalities beyond the borders of Myanmar into Southeast Asia, particularly in Thailand and Malaysia. The fact is that hundreds of cars, mostly Mercedes Benzes, Protons and four-wheel drives, stolen from Malaysia are smuggled into Thailand from land entry points in Golok and Padang Besar, by paying huge bribes. These stolen cars, which have been smuggled at the rate of three per day, are reportedly being purchased annually by the United Wa State Army’s Drug-producing Unit, known as the Red Wa.\(^\text{14}\)

6.2.2 The Corrupt Bureaucrats

The bureaucracy is one of the country’s spheres that has been dampened by corruption since the colonial era. It has become more disastrous in post-post colonial times. Authoritative scholars on Burma’s history, notably Furnivall, noticed the

\(^{12}\) Appendix 4 (Background)
\(^{13}\) Furnivall, Colonial Policy and Practice, op. cit., p. 170.
prevalence of corruption in Burma’s bureaucracy and devoted some space in his work to discuss the issue\textsuperscript{15} from which some quotations would shed light on some aspects in the course of this analysis.

The most striking example of corruption in Burma’s administration is the corruption in the public services and in the legal system and the law enforcement agencies. To illustrate the fact three realms of the Burmese bureaucracy will be discussed. These realms include public health, social welfare and the post.

Public health is one of the very sensitive spheres where corrupt bureaucrats can easily take advantage of the sick citizen as well as their families to extract money. The selfishness and inhuman sense of the health officers may urge them to treat patients rudely and cause them more pain if no bribe is paid to them. They may also falsify or cover the truth and issue false reports about the cause of death of a person, accident, cases of poisoning, birth, physical or psychological hurts etc. Furnivall reported some aspects of corruption in Burma’s Medical Department. He points out that: “In the Medical Department there was no point on which the witnesses were more unanimous than that subordinate medical officers could be bribed to make false reports or give false evidence in hurt cases; hospital assistants had to be bribed to give better attendance and almost everywhere it was reported that the ward servants and dressers, if not paid, would purposely treat wounds roughly so as to cause pain.”\textsuperscript{16} The prevalence of corruption in the public health services is a sign of a serious decay of the moral standards of the health officers. It denotes that the very basic right for health care and the sanctity of the body and the soul are in extreme danger and under threat.

\textsuperscript{15} Furnivall, Colonial Policy and Practice, op. cit., pp. 76; 113; 170-178; 269-270; 296.
\textsuperscript{16} Ibid., p. 173.
Public welfare services are also another area where corruption evolves and develops smoothly. Traditional Burmese have mostly regarded the welfare measures, which have been enforced since colonial rule in Burma as alien to their customs. However, perhaps due to the fear from the negative consequences of refusing or not complying with the rules and regulations, the Burmese resort to bribery and maybe nepotism to avoid obeying the law and complying with the measures. The welfare officers may also take advantage of the weaknesses i.e., the unwillingness to accept of the measures by the public, and fear of the punishment, to provide a 'favor' for them, for example to cover up on them or exempt them from some measures, in return for illegal payment. Hence the reciprocity between the measures and the culture tends to promote corruption. For instance, Furnivall reported that: "The surveyor who omits to notice encroachment on government land, or infraction of building rules, the sanitary inspector who is not too active in Noahing out nuisances, the vaccinator who overlooks unvaccinated children, the veterinary assistant who does not insist on the slaughter or burial of diseases cattle...are regarded as kindly rather than corrupt." Such a practice could cause the failure of any development strategy and measures. This is not to forget that some strategies or measures themselves are not made from within the indigenous culture. Therefore, the problem could stem from the nature of the measures themselves or from the enforcement agents, or from the recipient or also from all parties.

Postal services in Burma are said to have a good reputation. However, it is very difficult for an ordinary qualified Burmese citizen to get a position even as a postman or administrative officer without bribery. The top management in the post, particularly the Director-General, usually use their power to extract illegal income.

17 Ibid., p. 176.
from a person who can pay to get the position.\textsuperscript{18} Positions in post office are given based on the amount of money paid or maybe a gift presented and not based on the qualifications, potential, and experience a citizen has. Compared to other countries, for example Zaire, corruption in Burma's post office is limited to bribing the Director-General to get a position, whereas in Zaire there is some news that nobody bothers to send mail for the postmen usually pick off the stamp and sell it and throw the letter into the rubbish.

Burma's judiciary system and operations suffer from the domination of the ruling military junta and bribery whereby injustice and unfair trials most likely occur. In such a condition, it would be easy to bribe even the whole bench of the judiciary system. The court would also not justify itself either to the public opinion or to the higher authorities. The judgment will be in the favor of those who have power or who are able to pay any price for being favored in judgment. For instance, Furnivall noticed that in many instances lawyers used to attribute their failure in winning cases, although there are good laws and strong evidence, to bribery, which is paid by wealthier defendants.\textsuperscript{19} In addition to its dependency on the government, the judiciary system is alien to the traditional Burmese social system. Therefore, as Furnivall concluded, the legal system is not able to control the anti-social forces that are favoring decay and disintegration.\textsuperscript{20} Furthermore, corruption blossoms from within the judiciary system itself. The fact is that, for example, the Judges were entitled to take fees from the parties according to the value of the matter in dispute as other civil servants like tax or bank officers. Everyone in authority could make such

\begin{footnotes}
\item[18] Ibid., p. 174.
\item[19] Ibid., pp. 269-270; 296.
\item[20] Ibid., p. 76.
\end{footnotes}
demands for whatever 'fee' he could manage to extract in return for a service since custom allows it.\textsuperscript{21}

The law enforcement agencies, especially the police force, were also involved in corrupt affairs. The majority of police officers, particularly inspectors, were responsible for the development and increase in corruption. Extortion and acceptance of bribery for a service is a normal practice among policemen. Based on the findings of a committee of inquiry, it was reported that among the police it was suggested that more than two-thirds of the inspectors were corrupt. For example, in the jails a prisoner could have anything he wanted. He could even have women if he pays a bribe.\textsuperscript{22}

Viewing the situation as a whole, it has become clear that corruption has affected all spheres of public administration. Despite the serious situation in the Burmese bureaucracy, Furnivall points out that: "Under executive rule the government sometimes deplored the prevalence of corruption, sometimes minimized it, but did nothing to stop it, and did not even hold any formal enquiry to ascertain its extent and propound remedies."\textsuperscript{23}

The major causes that have contributed to the prevalence of corruption include the absence or weakening of the teachings of Buddha, for among the most anti-corruption teachings are self-denial and self-discipline. If the Burmese committed themselves to these two principles, corruption would decrease and become very limited. Other causes are the absence of exemplary honest bureaucrats, especially in the highest levels, and the absence of accountability for in most military regimes the rule of law, justice and rights are relative and not absolute. The officials

\textsuperscript{21} Ibid., p. 171.
\textsuperscript{22} Ibid., p. 171-173.
\textsuperscript{23} Ibid., p. 171.
drew no fixed salary and their emoluments are generally low. There is disharmony between the administrative rules and regulations and the traditional social system and the culture of the Burmese.

To reform such a situation, the religious teachings should be revived, education should be strengthened and well oriented, the legal and administrative measures should also be worked out in line with the Burmese culture and tradition, and should prevent corruption and punish the corrupt rather than encourage corruption. The political system should be changed and the government should take genuine and effective steps to check corruption. The society should also be rebuilt based on new anti-corruption principles.

6.2.3 The Corrupt Outsiders

The corruption in which the outsiders are involved has been discussed in general in the previous chapter. But some details on the issue of corruption in the case of Myanmar are necessary to highlight its scope and mechanisms. Reference in the ongoing discussion will be made to two ethnic groups of outsiders that include the Indians and the Chinese. Historically, these two ethnic groups were brought to Burma during the British rule. The British helped them to settle down in the cities and big towns and encouraged them to hold a monopoly over several spheres of the economy and the bureaucracy, particularly after World War II. The Chinese became merely businessmen and contractors, whereas the Indians became merely bureaucrats and professionals such as lawyers, and to some extent businessmen. Furnivall points out that bureaucratic corruption dates from a time when practically no Burmese was employed in the government service. Moreover, the notorious corruption in the Public Works Department was attributed to its divorce from Burmese life. For in
these departments only few Burmese were employed. Furnivall advanced the argument that it was easier and less expensive to employ Indians than to train the Burmese.\textsuperscript{24}

In view of the fact that these two ethnic groups settled in the cities, the government or municipal works are usually given to them. Most of the time the Chinese will take the bid and employ Indians and maybe a few Burmese. But they work under the inspection of officials who are also aliens. Furnivall points out that corruption and waste of public money are much greater in government and municipal works than in village works where the Burmese work. For instance, in the Irrigation Department, where the staff is largely Burmese, corruption seems to be less prevalent.\textsuperscript{25} The testimony of Gouger, who was a prisoner in Burma during the first war with Britain, supports the fact that all unauthorized exaction; officials who obstruct the course of business, were absent. He found himself comfortably established as a cotton merchant in Burma with less trouble than he would have encountered in any town in Europe.\textsuperscript{26}

The number of Chinese and Indians was reduced after independence particularly during the rule of president Ne Win. The expulsion of outsiders the majority of whom were Indians has been perceived as an attack against the bureaucracy, because these outsiders, despite the fact that some of them were corrupt, had been serving as experienced, commercial, managerial, technical and clerical manpower.\textsuperscript{27} Therefore their expulsion in mass affected the bureaucracy in a way or another and weakened its potential and efficiency. The Chinese were not

\textsuperscript{24} Ibid., pp. 53-54; 177.
\textsuperscript{25} Ibid., p. 177.
\textsuperscript{26} Ibid., p. 18.
\textsuperscript{27} Williams, Southeast Asia: A History, op. cit., p. 240.
deeply affected by the move probably because they were in conformity with the communist orientation of the government of the time and had support from China. Maybe their services as businessmen and contractors were very much needed. Anyway, the Chinese were also involved in corruption in Burma. For example, the old Chinese soldiers who are still living in Burma are actively involved in banditry and narcotics smuggling.²⁸ It was also reported that a Chinese party leader had furnished his party with funds necessary to secure votes. The money is assumed to have flown to him from European banks and ultimately he was brought to justice.²⁹

The outsiders have greatly contributed to the existence and increase in corruption in Burma. The indigenous Burmese, though they were to some extent honest, have been socialized by the corrupt outsiders. The Burmese became involved in corrupt affairs such as giving and receiving bribery, nepotism, taking illegal commission that may rate from 5 to 30% of the value of the service or the value of the capital advanced in case of giving loans. So corruption in Burmese life is to a great extent inherited from outsiders and the Chinese and Indians are merely illustrative examples. These outsiders usually look to their special interests and defend them by all means. This could be attributed to the lack of patriotism, the feeling of exploitation, the ambition for enrichment in the quickest way for when they will be sent back to their country of origin they will, at least, have secured a bright future. These reasons could probably help us understand the contributing factors to the outsiders corrupt practices.

The prediction made by Mook in the 1950’s with regard to the future consequences of corruption in Burma seem to be true and valid. He predicted that

²⁸ Ibid., p. 242.
²⁹ Furnivall, Colonial Policy and Practice, op. cit., p. 165.
uncontrollable inflation will hit the poor and reduce the civil servants and military to destitution unless they practice graft and pillage as a normal source of income. Business will either be at a standstill or become purely piratical. Production will stagnate still more and investments, except those of an extortionate type, will cease all together. Everybody will be out for himself and corruption will become the only basis of public and private transactions, with public works and services decaying and the government going bankrupt.  

All forms of corruption in which the military juntas, the bureaucrats and the outsiders are involved have validated Mook’s predictions, for present-day Myanmar is a poor Asian country with 23% of its population below poverty line. The living standards for the majority have not improved over the past decade. In 1999, Myanmar received US$ 99 million in economic aid. The external debt in the year 2000 reached US$ 6 billion and the budget deficit in 1998 was about 4.3 billion, foreign investments are very minimal and the rate of unemployment is growing.  

In brief, corruption and inefficiency are the major factors behind the problems of Myanmar. The misery of about 42 million people in Myanmar is in greater part attributed to corruption.

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30 Mook, The Stakes of Democracy in South-East Asia, op. cit., p. 269.
31 Appendix 4.
6.3 REFORM VERSUS CORRUPTION IN CAMBODIA

Cambodia is one of the mainland Southeast Asian countries with a population of about 12 million. It is relatively homogenous in its ethnic and religious structure for 90 percent of the population is from the Khmer ethnic group and 95 percent of Cambodians follow the Theravada Buddhist belief. As one of the Indo-Chinese countries, Cambodia gained its independence in 1953 after 150 years of French colonial rule. Since its independence, Cambodia has experienced different types of political systems; military, monarchial, communist, democratic, and multiparty. Consequently it has been put under different economic, social and administrative systems, which depended so much on the type of orientation of the political leadership. Throughout the years, post-colonial Cambodia’s political, economic, social, administrative spheres have been arenas for corruption. It has been noticed that corruption has been on the increase since independence and reached its peak during the rule of the Khmer Rouge regimes roughly from 1970 to 1979. The collapse of the Khmer regime and the rise of the Cambodia’s People Party (communist party) signaled the beginning of the rise of reform. During the 1980’s corruption and reform seemed to be somehow in balance, whereas since the early 1990’s reform has been strengthening and receiving more support and attention than corruption, which has started to be challenged. Therefore, the following analysis will put much emphasis on the corrupt practices since 1970 and the multidimensional reform since 1993.
6.3.1 Corruption in Cambodia

The relative silence about corruption in Cambodia, together with the absence of information in the Transparency International Corruption Perception Index about its ranking, associated with the scarce sources of data about the country under study have urged the attempt to break such silence and provide a systematic analysis of the issue. The following discussion will highlight the political, judicial, and bureaucratic corruption in Cambodia since independence. In the course of the analysis the causes and consequences of corruption will also be addressed.

Political corruption denotes all forms of corruption engendered from or involving the political system; political leaders together with their supporters, the government, and the political orientation, whether directly or indirectly although they are mostly overlapping.

Corruption in the realm of politics has been there in Cambodia since pre-colonial rule. However, it prevailed and reached its peak during the rule of the Khmer Rouge regimes, namely, the Khmer Republic from 1970 to 1975, after Prince Norodom Sihanouk was ousted from power by a coup d'état and General Lon Nol assumed the position of President, and the Democratic Kampuchea from 1975 to 1979. One of the striking forms of political corruption that has been worked out by the military leaders and their supporters is the abuse of power for self-enrichment and monopoly of power. Butwell points out that the military leaders dominated political life in the Indo-Chinese countries and have enriched themselves at the expense of their countrymen and remained in power. He also maintains that these corrupt military rulers, particularly during the 1960's and the 1970's, had received
support from the US to remain in power and challenge the communist insurgents. However, it seems that the US support has been challenged by the support from the People’s Republic of China.

The most obvious sources of enrichment for the military leaders are: (1) Monthly pocketing of the payment of some 100,000 non-existent men and women officers. The fact is that officials padded their payrolls by adding fictitious soldiers and by failing to report deaths and desertions, so the officers did not exist and their salary was pocketed by the commanders. (2) Siphoning US funds. (3) Selling military equipment, weapons, petroleum, and other supplies to whomsoever handed them the largest sum. (4) Collecting pay-offs from applicants seeking governorship of the new provinces created in 1973 purposely for the extraction of money, and (5) illegal logging whereby the forest has been plundered at a rate five times the annual sustainable yield. It was estimated that the state was losing up to US$ 100 million a year because of illegal logging, rubber exportation, and fishing. Consequently, the Global Witness, which is a British environmental group, has openly accused the military of participating in illegal logging.

While the state is losing US$ 100 million every year due to indigenous corruption, external aid, in 1996 for example, represented about 40% or US$ 400 million to US$ 500 million, which flowed into the national budget. Due to the prevalence of corruption especially in the timber industry, the IMF cancelled US$ 60 million in loans to Cambodia and the WB declined to renew its budgetary support, which amounts to US$ 85 million.

32 Butwell, Southeast Asia: A Political Introduction, op. cit., pp. 21-22.
35 Ibid.
The exorbitant enrichment of the political leaders has deprived the country of revenues that are necessary to its social and physical development. For instance, one of the major factors, which deterred foreign investment, is poor infrastructure.\(^{36}\)

Cambodians have, perhaps, experienced the worst period of their history under the rule of Democratic Kampuchea with the leadership of General Pol Pot. Pol Pot was born in 1925, started his life with the name of Saloth Sar. Pol Pot was his revolutionary name. Before coming to power, he was a school-teacher. Pol Pot is a communist leader. He became communist during the early 1950’s when he was studying in France. He became a member of the French Communist Party. He also held the position of Secretary of the Cambodian Communist Party since 1963. Pol Pot officially came to power as a Prime Minister of Democratic Kampuchea in mid-April 1976. When he assumed his position, Pol Pot concentrated on retaining power and overthrowing the Khmer Republic.\(^{37}\) Due to his communist background, Pol Pot implemented a Maoist communist system and held absolute power over the three branches of government; the Executive, the Legislature, and the Judiciary. These three branches were unified under a single institution called the Central Committee led by Pol Pot himself.\(^{38}\) The implementation of Maoist theory destroyed the economic and social potentials, which paved the way to the prevalence of corruption. It has been reported that during the Democratic Kampuchea regime the market economy and the business activities were completely abolished. Comparing this to the suspension of rice exportation by the Burmese military junta, Cambodian military leadership went to the extreme level of causing hardship to the nation. Another


\(^{38}\) http://www.adb.org/Documents/Books/Cambodia-Enhancing-Government/default.asp
consequence of the political corruption in Cambodia was the implementations of the four-year plan to build socialism in agriculture, industry, health and welfare, and education.\(^3\) This plan took affect at the beginning of 1977, consequently, private ownership, even kitchenware, was banned. Hence, the economy was isolated from the rest of the world with the exception of China. People living and working in the urban areas were forcibly relocated to rural areas for agricultural work.\(^4\)

The corrupt behavior of the Pol Pot regime not only led to the economic and social destruction, but also to the killing of many of its citizens. A large number of educated civil servants, professionals such as lawyers and judges, military officers, and policemen in previous regimes were executed. It is maybe amazing to report that people wearing glasses were subject to execution simply because the regime leaders saw them as a symbol of higher education. It was estimated that this regime killed about one million people, who are assumed to be among the best Cambodian skilled manpower, and has destroyed many facets of Cambodian society.\(^5\) Ultimately, the country was left in a political, economic, and social vacuum that Cambodians may not have ever seen before in their history. Pol Pot was brought to justice in 1997 and was charged with murdering of his own people. He died in 15 April 1998, and “On April 18, he was cremated beneath a pile of rubbish and personal possessions in a jungle clearing 500 yards inside Cambodia.”\(^6\)

In 1979, the Vietnamese troops and Cambodian Resistance Forces succeeded in removing the Khmer Rouge regime from power. A new regime; the People’s Republic of Kampuchea ‘PRK’ (Cambodian People’s Party- Communist) succeeded

\(^3\) Chandler, Brother Number One: A Political Biography of Pol Pot, op. cit., p. 114.
\(^4\) http://www.adb.org/Documents/Books/Cambodia-Enhancing-Government/default.asp
\(^5\) Ibid.
\(^6\) Chandler, Brother Number One: A Political Biography of Pol Pot, op. cit., pp. 182-186.
the Khmer's. Under this regime, Cambodians suffered a lot at the hands of the government. For example, the government did not recognize the ownership of land in the previous regimes. It also monopolized all foreign trade and forbidden domestic trade except small household trade. The state owned and operated all enterprises. Consequently, the majority of people were living near or below poverty, and the government budget was heavily dependent on assistance, particularly from the socialist countries. In 1989, the state of Cambodia embarked on a transition to a market economy and remained in power until 1993, the date of the multiparty elections, which were held under the trusteeship of the United Nations Transitional Authority in Cambodia (UNTAC). King Sihanouk was reinstated on 24 September 1993, after the UN-sponsored elections in 1993, which helped restore some semblance of normalcy.43

The experience of Southeast Asian countries shows that political corruption is usually backed and accompanied by judicial corruption. In the case of Cambodia, the judiciary is probably the second sphere after politics affected by corrupt practices. Corruption in Cambodia’s judiciary could be attributed to several factors. These factors include direct government interference, lack of a legal framework and laws, and lack of legal knowledge and qualifications of the judges and lawyers.

With regard to government interference in the judiciary, Cambodian lawyers made a clear statement that political interference in judicial functions is standard practice in Cambodia. In addition to the absolute dominance running across the three government branches including the judiciary during the Pol Pot regime in 1975-1979, which have been mentioned earlier, in 1998 the Minister of Justice sacked

three judges in the Appeal Court after they had overturned a verdict and freed a defendant in a politicized drug case. A new Minister of Justice reinstated these judges later.\textsuperscript{44} The action taken by Prime Minister, Hun Sen, to re-arrest 66 persons previously released by the courts for lack of evidence released on bail or before the completion of their prison terms or withdrawal of charges by the courts was not viewed as judicial reform or necessary action to rectify the wrong, but viewed as political interference in the legal proceedings. The prosecutors too usually interfere with judges' affairs both during investigation and trial.\textsuperscript{45} With such dependence of judiciary system, justice, honesty, fair trials and peace cannot be attained and maintained.

The lack of a legal framework and legislation has abetted the prevalence of judicial corruption. It seems that the military regime leaders were busy with self-enrichment, and the communist regimes leaders have been busy with the enforcement and implementation of the communist ideology and principles. Hence, working out a legal framework and laws has been overlooked except at the beginning of the 1990's. It could also be purposefully done for the people holding power who are trading it for wealth and prestige and are in fact unable or unwilling to hold themselves accountable for their efficiency, deeds, wrong doings and dishonesty. Anyway, for various reasons, there was a lack of a legal framework and legislation for few decades from independence up to early 1990's. The lack of legislation and laws could be seen in the land, administrative, labor, and anti-corruption spheres.

The low qualifications of the judicial officers, particularly judges and lawyers, have also in one way or another contributed to the prevalence of corruption

\textsuperscript{44} http://www.adb.org/Documents/Books/Cambodia-Enhancing-Governance/default.asp
\textsuperscript{45} Ibid.
and inefficiency. For example, in a research on the academic qualifications of judges working in the lower as well as high courts, it was found that only 30% of the lower court judges hold either a bachelor's degree or a two-year diploma in law. Worse than this, only one Supreme Court Judge was found to have a bachelor's degree in law.\textsuperscript{46} In a corruptible atmosphere it is very possible that these judges might have got their positions either by means of nepotism or loyalty to the regime, or by bribery. This phenomenon could also be explained by the massive killing of legal professionals during the Khmer Republic. The Transparency International Global Corruption Report says: "In Cambodia scores of judges and lawyers were killed during the Khmer Rouge regime and as result many of the current judiciary have little more legal education than the public."\textsuperscript{47} One of the consequences of such a weak legal background and low qualifications could probably explain part of the fact of the release of criminals for lack of evidence or their release before completion of their prison terms. Therefore, the release could be attributed to lack of legal knowledge and experience. Indeed, the matter needs more investigation.

If there is no independent judiciary, the lack of a legal framework and laws, and not enough knowledgeable and qualified legal professionals, injustice and corruption will prevail. Cambodians have experienced such a situation, whereby rights are not clearly stated and protected, the rule of law, if law exists, does not reign over everyone, judgments could be influenced easily either by political power or by bribery, exploitation becomes normal practice, because employers know that they can get the upper hand over the poor workers by pay-offs and they also know there is no law that preserves the rights of the employee, and if there is a law it is not

\textsuperscript{46} Ibid.
\textsuperscript{47} http://www.globalcorruptionreport.org (regional reports, op. cit., p. 29.)
respected and enforced or could easily be manipulated. In brief, without an independent judiciary, a good legal framework, efficient laws, and qualified honest legal professionals, corruption prevails. The cases of Myanmar and Cambodia in this regard could be illustrative examples for Southeast Asia.

In a country like Cambodia, where corruption reigns supreme in the political and judicial systems, it is not expected that in such an atmosphere the bureaucracy would survive from the cancer of bribery, extortion, nepotism, and inefficiency. In its research for the historical dimension of corruption in Cambodia, the Center for Social Development, which is a Cambodian non-governmental organization, finds that since the very beginning of the Cambodian self-autonomy after the French colonialism, scandals broke out over government officials illicitly selling rationed cotton thread and fishing licenses. Investigations were also road blocked and files destroyed. Corruption prevailed in all kinds of government offices and bribery was rampant in any type of service to the extent that Cambodians regard the word government as being synonymous with the word corruption. Cambodians have a saying "small people take small bribe and big people take big bribes." Many of the goods, particularly timber, gems, dried fish and other exports flowed to Thailand and Vietnam illegally. A survey on the attitudes towards corruption, which was conducted by the Center for Social Development, shows that corruption is the characteristic of those who are living in the cities (92%), 84 percent of the respondents, strongly agree that bribery is a normal way of doing things.

48 http://www.bigpond.com/kh/users/csd/reports/survey-history.htm
49 http://www.bigpond.com/kh/users/csd/reports/survey-results.htm
50 http://www.bigpond.com/kh/users/csd/reports/survey-history.htm
Customs officials are one of the striking examples of corrupt civil servants. It was reported that in 1997, the second Prime Minister, Hun Sen, warned 2000 customs officers of losing their jobs if they continued their corrupt behavior, which cost the country millions of dollars each year.\(^{51}\)

Some of the existing administrative laws tend to abet bureaucratic corruption rather than deter it. For instance, Article 51 of the Law on Civil Servants required that permission prior to the arrest of a civil servant be obtained from a supervisor.\(^{52}\) This article could serve as a license for corruption and safety from punishment for the bureaucrats. With this law, civil servants enjoy effective immunity from criminal and administrative prosecution. In practice, such permission would rarely be given because bureaucratic corruption tends to involve many parties and every party has a supervisor, and if the top supervisor is corrupt where is it possible to get the permission? Who is brave enough to ask for permission? This type of law encourages not only corruption but also discrimination and injustice because civil servants are enjoying special treatment, rights, freedom, obligations, and respect above those of an ordinary Cambodian citizen.

Cambodian bureaucracy and bureaucrats have greatly contributed to the development and increase of corruption. They have also deprived the country of efficient and good services that would contribute to the development of the country, or at least reduce the danger of corruption lessening the suffering of 12 million Cambodians.

\(^{51}\) Ibid.

\(^{52}\) http://www.adb.org/Documents/Books/Cambodia-Enhancing-Governance/default.asp
6.3.2 Reform in Cambodia

Since 1989, with the beginning of the new regime; the State of Cambodia, the signs of change became evident and reform has gradually taken root. The circumstances that have helped change and reform to take place in Cambodia include: (1) The transition to a market economy since 1989, whereby the state reintroduced limited private ownership of property after it had been abolished in 1975 by the Khmer Rouge regime. (2) The signing of the peace treaty between the four main Cambodian political parties; Buddhist Liberal Party (BLP), Cambodian People’s Party (CPP), Khmer Citizen Party (KCP), and National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia, and Vietnam. This peace treaty was signed in Paris on 23 October 1991 in the presence of the five permanent members of the UN Security Council. (3) This peace treaty helped to reduce the internal fighting and the organization of the general elections in 1993, which led to the establishment of a liberal multiparty system and a market economy. (4) The collapse of the Soviet Union has helped the transition to a free market and the abolishment of the interference of the socialist block. (5) The rapid diminishment of the Khmer Rouge particularly in the middle of the 1990’s, and the surrender of the remaining Khmer Rouge forces by 1998.53

The above outlined circumstances have chiefly enhanced the process of reform and the demand for good governance. It is, perhaps, significant that the official launching of anti-corruption campaign was after the 1993 elections. The commitment of the political leadership, the effort made by both the government and the NGOs, namely, the Center for Social Development (CSD), in the political, legal

53 Ibid., http://www.bigpond.com/kh/users/csd/reports/survey-history.htm; Appendix 5 (Background).
and bureaucratic reform are the major issues that will be discussed in the following discussion.

Since 1993 Cambodian political leaders, notably the Prime Minister and the Cabinet Members, have been committed to the anti-corruption campaign and reform to varying degrees. These leaders have probably felt that there is no way to sustain social and economic development unless by improving good governance and fighting corruption. There are many incidents and actions, which show that the political leadership has properly managed Cambodia’s economic and social sources for development and transparency. They have exercised their powers through state institutions and organizations, which are, to some extent, accountable and transparent to the general public, and also based on the rule of law. The strong commitment of the political leadership is reflected in a strong statement made by Prime Minister Hun Sen. He says: “Reforms are a life and death issue for Cambodia.”54 This statement has been translated into practice. For example, in 1997, while addressing an audience of about 2000 customs officials, Hun Sen warned them that they risked losing their jobs if they continued cheating the country out of badly needed tax revenues, which according to him cost the country millions of dollars each year.55 Hun Sen’s commitment to the reform of the judiciary could be explained by many facts. These facts include, his order for the re-arrest of 66 persons previously released by the courts for lack of evidence, released on bail, or released before completion of their prison terms. The Prime Minister has also instructed the Chief Judge to forward the files of cases of suspected corruption to the Ministry. Furthermore the Senate’s Commission on Legislation has called the Chief Judge and Chief Prosecutor for

54 http://www.adb.org/Documents/Books/Cambodia-Enhancing-Governance/default.asp

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questioning over judicial corruption. Reportedly, court officials have been examining a total of 195 cases since 1998 for possible corruption.56 Prime Minister Hun Sen and his government have also seized on a vigorous campaign against illegal logging operations. Some observers have regarded this effort as a way of using the anti-corruption campaign to get rid of some military officers the Prime Minister regarded as threatening his power.57 Regardless of what has been said in this regard, it seems that Hun Sen’s anti-corruption campaign is one of the genuine steps towards reform and shutting down of illegal logging. Among the arguments that could be advanced to support the above point of view is that Hun Sen’s anti-corruption reform has touched upon the most important spheres where corruption prevails; the judiciary, customs, tax departments, the civil and military bureaucracy and not only illegal logging. Another argument is that the international and regional organizations, notably, the UNDP, the EU, and the ADB, as was stated in the previous chapter, have supported the reform in Cambodia by substantial aid funds and technical assistance too for it was clear to them that the process of reform is systematic and genuine. Illegal logging is also one of the most serious aspects of corruption in Cambodia that needs to be checked since it costs the government budget millions of dollars every year.

The other important aspect of reform in Cambodia is the drafting of anti-corruption laws and setting up of transparency task forces and watchdog bodies. Throughout the years, since 1993 there have been many attempts made by Parliament Members, the Government, and the Center for Social Development. In 1994, Son Chhay, a National Assembly member, had drafted an anti-corruption law, but the

56 http://www.adb.org/Documents/Books/Cambodia-Enhancing-Governance/default.asp
57 http://www.globalcorruptionreport.org (regional reports, op. cit., pp. 25, 32.)
proposal stalled in the Assembly’s Interior Committee.\(^58\) Subsequently, the government drafted its own anti-corruption legislation, but the legislation has yet to be completed.\(^59\)

Other steps in the legal reform include, the efforts made by Ministry or Parliamentary Affairs in drafting anti-corruption legislation. The creation of the National Audit Authority (NAA), which has been adopted by the National Assembly, and the creation of inspection departments, which have been located within each ministry.\(^60\) However, experts and observers have shown concern about the effectiveness of such anti-corruption bodies and task forces in the anti-corruption fight on the grounds that all members of these new bodies hold other government positions and corruption is widespread among civil servants.\(^61\) These observers should look to the creation of anti-corruption bodies as a significant step, which is backed up by other steps. They should also regard those steps as being better than nothing and in the future there will be improvement, especially now that there is government commitment and the political will to reform. The experience of reform in many countries teaches us that the mentality of “do all at once or no need for anything” does not work nowadays and is not a good idea in reformation for gradualism, even in religious belief and practice, is very important in reform.

According to a survey on Cambodian attitudes towards corruption, on responding to how long it would take to end corruption, 23% of the respondents think that the government could end corruption in two years, 14% in three years, 21% in five years and 19% in 10 years. Meanwhile, 22% think it is impossible to

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\(^58\) http://www.bigpond.com.kh/users/csd/reports/survey-history.htm
\(^59\) http://www.globalcorruptionreport.org (regional report, op. cit., p. 29)
\(^60\) http://www.bigpond.com.kh/users/csd/reports/survey-history.htm
\(^61\) Ibid.
eradicate corruption. These figures show that the mean response is five years to eradicate corruption, which in turn means that corruption could only be eradicated gradually and the process may take roughly 5 years. The figures, somehow, also reflect the different categories of the respondents that could be explained as follows; those who thought that corruption in Cambodia, at least as it was highlighted earlier, which its reality is usually more than that, are either too optimistic and also too confident in the different potentials that are behind the move to reform, or they are not aware and not knowledgeable about corruption and reform. Those who believed that corruption could be eradicated in 5 and 10 years might be people of a high educational background who have adequate knowledge about the causes consequences and scope of corruption. Therefore, they see that the factor of time and gradualism are very important in any process of reform. As for those who thought it impossible to eradicate corruption, it seems that they might be pessimistic due to the prevalence of corruption. They might also be already socialized with corruption to the extent that they believe it has become part of the Cambodian culture. There is also a possibility that these respondents are really the beneficiaries of corruption, so they have to propagate the impossibility of rooting it out in order for them to cover their corrupt practices and protect themselves and their own interests.

A study of the issue of corruption and reform in Cambodia should not overlook the role of the Center for Social Development (CSD), which is one of the most efficient NGOs, perhaps not only in Cambodia, but also in the region. The CSD was established in June 1995 as a non-profit organization that seeks to promote democratic values and improve the quality of life of the Cambodian people. Its main objectives include the promotion of public accountability and transparency, the

62 Ibid.
advocating for good governance, and the monitoring of the development and implementation of free and fair electoral processes. The CSD is renowned for being a neutral forum for open and candid debates and discussions on issues of concerns to society, and also for its effort to promote honesty and accountability in public life. Among its meaningful contributions to the reformation process is its work in conjunction with the Ministry of Education to develop a curriculum of ethics, transparency, accountability and good governance studies for the public school system. The center has also helped the government draft anti-corruption laws. It has also organized many national and international conferences on transparency issues and sponsored some of them. In 1998, the CSD conducted the first ever national scientific survey on public attitudes towards corruption, some of the data and results from which have been mentioned earlier. The CSD also played a leading role in the Coalition for Free and Fair Elections (COFFEL) and acted as an observer to the national elections of July 26th 1998. Major CSD key regular anti-corruption activities include the publication of a monthly journal that focuses on democracy, accountability, and transparency issues, the organization of regular televised forums on issues of national importance, and work closely with the Ministries and the government. The CSD could be considered as one of the most important and successful NGO's in Cambodia. Its neutrality, patriotism, scientific outlook, clear objectives, and effective means are the major factors that enable it to receive support from the government, the public, and international institutions, and make its contribution to the process of reform vital.

63 http://www.bigpond.com.kh/users/csd/
64 http://www.globalcorruptionreport.org (regional reports, op. cit., p. 36)
65 Ibid.
66 http://www.globalcorruptionreport.org
67 Ibid.
The public administration reform has also been taking place since 1993. The attention given to the bureaucracy in its two forms; civil and military, and funds for reform projects have been gaining momentum. The government made highly publicized statements about administrative reform between 1993 and 1997. Based on these stated intentions, regional and international organizations took the initiative to support the reform projects by substantial aid funds. The ADB continued its financial and technical support to Cambodia since 1992. It provided assistance in the area of tax reform, custom and audit regulations, and banking supervision. The UNDP and the EU have also pumped in substantial aid funds, which have been channeled into public administration reform projects. The primary objective of the administrative reform is to establish a state administration that is neutral, responsible, transparent, closer to its citizens, and which responds to the needs of the people. The government is now implementing a five-year (1999-2003) national program for administrative reform. These reform efforts are coordinated by the Council of Administrative Reform (CAR), which is an interministerial body established by a sub-decree in 1999. Another significant step that was taken by the government in October 1999 is the signing of a sub-decree to create an anti-corruption council associated with the Secretariat General of the Council of Administrative Reform (SGCAR), which includes representatives from various ministries. However, as the CSD survey shows, bureaucratic reform may not be effective and complete without increasing the salaries of civil servants, because 79% of the respondents see the increment of salaries as the best way to stop corruption. It would also not be complete without

http://www.adb.org/Documents/Books/Cambodia-Enhancing-Governance/default.asp

68 ibid.
69 ibid.
70 ibid.
71 ibid.
efficient and good legislation, enforcement, and accountability. The reform is also incomplete if there is no press freedom and auditing of government departments.\textsuperscript{72}

Although the above analysis about corruption and reform in Cambodia was not accompanied by an empirical investigation on an adequate scale, it is apparent that Cambodians have suffered a lot from the prevalence of corruption. Corrupt practices by the regimes, the judicial system, and bureaucrats particularly during the 1970's and the 1980's are beyond description and cannot be circumscribed. The consequences are also beyond limitation and it is maybe enough to mention that over one million Cambodians died from execution or enforced hardships in which corruption was involved. Besides, up to 1999 some 36\% of the population was below the poverty line, and the country's external debts reached US$ 829 million, and the budget deficit stood at about US$ 149 million.\textsuperscript{73} However, by the beginning of the 1990s, reform and change started taking root. It has been noticed that the political leadership and the government are very much committed to the comprehensive reform. The NGOs, notably the CSD, and the international organizations, namely, the UNDP, the EU, and the ADB have promptly supported the reform projects by funds as well as by technical assistance and general advice. Nevertheless, one cannot venture to claim that corruption in Cambodia is now totally eradicated or under control, for there are many factors that remain as fertile ground for corruption to be alive and grow when an opportunity comes. These factors include, the slow down of the economy, lack of education and productive skills of the Cambodians, the fear of renewed political instability and internal conflict, and the non-guarantee of the continuous political will and government commitment to the reform processes.

\textsuperscript{72} http://www.bigpond.com.kh/users/csd/reports/survey-results.htm
\textsuperscript{73} Appendix 5.