

PROGRESS IN THE FIGHT AGAINST CORRUPTION IN ASIA AND THE PACIFIC

Papers Presented at the Joint ADB-OECD Conference on
Combating Corruption in the Asia-Pacific Region

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Foreword

In recent years, member countries of the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development (OECD) have come to increasingly recognize the negative economic and political effects of corruption. Corruption commonly affects both North and South, leaving as victims in its wake the citizens, institutions, and democratic processes in these countries. The need to combat corruption heads economic, social, and political agendas worldwide.

In late 1999 in Manila, the Philippines, an initiative to create a forum for the Asia-Pacific countries to foster greater regional cooperation in the fight against corruption started to take shape. At a conference on Fighting Corruption in Asian and Pacific Economies in December 2000 in Seoul, Korea, participants from more than 35 ADB and OECD member countries endorsed the ADB/OECD Anti-Corruption Initiative for Asia-Pacific. The ADB/OECD Initiative is a unique partnership between various stakeholders of Asian and Pacific countries and the international community. Its objective is to provide a supporting framework for the countries in the region in setting up and implementing efficient national and regional anti-corruption strategies.

The Seoul conference identified a number of priority areas for a successful fight against corruption, including promoting good governance through legal, institutional, and administrative reforms; strengthening the rule of law; promoting integrity in business operations; and developing proactive strategies to promote citizens' participation in anti-corruption efforts. Against this background, this publication covers a broad set of issues, ranging from the bribery of public officials, the challenge corruption poses to good governance and economic development, the analysis of areas particularly prone to corruption, and the actions taken at different levels and by different actors to combat corruption. It provides policymakers, businesses, civil society organizations, and other stakeholders with a review of successful anti-corruption strategies already in place and explores and analyses new approaches. Moreover, it aims to foster the sharing of information and experience and to strengthen coordination and cooperation among key players in the fight against corruption.

The ADB and OECD believe that this publication will contribute to the ongoing debate on anti-corruption issues in Asia and the Pacific and will help strengthen initiatives to improve integrity and transparency in public governance

and corporate ethics. We wish to express our gratitude to the authors and conference participants for their excellent contributions. We also wish to express our thanks to the partner organizations and associated partners: the Konrad-Adenauer-Stiftung, the Pacific Basin Economic Council, the United Kingdom Department for International Development, the United Nations Development Programme, the United States Agency for International Development, the Transparency International, and the World Bank. These key players in the international fight against corruption contributed valuable insights gained from practical, hands-on experience in helping countries develop credible anti-corruption programs.

Clay Wescott, senior public administration specialist, ADB; Frédéric Wehrlé, coordinator for anti-corruption outreach activities, Anti-Corruption Division, OECD; and Gretta Fenner, manager, Anti-Corruption Initiative for Asia-Pacific, Anti-Corruption Division, OECD, directed and coordinated the project and the conference on which this volume is based. Jak Jabes, governance advisor, ADB, provided help and advice, and took over the management of the project in the latter stages. Consultancy services and coordination by Denis Osborne, governance and development advisor, and editing by Alice Faintich, both under contract to the ADB, are gratefully acknowledged. Marilyn Pizarro, consultant to the ADB, provided research and editorial assistance and handled the logistical arrangements of the conference on which this volume is based.

The views expressed in this publication do not necessarily reflect those of the ADB's Board and member countries or of the OECD and its member countries. It is published jointly by the ADB's Strategy and Policy Department and the OECD's Directorate for Financial, Fiscal, and Enterprise Affairs.

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Executive Summary

The international financial crisis of the late 1990s demonstrated that corruption has devastating effects on both political stability and economic prosperity and growth. Asian and Pacific countries have felt these impacts particularly strongly, and thus view the fight against corruption as a high priority. Consequently, in a workshop on Combating Corruption in Asian and Pacific Economies held in Manila in September 1999, representatives of more than 30 of the region's countries called upon the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development (OECD) to support national and regional anti-corruption efforts.

Subsequently, on 11-13 December 2000, the ADB and OECD organized a conference on Fighting Corruption in the New Millennium, at which the participants formally endorsed the ADB/OECD Anti-Corruption Initiative for Asia-Pacific. The conference, held in Seoul, was hosted by the Office of the Prime Minister of the Republic of Korea and sponsored by the ADB and the OECD (the Centre for Co-operation with Non-Members; the Anti-Corruption Division of the Directorate for Financial, Fiscal, and Enterprise Affairs; and the Public Management Service). Associated partners in the conference included the UK's Department for International Development, the Konrad Adenauer Foundation, the Pacific Basin Economic Council, the United Nations Development Programme, the US Agency for International Development, Transparency International (TI), and the World Bank Group.

The aim of the Seoul conference was to review progress made in the fight against corruption in the region based on the policy recommendations adopted at the Manila workshop and to foster regional policy dialogue and exchange of information and experience between the different stakeholders in the fight against corruption, including governments, businesses, the media, and civil society. Presentations and subsequent discussions focused on case studies and sought to identify concrete actions against corruption.

In the first plenary session (Part I) participants reviewed progress made since the Manila workshop in four countries: the People's Republic of China (PRC), the Republic of Korea, Pakistan, and Thailand. They also discussed such major issues as the bribery of public officials and the role of the media and education programs in the fight against corruption. The second session (Part II) focused on three areas particularly prone to corruption: police forces,

public procurement, and tax administration, while the third session (Part III) analyzed anti-corruption strategies and presented success stories in the private sector. In session four (Part IV) the participants discussed the need to embed anti-corruption strategies in a cooperative partnership approach involving both the public and private sectors. Conference participants welcomed the proposal made by Key-Chong Park of the Prime Minister's Office of the Republic of Korea for the region's countries to develop an anti-corruption action plan to be endorsed at the next annual conference of the ADB/OECD Initiative. During the final session the concrete measures recommended during the focus groups were presented, and subsequently constituted the basis for the conference's conclusions and policy recommendations drafted by chairmen Rainer Geiger of the OECD and Shoji Nishimoto of the ADB.

The various accounts given by participants were proof of important progress made in some countries and sectors, but at the same time identified a number of major gaps and problems in current approaches and strategies. The participants felt that there was a continuous need to further support the involvement of the public—including civil society organizations, the media, and the private sector—in the fight against corruption. Particular attention must be paid to corruption-prone areas that call for specific measures to attack systemic corruption and prevent it from undermining economic growth and the functioning of public administration. In the private sector, participants called for honest business practices and the development of ethical corporate cultures to diminish opportunities for bribe giving and to render private enterprises more accountable for their actions.

TAKING STOCK OF PROGRESS IN THE FIGHT AGAINST CORRUPTION IN THE REGION

Even though corruption is a global phenomenon, successful countermeasures have to be designed at the national and regional levels and take into account a society's and country's particular economic, historical, and cultural characteristics. In this context regional initiatives like the ADB/OECD Initiative can help countries understand the issues at stake in a regional and global context by providing a forum for the exchange of experience, giving guidance, and offering technical expertise for the development of effective anti-corruption strategies. To this end section A reviews countries' concrete, national anti-corruption programs. The selected case studies can serve as examples for other countries that might wish to develop similar anti-corruption strategies.

National Efforts

Four specific anti-corruption programs developed in the PRC, the Republic of Korea, Pakistan, and Thailand were presented. The diversity of strategies presented illustrates the different levels at which corruption needs to be attacked, including increasing the transparency of procedures in the public administration; encouraging active involvement of civil society; improving law enforcement and the investigation and prosecution of corruption cases; and allowing no exceptions from the rules, which includes those at the highest political levels, thereby fostering a culture of honesty and transparency.

Corruption in public administration is often due to over-regulation of the public service and inappropriate discretion in decision making and budget management brought about by a lack of regular staff rotations, and thus insufficient transparency of administrative procedures. The Metropolitan Government of Seoul has responded to these challenges by developing a systematic approach to cleaning up the city government. It consists of staff transfers and reassigned duties and giving citizens a choice of offices at which to conduct their business, along with radical deregulation that has resulted in the abolition or revision of 80 percent of regulations. The introduction of the Internet-based Online Procedures Enhancement for Civil Applications rendered more open and transparent those administrative practices particularly vulnerable to corruption and increased public knowledge about administrative procedures. In consequence, opportunities for extortion were reduced and a drastic change, widely recognized by both citizens as well as international organizations, seems to have taken place in the city government.

The example of Thailand showcases the importance of a determined and active civil society—including university staff and nongovernment organizations (NGOs)—in prompting changes in the government’s attitude toward the fight against corruption. The results of this positive development in Thailand include modifications to the constitution and the creation of stronger governmental bodies to fight corruption.

The report from the PRC discussed the need to design an inclusive and comprehensive anti-corruption strategy that focuses on both prevention as well as investigation and prosecution. In the PRC, the People’s Procuratorates are in charge of all three elements. In most other countries, these functions are exercised by separate bodies.

The failure of Pakistan's past efforts to combat corruption was considered largely to be the result of a lack of political will, a cumbersome criminal justice system, and an imperfect accountability structure. With the recently established National Accountability Bureau, the government aims to solve these problems by prosecuting high-profile cases at every level of society to give a clear sign that corruption will not be tolerated. One of the main concerns of the speaker from Pakistan, further emphasized by other participants throughout the conference, related to the need for past political leaders convicted of fraud and corruption to return their corrupt gains to the country and its people. Conference participants encouraged the development of legislation in OECD countries that would make it harder to invest corruptly gained assets and would facilitate the repatriation of such proceeds of crimes to their rightful owners.

Effective Deterrence and Punishment of Corrupt Public Officials

An effective investigation process, the functioning of the legal system, the provision of protection for whistle-blowers, and the need for strong political will to provide good examples at the top level of public administration are key when attempting to reduce corruption among public officials. The crucial point was considered to be sincerity and determination in enforcing whatever measures were chosen to fight corruption.¹ Other prerequisites include the effective separation of powers and the provision for independent oversight institutions, such as Singapore's Corrupt Practices Investigation Bureau and similar bodies in other countries of the region.

Conference participants also emphasized that, while effective prosecution and adequate punishment of corruption of public officials are key, it is essential that the root causes of corruption and bribery are analyzed for each country and sector, and that administrative and economic measures to fight them are developed based on the specific findings.

The Media, Education, and Public Awareness

Effective prevention strategies play a key role in combating corruption. Educational institutions can help prevent corruption and create an anti-corruption culture that can become ingrained in society. If education and awareness raising campaigns begin at the school level and accompany citizens throughout their

¹ Only an abstract of Chua Cher Yak's paper is available, but this provides a crisp summary of successful measures.

professional activities, young people will develop positive values such as honesty and integrity.

The media are a second important component of an effective public awareness campaign. Reports of corruption by ministers and other top-level decisionmakers in the public administration have become frequent, and have certainly contributed to increased public awareness of the seriousness of the issue. However, when journalists respond to their responsibility of making up for a possible lack of transparency and accountability in public administrations and political systems and expose high-level corruption scandals, they face a number of major difficulties, including repression and threats of physical harm. Furthermore, while in many countries most people are particularly concerned about petty corruption, reporting on this kind of systemic problems accurately and pointing fingers at the root cause of corruption is difficult, and public complaints in this respect achieve only minor results if politicians are not willing to admit that immediate reforms are necessary.

MEASURES TO PREVENT CORRUPTION IN CORRUPTION-PRONE AREAS

Participants in three parallel focus groups discussed specific and concrete measures governments and public institutions can take to reduce corruption in three areas particularly prone to corruption: law enforcement, government procurement, and tax administration. ADB and OECD work on good public governance and tax evasion were an important point of reference during the discussions.

Preventing Corruption in Police Forces

Corruption among law enforcement officials—who in some cases engage in petty corruption as a matter of course—imposes a direct threat to the rule of law. To reduce this phenomenon the participants proposed a number of measures, including using higher recruitment standards, enforcing high standards of conduct in law enforcement officials' day-to-day activities, and defining the role of internal watchdog and external supervisory organizations (ombudsmen, prosecutors).

Success stories were discussed, for instance, the establishment of internal control mechanisms in London's Metropolitan Police Service in 1998, which has led to successes in tackling corruption at all levels of the police force. The tools used by this service include integrity tests or quality assurance tests, in which agents equipped with recorders and cameras pose as citizens to check

whether, for example, racial minorities receive fair service and whether police officers accept bribes.

Examples of how to strengthen a culture of integrity among the police by providing additional training, ensuring the ethical evaluation of those up for promotion, and increasing interaction between the public and the police were also provided. The call for rigid recruitment criteria and the need for continuous training to create an environment enabling and promoting honesty and integrity is also highlighted in the theoretical analysis of the major problems underlying police corruption provided by a former advisor on police matters to the Government of the Philippines.

Preventing Corruption in Government Procurement

Devolved management with sufficient flexibility is a key feature of public management reforms. However, it also requires mechanisms to control the use of discretionary powers. Corruption in government procurement wastes government funds, reduces corporate productivity, and creates structures of systemic corruption. The end result is a decline in national competitiveness. Simplified procedures and efficient implementation and enforcement of such regulations and rules are key measures to ensure the transparency of and equity in procurement procedures.

In Korea, the gist of the reform programs is to make all systems and procedures customer oriented. Moving the entire procurement process on-line should leave little room for irregularities and wrongdoing, and is expected to simplify public procurement procedures and help enhance transparency and fairness.

The description of Korea's endeavors in the field of government procurement was supplemented by a presentation by a representative of the World Trade Organization that set such national efforts within the global context. This presentation noted that further emphasis will have to be put on capacity building to ensure that relevant laws, institutions, training, and enforcement build a framework in which procurement procedures are efficient, transparent, and fair.

Preventing Corruption in Tax Administration

Tax administration is another sector particularly vulnerable to corruption and where administrative reforms are therefore crucial. Corruption of tax

officials causes many problems: governments lose revenues, and so taxes on those who pay must rise to fill the gap, and taxpayers lose confidence in the fairness of tax systems, thereby threatening voluntary compliance.

Corruption in tax administration is often the result of the complexity of a tax system and of unclear tax regulations and standards that provide much room for personal judgments by tax officials in the process of levying taxes. The low level of compensation of tax officials also contributes to corruption. The lack of transparency of tax audits and a tendency among tax officers to consult with citizens out of convenience may also encourage taxpayers to seek collusive links with tax officials.

Where there is less face-to-face contact between taxpayers and officials and procedures have been clarified, the risk of corruption decreases. The use of credit cards for tax payments in Korea seems to have addressed these issues, and has managed to reduce corruption and increase the country's tax revenues. The Australian Taxation Office focuses on improving its risk management, an approach endorsed by other participants. The participants also supported the use of training and staff awareness using, for example, interactive programs on CD-ROMs, and of computer technology to detect and deter unauthorized access to taxpayer information housed in tax administration computer databases, as illustrated by a representative of the US Treasury Inspector General for Tax Administration.

ANTI-CORRUPTION STRATEGIES IN THE PRIVATE SECTOR

Governments cannot combat corruption alone, and as is becoming increasingly apparent, the involvement of other actors is crucial. Businesses—often both the victims and the instigators of corruption—play a fundamental role, along with the media and NGOs. Emphasizing the role of businesses and civil society in combating corruption is particularly important in the light of today's growing interconnectedness of the private and public sectors.

Prevention of Corruption in the Private Sector: Success Stories

With the growing acknowledgment that corruption is not a necessary evil for profit making, but seriously harms business, the private sector has come to understand that it has a major role to play in the fight against corruption and bribery. However, if the private sector came to this realization mainly as a result of economic calculations, it also has to understand that corporate life is not only about managing risks and making sound investment decisions.

Corporate life is also about what the public, and in particular the business community, can do to help create an overall level playing field on which business can take place fairly and in a transparent manner.

Speakers with business experience and from NGOs and the media showcased the many different challenges facing the private sector when it attempts to implement fair and transparent business practices, and thus contribute to the fight against corruption. These include introducing measures to minimize opportunities for employees to be exposed to and become involved in corrupt practices and setting clear rules for ethical behavior. The account given by a journalist from Thailand explains that the media and the private sector need to work together to ensure that their respective efforts do indeed have the intended effect. The exposure of corrupt practices and corruption scandals in the media has increased shareholders' awareness of the negative effects of bribery and corruption on businesses and has increased the demand for greater access to company information and for board accountability. Thus there is a growing need for investigative journalism and for better protection for reporters, and for the press in general, if it is to continue its important work and support both the public and private sectors in the fight against corruption. The discussion furthermore suggested that alongside the media and bodies such as Hong Kong, China's, Independent Commission against Corruption, private companies have a major role to play in raising awareness and preventing corruption by advising, investigating, and helping to protect other companies from the risks of corruption.

Discussions in and presentations to the focus groups that concentrated on specific questions in the context of private sector anti-corruption strategies draw some similar conclusions, namely, the private sector has a dual incentive in fostering an anti-corruption corporate culture and developing and enforcing self-regulation strategies. This dual incentive incorporates the promotion of fair competition and ethical standards and the minimization of opportunities for employees to be exposed to and become involved in corrupt practices.

Developing an Anti-Corruption Corporate Culture

The notion of an anti-corruption corporate culture involves regulations ruling private-to-private and private-to-public interactions in business and integrity standards within an enterprise. Certainly the private sector itself is in the best position to design and enforce such a culture; however, accounts in this section show that governments are equally responsible in supporting

integrity efforts in the private sector, especially in connection with business conducted between the private and public sectors.

Best practices in this respect were discussed. One particular example involves “one-stop services” facilities, which aim to limit the discretion exercised by governments and their agents and the number of direct contacts between government agents and private sector representatives. In Indonesia such measures seem to have increased transparency, professionalism, accuracy, and cost efficiency. However, the establishment of such offices needs to be carried out in parallel with reducing regulations; increasing government officials’ salaries; and involving local institutions, NGOs, local governments, the mass media, and the general public.

In Korea, increased exposure to the global market has brought the recognition that collusive politico-economic structures backed by corruption harm competitiveness. In response, the government has taken a number of concrete measures, such as ratifying and implementing the OECD Bribery Convention, and businesses, of their own volition, have started to develop and adopt codes of business ethics. Furthermore, associations such as the Federation of Korean Industries have initiated the development of a manual for business ethics practices aimed at promoting business ethics in the industrial sector.

Improving Corporate Governance

The discussion of codes of conduct revealed that if codes of conduct are to be true expressions of organizations’ ethical culture and effective tools in governing employee behavior, they must provide for an effective compliance program. This requires education and training at all levels, including agents and sales representatives. The idea was raised that employees be required to sign an acknowledgment that they have made a personal commitment to integrity, have reviewed and understood the policy, and will comply and report concerns. “Red flags” as indicators of concern were discussed, along with mechanisms for dealing with such concerns. In a second set of discussions, it was proposed that approaches to corporate governance used by multinational companies active in the region be highlighted and shared with key stakeholders so that other countries and companies might adopt them as guidelines, taking into account country- and sector-specific conditions.

As an illustration of this, the work of Japan’s Anti-Racketeering Committee was discussed. The growing tendency of companies in Japan to pay protection

money to criminal syndicates had strongly undermined their performance, their standards of service, and their returns to shareholders and has strengthened the hold of organized crime. While the practices described may be unique to Japan, the methods used to fight them, including the equivalent of a corporate amnesty to help companies escape from corrupt networks, could have application elsewhere.

Discussion in this focus group led to several recommendations. Companies were advised to develop their own standards of conduct, possibly making use of existing standards such as those developed by the OECD (the Principles on Corporate Governance or the Guidelines for Multinational Enterprises), and to cover ethical issues in their annual reports. For the public sector, it was recommended that public officials should have less discretionary authority to extract legal payments from firms in order to avoid the extraction of illegal payments. Furthermore, it was stressed that local legal reforms of investment should be promoted. It was recommended that after careful consideration of the compatibility of systems, existing laws from other countries could be used as guidelines.

Ensuring Disclosure and Accountability in Business Operations

Korea's rapid economic growth has been attributed to an economic system of regulated capitalism, in which the government either directly participated or indirectly rendered guidance. The pattern of regulations underlying this system is considered to be among the root causes of corruption in Korea. In this regard, the Seoul Institute for Transparency has developed a number of quantitative measurements to evaluate the level of corruption in the business sector and the level of integrity of individual firms to better understand the phenomenon, and, based on this knowledge, to develop effective countermeasures.

To ensure disclosure and accountability in business operations, companies have to follow and enforce rules and standards of financial accountability and transparency and of internal control and recordkeeping, and must establish policies for approving expenses and for setting up systems for financial reporting. Internal and external auditors have to be in place to observe the implementation of such rules and regulations. Governments and international or regional institutions can support businesses by providing guidance and requiring that accounting, auditing and financial control standards be part of a company's overall anti-bribery and anti-corruption policy. The accounting provisions of intergovernmental agreements such as the OECD

Anti-Bribery Convention, or of business and professional associations such as the Pacific Basin Economic Council, the International Chamber of Commerce, and the International Federation of Accountants, can be a point of reference for companies.

MAKING ANTI-CORRUPTION ACTIONS WORK

The common thread through many of the presentations and discussions at the conference was that where corruption is systemic, every member of society is involved to some extent, either as an instigator or a victim, and in consequence has a responsibility to combat it. Neither the public nor the private sectors can execute this task on their own, and the greater the cooperation between these groups, the more effective their action. Thus in an attempt to identify measures to better coordinate diverse anti-corruption activities and actors and help countries develop comprehensive anti-corruption strategies, the final session of the conference summarized the findings of the focus groups by discussing best practices in public-private partnership and the work of other involved institutions, such as aid agencies.

Creating a Supportive Environment and Ensuring Integrity at the Public-Private Interface

To overcome the mutual lack of confidence between the private and public sectors, and thus their unwillingness to share information and possibly cooperate in some of their activities, both parties have to earn each other's trust and clearly signal their willingness to work with the other. This is the intent of Japan's new National Public Service Ethics Law, which became effective in April 2000. Under this law, the National Public Service Officials Ethics Code prohibits and regulates actions that might possibly induce suspicion or distrust among the general public.

Australia has found it essential to motivate the private sector to come into line with the public sector to ensure that the interface between the public and private sectors is corruption free. To convince the private sector that this is in its interests, Australia has combined coercion and incentives (sticks and carrots) and involved professional and trade organizations and unions, and thereby ensured community support. The participants suggested that to effectively change perceptions and attitudes and to foster a feeling of responsibility in every member of society, a sense of urgency needs to be created, a vision and strategy needs to be communicated, and possible obstacles resulting from a lack of will or incentives must be removed.

At the international level, the development and implementation of anti-corruption instruments such as the Inter-American Convention against Corruption, the OECD Anti-Bribery Convention, and the Criminal Law Convention of the Council of Europe indicate that a real change in attitudes has taken place. Experience in the United States suggests that to effectively implement these instruments, policies must be consciously directed at building public support. When publics are informed, are confident that corrective measures are possible, and, especially, come to understand that their overall welfare is profoundly affected by corruption, they support reformers and anti-corruption measures.

Developing Public-Private Partnerships

Once confidence and mutual trust between the public and private sectors has been established, people need to be empowered to join the fight against corruption. This requires access to and sharing of information and access to appropriate education, so that civil society and the media develop greater awareness of the issues and can sway public opinion. In this regard, the use of the Internet as a complementary tool to traditional informative and educational devices was highlighted because of its wide geographic spread, its capacity to instantly make information available to a large number of people at low cost, and its interactive characteristics, which make it an ideal tool for active exchanges of information and experience and the creation of partnerships between the different stakeholders.

New Zealand is consistently rated as one of the least corrupt countries in the world, but the government has nevertheless acknowledged that despite the small number of cases, anti-corruption measures need to be taken. The reasoning behind this is the understanding that corruption undermines citizens' confidence in public institutions on a scale disproportionate to the offense. In a country that relies largely on voluntary compliance with tax laws, benefit administration, and a wide range of licensing and registration arrangements, citizens' compliance is directly related to their trust in the way in which their personal information is held, the honesty of the officials administering the law, and their perception that all are treated equitably. This public confidence is fundamental to a successful civil society. In addition to a number of important measures to ensure accountable and good government and administration, the Government of New Zealand aims at maintaining close links with the private sector and encourages the latter to engage in similar measures related to business conduct.

Enlisting NGOs, the Media, and Aid Agencies

Mobilizing NGOs and the mass media is critical for raising awareness. Civil society not only needs to assume its responsibility for monitoring good governance and integrity in business operations, but it needs to be enabled to do so. While the two previous focus groups discussed how to create an environment in which civil society and the media are encouraged to take up their role as watchdog institutions, this focus group proposed a number of concrete actions that NGOs can undertake. These include close monitoring of government action by NGOs, such as during elections, and local surveys on the perception and level of corruption in order to better focus concrete countermeasures.

However, corruption is not merely an internal problem within a country, but is a problem of international relevance and with international roots. Bilateral and international aid agencies, the main international actors in developing countries, therefore need to share the burden of anti-corruption efforts with NGOs, the media, and governments. However, development agencies' current efforts to help countries can often be fragmented through different agency mandates and perspectives and insufficient collaboration at the country level. The ways in which development agencies could best respond collectively depend on the local context: whether the national government is determined and proactive, whether the government is ambivalent, or whether current circumstances are not conducive to involvement by the development agencies.

In the discussions, there were calls to articulate an Asian agenda for fighting corruption and to develop partnerships between civil society, the private sector, governments, and external agencies. In this context, participants welcomed the proposal to develop a regional anti-corruption action plan to better coordinate anti-corruption action in the region, and to effectively combat corruption through a number of concrete measures that governments should take in cooperation with other stakeholders. Participants called for the submission of such an action plan to the next annual conference of the ADB/OECD Initiative for formal endorsement.

KEYNOTE SPEECHES

The Anti-Corruption Initiative

Seiichi Kondo

I am pleased to welcome you to Seoul for the second annual conference of the Asian Development Bank/Organisation for Economic Co-operation and Development (ADB/OECD) Anti-Corruption Initiative for Asia-Pacific. I would like to thank the Government of the Republic of Korea (henceforth referred to as Korea) for hosting this important event, which specifically targets corruption in the Asia-Pacific region in the new millennium.

This conference brings together an impressive gathering: senior politicians, officials, anti-corruption experts, and civil society leaders representing citizens' interests in integrity in government and transparency in the private sector. I am sure that this conference will support the development of concrete principles, strategies, and commitment to fighting corruption and safeguarding integrity. I am honored to be part of this meeting.

In the past few years, OECD countries and countries of the Asia Pacific region have recognized the negative economic and political effects of corruption. Corruption has crossed the divide between North and South, leaving as victims in its wake countries' citizens, institutions, and democratic processes. Effective action requires a broadly based approach that involves all countries and, within them, all social partners: government, civil society, enterprises, trade unions, and the media. Only by acting together can we safeguard our common interest in promoting respect for the rule of law and protecting our citizens from corruption.

THE ADB/OECD ANTI-CORRUPTION INITIATIVE

About 14 months ago, leaders from more than 35 nations and international organizations assembled in Manila at a conference jointly sponsored by the ADB and the OECD to launch a unique partnership between countries of the Asia-Pacific region and the international community: the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. At this meeting the countries' representatives agreed to develop comprehensive national strategies for combating corruption, improve conditions for international investment, and develop public-private partnerships to promote integrity and greater transparency, while the international community representatives pledged to define a regional anti-corruption agenda.

The objectives of this conference are to report on progress achieved since the Manila meeting, deepen understanding of the problem by focusing on corruption-prone areas, and lay the groundwork for strategic partnerships. To achieve these objectives the meeting will debate the following topics:

- How to tackle corruption in corruption-prone areas
- How to implement international standards of integrity in government and businesses
- How to achieve good public and corporate governance and how to improve disclosure and accountability in government and business operations
- How to generate support for anti-corruption initiatives through business groups, civil society, the media, and aid agencies.

IMPORTANCE OF REGIONAL COOPERATION

Fighting corruption is a complex undertaking. In an increasingly interdependent world, regional cooperation can be a powerful policy tool for curbing corruption as shown by the experience of the OECD countries, which negotiated the Convention on Bribery in International Business Transactions and adopted the Recommendation on Improving Ethical Conduct in the Public Service.

Good public sector and corporate governance can play an important role in promoting stable economic, social, and political environments. Reducing corruption can also help eliminate distortions in resource allocation and enhance competition in the marketplace. The OECD anti-corruption instruments attempt to address these issues both from the supply side, by taking action against bribe givers and promoting ethical standards in business, and from the demand side, by working on public service ethics and governance.

Because this conference draws on the collective experience of both OECD and Asian and Pacific countries, I am confident that it can help the region's nations review the different tools that governments, businesses, and civil society can use to prevent corruption and promote integrity. Korea can take particular pride in its comprehensive anti-corruption program and the high-level political support it gives to the fight against corruption. By sharing the example of this successful national anti-corruption initiative, it can provide useful lessons and experiences for others.

THE PRIVATE SECTOR AND CIVIL SOCIETY

Governments cannot fight corruption alone. The private sector and civil society are critical players in the fight against corruption and since the 1997 financial crisis, civil society activity in Asia and the Pacific is clearly on the upswing. While this is encouraging, much more needs to be done.

LEADERSHIP AND PARTNERSHIP

Fighting corruption requires both leadership and partnership. It requires many leaders in national and local governments, in the judiciary and security forces, in the tax administration, in corporations, and among citizens in every community. It also requires partnership. When we look at today's most successful societies we find densely integrated networks of public and private activity. Such partnerships draw on the shared interests of citizens, businesses, elected officials, and civil servants. They all aim at breaking up the monopolies, the unchecked discretion, and the lack of accountability that lie at the heart of corruption.

On behalf of the conference organizers, I would also like to thank our many partner organizations, which have become major players in corruption prevention, for their assistance. The Department for International Development of the United Kingdom, the Konrad Adenauer Stiftung, the United Nations Development Programme, and the US Agency for International Development played an important role in putting together the sessions on the media and civil society and securing the participation of representatives of nongovernment organizations and the media. The Pacific Basin Economic Council provided invaluable assistance in identifying appropriate private sector participants. Other donors and nongovernment organizations, including the National Development Institute, Transparency International, and the World Bank, also provided assistance and advice.

Combating Corruption in the New Millennium

Byoung-Woo Ahn

Following the 1997 financial crisis, Asian countries recognized corruption as a serious problem that hinders the development of democracy and market economies. Increasingly governments in the Asia-Pacific region began to share this view with the OECD, the ADB, the World Bank, and other international organizations, and embarked on efforts to uproot corruption.

In Korea, corruption has been one of the primary obstacles to economic development. In response to Koreans' desire for a corruption-free society, in August 1999 the government set up a number of comprehensive anti-corruption programs. These programs are based on three basic principles: the emphasis should be on prevention rather than on punishment, the approach should be comprehensive and systematic, and the feasibility and effectiveness of programs should be given priority. Under these principles, the government has adopted the following three strategies to maximize the programs' effectiveness:

- Establishing an anti-corruption infrastructure that will enable Korea to fight corruption systematically and consistently
- Promoting administrative reforms in corruption-prone areas such as law enforcement, the construction industry, tax administration, housing, environmental management, and the food and entertainment industry
- Building local and international partnerships among governments, enterprises, and civil society.

The Presidential Commission on Anti-Corruption was established in October 1999 to oversee the implementation of the anti-corruption programs. It has been engaged in setting up educational programs and publicity campaigns.

The Basic Law on Anti-Corruption, currently under review by the National Assembly, is expected to be enacted in 2001. The law protects whistle-blowers, provides a code of conduct for civil servants, and promotes public information campaigns to strengthen public awareness of the need to fight corruption.

Finally, the government raised the salaries of government officials to discourage them from taking bribes.

One of the most effective initiatives for securing transparency is Seoul's Online Procedures Enhancement for Civil Applications, which will be adopted nationwide. This system makes administrative practices vulnerable to corruption open and transparent.

In March 2001 the government planned to announce anti-corruption measures in seven additional areas: education, budgeting, administration of public subsidies, government procurement, and various aspects of local government. The government is also developing a corruption statistics infrastructure to indicate whether it is making progress against corruption.

Civil and business society have begun to participate actively in the government's anti-corruption efforts. In addition, Transparency International has now established a chapter in Seoul.

Korea is also strengthening its role in international cooperation against corruption. The National Assembly ratified the OECD's Anti-Corruption Convention and enacted relevant national law for implementation in February 1999, a bill to prevent money laundering is currently under review at the National Assembly, and the authorities are working with the World Trade Organization to increase transparency in government procurement activities.

The results of these efforts have been encouraging. For instance, in a recent survey 78 percent of respondents believed that corruption had been substantially reduced since 1999. The National Tax Service and the National Police Agency have seen a sharp drop in corruption charges.

While Korea's anti-corruption efforts are making progress, the reform process is still at an initial stage, and much remains to be done.

The Fight against Corruption: How a Regional Development Bank can Help

John Lintjer

Centuries old attitudes toward corruption in the Asia-Pacific region are changing, and today corruption is seen as the most important obstacle to development in the new millennium. Only a decade ago corruption was still treated in a relatively relaxed way, and sometimes even valued as an indispensable lubricant for economic growth. The main reason for the new attitude is the unprecedented change in the world's technical environment. Technological advances and information and telecommunications innovations now link regions, countries, governments, the private sector, the financial sector, and civil societies in a process commonly referred to as globalization. While globalization is a new phenomenon, the region has already had the doubtful privilege of experiencing the first crisis resulting from globalization: the 1997 Asian financial crisis, a crisis of confidence and of credibility that affected some of the fastest-growing economies in the region, one in which corruption and the lack of good governance played a determining role.

The costs of corruption are high, and in a globalized world will become insurmountable. No longer are these costs limited to the unequal distribution of wealth in a society and a lack of essential public services for the deprived. To alleviate the disproportionate burden on the poor segments of society resulting from corrupt behavior already constitutes a major challenge for the ADB and other development partners, but in addition, the effects of globalization, if not properly addressed, threaten the region's prospects for economic development. The ease with which foreign direct and portfolio investors and speculators can move money into and out of countries in the region might engender financial crises of unprecedented proportions, and preventing this from happening is an important challenge. Thus the region has to build up its credibility within the context of globalization, and based on transparent and well-functioning institutions, which while they can maintain their diverse Asian characteristics, must be based on the rule of law.

The quality of both public and corporate governance will increasingly determine both the quality and the quantity of a country's economic growth. The rule of law, the adoption of the right legal framework and of the necessary legislation, and the predictable implementation of the law are crucial. In addition, good corporate governance is important for shareholders and other

stakeholders in a company, particularly for its access to new sources of financing.

In October 1995 the ADB adopted a policy on governance that specified four necessary conditions for good governance: transparency, accountability, predictability, and participation. Three years later the ADB supplemented this policy with its anti-corruption policy.

The ADB's anti-corruption policy is centered on the following three objectives:

- Supporting competitive markets and public administration reform, that is, efficient, effective, accountable, and transparent public administration
- Supporting promising anti-corruption efforts and anti-corruption legislation in member countries on a case-by-case basis, for example, by supporting the establishment of dedicated national agencies to combat corruption
- Ensuring that ADB-financed projects and ADB staff adhere to the highest ethical standards.

The ADB intends to intensify its efforts to promote accountability mechanisms in the Asia-Pacific region. While the individual countries are in the driver's seat, as the regional development bank, the ADB is in a privileged position to take the lead role in supporting countries' efforts to combat corruption.

The ADB's specific medium-term objectives are

- To strengthen efforts to elevate accountability issues to the top of the development agenda in the region's countries. This is essential, because raising awareness about the issues is indispensable to efforts to prevent and combat corruption.
- To develop a consensus on country benchmarks embedded in a regional context, on codes of conduct and best practices, and on indicators of accountability. Often a lack of action is not equivalent to a lack of willingness to fight corruption.
- To support efforts to enhance the quality of governance in individual countries through structured and expanded sets of activities on a case-by-case basis.

To achieve these objectives, the ADB will develop a regional program of governance and anti-corruption initiatives, with the aim of identifying and implementing effective methodologies, demonstrating the positive impact of good governance, and creating momentum for an expanded set of activities.

The ADB will base its work with individual member countries on structured and comprehensive assessments of the overall governance issues in collaboration with domestic civil society and other development agencies. While the ADB's action plan to combat corruption in the region is ambitious, together with its strong allies in the member countries, the plan is to eradicate this most taxing burden on society.

Part I

COMBATING CORRUPTION ON ALL FRONTS

- A. National Efforts
- B. Reducing Corruption Among Public Officials
- C. Increasing School Education and Public Awareness

A. NATIONAL EFFORTS

Chapter 1

Cleaning Up Seoul's City Government: A Systematic Approach

■ **Hong-Bin Kang**

Since the incumbent administration took office two years ago, Seoul's city government has witnessed a drastic change. No longer do residents view City Hall as a place where pandemonium rules, a place rife with bureaucratic corruption and other irregularities. They now see the Seoul Metropolitan Government as a model of ethical reform in Korea, and other national and local government entities are eagerly emulating many of its anti-corruption measures. Opinion polls show that citizens feel that City Hall has become cleaner. International society, including Transparency International, has recognized Seoul's determination and its innovative approach toward the battle against corruption. What made this drastic change possible, and why was bureaucratic corruption so widespread in the first place?

Korea achieved the "Miracle on the Han River" out of the rubble of war in a short span of 30 years. The authoritarian state planned and managed this development, and in the process took total control over resource allocation. State control of the market led to collusion between those holding political power and the economic elite. To make matters worse, lacking political legitimacy and popular support, governments relied on illicit funds and docile bureaucrats to stay in power. Rampant political and bureaucratic corruption was the inevitable result.

This explains why previous anti-corruption efforts were ineffectual. Periodic campaigns took place, especially when the regime changed; however, the purging of wrongdoers in the government and business sectors was more ritual than substance. While unethical conduct was attributable largely to structural causes within the system, the government tended to focus on individual irregularities, turning a blind eye to the system itself. What was needed was wholesale surgery of the system, which in turn called for a change in circumstances and in leadership in the government. As the growth-oriented, state-managed structure proved incapable of adjusting to the needs of changing

times and collapsed in the face of the globalizing world economy, the preconditions for such change presented themselves.

The current city administration began its tenure when the country was deep in the crisis that resulted in the International Monetary Fund taking over the country's economic management. When Goh Kun won a landslide victory in the mayoral election in mid-1998, six months after reform-minded Kim Dae-Jung took the presidency, large numbers of factories and businesses were folding, the ranks of the unemployed and homeless were growing daily, and mushrooming citizen groups were challenging the government's authority. The new leadership faced the gargantuan task of rebuilding the economy while providing emergency relief to the needy. To tackle this task effectively, reshaping the bureaucracy to become more responsive and transparent was imperative.

From his first day in office, Mayor Goh began to restructure the city government. Reforms progressed rapidly and on a large scale. In just two years the number of city employees was reduced by 20 percent, while more outside professionals were brought in to raise the level of expertise. Privatization and outsourcing have also been actively implemented. At the same time, an all-out effort was initiated to enhance the ethical performance of the city government.

In contrast to previous administrations, Mayor Goh's team approached corruption from a systemic perspective. The idea was to create an administrative system that eliminates the causes of corruption and prevents unethical behavior. To this end, the team decided to pursue four major lines of action simultaneously: introducing preventive measures, establishing punitive measures, increasing transparency in administration, and enhancing public-private partnership.

Foremost among the preventive measures was deregulation: 80 percent of regulations that were unduly confining were abolished or revised.

As an old saying goes, "stagnant water breeds disease." Thus public officials assigned to one place for an extended period may develop patron-customer relationships in their jurisdictions, and cozy relationships often breed corruption. The team introduced two measures to eliminate potential collusion. First, in the area of permits, approvals, and inspections the team abolished the long-standing practice of assigning jurisdiction over a specific area to a single individual. Officials are now assigned on a daily basis to handle applications submitted from different areas. Second, in a massive personnel reshuffle, some 4,000 officials in 25 district offices were transferred.

In baseball a batter is called out after three strikes. In Seoul city officials are punished after a single instance of wrongdoing. To ensure 'zero tolerance for corruption, once a month the mayor's office sends questionnaires to those who have had dealings with the city government in fields prone to corruption. The mayor personally reads all the responses and ensures that wrongdoers are properly punished.

On the assumption that transparency is the most effective corruption deterrent, in April 1999 the city government introduced the Online Procedures Enhancement for Civil Applications (OPEN) system, which makes those administrative practices vulnerable to corruption completely open and transparent. This system allows the public to monitor the progress of their applications using the Internet. With real-time information available to everyone, officials cannot sit on cases without justifiable reasons or make arbitrary decisions. An open record of all stages of administrative procedures eliminates the need for personal contact with particular officials and does away with "express fees." As a result, the transparency and integrity of the Seoul Metropolitan Government has greatly improved. It is popular with the public and has gained recognition from international organizations such as Transparency International, the World Bank, and the OECD. The national government has decided to adopt the system for all central government ministries and at all levels of local government.

Along with OPEN, City Hall has introduced an anti-corruption index to evaluate the level of integrity of each administrative unit by means of opinion polls among those who submitted civil applications. Every year the city makes the results public. The first results were published in 1999 and attracted uproar in those districts with low ratings; an uncomfortable but predictable reaction.

The city administration actively involves citizens in its various anti-corruption activities. Every year 4,000 citizen volunteers help to inspect bars, nightclubs, and karaoke establishments. Seoul also operates a citizen ombudsman system and has various channels for direct communication between citizens and the mayor. Examples of the latter include hot lines, email, and the "Mayor's Saturday Date with Citizens" program. The recently introduced Integrity Pact is aimed at preventing irregularities in the area of public procurement by means of five special ombudsmen who monitor the whole process of Integrity Pact implementation, such as bid submissions, contracting procedures, and contract implementation.

Controlling corruption is as complex as the phenomenon of corruption itself. For anti-corruption efforts to be effective, one must look beyond

individual corrupt behavior and focus on the structural causes that allow corruption to develop. Thus the Seoul Metropolitan Government has adopted a systematic approach to create an environment where corruption cannot take hold. To this end, it has endeavored to strengthen transparency mechanisms and opened up the government's operations to public scrutiny. It is quantifying the ethical performance of departments and districts to induce administrative units to enter into benign competition to improve their ethical standings.

Several factors have contributed to the success of the city's efforts. The first factor was the strong and able leadership committed to the cause. The second was widespread pressure from citizen groups that aided the reform actions. The third was the wide use of information technology that enabled instant two-way communication between the government and citizens. While these factors were vital in Seoul's successful fight against bureaucratic corruption, these three factors alone would not have been enough. The catalyst that promoted the reshuffling of pervasive systems and practices and allowed the three factors to become effective was the 1997 financial crisis. It provided an impetus to move Korean society quickly toward democracy and a market economy led by the private sector. Seoul's new city administration seized this opportunity. While much remains to be done, the last two years have seen significant progress.

Chapter 2

Combating Corruption in the People's Republic of China

■ **Zhao Dengju**

Corruption is a global problem, characterized by state functionaries using their positions for personal profit, thereby directly endangering the state's economic foundation and stability and public order. Therefore unremitting struggles against corrupt behavior are important to guarantee the honest and effective administration of governments, uphold social stability, and promote economic and social development. The PRC is a socialist market economy whose people are protected by the rule of law. The PRC constantly pays attention to the task of combating corruption using a variety of tools.

First, the government has set up systems for combating corruption. Party committees have the ultimate responsibility for leadership, and the party and government together are responsible for management. Commissions are responsible for disciplinary oversight, and each department is responsible for its own anti-corruption activity.

Second, the government has implemented a series of laws, regulations, and systems to punish corruption. The Criminal Procedural Law of the PRC was revised in March 1996. In March 1997 the revised Criminal Law of the PRC was issued officially. These two laws have provided the legal basis and established the procedures for punishing the perpetrators of corruption, bribery, and similar crimes. In accordance with these laws, the State Council issued the Temporary Provisions for Administrative Disciplinary Measures for Corruption and Bribery of Functionaries of State Organizations and the Administrative Supervisory Regulations of the PRC. The Ministry of Supervision issued the Detailed Rules and Regulations of Implementation for the Temporary Provisions and the Measures for Procuratorial Organizations to Investigate and Handle Cases of Infractions of Administrative Regulations. The PRC has begun to implement the system of true-name deposit, and requires income declarations by senior cadres in the party and in government organizations.

Third, given the important duties of those in public office and the serious harm that corruption has caused, the priorities are

- To investigate and deal with significant cases of corruption in the party and in government, judicial, and administrative organizations
- To enforce laws and ensure efficient and effective management of departments
- To investigate senior cadres who violate the law.

Fourth, functional departments at three different administrative levels are required to play a role in combating corruption. At the first level is the commission for ensuring discipline in the Communist Party of China, which is responsible for investigating the behavior of party organizations and party members at all levels that violate the party's constitution and discipline. At the second level is the government's supervisory organization, which is in charge of investigating and dealing with administrative organizations and functionaries who violate administrative codes. At the third level is the People's Procuratorates, which handle cases of personnel in public office involved in corruption, bribery, and other crimes. The duties of those working at the three levels have clear demarcation lines. The Criminal Procedural Law stipulates that the people's procuratorates should investigate cases of alleged corruption and bribery and decide whether a public prosecution should take place. This legal supervision duty is an important mandate of the people's procuratorates.

To combat corruption more effectively, the procuratorial organs, have adopted the following main measures:

- *Reporting crimes.* Procuratorial organs nationwide have set up systems to accept reports, to protect and reward those reporting crimes, and to provide feedback to informers. Sixty percent of the cases under investigation have stemmed from reports by citizens and units.
- *Setting up a bureau for combating corruption and bribery.* This is the functional department that investigates and handles corruption and bribery. The people's procuratorates have been established at four levels. The Supreme People's Procuratorate has set up the General Bureau of Anti-Corruption and Bribery. Its subordinate units, namely, procuratorates and military procuratorates of 31 provinces, autonomous regions, and municipalities directly under the central government, as well as procuratorates of prefectures, autonomous prefectures, cities, and counties, have all set up organs to combat corruption. Setting up bureaus to combat

corruption and bribery has greatly facilitated the work involved in investigating and solving cases.

- *Allocating responsibilities depending on the seniority of suspected individuals.* The people's procuratorates at the levels of prefecture, autonomous prefecture, and city are responsible for investigating and handling crimes by cadres at the levels of department and provincial bureau. The Supreme People's Procuratorate is responsible for investigating and handling crimes by cadres at the level of heads of departments and bureaus and above in the central state organizations, and by vice-governors and above in provinces. This allocation of responsibilities makes clear who does what.
- *Strengthening the lead of the higher-level procuratorates.* This has helped combat corruption and enhanced the supervision by procuratorates at the higher levels to the procuratorates at the lower levels. The Supreme People's Procuratorate and procuratorates at the provincial level have set up investigation and command centers for major cases. Their main tasks are to organize and lead the investigation of major cases that have transprovincial ramifications and other important cases, especially those that have resulted in strong reactions from the public and that local procuratorial organs may find it difficult to investigate; to organize large-scale special investigating activities; and to coordinate and manage cooperation among different procuratorial organs.
- *Practicing an internal restriction system to prevent and correct behavior that would violate laws and breach discipline.* People's procuratorates perform authority to accept and hear, investigate and to prosecute the cases of crimes of corruption and bribery etc. Directly, these duties are borne by different departments respectively, for example, the reporting center is responsible for work to accept and hear, to manage reporting clues; the departments combating corruption and bribery as well as supervisory departments of malfeasance and tort are responsible for investigating work on cases; the department to examine arrest and the department to examine prosecution are responsible for deciding whether to arrest suspects as well as for the examination and prosecution of cases; the appealing departments are responsible for appeals and reexamination of cases, etc.

Having persisted in the principle of treating the disease by investigating its root causes as well as its symptoms, the PRC has made great efforts to prevent corruption by taking action against its source. Merely investigating cases of corruption and convicting the corrupt is insufficient. To get at the

root of the problem reforms are needed to perfect the supervisory mechanism, including supervision of the party, of governments, of society, and of democratic political parties and groups. Departments within the procuratorial organs are also working actively to eliminate the conditions that breed corruption and bribery.

The procuratorial organs have disseminated information about the legal system, encouraged people to report corruption and bribery, and strengthened immunity for whistle-blowers. Their experience with prosecuting cases has allowed them to advise organizations how to implement appropriate systems and regulations, strengthen their management, and close loopholes.

The procuratorial organs are responsible for investigating and handling corruption by and bribery of functionaries of state organizations. This is an important component of the struggle against corruption, and a number of tangible results are apparent.

First, from 1998 to 2000 the procuratorial organs have filed and investigated nearly 100,000 cases of corruption and bribery. More than 38,000 of these were major cases of corruption and bribery, with more than 3,000 involving amounts of more than Y1 million. They have cleared up more than 85,000 cases and have prosecuted more than 58,000 cases.

Second, many cases of corruption by leading party members and officials at the director level in the government have been investigated and handled based on the principle that everyone is equal before the law. Among those sentenced are Cheng Kejie, deputy chairman of the Standing Committee of the National People's Congress of China, and Hu Changqing, former deputy governor of Jiang Xi province.

Third, the procuratorial organs have dealt with many crimes that would have destroyed the socialist market economy system. They have strengthened their actions against new types of economic crimes by coordinating their own reforms with those of the state enterprises, the shareholder system, the financial and monetary system, and the system of foreign trade. The procuratorial organs have investigated crimes that occurred in the course of various reforms, for example, real estate and import and export trade reforms. They have also investigated many crimes in large and medium state enterprises. They have thus contributed to the smooth reformation of state enterprises and the prevention of losses of state assets.

To combat corruption we need to strengthen cooperation between countries and regions. The eighth conference of the Asia Crime Prevention Foundation was held in Beijing in October 2000. During the conference the Supreme People's Procuratorate signed cooperation agreements and memoranda with 20 countries over and above the 47 already concluded. This shows PRC's commitment to strengthen cooperation in the fight against corruption and contribute to the construction of peace and world order.

Combating Corruption in Pakistan

■ **Khalid Maqbool**

One indication of the extent of corruption in Asia is that whenever a political regime has crumbled in Pakistan and some other countries in South Asia, a major and often decisive cause has been the prevalence of official misconduct among politicians and administrators and the concomitant spread of corruption among business people. Pakistan's current regime has rightly concluded that to achieve stability, corruption must be eliminated from all segments of society. The government has identified this task as a priority objective and is fully committed to its pursuit, along with that of strict accountability.

HISTORICAL PERSPECTIVE

To develop practical anti-corruption strategies, an understanding of the historical and political context of corruption is imperative. Traditionally, the South Asian countries have been pluralist societies; however, the legacy of colonial rule was a fragmentation of loyalties through corruption and bribery. That is why corruption and nepotism continue to exist. Loyalties to a particular group; family; caste; or ethnic, religious, or linguistic community invites corruption in the form of nepotism. The culture of nepotism was further promoted in the colonial system of administration by the awarding of land, titles, and jobs to groups supporting colonial objectives.

Since independence, the nationalization of bank and industries in the 1970s, the use of foreign aid, and the infusion of drug money into the economy, corruption has become even more systemic. Moreover, the informal structure of the economy has created abundant opportunities for corruption malpractice for the private sector, the tax authorities, and government officials. Corruption grew as links were forged between legislators and businesses, and a new class of business owner politicians emerged and corrupted the bureaucracy and other state organs.

EXTENT OF CORRUPTION

The public perception is that law enforcement agencies and government organizations are the most corrupt elements of society. In monetary terms, the level of corruption is highest in departments dealing with tax collection, followed by the public sector, which accounts for 24 percent of gross domestic product. Together these entities handle transactions worth US\$19 billion per year, of which as much as 20 percent may be siphoned off as kickbacks and commissions to those handling these transactions (World Bank 1998).

PAST SHORTCOMINGS

Corruption has always been a critical aspect of Pakistan's domestic politics, and almost every government claimed that it would work to combat corruption. However, unfortunately they failed to deliver for the following reasons:

- *Lack of political will.* Successive governments used accountability either as a tool for political victimization or were not strong enough to implement true accountability.
- *Cumbersome criminal judicial system.* Legal institutions are understaffed and lack trained administrators, modern management systems, and technology. Instead of facilitating legitimate economic transactions, the legal system is widely perceived to be an obstacle to efficiency.
- *Imperfect accountability structure.* The Federal Investigation Agency at the federal level and anti-corruption establishments at the provincial level have existed for a long time. However, because of the lack of professional expertise; outdated information management systems to detect, investigate, and prosecute white collar crimes cases; general staff shortages; and low pay the process is inevitably imperfect.

CURRENT FOCUS

The present government was involuntarily pushed into the responsibility of running the country in October 1999. Respecting popular sentiment, it soon realized that combating corruption was one of its main responsibilities. The government has approached this process methodically and effectively.

The current drive to achieve accountability aims at deterring corruption by prosecuting high-profile cases in every segment of society. The authorities are making a serious effort to curtail corruption in public sector organizations

and by public officeholders. While striving to achieve this objective, the National Accountability Bureau is guided by national priorities for economic revival and an untainted judicial process.

The National Accountability Bureau is headquartered in the capital, Islamabad, while regional offices are located in all provincial capitals. The bureau is provided with sufficient resources to collect information, conduct investigations, and prosecute cases. The cases are filed in designated accountability courts that function independently under the judiciary.

As part of the process of setting up the National Accountability Bureau, the government passed an ordinance intended to eradicate corruption and corrupt practices and hold accountable all those accused of such practices. The law covers the full spectrum of corruption and corrupt practices, including money laundering. It includes willful default of loans by banks and the government as a criminal act. The National Accountability Bureau is responsible for investigation, whereas the independent judiciary controls the judicial function and judicial processes. The accused are entitled to appellate rights up to the highest appellate forum, the Supreme Court.

For the first time in its history, Pakistan has launched an accountability drive that is unbiased, transparent, and makes no exceptions. Cases currently in the courts include those brought against former prime ministers and chief ministers, senior bureaucrats, and armed forces personnel previously considered untouchable by the law. Corrupt business people are also being charged.

Of 226 cases ordered to date, 160 are currently in the courts and 66 have been decided, of which 54 have resulted in convictions. As a result, US\$474 million have been either recovered or saved.

Vision for the Future

The present regime is aware that the general public's intolerance toward corruption and corrupt practices is rising. It also believes that the future of the accountability program revolves around strengthening internal accountability mechanisms in government organizations, restructuring the institutions, and reforming systems. Unless these steps are fully implemented, corruption cannot be addressed comprehensively.

To this end, the National Accountability Bureau will have to be a permanent constitutional body with full financial and administrative autonomy

organized on the same lines as the Office of the Auditor General, and Pakistan's entire anti-corruption structure will have to be reorganized to undertake the task.

Institutional Reforms

Given the pervasiveness of heavy foreign debts, weak internal economic structures, parallel or underground money markets, an unproductive private sector, sluggish public institutions and procedures, and looted nationalized banks, to achieve reform and deregulation in all these areas the corruption genie must be put back into the bottle. The government has taken several steps toward relevant institutional reforms as follows:

- *Documenting the economy and restructuring the tax system.* Recognizing that a large informal economy and complex taxation system are the root causes of corruption, the government is addressing these issues by initiating a massive drive to document economic activity so as to record the real economy in an attempt to widen the tax base, restructuring the entire tax department to introduce computerization with the purpose of reducing contact between tax collectors and taxpayers, and planning the work needed to simplify the tax laws.
- *Deregulating the economy.* An ambitious program to privatize public units in the energy, financial, and communication sectors is already under way. Unless absolutely in the public interest, the requirements for government sanctions or approvals are being minimized.
- *Initiating civil service reforms.* The government has initiated studies to reduce the size of bureaucracy and the number of public sector organization and ministries. A "right-sized" bureaucracy would be a well paid, competent workforce.
- *Devolving power.* Successive governments have supported the idea of devolution, but have not translated this support into action. One of the main objectives of the current government is to devolve power to the grassroots level. The plan envisages establishing genuine democracy in a manner that will ensure that power is transferred to the people comprehensively and irrevocably.

CONCLUSION

Much has been achieved since the creation of the National Accountability Bureau and much more is being attempted. The aim is not only to prosecute those responsible for offenses in the past, but to prevent corruption in the future so as to strengthen the economy and protect society.

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**B. REDUCING CORRUPTION
AMONG PUBLIC OFFICIALS**

The Role of the Ministry of Justice and the Prosecutor's Office in Korea

■ **Kee Bong Paek**

Perceiving that collusion among bureaucrats and business people was one of the major factors that caused the 1997 economic crisis, and recognizing that eradicating corruption was vital to facilitate the development of democracy and a free market economy, the Korean government initiated a strong campaign against corruption following President Kim Dae-Jung's accession to office in February 1998.

THE LEGAL SYSTEM

The legal framework for eradicating corruption includes the following:

- Special criminal laws provide for heavy statutory penalties for public officials found guilty of corruption. Punishments include confiscation of assets and freezing of bank accounts, which permit the authorities to lay their hands on illegal proceeds obtained by means of corruption.
- Since 1993 for financial transactions and 1995 for real estate dealings, all those involved must use their real names or otherwise confirm their identities. The objective of this change, which obligates public officials to disclose the full extent of their assets, is to deter and detect illegitimate enrichment by public officials.
- Prosecutors, who are empowered to direct the activities of the police and other special investigative agencies and to make the final decisions with respect to investigations and prosecutions, play the key role in fighting corruption.

ROLE OF THE PROSECUTOR'S OFFICE

The minister of justice oversees the Prosecutor's Office, ensures that sentences are carried out, protects citizens' human rights, and oversees immigration. The Ministry of Justice implements its anti-corruption policies by means of actual cases prosecuted through the Prosecutor's Office. It has designed a legal framework to deter and punish corruption, and it coordinates its anti-corruption policies with other relevant agencies. Prosecutors initiate investigations *ex officio* or direct and supervise police activity in relation to the investigation of offenses.

Prosecutors should act as representatives of public interests in carrying out their duties and exercising their powers. Prosecutors are immune from dismissal, suspension from office, and punitive wage cuts unless they are impeached, reprimanded, or convicted. The prosecutor-general's tenure of office, which is two years, is guaranteed by law. The minister of justice supervises and directs all prosecutors as the supreme supervisor of the Prosecutor's Office, but in effect directs and supervises only the prosecutor-general, thereby allowing prosecutors to exercise their powers of investigation and prosecution independently.

Eradicating corruption is one of the priorities of the Prosecutor's Office. Some prosecutors are responsible only for anti-corruption activities. The Central Investigation Department of the Supreme Prosecutor's Office oversees the work of these prosecutors.

ACTIONS TAKEN BY THE PROSECUTOR'S OFFICE

After President Kim Dae-Jung took office in February 1998, the Prosecutor's Office led a strong crackdown on corruption in line with the new government's reform efforts. As a result, corruption seemed to have been eradicated in various areas; however, as the economy recovered from the financial crisis in 1997, corruption began to show signs of resurgence.

In September 1999 the government established the Anti-Corruption Committee directly under the president, reaffirming its commitment to combat corruption. At the same time, the Ministry of Justice directed the creation of an anti-corruption investigation headquarters in the Supreme Prosecutor's Office and anti-corruption investigation departments at all levels of the Prosecutor's Office. These departments were provided with significant resources so that they could effectively carry out their task of investigating

corruption. Their focus is structural and chronic corruption in corruption-prone areas. They launched a crackdown on corruption by public officials at all levels.

The anti-corruption investigation departments categorized corruption-prone areas into 16 types: personnel management, architecture, real estate, construction, health and the environment, transportation, fire fighting, labor, investigation, taxes, education, military conscription, the financial sector, the legal sector, the supply of goods, and quasi-reporters. The strategy of concentrating on activities especially prone to corruption proved to be highly effective: 4,920 people were investigated for corruption offenses, of which 1,648 were held in custody during the process of investigation and prosecution. Among those held in custody, 266 were public officials. Table 4.1 shows the number of people accused and the number arrested for corruption offenses.

Table 4.1
Number of People Accused and Arrested for Corruption,
1996–2000

Year	Accused	Arrested
1996	3,728 (688)	1,734 (482)
1997	2,892 (576)	1,417 (329)
1998	5,206 (1,035)	2,487 (613)
1999	5,099 (775)	1,893 (447)
Jan-Sept. 2000	3,764 (335)	1,209 (204)

Note: Figures in parentheses indicate the number of public officials.

Source: Prosecutor's Office

Information from whistle-blowers is an important key to detecting corruption. To encourage whistle-blowers who have also offered bribes, the Prosecutor's Office will consider reducing their punishment or granting them immunity using a provision of the criminal law that reduces the punishment for offenders who surrender themselves. The Prosecutor's Office traces the assets of public officials accused of corruption so as to confiscate illicit proceeds as specified by the Special Act on Confiscation in Relation to Offenses by Public Officials.

In February 2000 the Supreme Prosecutor's Office and the Seoul District Prosecutor's Office established computer crime investigation departments, and computer crime investigation teams were set up in local prosecutor's offices

nationwide. The aim was to improve the investigation of white collar crime and to employ modern computer techniques in the process of investigation.

The Prosecutor's Office holds meetings for senior prosecutors in charge of special investigations at least once a year and holds seminars for prosecutors in charge of special investigations several times a year. These meetings and seminars provide opportunities to develop and disseminate investigative techniques and to promote close working relationships among local prosecutor's offices.

The Inspection Department in the Supreme Prosecutor's Office, which is headed by a chief prosecutor, is intended to prevent and punish corruption within the Prosecutor's Office. The department collects information about irregularities in connection with the activities of officials in the Prosecutors Office and investigates complaints against them.

All except lower-level officials working at the Prosecutor's Office are required to disclose their assets. This discourages officials from engaging in illegal activities and makes exposing corruption easier.

By promoting ethical behavior among its staff, the Prosecutor's Office has won the public's respect and confidence.

EXAMPLES OF CORRUPTION CASES

The following paragraphs describe some of the major corruption cases investigated and prosecuted.

Corruption in the Selection of Local Broadcasting Service Operators

In 1994 Company C, one of the top 40 companies in Korea, gave millions of dollars to a high-ranking official in the President's Office in connection with the selection of local broadcasting service operators. Company C was eventually selected as one of the local broadcasting service operators.

Company C's bribery of a high-ranking government official remained uncovered until 1997, when the company became insolvent. The Prosecutor's Office investigated an allegation that the bankruptcy was caused by the illegal use of corporate funds. The investigation revealed that management had misappropriated corporate funds totaling ₩140 billion. Four company officials, including the chairman, were arrested and indicted for violating the Act on

the Aggravated Punishment of Certain Economic Offenses, along with the government official who had accepted the bribe.

The Prosecutor's Office conducted a thorough probe into the flow of the misappropriated funds to reveal any involvement by politicians or public officials in the corruption and to trace and retrieve corporate funds concealed either in Korea or abroad. The investigation revealed that Company C had used secret slush funds to lobby officials and politicians in connection with various projects. The projects included land purchases, a housing association project, and the construction of recreation resorts. The secret funds were also used to contribute to the campaigns of politicians running in the 1995 local elections and the 1996 National Assembly election.

The Prosecutor's Office also detected assets concealed by the company's chairman totaling W17 billion, including a beneficiary certificate valued at W7 billion that the chairman had bought in the name of his brother; stocks valued at W6 billion that the chairman owned in the names of company officials; and real estate. The concealed assets were restored to the company to pay employees and creditors.

Corruption in the Licensing of Personal Communication Service Providers

In June 1996 the Ministry of Information and Communication selected 27 providers for 7 key telecommunication businesses, including personal communication services, for which it selected 3 companies, K, L, and P. Following the announcement of the selected providers, suspicions of favoritism and corruption arose in connection with the selection process, and the Supreme Prosecutor's Office began investigating the allegations.

The Prosecutor's Office found that three high-ranking officials of the Ministry of Information and Communication had received W20 million to W60 million from a particular bidder for a personal communication service license. The investigation also revealed that a member of the screening committee received W200 million from a bidder. Those involved were arrested and indicted.

Corruption in Military Conscription

Korea has been divided for the last half century. Given the prevailing state of military tension, national security is of the utmost importance. To this end Korea has a compulsory conscription system. Under this system, people

with physical defects are exempted from military service. Some people have taken advantage of this, and have been exempted from service by various illegal means, including submitting false diagnoses indicating that they are physically unfit to serve. This aroused frustration and anger amid those who have faithfully fulfilled their military obligation, thereby undermining social unity.

As part of the government's reform efforts, in December 1998 a joint team from the Prosecutor's Office and the Ministry of Defense initiated an investigation into corruption related to the conscription process. For five months the team investigated 1,000 people allegedly involved in conscription corruption, including parents who offered bribes to have their sons illegally exempted from military service, army doctors, and mediators between parents and the doctors. Some 207 people were found to be involved in corruption, of which 135 had offered bribes; 23 were military officials; and 49 were mediators, including officials in the Military Manpower Administration. Of the 207 people, 180 were indicted. In addition, 133 people who had been illegally exempted from military service were required to undergo physical examinations, and if found fit for duty were made to serve in the military.

After the investigation, the rate of exemption from military service for health reasons fell drastically, particularly in Seoul, from 6.9 percent of potential conscripts in 1997 to 2.7 percent in March 1999.

Corruption among Lawyers

Since the current government took office, the Prosecutor's Office has made many attempt to eradicate corruption in the legal sector. It has exposed a number of judges and prosecutors who received money, gifts, and favors from lawyers and made them resign. It also exposed and disciplined 118 lawyers who gave bribes to officials of investigative agencies in return for being introduced to clients in criminal cases.

As a part of the effort to stop corruption in the legal sector, the Ministry of Justice introduced a code of conduct for prosecutors and revised the Lawyers Act, recognizing that corruption in the legal sector seriously undermines the rule of law and social justice. The revised Lawyers Act prohibits officials of the courts and investigative agencies from introducing clients with whom their agencies are dealing to lawyers. It prohibits lawyers and their assistants from visiting investigative agencies to attract clients and prohibits lawyers from attracting clients through brokers. It also provides for the establishment of an

ethics committee for the legal profession consisting of judges, prosecutors, lawyers, and law professors.

MONEY LAUNDERING PREVENTION AND ANTI-CORRUPTION ACTS

The Ministry of Justice is working to enact the Money Laundering Prevention Act (aimed at both organized crime and corruption) and the Anti-Corruption Act. The former will provide for the confiscation and freezing of illicit proceeds derived from criminal activities and will also include provisions facilitating international assistance in investigation. The Anti-Corruption Act will provide the basis for establishing the Presidential Anti-Corruption Committee; state the obligations of the government, public agencies, political parties, corporations, and the public in fighting corruption; and establish the basic principles of anti-corruption policies.

In April 2000 the Ministry of Justice and the Ministry of Finance and Economy set up a task force to establish a financial intelligence unit. The unit's responsibilities will include collecting information about transactions from financial agencies, conducting inquiries into suspicious transactions, and reporting to investigative agencies when it suspects that such transactions might be criminal.

CONCLUSION

Corruption disrupts the fair and transparent distribution of resources and undermines people's confidence in each other, thereby hindering the country's overall development. In recognition of these consequences of corruption, the public, the Ministry of Justice, and the Prosecutor's Office are strongly committed to the effort to combat corruption, and the Prosecutor's Office will continue to strengthen its investigations of corruption, especially in the 16 corruption-prone areas.

A large amount of public funds was put into insolvent companies and financial agencies to help them recover from the 1997 economic crisis. Recently, corruption by officials of these companies and of banks has become a social problem. The Prosecutor's Office will conduct intense investigation into these corruption cases, and will strengthen cooperation with such authorities as the Board of Audit and Inspection to deal effectively with newly emerging types of corruption.

The Ministry of Justice will complete all the procedures necessary to enact the Money Laundering Prevention Act and the Anti-Corruption Act in 2001, thereby providing a legal, systematic mechanism for eradicating corruption.

The Ministry of Justice recognizes that corruption occurs worldwide. It thus believes that countries should share experiences and information regarding the eradication of corruption and seek collaborative ways to deal with the problem. In this regard, the Ministry of Justice plans to host the third Global Forum on Fighting Corruption and Safeguarding Integrity in Seoul in 2003. Meetings of this type, where high-level officials dealing with corruption problems gather from around the world, increase countries' awareness of the seriousness of the corruption problem and help them design and disseminate strategies for dealing with the problem. The ministry also supports and is ready to participate in the efforts of the United Nations, which is undertaking the preparatory work to elaborate a comprehensive convention against corruption.

The PRC's Struggle to Combat Corruption and Bribery: Countermeasures and Challenges

■ Ye Feng

In the PRC the prosecution services are responsible for investigating cases of corruption, bribery, embezzlement, and so on and for further proceedings in accordance with the constitution and the law. In the last 10 years the prosecution services have investigated more than 500,000 cases of corruption and bribery, of which more than 10,000 involved county-level officials, nearly 1,000 involved officials at the level of head of a department or bureau within a ministry, and approximately 10 involved heads of provincial departments. The prosecution services have learned that to punish the crime is not enough, but that they also need to find administrative and economic measures that will be effective against the root causes of corruption and bribery. Thus they need to consider the characteristics of such crimes, the main countermeasures to combat corruption and bribery, and the challenges faced in the struggle to combat corruption and bribery.

CHARACTERISTICS OF CORRUPTION AND BRIBERY

Crimes of corruption and bribery are increasing and becoming more widespread. In recent years 70 to 80 percent of the cases handled by the prosecution services took place after the government had decided to increase its fight against such activity. For example, after the president of a trust and investment company had been sentenced to death for corruption, accepting bribes, embezzling public funds, and engaging in speculation and profiteering, her successor was investigated and convicted of similar crimes. Similarly, after the secretary of a party committee in a large company was sentenced to death for corruption and accepting bribes, the general manager and his assistant in an associated company were also sentenced for accepting bribes. One official accepted bribes of more than Y41 million (US\$1 is equivalent

to about Y20), mostly during his term as governor of Autonomous Region between 1994 and 1998.

Bribery and other crimes of corruption are related. In one city in 1998 crimes involving Y64 billion and lost tariffs to the state of Y12 billion were associated with bribes for smuggling and for releasing smugglers. More than 540 people participated, including both the secretary of the city's party committee, the head of the customs service, and members of the anti-smuggling police. In another smuggling case for which the statistics are incomplete, the amount involved was Y70 billion, with many leading cadres suspected, including the deputy head of the Provincial Public Security Department and a deputy mayor. To evade investigation some customs and public security personnel helped smugglers flee overseas.

When the government enacts new laws to deal with corruption, those involved find new ways to evade the law. For example, when state enterprises were auctioned, annexed, or reorganized, some people transferred state assets at absurdly low prices, some accepted bribes, some accepted benefits such as free tourism and sex services instead of money or goods, and some transferred state enterprise assets to private companies or transferred assets overseas and embezzled them. The chairman and four other senior managers of one company used the reformation of the company's share system to embezzle more than Y9 million. All were severely punished.

Corruption is pervasive in the judiciary and public administration in some provinces, with bribes accepted and offices sold. Investigations in one province in 1998 showed that leading cadres bought and sold offices. After the secretary of a township party committee was sentenced for corruption, he was determined to have his position restored. He offered bribes to the party committee of the county and the head of the county, and was appointed as head of the county's anti-corruption bureau. Elsewhere an illiterate who was ignorant of the law was made vice-president of the county court, where he bent the law for the benefit of his relatives and friends. This particular criminal was later sentenced to death.

Corruption and bribery have serious consequences. Instances include drugs that are falsely labeled and seeds that fail to germinate. The collapse of a bridge exposed bribery by a former secretary of a party committee, and 87 people died after a video hall fire, which occurred because personnel involved in the hall's construction had accepted bribes and neglected their duties.

Increasing numbers of high-ranking officials are being found guilty of corruption. In 1998, 1,573 officials at the level of section and county were scheduled for investigation by the prosecution services. This figure rose to 1,893 in 1999 and 1,025 in the first half of 2000. At the more senior level of department and bureau, the number rose from 98 in 1998 to 125 in 1999 and 89 in the first half of 2000.

Huge sums of money are involved in corruption and bribery. The number of cases investigated by the prosecution services that involve corruption and bribery involving more than ¥50,000 or the embezzlement of public funds of more than ¥100,000 have increased from 2,000 in 1992 to more than 10,000 a year. Such large cases make up more than 40 percent of those investigated by the prosecution services. The number of cases involving more than ¥1 million have also increased each year, rising from about 100 in 1992 to 750 in the first half of 2000. Several bankers have been found guilty of large-scale corruption, for example, the head of a finance bureau acquired more than ¥100 million, equivalent to 10 years of income for a poor county.

COUNTERMEASURES

Combating and punishing corruption and bribery is a national policy, in effect since the PRC's founding in 1951. Since the beginning the party and government have viewed the struggle against corruption as a serious political struggle that affects the very existence of the party and the state. They have formulated a guiding ideology and basic principles and developed systems to root out corruption. The steps taken include policy decisions and plans for the army, the armed police forces, and political bodies and the passage of laws that bar these entities from engaging in trade. They have also issued laws and regulations governing the functioning of the party and its administration and investigated many important cases. Thus step by step they have worked to create a strong and continuing commitment to fight corruption.

A long-term strategic measure is combining action against corruption with measures to prevent it. While the prosecution services at all levels have investigated crimes of corruption and bribery, they have also attached great importance to prevention. The main prevention methods include learning from experience gained during investigations, closing legal loopholes, helping professional groups set up and strengthen their supervision mechanisms, helping firms improve their management, promoting education about the legal system, strengthening state functionaries' knowledge of the legal system, and changing people's attitudes toward corruption. Recently the Supreme People's

Procuratorate has set up a special department preventing crimes involving bribery and corruption.

Another priority is to seek cooperation between the specialized anti-corruption organs and the public. The main anti-corruption organs are the bureaus of the people's prosecution services, the commissions charged with party oversight, and the government's supervisory departments. These three entities are generally responsible for investigating and bringing to court cases of corruption and bribery. There is a clear division of labor among these organizations, which cooperate with each other and coordinate their activities as necessary. . These organizations depend on tips from the public, and reward and protect those who report crimes. Mobilizing society to participate in the struggle against corruption brings into play society's supervisory function and uses public opinion to strengthen the functions and powers of the special organs in their fight against corruption.

The fight against corruption has focused on those professions and trades where corruption and bribery are more prevalent, which include the coal, railways, banking, and customs subsectors.

The legal system against corruption and bribery is continuously being improved. Basic principles were established when the PRC was founded. In 1952, the Committee of the Central People's Government established regulations governing the punishment for corruption, which considered corruption and bribery to be crimes, along with such actions as using public office for private gain. In 1979 the PRC's first penal code defined the crimes of corruption and bribery. The current reforms and opening up of the PRC have led to new opportunities for corruption. In response, the government has implemented a number of new laws and regulations, and has added to actions defined as crimes of corruption and bribery, which now include embezzling public funds, holding large amounts of assets whose ownership cannot be explained, and hiding deposits overseas. Finally, in 1996 the government passed new criminal law that includes a special section on crimes of corruption and bribery.

CHALLENGES FACED

Some think that the process of creating a more market-oriented economy makes it inevitable that some loopholes that criminals can exploit will remain, and that for the moment, crimes of corruption and bribery should be tolerated and treated leniently, because they will disappear of their own accord following

the completion of economic reforms. Others think that continuing to fight corruption shames the party, while not fighting it shames the nation, and therefore call for only limited action against corruption. The number of cases brought against high-ranking politicians increases each year. Some believe that this is because systems against corruption have become more effective, while others maintain that it is because corruption has become more pervasive. Nevertheless, despite the increased number of investigations, the number of those imprisoned has not increased, probably because of the pervasive corruption within the judicial system.

Punishment is an important deterrent to corruption and bribery, but it cannot replace prevention. Levels of corruption will only be reduced by preventing crimes of corruption and bribery.

The PRC needs special legislation to prevent, investigate, and prosecute crimes of corruption and bribery. Some actions, for example, embezzling common public property for personal use, have not been identified clearly as crimes. In other areas current law is simply vague, thereby providing loopholes that criminals can exploit.

Good People, Good Laws: Curbing Public Sector Corruption

■ Chua Cher Yak

Singapore is one of the most corruption-free countries in the world. Transparency International has consistently ranked Singapore as one of the 10 least corrupt countries in the world, and as the 6th least corrupt country in 2000. The Political and Economist Risk Consultancy has consistently rated Singapore as the least corrupt country in Asia.

This stands in stark contrast to the state of widespread corruption in the early years of its independence, particularly before the 1960s. The following factors account for this turnaround:

- ***Political will of the government.*** This is, by far, the single most important factor. Throughout its tenure, spanning the entire postcolonial era, the government has pursued a strong anti-corruption policy.
- ***Sincerity of purpose.*** Singapore's political leaders match their words with their deeds by setting good examples for public officers to follow. Since coming to power in 1959 the government has not flinched from punishing those guilty of corruption, notwithstanding their position in society.
- ***Effective instruments of control.*** These include
 - The setting up of the Corrupt Practices Investigation Bureau to enforce the corruption laws, which operates independently and is free from outside interference.
 - The credibility of the Corrupt Practices Investigation Bureau, which it has earned through effective action, proving itself to be a crack investigative agency.
 - The availability of enforceable legislation to facilitate evidence collection and eventual conviction in a court of law.
 - The actions taken to review government procedures to remove opportunities for corruption.

- An education program, in which public officials regularly attend discussions about the pitfalls of corruption
- The imposition of administrative sanctions against those who have been convicted in court. If for technical reasons officers cannot be brought to court, they can be subject to internal disciplinary action. Companies convicted of corruption offenses are barred from participating in government contracts for up to five years.

The acid test, however, is not so much the measures that have been formulated, but the sincerity and determination in enforcing them.

**C. INCREASING SCHOOL
EDUCATION AND PUBLIC
AWARENESS**

Tackling Corruption: School Education and Public Awareness

■ Catherine Chui

This chapter highlights how the Independent Commission Against Corruption (ICAC) tackles corruption in Hong Kong, China, through its school education program. This comprehensive program has contributed significantly to the increase in public awareness of the importance of the anti-corruption cause.

THE BAD OLD DAYS

Before ICAC was set up in 1974, the police force was responsible for investigating allegations of corruption. Corruption was a serious problem both within the government and elsewhere. To members of the public, corruption was a way of life, recognized as a necessary evil. However, a new citizenry that was young, educated, and concerned about public affairs began to demand positive action from the government. The flight of a senior police officer facing prosecution for corruption triggered a storm of public protests and prompted a public inquiry by a high court judge. It subsequently led to the establishment of ICAC, a dedicated, independent, and powerful agency to deal with corruption, whose commissioner was directly responsible to the governor.

STRUCTURING THE FIGHT AGAINST CORRUPTION

When formulating an anti-corruption strategy, motivation and opportunity must both always be considered, because both factors must come together for corruption to occur. In devising Hong Kong, China's, corruption prevention strategies to bring about changes, the following three key initiatives appeared relevant:

- Creating a strong deterrent through vigorous enforcement activities to demonstrate that corruption is a high-risk crime
- Implementing changes at the institutional and organizational levels to minimize opportunities for corruption
- Transforming social values and behavioral patterns to reinforce the principles of justice, fairness, and transparency, thereby reducing the motivation for corruption.

Consistent with the above thinking, from the outset ICAC adopted an integrated, three-pronged attack comprising all the critical functions of investigation, education, and prevention. Its organizational structure is built around these functions and comprises three departments: the Operations Department to put the corrupt behind bars, the Corruption Prevention Department to plug corruption loopholes in systems and procedures, and the Community Relations Department (CRD) to change public attitudes toward corruption. The work of these three departments is interdependent, and each capitalizes on and builds on the performance of the others.

The CRD publicizes anti-corruption messages through the mass media and face-to-face contacts. To ensure that the department can effectively hammer home its message to different target groups, it has identified distinct groups in the community so that it can address their particular needs and concerns. One significant target group is young people, who the department reaches through its school education program.

ICAC is well aware that for its anti-corruption efforts to succeed, it must bring about fundamental changes in public attitudes toward corruption. Probably the most fruitful approach is inculcating a firm attitude to resist corruption among the young. By teaching schoolchildren that corruption is evil and unacceptable, the hope is that in time, fighting corruption will rely less on external controls and deterrents and more on self-discipline and self-motivation. Thus the CRD's school education program, which works throughout the school system to reach children and young adults from age 6 to 22, aims to promote sound values, such as a sense of justice and responsibility and integrity.

THE EDUCATION SYSTEM

Hong Kong, China, provides nine years of free and compulsory education. As such, the school setting provides a captive audience for the CRD's anti-corruption messages. However, the school system faces some constraints. The curriculum is extremely full, and teachers are under pressure

to cover the syllabus. Education is examination oriented, and moral education often takes a back seat to “practical” knowledge.

THE ICAC APPROACH

To ensure the effectiveness of its school education program the CRD has developed a number of strategies.

Incorporation into Formal Curricula

ICAC staff sit on various curriculum development committees of the Education Department to attempt to include relevant topics into school curricula such as government and public affairs. However, this approach is limited given the already packed curricula. To supplement these efforts, the CRD liaises with textbook publishers and writers to encourage them to include relevant material.

The approach has been extended to all universities to develop a strong work ethic among future professionals and managers. To achieve this universities are urged to include at least one ethics module in a mandatory course for their first-year students. Instead of preaching values, the program attempts to equip students with the necessary skills to make the right decisions when confronted by ethical dilemmas.

Partnering Approach

Given the huge size of the student population, the CRD cannot work with every student. A significant part of the school education program is partnering with others involved in education and youth work. To this end the CRD produces various teaching materials for use both in the classroom and during extracurricular activities. ICAC staff, teachers, school principals, education experts, psychologists, and youth workers are invited to help create, test, and produce these packages of materials. Each package is self-contained and self-explanatory, with clear instructions, but also with sufficient flexibility for teachers to adapt them to suit their particular students.

In 1998 ICAC invited primary schools to take part in ICAC Week, a project to promote positive values to primary school pupils through a series of school-based activities. ICAC provided teachers with reference materials and teaching aids to support the planned activities. In the past two years a total of 239 primary schools with 170,000 students have participated in ICAC Week. Feedback from schools has been positive.

As for university lecturers, the CRD produces materials on ethics for integrating into their teaching materials as appropriate.

Direct Dialogue

ICAC does not rely solely on teachers and lecturers to disseminate its messages. It has arranged with all universities for ICAC staff to conduct face-to-face presentations for their final-year students. Such presentations are tailored to the students' specific needs. They cover the legislative provisions governing corruption, fraud, and other types of malpractice and employ case studies pertinent to the students' academic disciplines. This will help equip students with the necessary skills and knowledge to handle the temptations they are likely to encounter in their future careers.

ICAC staff also conduct classroom talks for senior secondary students. In 1999 they conducted 1,760 talks for 77,000 secondary school students.

Active Involvement

To improve the interest level and enhance the impact of secondary classroom talks, since October 2000 ICAC has used a format that involves a more interactive approach. Anti-corruption messages are conveyed through discussion and group games involving student participation. ICAC has also introduced an interactive drama performance at schools. A professional drama group performs an interactive play that illustrates the evils and consequences of corruption. Students have responded positively to both these new formats, which they considered to be more effective than the traditional classroom talks.

ICAC believes that involving young people in anti-corruption activities is the best way to implant positive values. In 1999 ICAC and youth organizations organized a total of 67 activities, including leadership training camps, seminars, conferences, and competitions, that reached about 400,000 young people. In 2000, 800 young people from Hong Kong, China; Macau; and mainland China attended a summit to discuss the role of young people in cultivating a clean and fair society.

Starting Early

ICAC believes that moral education should start as young as possible, and is taking its message to kindergartens via a television cartoon program. To reinforce the messages of the cartoon series, a teaching package comprising a

video, games, and books based on the cartoon program is distributed to all kindergartens. Through these activities, young children are helped to grasp abstract concepts like fairness, honesty, and obeying the law. ICAC also regularly conducts parenting forums to harness parents' support in the moral education of their young children.

Internet Use

In 2000 ICAC launched a web site called "Teensland" to publicize anti-corruption messages through computer games, web page activities, and links. Students were recruited to contribute to the web site as reporters, web designers, and content producers.

CONCLUSION

ICAC hopes that its educational efforts will cultivate an ingrained intolerance of corruption that will remain intact as students mature. There is no doubt that the key to success in the fight against corruption lies in the young. Corruption is no longer a way of life. ICAC has broken the back of syndicated corruption and turned an attitude of meek acceptance into a high level of intolerance of corruption. In 1974 only about 30 percent of complainants to the ICAC were willing to identify themselves. Now nearly 70 percent of them do so, and more than 90 percent of reports about corruption come directly from the public.

ICAC will endeavor to keep corruption an issue of public concern through its education efforts, through the mass media, and through face-to-face contacts. To ensure that the anti-corruption message pervades all levels of society, ICAC has established a number of regional offices in strategic locations to receive corruption complaints and for direct contact with the public.

ICAC has achieved a quiet revolution in changing public attitudes toward corruption. The culture has changed from tolerance of corruption to clear rejection. Hong Kong, China, now has an honest and efficient civil service and a level playing field for investors. In recent years, international surveys have consistently rated Hong Kong, China, among the top three least corrupt economies in Asia.

Tackling Corruption: The Media, School Education, and Public Awareness

■ **Enayetullah Khan**

Corruption, defined as the abuse of public office for private gain, is inversely proportional to the systemic checks and balances that make governance effective. In Bangladesh, corruption extends across the entire spectrum of human activity. It debases and corrodes every facet of life: national, political, economic, governmental, parastatal, and private and corporate businesses. Personal greed and the temptation to access unearned income lie at its root. The poisonous weeds growing out of it spread unchecked when corruption is condoned socially or when society chooses to look the other way rather than ostracize the venal and corrupt among them. Legal or moral deterrents, social contracts, or even the traditional mores of society are increasingly proving insufficient in curbing or containing corruption.

In the broad sense, corruption is an economic crime. It is committed under the table by circumventing the rules of a transaction, whether in the public or in the private domain, and it takes two to play. The economic crime of corruption is therefore intrinsically different from such unilateral criminal acts like robbery or forgery. The criminal law pertaining to crimes deals with them following detection, and disposes of them through the magistracy and the judiciary. The law forbids theft and robbery, and for their perpetrators to be punished requires only that the crimes be proved in a court. However, corruption sometimes exists within the law; between the lines of rules of business, for both governmental and other economic transactions; and often slips through the loopholes of anti-corruption laws, even in the face of upright anti-corruption watchdog bodies. No wonder then that the very word corruption has been sanitized with such neutral terms as “informal costs,” and that one of corruption’s most practiced forms, bribery, is referred to as “rent-seeking.”

Gone are the days when a person tainted by corruption in the public perception is socially ostracized. Instead, in most resource-poor countries like Bangladesh, where corruption is bred by an unequal relationship between political power and economic opportunities, corruption is the gateway to heaven. “One who has gold,” observes Christopher Columbus, “does as he wills in the world, and it even sends souls to paradise” (Michael Beaud, *A History of Capitalism [1500–1980]*). The need-based corruption of a poorly paid lower-level employee in the government or private sector has become part of the system, while corruption among the power elite and top government functionaries is becoming an unwritten rule rather than a reprehensible exception.

EDUCATION

A Bangla primer for young children contains a rhyme with a moral: “One who studies hard rides a car or a horse.” The rhyme does not refer to the elite, but merely symbolizes the opportunities available through education. However, today educational corruption at the institutional level of schools, colleges, and universities ranges from rent-seeking by school administration at the time of admission, extortion by teachers through mandatory private coaching, leaking of question papers, and student cheating on examinations. These have rendered the original rhyme into a parody: “One who cheats in the exams rides a car and a horse.” The less said of the quality of education, the better. It produces semiliterate young people not even up to the educational standards of the 1960s.

HEALTH

The health sector is the same picture of wanton corruption, with practitioners, new and old, acting un-Hippocratically in oath and practice. The Bangladesh Medical Association regrettably does everything else but attend to professional causes and health issues. Of course, some medical professionals are campaigning and working for the health causes of the people in general, and the poor, children, and women in particular. Unfortunately, they are but exceptions to the rule of unethical corrupt culture in the sector.

POLITICS

While corruption in the provision of education and health are particularly worrying because of their relationship to human development, what is most alarming is the politico-bureaucratic corruption link, the human rights

violations, and the wanton misuse of power. Political power is hard cash. While donors are driving reforms of the administrative apparatus for a leaner and more accountable government, the donors themselves become party to abetting corruption by co-opting the bureaucracy and the political elite into their fold by pampering them. Perhaps it is time for the international agencies to take a critical look at their actions in various countries. Some of their handouts and priorities wittingly or unwittingly breed corruption amid a haze of nontransparency. To cite an example, the multilateral agencies award consultancies to bureaucrats only or recruits their wards in temporary country jobs. To me, this is a bribe. The UN system as represented in Dhaka bestows a hefty amount in foreign exchange for image building of Bangladesh to the child of a ruling party stalwart. The entire exercise of the Asia-Pacific Parliamentary Association has been a waste, leading to a scramble for the largesse.

THE NONGOVERNMENT ORGANIZATIONS

Except for the Bangladesh Rural Advancement Committee, the Grameen Bank, and a few others, donor charity has created a new elite thriving on unearned money, and even taking partisan political positions. Those representing the association of nongovernment organizations are not advancing democracy, transparency, and development. They are the new lords of poverty who are advancing doctrinaire politics with donor money. This is unacceptable.

SOCIETY

When, as in the case of the nongovernment organizations, social activism degenerates into commerce or partisan politics; when the schools do not teach the liberal arts and sciences, but feed their students partisan history; when donors squander their money on patronage of the changing elites; then corruption will have a heyday. Democracy will be in name only in purloined elections, and Bangladesh's entry into the 21st century will be the despair of another missed millennium.

It takes courage to place the burden of corruption on the political and bureaucratic establishments rather than on the little men who supplement their meager earnings with *bakshish* (graft). They are corrupt, because an illiberal democracy breeds as much corruption as feudalism in the 11th century or the mercantilist and monetary societies that ushered in centuries of capitalism starting in the 15th century.

THE MEDIA

The media, of which I am a member, are a picture of disinformation. While they have frequently dug out corruption at certain levels, they tend not to touch the holy cow: the illiberal, democratic overlords in a one-way-street parliament. Nevertheless, corruption in high places in a hierarchical chain of political and state power has recently been getting some exposure in print. The media speak of ministers' sons raiding public and private properties, impersonation of government officials to advance clandestine deals in the new found gold mines of telephony and energy, family jaunts to the metropolitan power centers in the industrial North in the name of state visits, and placement of loyalists in strategic positions in the government.

Transparency International, which has set up a Bangladesh chapter, has been documenting the various forms and instances of corruption and has been scanning the media for reports of these events. Somehow the scanning skips the daily reports of unabashed and audacious instances of corruption in high places. The documentation of corruption by Transparency International, while commendable, focuses on the small time. If the political elite are accumulating unearned income of Fortune 500 proportions, then the traffic and tax men, the power sector meter readers, and the small *sabibs* in their offices will abuse their own little areas of power to mine the crumbs of a corruption-based political order.

CONCLUSION

Corruption, besides being a legal, moral, and ethical issue, is intrinsically a matter of politics. The 18th century ideological tumult involving Hobbes and Locke, Montesquieu and Jean Jacques Rousseau, Linguet, Helvetius, Voltaire, and many other social and political thinkers on such issues as wealth, the writ of the state, and social contracts, needs to be revived now in the context of corruption. As long as politics is profit, corruption will rule. Short of social action, corruption in high places cannot be defeated.

Part II

ACTION IN CORRUPTION-PRONE AREAS

- D. Police Forces
- E. Government Procurement
- F. Tax Administration

D. POLICE FORCES

Chapter 9

Combating Corruption Effectively within the Metropolitan Police Service

■ Michael Taylor

“A high command unwilling to acknowledge that the problem of corruption is extensive cannot very well argue that drastic changes are necessary to deal with the problem” (W. Knapp in a 1972 report of the commission to investigate alleged police corruption in New York)

This chapter provides a brief overview of the recent experience of the Metropolitan Police Service (MPS) in London in tackling the scourge of corruption and the lessons learnt during a difficult period. It focuses on the implementation of a corruption strategy to prevent many of the organizational and cultural failings that degraded the service’s ability to deal with the issue of corruption effectively.

The police service has recognized its particular vulnerability to corruption and is leading the way in developing effective countercorruption strategies and investigative and preventative methodology. The hope is that other parts of the public and private sectors will follow.

Keeping the matter in context is important. The MPS is a massive organization with more than 37,000 personnel. It is a £2 billion a year organization similar in size to the Royal Air Force. The number of officers involved in corruption is small, but the damage they inflict is disproportionately high.

Most of our difficulties concerning corruption arise simply from our own perception of it. Essentially, we have assumed in the past that it is an issue that does not intimately concern our own organization or our close colleagues. We have been quick to attribute it to other organizations, and even to other countries, never to ourselves. When we have detected corruption, our response has reflected

the belief that it was limited to a small group of rogue officers. This mind set is best evidenced by the organization's complete failure, for decades, to use the tools that we have routinely deployed against other organized crime to combat corruption within our own ranks. Examples abound: we did not collect or maintain an intelligence database on corruption (a crucial failing), nor did we provide officers tasked with anti-corruption with an adequate surveillance capacity to target some of the best trained suspects in the world. We did not become effective until we came to terms with the fact that corruption will probably always be with us and must consistently and continuously be countered.

There have been three key areas of concern relating to police corruption and malpractice in the United Kingdom since World War II. The first was the excessive use of force, not only during arrest, but also in extracting false confessions. Other than in isolated instances, unlawful force has not been a significant problem.

The second area of concern was interference with evidence as a form of corruption that came to the fore during the 1980s. Revelation after revelation of apparently deliberate wrongdoing by police officers, leading to miscarriages of justice, emerged from across the capital. By the mid- to late 1980s, implementation of the 1984 Police and Criminal Evidence Act and other legislation, which introduced clear scrutiny of processes, had substantially undermined police officers' ability to interfere with evidence. In 1992 the Royal Commission on Criminal Justice introduced further safeguards. However, we recognize that interference with evidence can lie beyond the scope of procedural restriction and cannot be said to have been totally eliminated.

The abuse of position and/or power for gain is a more pervasive form of corruption and can take many forms. The introduction of new laws and new technologies opens up new opportunities for corrupt police officers to abuse their authority and power. These abuses can relate to interference with evidence, but can also extend to the third area of concern: the leaking of classified intelligence, the illegal use of computers, the provision of sensitive material to unscrupulous journalists and other media representatives, and the protection of criminals from investigation and prosecution. It is this last element of corruption that has proved to be the main focus of the current MPS anti-corruption campaign.

In the past the Police Service, and the MPS in particular, failed to recognize that corruption is not simply a scandal that erupts periodically and

can be extinguished like a fire. With the benefit of hindsight we now know that corruption is not cyclical in nature, but it is the effectiveness of the response to corruption that tends to be cyclical.

Corruption has demonstrated remarkable durability and flexibility. Like a virus it mutates and adapts to new environments. The corruption of processes that had been seen in the United Kingdom earlier and was often categorized as “noble cause corruption” was by now clearly less common by virtue of much greater levels of scrutiny of the processes of arrest, detention, investigation, and prosecution.¹ However, by the early 1990s, process corruption had changed emphasis, and where it occurred was often for financial reward, for example, the destruction of evidence in return for favors or payment.

The exponential growth of drug-related crime during the 1980s gave rise to the second mutation of corruption. Drug crime presented corrupt officers with new opportunities and drug traffickers, with significant assets at their disposal, had the capability and motivation to corrupt officers to protect their business.

Another mutation grew from the Police Service’s developing capability to use intelligence and computers to fight crime. Police organizations are traders in information, some of which is extremely valuable to criminals, unscrupulous journalists, and others. By the early 1990s the incidence of corrupt leaking of intelligence had risen sharply. The introduction of sophisticated information technology systems makes all staff more effective and productive. However, it also makes an organization more vulnerable to subversion. Fewer corrupt staff can access the work of literally thousands of honest officers. Traditionally, the MPS has been extremely democratic in the way it allows all staff access to most of its intelligence. This was justified in the belief that all staff were honest. Certainly most are, but we now recognize that we need to balance ready access to information with protecting information from the few corrupt staff.

A further mutation of corruption resulted from the growth and sophistication of organized crime, including international drug trafficking. One only has to look at the experience of the United States to see the potential impact that organized crime, with vast sums of money at its disposal, can have on criminal justice and on law enforcement agencies.

¹ Noble cause corruption is the fabrication of evidence to convict people whom the criminal justice system has failed to convict, but whom officers honestly believe to be active criminals.

London's last anti-corruption campaign concluded in 1977, and 500 officers were expelled. Other priorities then took precedence; however, corruption was quietly undermining the effectiveness of the Police Service. Little was done to combat corruption until a campaign started in 1993.

The specter of corruption began to re-emerge publicly between 1990 and 1993, when a series of major and organized crime investigations were inexplicably compromised. A number of significant prosecutions and trials also collapsed amid allegations of sabotaged evidence and subverted juries. At the same time anecdotal intelligence indicating the existence of corruption was increasing. This intelligence derived from informal networks within the service, from criminal informants, and as an incidental product of technical surveillance. Corruption was clearly exacting a heavy cost on police efficiency. The cost of compromised investigations and trials was largely invisible, but ran to millions of pounds.

As London's MPS was most affected by these issues, the current anti-corruption campaign began in London. The reputation of the MPS was being undermined, and policing, as understood in Western industrial nations, was under threat, along with the reputation of Scotland Yard, previously synonymous with integrity.

These new manifestations of corruption coincided with the appointment of Sir Paul Condon as MPS commissioner in 1993. He was unequivocal in his response. The MPS would not tolerate corruption. The commissioner and a select group of senior colleagues established what became one of the most secret operations the MPS had ever undertaken. Operation OTHONA was a radical intelligence gathering operation designed to penetrate the operational strata of the organization using sophisticated and intrusive intelligence gathering methods to determine the extent of corruption and develop a strategic analysis of the threat.

Operation OTHONA, which ran from 1993 to 1997, revealed a number of unpalatable practices, namely:

- Stealing drugs and cash during searches
- Sharing informant rewards
- Fabricating informant reward applications
- Destroying or fabricating evidence in return for payment
- Selling operational intelligence
- Trafficking in drugs

- Arranging with informants for crimes to be committed and the proceeds shared.

Operation OTHONA revealed that a small number of police officers were engaged in serious corruption and that corruption was now far more covert and sophisticated than had been the case during the last campaign in the 1960s and 1970s. Even though a relatively small number of officers were involved, they were often highly skilled detectives in sensitive posts where they could inflict incalculable damage on the service by betraying their office and public trust.

The Anti-Corruption Command was launched in January 1998. Initially 150 handpicked detectives were directed to tackle corruption head-on. By December 2000, 38 people had been convicted and imprisoned for serious corruption offenses, of which 11 were police officers, 7 were former police officers, and 20 were either officials in other parts of the criminal justice system or criminals who had corrupted MPS staff. As of December 2001, 5 trials were in progress at the Central Criminal Court and 41 people (15 of them serving police officers) were awaiting trial for similarly serious corruption offenses.

Corruption is a pervasive problem and can only be defeated using a strategy that not only detects corruption, but systematically addresses its causes and the vulnerabilities of individuals and the organization. In December 1998 the MPS launched its Corruption and Dishonesty Prevention Strategy, which has served the organization well, and is currently being revised to reflect experience. The strategy comprises the following six key strands:

- Prevention and detection
- Inclusion
- Focus and accountability
- Supervision and leadership
- Security, screening, and vetting
- Corruption and dishonesty proofing.

This chapter focuses only on prevention and detection. A comprehensive armory has been developed within the MPS to tackle corruption that includes the following:

- A highly effective intelligence system, that pervades the organization and acts as an indicator of corruption.

- A high-level capability to conduct covert and reactive criminal investigations.
- A similar capability for internal discipline investigations, which is particularly suitable where for technical reasons criminal prosecution is not achievable.
- The use of cutting-edge investigative methodology and technology, much of which is unfamiliar even to the most experienced corrupt targets.
- A holistic approach to investigating police complaints from the public, to ethics, to integrity, and to professional standards. This overlays management information on complaints with that on corruption and links this with intelligence to achieve incisive analysis of not just problem individuals, but trends and causes.
- Comprehensive witness protection arrangements.
- The MPS Integrity Testing Program, which is uniquely split into two specific tools, one acting as a scalpel to cut out corruption (intelligence-led tests) and the other acting as an X-ray to look into the soul of the organization to analyze behavior and the drivers of corruption, dishonesty, and malpractice (quality assurance checks).
- The service confidence procedure, which is a backstop to protect the organization where criminal or discipline disposals are unachievable, yet compelling material indicates that an individual is a threat to the service.

The MPS has learned a number of lessons from its experience that may be useful for other law enforcement agencies, namely:

- The recognition that a law enforcement agency will never be completely free of corruption.
- The organization must have a strongly established and credible strategy in place to combat corruption.
- The nature of corruption is not cyclical, it simply adapts to an ever-changing organizational environment
- A law enforcement agency must actively collect intelligence about misconduct within its own organization.
- The tactics and systems used against crime should be used in internal investigations.
- A strategy can only be credible if adequate resources are provided.
- A proper system must be in place to support the reporter of misconduct.
- The organization's culture must change, so that officers sincerely identify with the anti-corruption ideology.

Developing a Technology of Behavior: An Alternative Approach to Preventing Police Corruption

■ Harry C. Lorenzo, Jr.

We have used science and technology to address many of our concerns and to solve a large number of problems. We have developed all kinds of contraceptives to control rapid population growth. We have searched for new medical technologies to cure and prevent deadly diseases. We have produced cars and airplanes to make transportation fast and comfortable. We have invented agricultural tools and machines to increase production and stave off famine. We have created computers to give easy access to knowledge and information. We have designed spaceships to explore space. Why do we not use our scientific knowledge to design a program that will change the way people behave, a technology that will direct human behavior toward a specific goal like a missile that is guided to its target? If we want the police to be honest, then we have to create a program that will protect them from corruption and guide them to honesty.

A technology of behavior is premised on the following assumptions: (a) police officers are products of their environment, and (b) human behavior is shaped and maintained by its consequences. Therefore the environment in which a certain behavior operates could be systematically manipulated either to change, shape, or maintain that behavior. According to Skinner (1972), the environment does not push or pull, it selects.

HOW DO WE START?

We often say that the most difficult thing to do in research work is to identify the problem. The moment we have identified the problem, it is half solved. As this chapter focuses on preventing police corruption and not on

how to stop it once it has already occurred, it focuses on the most pervasive, but subtle, root of corruption: recruitment and training. According to Walker (1992): “The chances for corruption are greatly reduced if an agency takes steps to ensure that it hires individuals with high standards of integrity.”

RECRUITMENT

We can significantly reduce the number of corrupt officers entering the organization by immediately screening out applicants who do not meet the criteria during the recruitment process. Applicants with a history of criminal activity, alcoholism, obsessive gambling, drug abuse, or deviant behavior should instantly be eliminated from consideration. Applicants who pay to join the police force or pulls strings to be accepted cannot be expected to be honest and must be withdrawn from consideration.

During the recruitment process applicants should pass through a rigid selection process that would include at least the following:

- An intelligence test
- A personality test
- A background investigation
- An alcohol and drug test
- A polygraph examination.

TRAINING

A training environment that encourages giving gifts or favors and tolerates mediocrity induces corrupt practices.

Police academies and training schools should identify the values or attributes that have to be shaped and maintained by the trainees. These are the qualities that have to be strengthened by positive reinforcement every time they are displayed. This is what is meant by behavior is determined by its consequences.

The identified values or attributes must be transferable to the outside world. The shaping and maintenance of the desired values must be part of the curriculum across all subjects and activities. Each time the trainees display honest and honorable behavior, they have to be rewarded, for instance, through a gesture of approval, commendation, or other recognition. This kind of training is only possible if all those involved in training are committed to

creating an environment that is conducive to the development and maintenance of the desired values. If the trainers are themselves involved in corrupt practices, then a culture of corruption is created.

Recently the Philippine National Police Academy was rocked by a scandal that led to the dismissal and suspension of the entire class of 2001 and the dismissal of all tactical officers and the director. A new cadet died and many others were hospitalized because of hazing or other maltreatment. The suspects were upperclassmen. During the investigation no one claimed responsibility or identified the suspects. The class of 2001 even claimed that hazing did not occur in the academy. These trainees are not supposed to lie, cheat, or steal or tolerate those who do. The Honor Code is the foundation of their training. However, cadets did not want to squeal on their peers or their upperclassmen because hazing had become part of their tradition, and anyone who squealed would have risked being ostracized. Thus the environment in the academy did not allow the development of honesty as embedded in the Honor Code.

The leadership of the Philippine Public Safety College, under which the Philippine National Police Academy operates, has realized the need to do something about the training and has started overhauling the curriculum and hiring highly qualified instructors.

TRANSFER OF LEARNING

Real learning has a positive value. What one learns in a particular situation may be transferred to another similar situation. An example of this is someone who learned how to hit the target in the firing range during training. They apply this skill by hitting the enemy accurately during an encounter. Similarly, a desirable behavior learned during training may be transferred to the outside world when trainees become police officers. Those who have been trained in an environment that promotes and rewards honesty and excellence will behave accordingly. By contrast, those who come from a training environment where dishonesty and mediocrity were given more credit than honesty and excellence will almost certainly indulge in corruption when they become police officers. Thus designing an environment that will direct and guide behavior toward a specific desirable goal is essential.

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Korea's Police Anti-Corruption Plan

■ **Bong-Ahn Yoo**

As in other countries, sporadic accusations have been made about police corruption in Korea. Some argue that problems throughout the system breed corruption, while others attribute it to the greed and low ethical standards of the individual officers involved. Aware of the pitfalls of the “rotten apple approach” to the problem of corruption, the Korea National Police Agency (KNPA) has tried to find systemic, organizational, and cultural causes of corruption and to make changes through such means as tightening supervision, revising regulations, emphasizing ethics education, and strengthening the internal investigation function after every police corruption scandal. However, the cancerous problem of corruption has periodically attacked the legitimacy of the police even following substantial changes.

Is police corruption uncontrollable, or are there problems in current anti-corruption systems and measures? Some argue that the problem of police corruption cannot be effectively controlled only by the internal efforts of the police themselves. They cite the wider social environment that includes gift-giving to public servants as a token of gratitude; unrealistic laws and regulations that make merchants feel that bribing officers is more cost-effective than doing business by the rules; and the low morale among police officers caused by low pay, low social status, low job satisfaction, and too much work as the prime causes. Such problems can only be addressed when society as a whole participates. The current government has been taking vigorous steps to implement anti-corruption measures and to root out the social and systemic causes of corruption.

THE GRAND REFORM

Since December 1999 the KNPA has made strenuous efforts to break away from old traditions and habits. With the goal of becoming a police service trusted by the public, the 150,000 officers, from police officers to the

commissioner general, have been working together to reinvent themselves through self-control, creativity, and responsibility. The reform has resulted in an improved working environment. Programs have been introduced to serve the general public and efforts have been made to establish a positive image of the police force as one that works with the general public. A long-term improvement plan is currently being implemented.

The new police administration understood that tackling corruption involved making organizational, symbolic, and cultural changes prior to implementing specific anti-corruption measures. To accomplish these organizational aims, the administration carried out a strategy involving four stages.

The first stage was to share and spread the commissioner general's philosophy and ideas of the so-called Grand Reform among commanders. This was done by means of two-day workshops held around the country.

The second stage was to arm rank and file officers with the new spirit of "self-regulation, creativity, and responsibility." This was done through a series of ceremonies, educational activities, and face-to-face talks with the commissioner general, who traveled throughout the country visiting police outposts, stations, and regional headquarters.

The third stage was to satisfy the public. To accomplish this the administration set up the Task Force for Policy Reform, which introduced structural changes to the system, culture, and practice of policing. A team of inspectors investigated whether the reforms had been carried out as instructed. They found that after 100 days of reform, the goals of the first three stages had been achieved to some extent.

The fourth stage is for the reformed system, culture, and practice to be accepted and to form the basis for further reform.

THE KNPA'S ANTI-CORRUPTION STRATEGY

By recognizing that preventing corruption is the first step in gaining the general public's trust, the KNPA has been taking measures to enhance police officers' resistance to corruption.

The first step is to strengthen ethics training and education. To build strong police work ethics and change the mind set of all, the time spent in ethics

classes at the Police Academy has been increased from 109 hours to 140 hours and the subject of police ethics has been included in the police promotion examination.

The second step is to rationalize and simplify police procedures and practices. Having recognized the limitations of relying only on identifying and punishing officers after they have been involved in corruption, the KNPA is now revising old-fashioned, unreasonable, and irrational procedures and practices. At the same time, the KNPA is emphasizing the importance of eliminating the habit of accepting small gifts and asking for favors from the public. Also, to enhance the transparency of police activities, the method of crackdowns has been changed. To guarantee fairness in cracking down on businesses that violate regulations, the police are now changing the regulating officers every day and disclosing the names of those officers, so that business owners will find it impossible to build relationships with officers so as to obtain tips on upcoming crackdowns. In addition, at least two officers take part in all crackdowns so as to keep each other accountable.

The third step is to cultivate the culture of self-reporting. Every police station has set up a so-called conscience room where police officers can return inappropriately accepted gifts so that they can be sent back to the provider with a thank you note. From April to October 2000 a total of 490 gifts amounting to some W57 million were collected and returned.

The fourth step is to revise the internal investigation and inspection functions. All inspection cards that contained police officers' personal details and records have been discarded so as to give officers with a tarnished record a second chance. In addition, the focus of internal inspections has shifted from uncovering faults and punishing officers toward guidance and evaluation. Minor mistakes are forgiven after issuing cautions, while harsher punishments are handed out for corruption-related acts.

The fifth step is to tighten discipline regarding corruption-related conduct and activities. Accepting gifts and favors for job-related reasons and leaking information are totally banned and are targeted by the internal investigation bureau.

The sixth step is to encourage external reviews and inspections. Members of the public are now being encouraged to monitor every day police activities to prevent corruption. A total of 5,523 private citizens are participating in joint civil enforcement units in 229 police stations, where citizens participate in cracking

down on businesses that violate regulations and on incidents of drunk driving. A nongovernment organization and various committees have been set up to take account of public opinion in police administration policy and to periodically evaluate the level of police corruption. Meanwhile, commanding officers, including the commissioner general, frequently meet with field officers to hear and incorporate their opinions in police policies. Korea has set up the world's first cyber police agency to handle various civil affairs, share information related to maintaining peace and order, and encourage the public to report corruption.

CONCLUSION

Studies show that the efforts of the Korean police to curb corruption have paid off. Police corruption has dropped by 42 percent and the receipt of inappropriate gifts has decreased by 22 percent since the inception of the Grand Reform. The response from the general public has also been favorable. According to a recent survey conducted by a private research institute, citizens feel that the police have improved, especially in their work attitudes, friendliness, and confidence. Using such favorable responses from the public as momentum for further improvement, the KNPA is continuing its efforts to eliminate corruption.

To prevent reoccurrences of corrupt behavior, all officers who directly deal with the public have been evaluated for probity and integrity, and as a result 1,178 officers have been replaced. This evaluation will be conducted twice a year.

In April 1999 the KNPA placed inspectors in police stations. Their function is to listen to grievances from members of the public to protect their rights, resolve issues, and prevent corruption. This program has not yet achieved the expected results; however, its importance in stimulating communication between the public and the police should nevertheless be recognized.

In its 55-year history the Korean police service has not been able to resolve two issues. The first issue is improvement of the working environment, although some success has been achieved. The second is low wages, though this is also expected to improve significantly with an increased budget for 2001. Such improvements in working conditions and benefits shall serve as the foundation for preventing corruption.

E. GOVERNMENT PROCUREMENT

Anti-Corruption Measures in the Public Procurement Service Sector in Korea

■ Byungtae Kang

After the Agreement on Government Procurement under the World Trade Organization came into force on 1 January 1997, Korea introduced international tender procedures for public procurement purchases above a threshold value.

THE PUBLIC PROCUREMENT SERVICE

The Public Procurement Service (PPS) is a central government organization responsible for procuring commodities and arranging contracts for construction projects involving government facilities. The PPS deals with the procurement of goods and services worth more than US\$45,000, and is involved in construction projects worth more than US\$2.7 million. (For local governments the PPS deals with special projects valued at more than US\$9 million). Of the US\$45 billion spent annually on public procurement, the PPS handles 28 percent (US\$12.5 billion), while individual government agencies take care of the remaining 72 percent (US\$32.5 billion).

A number of different types of irregularities have been reported as follows:

- Providing preferential treatment to certain firms during the process of establishing specifications and determining contract methods
 - Being influenced by certain firms when preparing specifications or restricting the opportunities for participation in the tender by other firms
 - Limiting competition unnecessarily or abusing the use of private contracts

- Providing preferential access to tender information at the time of making an order
 - Carrying summarized tender information in the government gazette and disclosing detailed information to prospective bidders in a selective and limited manner
- Applying procedures for selecting successful bidders and for conducting private contract negotiations in an arbitrary manner
 - Interpreting selection criteria, including prequalification, arbitrarily rather than in an open and transparent way
 - In the case of a private contract, applying different negotiation prices for different prospective contractors
- Wrong doing by contract officers
 - Creating intentional delays in placing orders, determining successful bidders, concluding contracts, and arranging payment
 - Issuing or receiving false documents
 - Treating customers in a discourteous and highhanded manner.

REFORMS IN THE PUBLIC PROCUREMENT ADMINISTRATION

Previous anti-corruption measures were enforced passively and lacked clear-cut objectives. In addition, the focus of such measures has changed from administrative expediency to a customer-centered model. The current reforms have five reform objectives, namely:

- Achieving a customer-centered procurement service
- Ensuring transparent and fair systems and procedures
- Having an efficient and economical procurement service
- Establishing a computerized database and an e-commerce system
- Implementing a procurement administration in line with the government's overall economic policies

Based on a survey of PPS officials and customers, in November 1997 the authorities selected 180 detailed reform tasks to be addressed in phases. In September 2000 a reform task force was established. The task force reviewed the achievements of previous reform programs and the underlying problems, and suggested a number of organizational reforms that the government is currently attempting to introduce.

Improvements in Systems and Procedures

Suggested improvements in systems and procedures include the following:

- Enhancing competitiveness by changing specific procurement specifications to more general ones
 - Publicizing for seven days the specifications submitted by the end-user organizations, then gathering opinions from concerned parties
 - Using this input to improve specifications and make them more competitive
 - Conducting independent examinations of purchase specifications and endeavoring to make them more general without creating any impediment to the end-user organization
- Reducing the number of private contract and restricted competition tenders
 - Raising the threshold for entering into private contracts by increasing the required number of private contract evaluation points to more than 80¹
 - Reducing the number of restricted competition tenders by formulating stricter criteria for adopting performance-based restricted competition tenders
- Actively publicizing tender information
 - Announcing the tender schedule at the beginning of the year
 - Publicizing specific tender information on the Internet, in government gazettes, and elsewhere, including types of goods, quantities, tender date, and estimated budget for the purchase of goods requested by end-user organizations
 - On receiving purchase requests from end-user organizations, publicizing them in detail on the Internet and at the customer service center at PPS headquarters
 - Providing on a real-time basis information on the current status of purchases, details about tenders, enforcement criteria for relevant laws and regulations, and updates on improvements to purchasing systems.
- Establishing execution criteria for contract procedures to prevent arbitrary implementation
 - Formulating implementation criteria for each type of contract and for each purchase procedure, setting up criteria on price negotiations for

¹ The share of construction projects going to private contracts fell from 14 percent in 1990 to 6 percent in 1995 and 4 percent in 1999.

private contracts to prevent the arbitrary exercise of authority, and establishing a code of conduct for contract officers and distributing it to all officials to guarantee uniformity and fairness

- Clearly defining criteria for the selection of a successful bidder in each invitation for tender, and publicizing in advance detailed prequalification criteria for tenders relating to commodity procurement and construction projects
- Establishing a eight-hour rule governing the payment method such that if it is violated, public end-user organizations will be exempted from the supply commission normally imposed and the officials involved will be subject to disciplinary measures.

Bringing the Procurement Process Online

As of 2000, the purchase of commodities and all accounting transactions conducted among the PPS, public organizations, and private supply firms has been via electronic data interchange. As of 2001, all tasks will be executed via this system. The authorities plan shortly to establish an infrastructure for e-commerce in the government procurement service sector.

The authorities also plan to computerize contract data and simplify procedures by automating them, thereby reducing the opportunities for contract officers to contact customers illegally. Databases will be set up for prequalification, and cost accounting information on supply firms will also be stored. Documents, including performance records, will be obtained via computer from relevant organizations instead of directly from contractors in an efforts to prevent contractors from submitting false documents.

Improving Officials' Awareness of Corruption

Reforms are also aimed at improving officials' awareness of corruption, thereby enhancing the procurement administration process. The reforms include the following:

- Organizing inspection teams headed by the leading deputy directors of each division, adopting measures to root out irregularities, and strengthening inspection activities within vulnerable sectors
 - Avoiding favoritism and imposing strict punitive measures for wrongdoers, along with reinforcing the joint liability system

- Introducing a prior inspection system when formulating major policies for which later correction is difficult, thereby removing corruption and inefficiency ahead of time
- Encouraging the awareness of reform by revitalizing education programs, including the so-called Tuesday Forum and in-office study groups
- Enhancing civilian control of procurement administration, including implementing continuous monitoring through open communication channels on the Internet.

EFFECTIVENESS OF ANTI-CORRUPTION MEASURES

Recent reports in the mass media note that the PPS employs transparent tender procedures. According to a survey by the Korea Development Institute, end-user organizations also praise the transparency and fairness of the PPS. However, the PPS is doing its best to continue to establish even more transparent systems and procedures. Its aim is to be a model for other procurement organizations.

F. TAX ADMINISTRATION

Ensuring the Confidentiality of Taxpayer Information

■ **David Williams**

The Office of the Treasury Inspector for Tax Administration (TIGTA) oversees the activities of the United States Internal Revenue Service (IRS). TIGTA is organizationally placed within the Department of the Treasury (the parent department of the IRS) for administrative purposes, but is operationally independent of the department.

The agency consists of approximately 1,000 employees, including approximately 475 investigations employees and 400 audit employees. TIGTA's audit and investigative activities are designed to promote efficiency and effectiveness in the administration of the nation's tax system, to detect and deter fraud and abuse in IRS programs and operations, and to protect the IRS against external attempts to corrupt or threaten its approximately 115,000 employees.

The protection of taxpayer information is of paramount importance to tax administration in the United States. Because of the sensitivity of tax information, TIGTA has a major focus on detecting and investigating improper access to, and disclosure or manipulation of, tax information. This chapter focuses on the methods TIGTA uses to detect internal computer crimes, as well as to detect external intrusions into IRS computer systems to access taxpayer information.

UNAUTHORIZED ACCESS TO AND MISUSE OF TAX INFORMATION

The US federal income tax system relies heavily on voluntary compliance with tax reporting obligations. Maintaining public confidence in the proper handling and use of the information taxpayers submit is critical to the effective operation of the system of taxation. The IRS is expected to protect the privacy of all taxpayers, as well as to protect the integrity of the information in its systems.

Approximately 56,000 IRS employees have access to the more than 200 million personal and corporate electronic taxpayer files. Accordingly, TIGTA emphasizes detecting and investigating IRS employee misconduct as it relates to unauthorized access to tax information.

Since the 1970s Congress has imposed specific criminal sanctions against US government officials who improperly disclose tax information. In the mid-1990s TIGTA discovered that some IRS employees had engaged in the questionable practice of viewing taxpayer information without an official reason to do so. TIGTA brought this wrongdoing to the attention of the IRS and Congress. The IRS subsequently announced a zero tolerance policy, and Congress passed legislation outlawing unauthorized access to taxpayer information.

Having identified the problem of unauthorized access to taxpayer information, TIGTA now has an ongoing effort to identify not only “browsing,” but also focuses on finding the few, but critical, instances of misuse of taxpayer information.

Beyond the personal and sensitive nature of taxpayer information, it has potential value. It can be misused for personal or business advantage. TIGTA investigations have identified instances wherein tax information has been improperly obtained and used, for example:

- *Embezzlement*: employees have used access to tax information to manipulate tax records to obtain tax refunds to which they are not entitled.
- *Extortion*: employees have accepted bribes in exchange for lowering or eliminating individuals’ tax liability.
- *Insider transactions*:—employees have used taxpayers’ information to create an unfair business advantage for themselves (personal stock trades, purchasing a business) or others.
- *Identity theft*: employees use the identity of others, usually to commit fraud (fictitious credit card activation or benefit claims).
- *Provision of tax information to others*: employees sell or give tax information to others, such as private investigators.

An employee’s willingness to access taxpayer information without appropriate authorization may be an indication that the employee has engaged in, or may engage in, some other misconduct that may further undermine public confidence in the IRS.

RESPONDING TO THE INTERNAL THREAT: DATA MINING AND COMPUTER MATCHING

Because taxpayer information is highly sensitive, and therefore valuable, TIGTA is constantly striving to find better ways to protect it. Most tax data are maintained in electronic form, making such data much more vulnerable to theft and alteration than data stored on paper, because transporting a large amount of stolen data out of secure facilities electronically or on diskettes is easy.

To detect employees who abuse their access to taxpayer information, the IRS created an electronic audit trail that records each access into the main IRS data system. Using methodologies TIGTA staff have discovered during investigations, they conduct an automated search of the audit trail for indicators of suspicious activity. For example, staff look for a relationship or locality match between the IRS employee and the taxpayer. The computer program asks such questions as: “Did the IRS employee access the tax information of a relative, business associate, employment reference, or the employer of a family member?” or “Did the IRS employee access the tax information of a neighbor?”

After the initial review TIGTA staff conduct further automated and physical analyses to determine if the suspicious anomalies continue to point to criminal activity. For example, comparing the information to a listing of deceased taxpayers revealed the names of IRS employees who had accessed the electronic tax files of deceased persons. An investigation was initiated, and TIGTA found IRS employees who had misused such information to generate tax refunds for themselves. One IRS employee gave the confidential tax information to others who committed other frauds.

Identity theft is a growing concern around the world, and tax data are extremely valuable in this connection. For example, an IRS employee used information obtained from IRS databases to create false identities and false credit histories for himself to obtain credit and credit cards.

Because of the obvious threat that such activity poses for individual taxpayers and the US system of taxation, TIGTA is constantly seeking to enhance its data matching skills to better detect these violations of law.

RESPONDING TO THE EXTERNAL THREAT: SURVEILLANCE AND TESTING

The threat of unauthorized access to, and misuse of, taxpayer information also has external components. New technologies and the desire to provide better service to taxpayers increase the opportunity for people to attempt to access IRS electronic files. Hacking, viruses, and attempts to intercept electronic transmissions are all emerging threats.

TIGTA is working jointly with the IRS to create standards and protocols for detecting and responding to external computer crimes. The IRS maintains an electronic audit trail of external computer connections and attempted connections. TIGTA staff review these audit trails to detect anomalies and investigate any indication of improper attempts to access IRS systems. Furthermore, they conduct security testing of IRS systems to identify vulnerabilities and encourage IRS managers to install software upgrades on a timely basis.

REMAINING CHALLENGES

For the US system of taxation to remain viable, taxpayers must trust that the authorities are doing their best to protect them from misconduct by government employees. One important facet of this work is assuring the proper use of taxpayer information. Despite TIGTA's best efforts, the system is not foolproof, thus it must continue to work diligently with the IRS to better deter, detect, and investigate the many different types of alleged crimes or misconduct involving IRS employees. TIGTA strives to provide independent investigations of high quality that prove or disprove the allegations made against IRS employees. The professionalism of TIGTA's staff and the trust of IRS employees in TIGTA are both extremely important to its mission.

Recent Reforms of Korea's Tax Administration

■ Sang-Yool Han

Since 1998 the Korean government has made strenuous efforts to prevent corruption and has achieved remarkable results in many areas. The reform of the National Tax Service (NTS) is one example of its success.

The NTS's anti-corruption efforts had concentrated on detection and punishment of officials involved in corruption. However, while this had some impact, it was generally ineffective in preventing corruption in the administration of taxes. Thus the NTS has realized that it needs to take preventive measures in addition to detection and punishment.

Korea experienced unexpected challenges as a result of the 1997 financial crisis. In response, the government launched an extensive program to reform the financial, industrial, labor, and public sectors that included reform of the tax administration system. The goal was to enhance the integrity of employees, the equity of the tax burden, the efficiency of tax administration, and the NTS's responsiveness to taxpayers.

These goals are closely interrelated, and therefore required a comprehensive strategy. This chapter focuses on how the NTS's reform program helped prevent corruption.

CHANGE IN THE TAX ADMINISTRATION MODEL

The NTS's mission changed from the imposition and collection of taxes to the provision of such services that taxpayers could pay their taxes conveniently. To denote this change, the National Tax Administration changed its name to the National Tax Service in September 1999.

The traditional role of tax officials was to watch taxpayers under their jurisdiction and to persuade them to pay the correct amount of taxes through

frequent contact with them. Their new role is to lay a foundation for fair taxation through construction of such social infrastructure as credit card use, point-of-sale systems, bookkeeping systems, and standardized computer network systems.

Social attitudes toward taxes are based on people's cultural and historic background. The traditional approach to tax administration started during the Japanese colonial era, when the payment of taxes was not regarded as a virtue and many viewed the evasion of taxes as patriotic. However, such thinking did not change in 1945 after Korea achieved independence from Japan. Economic development, promoted by the government since the 1960s, depended largely on tax revenues, because the accumulation of private capital was negligible. Accordingly, close monitoring by competent tax officials was essential given the huge demand for financial resources and the poor extent of voluntary compliance.

The tax collection system was effective when both the size of the economy and the number of taxpayers were small, but as they grew, the system turned out to be defective in many respects. Corrupt tax officials, inequitable tax burdens, and inefficient tax administration were all problems, of which the most serious was corruption resulting from frequent contact between tax officials and taxpayers. In accordance with the democratization of Korea's political process, civil activists have demanded transparency in the administration of taxes.

REFORM OF TAX ADMINISTRATION

Reforms included those related to employees and those related to overall administration.

Employees

The 1 regional office and 35 district offices were consolidated, resulting in a reduction in the number of employees by 1,181. In addition, instead of being based on the type of tax, the organization was based on function. Thus instead of the divisions in district tax offices being broken down by general affairs, individual income tax, property income tax, corporate income tax, and value added tax, they now consisted of an ombudsman, a service center, a tax resources administration division, an investigation division, and a collection division.

Under the former system, zone management officers were in charge of all tax-related matters, including taxpayer registration, tax returns, assessments, and investigation. Following the abolition of the old system, 2,700 employees were reassigned to service centers and 5,200 were reassigned to investigation.

Administrative Procedures

The reforms of administrative procedures concentrated on enhancing transparency, efficiency, equity, and responsiveness as follows:

- Expanding the use of a computer network system
 - The integrated tax system, a computer network system that contains all tax-related information, was established. As a result, the influence of tax officials in selecting taxpayers to be audited was considerably reduced.
 - Manual assessment of 5 million cases per year has been replaced by computer-assisted assessment, making 5 million face-to-face meetings between tax officials and taxpayers unnecessary.
- Incorporating all procedures into a manual. A 4,300-page manual has been produced that sets out and standardizes all procedures for tax registration, tax returns, investigation, and collection. The manual is expected not only to help the new organization operate smoothly, but to eliminate tax officials' subversion of procedures.
- Appointing ombudsmen
 - One ombudsman and two to five support staff have been assigned to every district office.
 - The ombudsmen has been granted the necessary authority to protect taxpayers' rights, including stopping unfair tax imposition and inspecting all documents.
 - Ombudsmen are appointed directly by the commissioner of the NTS, to whom they report, not by the directors of district tax offices. They are promoted based on their performance.
- Initiating efforts to make paying taxes more convenient.
 - Taxpayers need not visit tax offices to file their returns, and are encouraged to file their tax returns by mail. As of May 2000, tax returns filed by mail accounted for 68 percent of all returns. When taxpayers choose to file their returns at a tax office, they can put their tax returns into a collection box instead of dealing directly with tax office employees.
 - Tele-filing and e-filing systems have been developed and are currently being tested. The NTS expects that as of 2001, at least 25 percent of taxpayers will use these new options.

- The NTS recommends that certificates and other documents be requested via fax or the Internet. Taxpayers may also contact the NTS by e-mail.
- Adopting the Taxpayers' Rights and Tax Service charters.
 - The Charter of Taxpayers' Rights provides rules and procedures to protect taxpayers' rights, including the fair execution of audits and the provision of tax information.
 - The NTS believes that if taxpayers are aware of their rights, then this will help enhance voluntary compliance and transparency in tax administration.
- Laying a foundation for fair taxation. In the past, tax administration depended significantly on specific zone management officers. Following the abolition of that system, an infrastructure was required that would identify a tax base without face-to-face contact with individual taxpayers.
 - Social infrastructure was the most important consideration in reforming tax administration, because changes in social infrastructure can make business accounting systems more transparent and improve the equity of taxation.
 - The government sector must now pay for its expenditures by credit card or obtain receipts showing the amount of tax paid. Thus annual expenditures by the government sector, including the central government, government-invested institutions, and local governments, which amount to W180 trillion, are subject to the scrutiny of tax authorities and can be used as a basis for future taxation.
 - For the private sector a 10 percent penalty will be imposed if expenditures exceeding W100,000 (more than W50,000 in the case of entertainment expenses) are paid without using a credit card or obtaining receipts showing the amount of tax paid.
 - The use of credit cards is promoted using two incentives. First, households may deduct 10 percent of their expenditures using credit cards from their taxable income. Second, a prize of up to W100 million will be awarded to credit card users through the credit card lottery system started in January 2000. As of September 2000, 246,000 credit card users had won prizes.

ACHIEVEMENTS

Most of the reform measures took effect in September 1999. While it is too early to evaluate their overall impact, many major successes have been achieved.

First, corruption has decreased significantly. Measuring this decrease is, however, difficult, given that corruption occurs in secrecy, nevertheless, it can be estimated based on the number of identified corruption cases. From 2 September 1998 through 1 September 1999, 45 corruption cases were identified, while the next year only 9 cases were identified. This change represents a decrease of 80 percent.

Second, the foundation for equitable taxation has been laid. A tax-related infrastructure is now in place whereby households and the public and private sectors are encouraged to use credit cards or obtain receipts when making payments. The doubling of credit card payments in 2000 is expected to increase tax revenues by W2 trillion. The increase in tax revenue resulting from the use of credit cards has contributed to equitable taxation, because it simplifies identification of the tax base in such businesses as restaurants, inns, pubs, and retail stores that are suspected of tax evasion mainly by using cash for their transactions. The filing of value added tax returns in July 2000 showed a 48.4 percent increase in the tax base of the foregoing businesses. This should contribute to greater transparency, not only of business entities by restricting their entertainment expenses, but also of the society as a whole by preventing tax evasion.

Third, the NTS has improved overall. Taxpayer service enhancements by means of the ombudsman system, the greater ease of filing returns, and the prevention of corruption have resulted in increased taxpayer satisfaction as measured by a private research institution.

Fourth, tax revenues have increased significantly.

Fifth, tax administration has become more efficient. Estimates indicate that the cost of tax collection dropped from W0.88 per W100 collected in 1999 to W0.82 per W100 collected in 2000.

CONCLUSION

Tax administration is particularly vulnerable to corruption compared with other government activities. The NTS believes that eliminating corruption in the administration of taxes helps enhance taxpayer satisfaction, increase tax revenues, and improve administrative efficiency.

Chapter 15

Fighting Fraud in the Australian Public Sector

■ **Graeme Waters**

Fraud is one type of corruption and a component of most corrupt activities. Fraud itself has three key elements: dishonesty, deception, and intent.

Over the past four years the Australian Taxation Office's (ATO's) approach to preventing fraud has undergone a significant transformation. In 1995 the Internal Investigation Unit was a single dimension entity that did little to commend itself to the organization and could not have been considered to be effective. Now, however, the Fraud Prevention and Control Section is considered to be among those representing best practice in fraud prevention, control, and investigation in the Australian public sector. The investigation, fraud control planning, and fraud awareness programs are an integrated and effective system that adds significant value to the ATO and helps the organization maintain community confidence in its people and systems.

The importance of balancing a risk management approach to fraud prevention with an innovative education program that is supported by an efficient investigation capability has proven to be a success.

This chapter includes examples drawn from my recent three-year term as manager of the ATO's Fraud Prevention Group.

TYPES OF FRAUD

Fraud can be categorized into two types: inherent fraud and system control fraud. Inherent fraud is that which a system will naturally attract to itself. Some members of society will always be willing to claim benefits to which they are not entitled, for example, by claiming fraudulent work-related deductions, understating their income on their tax returns, or falsely inflating values in an insurance claim. Inherent fraud is relatively easy to detect and investigate.

System control fraud occurs where individuals defeat or bypass an organization's control environment. This type of fraud is much harder to detect and investigate, because the very controls designed to prevent, detect, and deter criminal activity have not been triggered. They may have been deactivated, ignored by complicit or complacent staff, or defeated in one of the countless ways possible even with carefully designed and managed controls. However, the most common cause of system control fraud is either a weak control environment or individuals who know how the control system works. Experience suggests that it is due in most cases to a combination of both. Internal involvement in the fraud, either by current or past employees, contractors, or people acting in concert with them, is extremely likely.

Preventing fraud and planning to control fraud does not depend on whether the fraud risk is from external or internal sources. In both cases it requires a holistic risk management approach and must include the three basic elements of any anti-corruption strategy, namely, prevention, investigation, and education. The ATO's evolution in developing a fraud prevention strategy has aligned with the world's best practice, and the ATO employs this tripartite approach.

An effective prevention program uses fraud control planning based on sound risk management principles, a professional and accountable investigation capability with transparent handling of complaints, and an education program supported by a publicity campaign. The strategy must be balanced. Failure in or the absence of any of those three components significantly reduces the likelihood of success.

The concept that effective fraud prevention is a managerial responsibility is helpful. For example, in 1999 the ATO received about 360 allegations against staff, which at that time numbered about 18,000. Investigators found that 75 percent of those allegations were without substance and exonerated the employees. People often forget that honest employees who are at risk of having their reputations tarnished by vexatious or malicious complaints have no greater ally than the internal investigation unit. Of the cases that did result in action, about two thirds of them involved some degree of bad or complacent management. Bad management is a high fraud risk.

FRAUD PREVENTION AND CONTROL SYSTEM

The Fraud Prevention and Control Section is part of the ATO's Internal Assurance Branch. The Fraud Prevention and Control Section is responsible

for investigating complaints made against staff that would, if proven, constitute criminal activity or amount to serious misconduct. Serious misconduct is defined as that which would likely result in the termination of employment.

The Fraud Prevention and Control Section is divided into three teams. The Investigation Team has 18 senior investigators, of whom 4 work full time on servicing an agreement with the Department of Family and Community Services to provide investigation capabilities for the Child Support Agency. Having one public sector agency paying a fee for service from another agency is somewhat unusual in Australia and represents the taxation commissioner's commitment to share expertise in fraud prevention programs.

Ample evidence shows that on appeal, many unfavorable decisions are a direct result of inexperienced managers attempting to resolve serious misconduct matters and botching investigations. The cost to organizations often includes compensation payments and the reinstatement of unworthy employees. These concerns apply to the investigation of all forms of corruption, whether or not fraud is a significant element. In recognition of that risk the ATO established the Official Conduct Investigation Unit, which provides a specialist investigation capability for managers dealing with breaches of the public service code of conduct.

Dealing with misconduct efficiently, effectively, and fairly is a significant issue for all organizations, and is fundamental to any anti-corruption and fraud prevention strategy.

INVESTIGATION SERVICES

The Investigation Services team is responsible for receiving and evaluating complaints and handles preliminary inquiries before handing cases over to the investigation teams.

Investigation Services also provides administrative and case management support for the Fraud Prevention and Control Section. The importance of effective case management cannot be underestimated. External scrutiny of investigations, investigation methodology, and standards is integral to the proper management of an internal investigation capability and to ensure transparent operations in the investigation process. Accurately recording case details and generating statistical data help in quality assurance, and peer reviews are worthwhile and meaningful performance indicators.

FRAUD PREVENTION TEAM

The Fraud Prevention Team is responsible for developing and monitoring the implementation of the ATO's fraud control plan and for developing, producing, and presenting the ATO's fraud and ethics awareness programs.

Because of its high profile across the ATO, the Fraud Prevention Team is often seen as a focal point where staff at all levels seek advice on ethical dilemmas, often anonymously.

JUDGE FOR YOURSELF AND PLAY IT AGAIN SAM

Judge for Yourself and Play It again Sam are interactive, multimedia programs produced on CD-ROM. They use advanced, adult learning techniques to educate staff about fraud, ethics, and the public service code of conduct and values. The style of these programs is somewhat different from the usual when it comes to anti-fraud messages.

The CD-ROM format has three distinct advantages over the traditional video format. First, it permits the integration of video and animated segments. Second, it can be paused to allow for discussion and argument, which facilitates the interactive side of the program. Third, it can be easily edited for specific groups.

Another advantage over an online, self-paced training program is the ability for a group dynamic to interject when a participant is not catching onto the messages. For example, it allows a group to discuss issues, and in the case of dissent within the group, it provides an opportunity to reach a common resolution.

Fraud awareness training can be a dry, boring subject. Judge for Yourself and Play It again Sam use humor to introduce scenario-based training and adopt what is kindly described as an irreverent look at the ATO, its people, and its procedures. The style, typically Australian and with more than a few politically incorrect attitudes, has been a real hit. The impact and success of the programs has been measured in terms of how peoples' awareness has improved.

Many years ago, as a constable of police, I dreamt of the day when I would be promoted to the rank of sergeant or inspector, for I knew that from

then on I could do no wrong. Most ethics awareness training has been focused on junior employees. Middle and senior management have been ignored. This attitude frequently results in a barrier to learning, as the participants resent being singled out to the exclusion of their managers.

I was determined that this barrier would be removed in developing the fraud and ethics awareness package for the ATO, and that all managers would not only be seen to be accountable, but would also feel the privilege and the pain of accountability. The essence of ethics in the public sector is managerial responsibility and accountability. Through their own example managers must create a working environment where their staff can feel confident that when they report matters they will have the support of the organization and management, even when the subject of that report is a person senior to themselves. Staff should know that they will be commended for exemplary behavior and condemned for untoward conduct.

THE FUTURE

The ATO is not satisfied with the status quo when it comes to protecting Australia's revenues and maintaining community confidence in its programs. Just as technology is providing new and exciting means of doing business, it is also creating new opportunities for corrupt and criminal behavior. This is why the Fraud Prevention and Control Section engages in the practice of continuous improvement and recognizes that there is always a better way of doing things.

Part III

THE PRIVATE SECTOR FIGHTS CORRUPTION

- G. Success Stories
- H. An Anti-Corruption Corporate Culture
- I. Corporate Governance

G. SUCCESS STORIES

Chapter 16

Corruption and the Private Sector

■ Neil Maloney

Even though I am no longer serving with the Hong Kong, China, government, my 26 years with the Independent Commission against Corruption (ICAC) have given me some insight into what made that organization so successful.

ICAC

ICAC was established in 1974 following the Commission of Enquiry initiated after the escape from Hong Kong, China, of a chief superintendent of police who had been arrested on corruption charges. Public reaction to this event was intense. The police officer was eventually extradited back to Hong Kong, China, and was sent to prison.

ICAC has three departments. The largest, with more than 750 staff, is the Operations Department, which handles investigations. The second department is the Corruption Prevention Department, which examines procedures and gives advice about preventing corruption to government departments, and when requested, to the private sector. The third department is the Community Relations Department, which spreads awareness of corruption.

ICAC has achieved a good deal in the last 25 years. Hong Kong, China, now has an entire generation raised with the concept of a corruption-free society. In the short term enforcement actions ram home that message, but in the long term, only education can change society. Hong Kong, China, is different from many other Asian cities. People are proud of their city, because they know it works, and ICAC is the main reason for this. Several other countries have set up similar organizations, including New South Wales, Australia, which has even copied ICAC's name and legislation.

We can draw a number of lessons from the Hong Kong, China's, experience. First, the main prerequisite for effectively controlling corruption is acknowledging that clean government is the best guarantee for political stability, economic growth, and social development. A willingness to take action against corruption must be accompanied by determination, persistence, and political will to succeed despite possible interference from those whose interests may be threatened. ICAC was fortunate in that from the outset it was given a clear mandate and the necessary resources. ICAC is not part of the civil service, and the commissioner's independence is guaranteed by law.

Second, without community support and involvement, a first-class investigative agency may still lose the war against corruption. Unlike some crimes, corruption is not easy to detect. Members of the community must be willing to come forward and report it.

The third ingredient necessary for success is an effective legislative framework. Corruption is difficult to investigate and to prove, because of its secretive and conspiratorial nature. Recent developments in information technology and in international financial services have led to much greater sophistication in hiding corrupt assets. An anti-corruption agency needs special powers to achieve results. For example, under the prevention of bribery ordinance, ICAC can examine bank accounts and business and private documents. Under certain circumstances ICAC may require suspects to provide details of their assets and can seize their passports. . At the same time, such considerable powers must be balanced by an effective monitoring system. Every aspect of ICAC's work comes under the scrutiny of an advisory committee consisting of private citizens and senior government officials. An independent complaints committee deals with all complaints received against ICAC and individual staff members.

Finally, a comprehensive strategy to deal with corruption is incomplete without continuous reviews of government policy, practices, and procedures that could give rise to corruption. In addition, the fight against corruption must be anchored in a public service that is fairly and adequately remunerated, and where appointments are based on merit and not on personal influence and connections.

Over the years, ICAC has had a love-hate relationship with other government entities. Not surprisingly, because of its large size and its daily dealings with the public, most complaints of corruption are directed against the police force. In 1997, 2,000 police officers marched on ICAC's headquarters

threatening violence. Some violence did occur, and a few days later the governor of Hong Kong, China, granted an amnesty for all earlier corruption offenses. At that time, few in ICAC agreed with this decision, but within a few years it became apparent that the amnesty had not only defused the situation, but had given corrupt police officers a chance to come clean, and many did so, while those that did not were often ostracized.

While corruption cannot be completely eradicated, Hong Kong, China, has shown that the problem can be substantially reduced and controlled. This can be done when a community and its government, at the highest levels, have sufficient determination and are prepared to pay the price; when government regulations and procedures are clearly understood and strictly followed; and when business people take a long-term view and are committed to steady growth rather than to short-term gains. Above all, to secure and retain public trust and confidence, any agency entrusted with fighting corruption must carry out its duties without fear or favor, and must be backed by a fair and impartial judicial system.

The following recent case is an example of the serious damage that can be caused by one or two corrupt individuals involved in what on the surface could be interpreted as fairly minor illegalities. An acting senior superintendent of Customs and Excise was known to be several million dollars in debt. He was a habitual gambler in Macau, and was also closely associated with a businessman running a factory making video compact disks (VCDs). Investigation revealed that the raw materials sold to the company to make the VCDs and the number of machines involved in their production far exceeded genuine orders for VCDs. At this time the number of pirated VCDs on the market had recently multiplied enormously, bringing the price down from HK\$30 per disk to about HK\$10. In addition, the factory seemed to be tipped off about impending raids by Customs and Excise. Eventually, several hundred ICAC officers raided the factory. They arrested 21 people, including the Customs and Excise officer, and seized 41 VCD production lines, 12 VCD printing lines, and 22 million disks with a total worth of about US\$100 million. Officials of the Motion Picture Industry and International Federation of Phonographic Industries confirmed that the majority of the disks were pirated copies. This was by far the largest seizure of its kind in the world. The Customs and Excise officer was subsequently convicted of bribery and sentenced to four years in prison. The others involved are awaiting trial. Shortly after this incident, Hong Kong, China, was removed from the list of regions noted for piracy of goods.

CORPORATE BEST PRACTICE

Companies are often held liable for their employees' actions, thus companies should formulate a company code of conduct, implement a system of control, and train their employees in anti-corruption legislation. Such actions can be broken down by department as follows:

- Purchasing
 - Ensure that the choice of vendors and other suppliers is based on a competitive tender.
 - Have the finance department rather than the general business operations division handle large capital expenditures.
 - Establish a system for routine auditing of vendors to uncover any conflicts of interest and discourage related-party transactions.
 - Inform suppliers in writing, and perhaps ask them to confirm in writing that they understand, that it is company policy not to engage in any form of corruption or malpractice.
 - Ensure that company management maintains frequent contact with suppliers to provide a direct channel for them to express views and grievances, and as a system of checks and balances.
 - Implement clear internal procedures for making payments, issuing checks, collecting outstanding payments, and keeping proper documentation.
- Sales and marketing
 - Establish a screening system to vet potential new clients to prevent conflicts of interest.
 - Forbid staff members from offering or accepting any form of secret rebate or commission.
 - Impose a maximum expenditure limit for entertainment expenses and only reimburse expenses for which the employee has receipts.
 - Avoid giving expensive gifts to government officials or employees of state-owned enterprises.
 - Provide employees in writing with policies on the maximum value of gifts that they are allowed to receive and in what context they can accept them. In some instances employees should not be allowed to receive any gifts at all.
 - When making gifts to business associates, confirm with the recipients' employers that they have permission to receive such gifts or provide gifts directly to recipients' companies.

- Inventory and stock control
 - Keep a master record of stock and update it immediately upon the receipt or sale of any goods.
 - Assign different employees to procure stock, verify its receipt, and write it off.
 - Conduct frequent spot checks without advance notice to ensure the quality of goods and deter staff from committing unlawful activities.
- Protection of confidential information (client information, bank and financial information, bidding tender information)
 - Implement procedures to prevent interdepartmental communication of confidential procedures (the need to know principle).
 - Establish an information security classification and management system. Install an advanced password system to prevent unauthorized access to computing resources. Grant access rights to confidential information on the basis of need to know.
- Employees
 - Prohibit employee involvement in securities or investments relating to the company's clients. Also prohibit company employees from engaging in personal business with clients, or at least require them to declare it.
 - Direct employees to decline gifts and lavish entertainment if it makes them obligated to the giver and if there is any doubt about the giver's motives.
 - Instruct employees to avoid compromising situations, especially when traveling abroad. Criminal elements may get to employees by, for instance, setting them up with prostitutes while staying in hotels abroad and arranging for them to get out of trouble with the authorities by cooperating with the criminals. If employees do get into trouble while traveling, they should first call their embassy and then their corporate headquarters.
 - Handle any written allegations of corruption or bribery, which often come in the form of anonymous letters, carefully and confidentially and seek professional help.

Implementing a code of business conduct makes employees aware of ethical principles, ensuring they are less likely to commit a transgression accidentally. At the same time the company proves that it has implemented its fiduciary duty. The guiding principles for a corporate code of conduct should cover the following:

- Conduct business affairs fairly and legally, irrespective of an individual's position or a company's standing and market share.
- Conduct business with integrity, fairness, and diligence.
- Be transparent and accountable.
- Avoid bribery, illegal gifts and commissions (kickbacks), embezzlement, misappropriation of funds, and insider dealing.
- Protect clients' confidential information, but ensure adequate disclosure of information to shareholders.
- Avoid and declare conflicts of interest. Also avoid related-party transactions, but if unavoidable, declare them.

SPECIALIZED ASSISTANCE

Private companies are available that can offer security and systems audits; guidance and training for management and staff; and, where necessary, investigation to help companies avoid prosecution, embarrassment, and losses. Law enforcement and other government agencies are unlikely to be interested until a criminal offense is reported, except for ICAC's Corruption Prevention Department

Services of considerable importance to corporations that wish to ensure that their operations in a foreign jurisdiction withstand close scrutiny by the authorities, by the international media, and by their own shareholders include the following:

- *Employee screening.* The overall objective of a personnel screening program is to protect client companies from hiring personnel who exaggerate, make false claims, or intentionally withhold information with regard to their qualifications, work experience, or background. Specifically, employee screening is intended to identify any inconsistencies, fabrications, omissions, or exaggerations on a candidate's resume; confirm the candidate's previous work experience and highlight any character weaknesses; and reveal any previous instances of criminal or civil misconduct. The depth of the investigation is dictated by the type of position to be filled. While checks on candidates for more senior positions are generally more comprehensive, the potential damage that can be caused by lower-grade employees should not be underestimated, as they often have access to sensitive information that could be highly marketable or damaging. Prospective employees should be informed about the screening and asked to sign a consent form.

- *Due diligence.* Corporate due diligence sheds light on an often complex web of relationships established to conceal the true picture. The process reveals ownership, associates, financial standing, and litigation history. The corporation's ethical and business practices and its contacts are also profiled and the implications for the client are assessed. Similar checks can be carried out to establish individuals' background, reputation, dealings, and credit ratings.
- *Vendor auditing.* Because it is so lucrative, purchasing fraud is one of the most common frauds. Among other checks, vendor auditing shows if the vendor is a properly established company and determines that its owners and/or directors are not involved with the client company. It also compares the vendor's prices with market rates and requires the vendor to sign an undertaking regarding corrupt practices.
- *Social accountability assistance.* This is available to ensure that a company's corporate reputation is maintained and that it carries out its business functions in a lawful, humane, safe, and ethical environment with respect to local and international laws and conventions.

Preventing Corruption in the Private Sector

■ **Tunku Abdul Aziz**

The private sector has always been part of the problem of corruption and remains as a major obstacle to ethical business behavior. Success in the fight against corruption in the private sector is even more difficult to determine than in the public sector. It is often illusory, and thus talking about success stories when facts are hard to come by is unrealistic. It is only since the beginning of the 1997 Asian crisis that the focus has shifted to the private sector. However, it is not all doom and gloom. Corporate governance measures now being introduced are beginning to make inroads. Minority shareholders, stakeholders, and others are becoming more vocal and demanding greater access to company information and board accountability. Nevertheless, it is early and the jury is still out. I will therefore focus on good governance as a basis for improved corporate sector behavior. Given the right climate, political will, and ethical leadership, it should lead to greater transparency and accountability in business transactions, and as a result, less corruption. The saying that prevention is better than cure is particularly apt in the context of corruption.

GOOD GOVERNANCE: A WIDER ASIAN PERSPECTIVE

The Asian economic crisis clearly demonstrated that if the region is to avoid a repeat of the devastating turmoil experienced at the end of the 20th century, Asian political and economic leaders must focus their undivided attention on reforming their political, economic, and social institutions and seeking ways to change public behavior and attitudes toward business ethics. The failure of many crucially important government institutions, weakened because of decades of chipping away at the foundations of the democratic mechanisms of checks and balances, was largely instrumental in wiping Asia's tigers and dragons off the world's economic radar screen in 1997. Three years on, the screen is still somewhat fuzzy.

Role of Governments

We cannot begin to discuss the role of the private sector in the fight against corruption without examining the part governments play in shaping the environment in which business is conducted. The Asian economic crisis had less to do with economics than with politics. At the end of the day, it is governments that set a country's moral and ethical tone, just as they were wholly responsible for developing the incestuous relationships with certain favored corporate sector entities that helped spawn crony capitalism in Asia.

Unsustainable Growth

Despite the obvious problems, the haste with which development institutions such as the World Bank, the Asian Development Bank, and the International Monetary Fund waded in to give their seal of approval to the high-growth Asian economies, holding them up as models of economic and financial management worth copying, was unseemly. These economies and the companies they spawned were hardly examples of probity and rectitude, either in the way they practiced their political or economic craft or how they calculated the long-term impact of their brand of business ethics on their countries' future. That these economies could be sustained without transparency and accountability was highly improbable.

Political Will and Ethical Standards

Given that political will is critical to the whole process of developing globally accepted standards of business integrity, its absence can only mean one thing: corruption is tolerated as a business necessity. The disregard for ethical business and political standards led to massive corruption and precipitated the economic turmoil that swept across Indonesia, Korea, Malaysia, and Thailand. It impoverished millions of innocent people who had the misfortune to live under political leadership that had completely ignored the time-honored obligation to protect the weak and advance, as James Wolfensohn of the World Bank once said, "the interests of the many over those of the few."

This is not to suggest that corruption was the sole cause of the Asian crisis. There is no doubt, however, that corruption in all its manifestations contributed significantly to the collapse of the Asian tiger economies. Mahathir Mohamad, the prime minister of Malaysia, was one of the first Asian leaders to deny that corruption was a factor in the collapse of the so-called miracle

economies, asserting that the crises had been caused by a collapse of the stock market, and not by corrupt and imprudent practices. How domestic commercial banks got themselves into serious financial difficulties in the first place was never publicly explained.

As already stated, the corporate sector was part of the problem. It was opportunistic and manipulated the often inadequately enforced laws and regulations to create a business environment that encouraged practices bordering on the criminal. The absence of effective compliance standards did not help matters.

CONNECTIONS: THE CURSE OF ASIAN BUSINESS?

Former Thai Prime Minister Anand Panyarachun, the man who gave Thailand the world's first anti-corruption national constitution, is particularly concerned about the role connections play in the Asian business equation. He says that while the Thais have adopted Western-style capitalism readily enough, this has created an internal contradiction, because they have continued to retain their system of patronage networks, a system built on connections to allocate values and resources. He believes that while personal connections can be innocent, they can become deadly because patronage is not based on merit, and therefore tends to breed inefficiency and corruption (Panyarachun 1998).

The private sector must accept the need for reform to bring about greater transparency and accountability in both domestic and international business transactions. It must develop a sustainable business climate by making it possible to conduct business ethically without resorting to corruption. It must put its house in order, for example, by developing and adopting an enforceable code of business ethics that specifically prohibits bribery and corruption.

The business community must realize that corporate life is not just about managing risk, making sound investment decisions, and coping with economic imponderables. It is also about what it can do as a group to bring about the sort of change that will create a new ethical and level playing field on which business can take place fairly and transparently. What all this means, in effect, is closing windows of opportunity for corruption, including cronyism, by institutionalizing the system of checks and balances.

It is enormously encouraging to see that corporate Asia is engaged in a flurry of activities to reform governance, not because of its deep-seated

inclinations toward high ethical standards, but simply because it has no choice. Globalization is the great arbiter. Corporate Asia has to reinvent itself to survive and prosper in the emerging economic order. What is significant about this is that it is largely self-motivated and self-driven, which means that it is likely to be sustained. Asia is badly in need of these various measures to curb corrupt business practices and to generate investor confidence.

ADDRESSING STRATEGIC GOVERNANCE ISSUES AND THE FIGHT AGAINST CORRUPTION

Reforms now being undertaken in East Asia cover, in varying degrees and intensity, areas of concern to the investing public. They represent a serious attempt to deflect international criticisms of corporate behavior that is perceived to fall well below global best practices. Standards such as those that characterized the Asian miracle economies are both ethically repugnant and, in pure business terms, self-defeating.

In any discussion of corporate sector corruption, the specter of moral hazard looms large. Krugman (2000, pp. 67–69) best illustrates this when he says the following:

Just open a bank, making sure it has an impressive building and a fancy name. Attract a lot of deposits, by paying good interest if that is allowed, by offering toasters or whatever if it isn't. Then lend the money out, at high interest rates, to high-rolling speculators (preferably friends of yours or maybe even yourself behind a different corporate front). The depositors won't ask about the quality of your investments, since they know that they are protected in any case. And you have a one-way option: if the investments do well, you become rich; if they do badly, you can simply walk away and let the government clean up the mess.

What we also should have noticed was that the claim that Asian borrowing represented free private-sector decisions was not quite the truth. For Southeast Asia, like Japan in the bubble years, had a moral hazard problem – the problem that would soon be dubbed *crony capitalism*.

Let us go back to the Thai finance company that borrowed the yen that started the whole process of credit expansion. What, exactly, were these finance companies? They were not, as it happens, ordinary banks: by and large, they had few if any depositors. Nor were they like Western investment banks, repositories of specialised information that could help direct funds to their most profitable uses. So what was their reason for existence? What did they bring to the table?

The answer, basically, was political connections – often, indeed, the owner of the finance company was a relative of some government official. And so the claim that the decisions about how much to borrow and invest represented private-sector judgments, not to be second-guessed, rang more that a bit hollow. True, loans to finance companies were not subject to the kind of formal guarantees that backed deposits in U.S. savings and loans. But foreign banks that lent money to the minister's nephew can be forgiven for believing that they had a little extra protection, that the minister would find a way to rescue the company if its investments did not work out as planned. And the foreign lenders would have been right: in roughly nine out of ten cases, foreign lenders to finance companies did indeed get bailed out by the Thai government when the crisis came.

One way or another, similar games were being played in all the countries that would soon be caught up in the crisis. In Indonesia middlemen played less of a role: there the typical dubious transaction was a direct loan from a foreign bank to a company controlled by one of the president's cronies. (The quintessential example was the loan that broke Hong Kong's Peregrine Investments Holdings, a loan made directly to Suharto's daughter's taxi company.) In Korea the big borrowers were banks effectively controlled by chaebol, the huge conglomerates that have dominated the nation's economy and – until very recently – its politics. Throughout the region, then, implicit government guarantees were helping underwrite investments that were both riskier and less promising than would have been undertaken without those guarantees, adding fuel to what would probably, anyway have been an overheated speculative boom.

I have quoted Krugman at length, because he has succeeded in encapsulating the problems of massive corruption perpetrated in a government-private sector nexus bent on abusing entrusted power, encompassing the fundamental principle of trusteeship and stewardship for personal profit. There are important lessons here to be learned by all countries as they face up to the vital need to develop an environment in which business transactions can be conducted without recourse to corruption.

Malaysia, after years in the denial mode, came clean in a public statement by Deputy Prime Minister Abdullah bin Haji Badawi (2000), in which he said:

It is a fact, that both you and I know, that the government engaged in many rescue operations during the crisis. A more *laissez-faire* government would have allowed many of our key companies to sink.

But if another crisis were to happen in the future, I am not so sure that we will be able to insulate ourselves and recover in the manner we did this time around. To put it simply, the government may not be able to afford another round of rescues. It is for this reason that the business community must realise that there can no longer be a moral hazard situation. As we face globalisation and move into a knowledge-based economy, time and money cannot be wasted on rescuing the mediocre. In the future, there will be less insurance against failure.

I am well aware of the rumblings and discontent among the professional business community that the government should not continue to protect those who have blatantly mismanaged their corporate empires and have repeatedly come back crying for help. I am aware that these criticisms are being made by Malaysians themselves and not merely by the foreign media or by foreign analysts and I am aware that many of these criticisms are valid.

In the case of the Malaysian corporate sector, its challenge is to put its house in order and redeem its tarnished image, an outcome of the unsavory role that many of its members played so enthusiastically in promoting a corrupt business culture. While the crisis was still playing itself out, it set itself the task of addressing the issue of good corporate governance, incorporating best practices. The result is the much-heralded 1999 “Report on Corporate Governance.”

The report emphasizes the need to strike a proper balance in satisfying the competing demands of business, namely:

- The company’s basic objectives
- Shareholders’ expectations
- Stewardship and trusteeship as a basis for ensuring that the interests of other participants in the affairs of the company are served and protected.

The report looks at good governance as a process rather than a structure, and makes it absolutely clear that the primary responsibility lies with the board. The composition and quality of its members individually and collectively are of the greatest importance. The role of effective and truly independent directors, particularly on the audit committee, in ensuring compliance with best practices cannot be overemphasized.

The report's main recommendations include the following:

- At least one third of the board should consist of people who are independent of the controlling shareholders.
- Board representation should reflect the interests of all shareholders, including minority shareholders.
- The board must disclose the procedures used in nominating candidates for election to the board.
- An independent institutional shareholder watchdog committee should be established to monitor and act in cases of abuse against minority shareholders.
- Each company should adopt a code of business ethics that will form the basis of the company's day-to-day management.

SECURITIES WATCHDOGS THAT BARK AND BITE

The days of unfettered excesses seem about to change for the better. The revamping of Malaysia's Securities and Exchange Commission to give it wider powers and the determination to deal with insider trading and to address such key regulatory principles as investor protection and market integrity will go a long way toward ensuring better corporate behavior. Recent successful prosecutions of "big names" have driven home the important point that wrongdoers do not only face imprisonment, but will also irreparably damage the reputation of their companies.

Experience indicates that publicly listed companies in particular are the most uncomfortable at the prospect of being exposed as perpetrators of serious breaches under the Company's Act. Nothing affects a company's fortunes more negatively than being disgraced nationally or internationally for rogue behavior. The implications are far-reaching, and the risks are not worth the effort. Singapore recently blacklisted Siemens, among other foreign companies, for attempting to bribe public officials to secure an unfair advantage in a multimillion dollar public procurement tender.

Shareholders have an important role to play in the fight against corruption and nepotism. They must be prepared to take serious interest in their rights and responsibilities. Although the primary responsibility for ensuring compliance with best practices remains with the board, shareholders have every right to require the board of directors to subject all their actions to public scrutiny.

A company's annual general meeting is the best occasion for shareholders to raise governance issues and to satisfy themselves that the company is complying with accounting and disclosure standards, as well as other approved procedures. Shareholders attending their company annual general meeting for a free lunch are hardly likely to develop an appetite or stomach for fighting corruption in the companies in which they invest their money.

CONCLUSION

Success in fighting private sector corruption will be judged by the degree to which the private sector is prepared to regulate itself within a legal and ethical framework that is now largely in place in many countries in the region. It is only in the context of ruthless, self-imposed, and regulated discipline, reinforced by a tough no-nonsense approach to law enforcement by incorruptible regulators, that real change is likely. The corporate sector has a special place in society and carries a heavy responsibility in contributing to the well-being and general welfare of the society in which it conducts business and of which it is an important component. To do this it must make a conscious and deliberate effort to denounce corruption by both word and deed.

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H. AN ANTI-CORRUPTION CORPORATE CULTURE

Chapter 18

A One-Stop Services Office

■ Mukti Asikin

A one-stop services office combines the operations of several licensing offices in one building, thus people who need to get various licenses and had to go to several offices, only need to visit one office.

The implementation of a good information system in a one-stop services office will not only reduce corruption, but will also increase the income of local governments, hasten the processing of public administration documents, affect local economic activities, promote transparency and good governance, and awaken society to the need for government oversight. In Indonesia prior to the establishment of such an office people had no access to clear information about the procedures for and costs of licensing, and government officers could easily cheat them.

However, this model is not easily implemented throughout Indonesia. The chapter tries to identify the reasons for this and to offer several solutions.

THE CURRENT SITUATION IN INDONESIA

The system of corruption is so pervasive that most Indonesians are “forced” to become involved in corruption. Citizens at all levels—police officers, members of parliament, military officers, journalists, judges, bankers, and business people—are generally trapped as the subjects as well as the objects of corruption. Given most people’s view that the situation is difficult to fix, many have surrendered to it.

Corruption at the level of the power elite started at the end of the 1960s, when President Soekarno gave military leaders economic access to raise funds to finance military activities and their own welfare. This was because the formal budget was insufficient and the government feared rebellion among the military (Hutabarat 1999). Long before he was elected president, Soeharto was a colonel and a successful military business operator. Corruption became worse early in the 1980s when President Soeharto started to give huge business

facilities to his family (Quah 1999). The same pattern continued with President Habibie, who was involved in a number of instances of corruption, including the misuse of reforestation funds and election irregularities. The public believed that President Wahid, who succeeded President Habibie, would introduce reforms to usher in a new era of clean government and good governance. In reality, in his first year in office he was involved in many corruption cases, and parliament is establishing a special committee to investigate the president's involvement.

Indonesia has a number of laws and institutions aimed at reducing corrupt practices. Laws include the Anti-Corruption Law (1971), the Anti-Bribery Law (1981), the Anti-Monopoly Law (2000), the Law on Official Wealth Reporting (1999), and the Consumer Protection Law (2000). As concerns pertinent institutions, these include the Finance Investigation Body, the Office of the National Ombudsman, and various levels of judiciary. Civil society strongly supports efforts to establish a clean government and good governance, as demonstrated by the emergence of such nongovernment organizations (NGOs) as Indonesian Corruption Watch and the Indonesian Transparency Society. In practice, however, all are powerless, because those of the power elite who are supposed to enforce the law are themselves corrupt.

THE ONE-STOP SERVICES OFFICE

The proposal to establish a one-stop services office arose from pressure from civil society and international institutions that had observed that corruption by government officials involved in issuing various kinds of licenses and official documents had become worse. over the years The project also arose from the government's desire to increase investment in industry through policy deregulation, which required simplified licensing. The deregulation was then supported by a 1996 policy package by the Ministry of Home Affairs regarding an integrated licensing service and one-stop licensing service in the regions.

Various licensing operations that had previously been performed by separate government offices were integrated into a single office. The licensing and other operations involved included the issuance of, for example, trading licenses, land certificates, birth certificates, identity cards, store rental contracts, and licenses to operate a variety of different kinds of businesses.

Gianyar Region

An integrated service unit (ISU) was established in the Gianyar region to provide transparent services. The establishment of the Gianyar ISU is believed to have resulted from the polling of civil society by the local government. The Gianyar ISU used the central government one-stop services office as a model.

The Gianyar ISU offers services for 13 kinds of licensing by the local government, which provides the ISU with equipment to enable it to provide service in two ways, that is, passive service, in which citizens visit the ISU, and active service, where citizens visit mobile units that travel throughout the region. Ninety-eight percent of ISU users prefer the current arrangement to the prior situation, citing as their reasons that they are now aware of the time the process takes and its costs. Within five years of the establishment of the ISU, the region's income increased by 400 percent. One reason for this was that the demand for licenses increased by 1,900 percent, indicating that the new system encouraged people who previously had not attempted to obtain licenses to do so.

Bandung City

Bandung's ISU provides 14 kinds of licenses. Previously, the various offices issuing licenses completed only 50 percent of the total submitted each year. The proportion completed has now reached 92.5 percent, and as of mid-2000, the income realized from licensing had reached 158 percent of the amount anticipated.

Sukoharjo Regency

The local government set up an ISU to repair the image of local government and to increase its efficiency and effectiveness. The Sukoharjo ISU currently issues 16 kinds of licenses, and performance indicators suggest that the time taken to issue licenses is now shorter than in the past.

Solok Regency

Solok's local government invited PT POS Indonesia, a state-owned company in mail delivery services, to jointly establish one-stop offices at post offices. Citizens who need to obtain licenses can now obtain 16 kinds of licenses by visiting their nearest post office.

Banjarmasin City

The city established an ISU in an attempt to reduce people's view that the licensing service was inefficient, ineffective, and a place where they were charged illegal fees. Banjarmasin's ISU provides 29 kinds of licensing services.

Advantages of ISUs

The advantages of ISUs for local governments are as follows:

- Illegal costs and fees are reduced.
- Services obtained through post offices that avoid direct contact between citizens and government officials reduce the possibility of corruption because of the absence of direct contact between license requesters and license grantors.
- Local government income has increased significantly.
- Broader cooperation has been achieved between government officials and local citizens.
- Local governments have reduced their dependence on the central government.
- The establishment of ISUs has helped prepare local governments for increased autonomy.
- The performance of local government officials has improved.
- People are once again beginning to trust local government officials.
- The availability of public services at low cost has increased people's awareness of the need to follow the rules.
- ISUs' use of computerized systems is increasing transparency and efficiency.
- The use of computerized systems has reduced possibilities for corruption.

The ISU system is expected to develop quickly and to spread to other regions.

OBSTACLES TO REPLICATION

Indonesia has approximately 358 regions. To date only 6 regions have one-stop services offices and another 74 are considering such offices. The reasons for this slow spread of the one-stop concept are thought to be as follows:

- Individual government officials do not want to lose the incomes derived from charging illegal fees, especially given that their monthly government salaries are sufficient to cover only 15 days of living expenses.
- The central government does not provide local governments with any funds to help defray the costs of setting up one-stop services offices, and many local governments use this as an excuse even when they have the necessary funds. The central government does not provide other kinds of assistance either.
- NGOs, local institutions, and society generally are not involved in helping local governments to establish one-stop services offices.
- The letter the central government sent to local governments asking them to establish one-stop service offices was not a directive, but merely an appeal to do so.

CONCLUSION

A one-stop services office can improve officials' work performance and help to eliminate corruption. Because it promotes transparency, professionalism, accuracy, and cost efficiency, it also helps boost local economic growth.

Therefore efforts to promote the establishment of one-stop services offices should be carried out in parallel with

- Reducing the number of unnecessary government licenses required
- Increasing the salaries of government officials
- Emphasizing the importance of this system to local institutions, NGOs, local governments, the mass media, and the public
- Supporting efforts by society and the press to monitor performance, so that existing one-stop services offices remain transparent and accountable
- Building an alliance between local institutions, local governments, the press, NGOs, and international organizations to persuade the central government to actively encourage the establishment of one-stop services offices nationwide and to have the political will to minimize corruption.

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Efforts to Create an Anti-Corruption Corporate Culture in Korea

■ **Zusun Rhee**

In recent decades, government-led economic development policy has been instrumental in the rapid development of Korea's economy. During this time, various approval and authorization rules and regulations were indispensable for carrying out this policy effectively. However, while these regulatory measures were effective, they also gave rise to increased opportunities for corruption. It was customary for government officials to award special privileges to certain companies or individuals in return for favors, thereby encouraging illegal political donations or bribes to influential politicians and civil servants. In addition, corruption proliferated throughout society because of authoritarian practices, strong regional and academic connections, sectarianism, and paternalism. As a result, the Korean government only sporadically monitored and punished corrupt government officials and politicians. Such sporadic anti-corruption measures have not been effective.

Globalization is rapidly increasing the interdependency between Korea and world markets. This means that Korean businesses now face fierce and unlimited competition in domestic as well as international markets. As a result, Korea's previous development strategy has become increasingly less viable. However, the existing collusive structure backed by abuses of authority and bribery persists because of the lack of fundamental change in institutional and incentive structures.

ANTI-CORRUPTION EFFORTS

Many Koreans believe that corruption was one of the main causes of the 1997 economic crisis. The government and businesses have also begun to recognize that collusive structures backed by corruption hinder competitiveness. Even though anti-corruption efforts are just beginning, this common recognition about the negative effects of corruption has

resulted in the systematic institutionalization of government anti-corruption measures and businesses' voluntary efforts to impose codes of business ethics.

To promote its anti-corruption policy, in 1998 the government ratified the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. That same year the government also passed the Act to Prevent Bribery of Foreign Public Officials. In 1999 the government established the Presidential Committee on Anti-Corruption (PCAC). The National Assembly is currently discussing the legislation underlying the proposed Basic Act on Anti-Corruption. In addition, since 1998 the government has been pursuing administrative and institutional reforms in an attempt to eliminate the fundamental sources of corruption.

Business associations such as the Federation of Korean Industries (FKI) have also started to adopt their own codes of business ethics and are encouraging their members to comply with them. The FKI announced its Charter of Business Ethics in 1999 and established the Committee on Business Ethics to promote the adoption of business ethics and to strengthen member firms' awareness of business ethics. In 2000 the FKI published its *Manual for Business Ethics Practice*. As part of its promotion efforts, in 2000 the FKI, four other leading trade associations, and the PCAC held joint seminars in Seoul and Pusan to encourage member firms to adopt codes of business ethics.

In the mid-1990s leading Korean businesses such as POSCO, LG, Samsung, and Hyundai began to prepare codes of business ethics; however, most of these codes were too abstract to put into practice. In 2000 a few large companies such as Korean Air and Shinsegae started to reinforce their business ethics codes and to introduce guidelines for business conduct. They have also established bureaus for business ethics as the driving engine for business ethics management. In general, however, businesses' efforts to promote business ethics management are still in their infancy.

Manual for Business Ethics Practice

The objective of the FKI's manual is to help member firms practice codes of business ethics and to help establish business ethics management systems. It consists of five chapters as follows:

- *How to prepare codes of business ethics.* The first chapter addresses procedural recommendations and details of codes of business ethics. The manual

emphasizes that any company introducing such a code for the first time should listen to feedback from its employees, including top management. It also recommends that codes contain the following: basic goals to achieve, guidelines for relationships with pertinent parties related to the company, concrete guidelines for compliance with the code, and a compliance pledge from all staff. The code should reflect a fair, sincere, and transparent relationship between the company and its shareholders, managers, employees, customers, neighborhoods, input suppliers, and competitors, plus the media and local and foreign governments and businesses.

- *How to establish a business ethics infrastructure.* The second chapter recommends that companies set up independent bureaus or committees for business ethics, and suggests details such as the committee's functions, the composition of members, operating principles and procedures, and inquiry and punishment mechanisms. It also provides guidelines for working with company whistle-blowers.
- *How to manage and operate the infrastructure.* For successful compliance, the third chapter urges that top management must have a firm belief about the importance of business ethics and should publicize its will to adopt business ethics through official documents, such as a charter of business ethics and guidelines for business ethics. Senior management should also take steps to encourage voluntary participation by employees.
- *How to educate employees about business ethics.* So that they can comply with the code, all employees should be aware of the business ethics requirements of their particular jobs. Thus ethics education should be tailored according to each employee's job requirements. The manual also suggests that companies prepare their education programs according to the hierarchical structure of their businesses, because employees' roles will differ depending on their position within the hierarchy. This chapter also proposes the content of an appropriate education program.
- *How to evaluate performance.* The fifth chapter addresses the assessment of business ethics programs. It recommends that businesses with ethics programs regularly evaluate the performance and effectiveness of their programs and make appropriate modifications and provides a checklist for assessing programs.

This manual is a comprehensive reference that shows businesses how to establish business ethics management systems. Currently, many FKI member businesses are independently and voluntarily committing to business ethics management.

CONCLUSION

As efforts by the Korean corporate sector to develop an anti-corruption management culture are still in their infancy, it is too early to be able to evaluate the performance of business ethics management systems. However, we can observe progress in the establishment of pertinent legal and institutional arrangements. The PCAC has supported the various corporate efforts through such activities as seminars and conferences related to anti-corruption and business ethics. It also supports the establishment of anti-corruption programs for government officials and strongly supports public sector reform, including regulatory reform. These cooperative efforts by the government, trade associations, and businesses will eventually yield positive results.

I. CORPORATE GOVERNANCE

Partnerships between the Public and Private Sectors to Fight Corruption Linked to Organized Crime

■ Keijiru Kimura

The Japan Federation of Bar Associations (JFBA) is the national professional organization of lawyers, organized under the Lawyers' Act. Membership by lawyers practicing in Japan is mandatory, and the JFBA currently has about 20,000 members. The JFBA is involved in such activities as research, analysis, and formulation of policy proposals on a range of legal issues. The Lawyers' Act specifies that the mission of lawyers is to protect human rights and realize social justice. The Japanese bar has taken this concept seriously, and over the years has set up a number of committees to deal with various human rights issues.

One such committee is the Anti-Racketeering Committee, established in 1980 to protect legal rights infringed by the Japanese Mafia. The JFBA felt obligated to take steps on this issue, because the police were reluctant to deal with problems that seemed to them to be merely private disputes, for example, people threatened by loan sharks in the process of debt collection. In addition, individual lawyers were generally reluctant to undertake such cases because of the fear of violence.

The JFBA and its committees are usually not involved in individual cases; however, it does provide some assistance to help lawyers discharge their mission under the Lawyers' Act. In the area of anti-racketeering activities, the JFBA has attempted to establish an appropriate relationship between lawyers and the police department, so that lawyers and the police can cooperate to tackle racketeering. This cooperation has resulted in many successful cases, including eviction actions against Mafia offices, lawsuits against Mafia bosses under employment doctrine, and injunctions against organized crime.

STRENGTHENING CORPORATE GOVERNANCE

As the members of the Anti-Racketeering Committee gained experience and a deeper grasp of racketeering problems, their interest moved beyond victims in specific cases. In 1990 Japan enacted a statute specifically targeting the Mafia. Nevertheless, organized crime groups continue to have access to significant human and financial resources.

The reason for this is simple. Some people need the services of organized crime groups and provide money to them, and as a result the Mafia are embedded in Japanese society. Thus if Japan is serious about addressing racketeering problems, it must address the “supply side” of the Mafia’s power. During the latter half of the 1990s, it was generally recognized that many leading, prestigious companies continued to pay large amounts of money to *sokai-ya* (defined below). Believing that the improvement of corporate governance was a major anti-racketeering measure, the Anti-Racketeering Committee set up a subcommittee on corporate governance.

Sokai-ya

The term *sokai-ya* generally refers to a person who has obtained voting shares of a company and who, in the guise of exercising shareholders’ rights, threatens to disclose scandals at the shareholders’ meeting or to disrupt the meeting in order to get benefits, other than dividends, from a company in the form of consultant fees, subscription fees to certain publications, or “voluntary” contributions. Such payments are generally referred to as cooperation money.

The history of *sokai-ya* can be traced back to as early as 1899, when Japan enacted its first Commercial Code. During the 1960s *sokai-ya* started to establish close relationships with the Mafia, and the money flowing to *sokai-ya* constitutes a financial resource of the Mafia. The *sokai-ya* problem has become an organized crime problem.

Companies are not necessarily seen as victims of *sokai-ya*, because they have sometimes paid money to them to subdue interruptions by other *sokai-ya*, and even by active shareholders. In 1981 the government amended the Commercial Code to make the provision of benefits to shareholders in connection with the exercise of shareholders’ rights illegal. Until that time, corporate staff in charge of shareholders’ meetings tended to have friendly talks with *sokai-ya* and give them money to assure the smooth conduct of meetings. Following the amendment of the Commercial Code, the number of

sokai-ya appears to have decreased dramatically; however, they have not disappeared. Surviving *sokai-ya* simply became more subtle in obtaining money from companies.

A look at several criminal cases reveals the seriousness of the problem. These include a famous bank that loaned *sokai-ya* more than US\$100 million, a leading security company that gave them more than US\$3 million through security deals, and other such cases where large sums were funneled to *sokai-ya*.

As the *sokai-ya* problem is unique to Japan, it may be difficult for non-Japanese to comprehend why many Japanese companies paid such large amounts of money to *sokai-ya*. An understanding of Japanese shareholder meetings may help. Traditionally these are ceremonies to showcase the authority of the company's management, therefore long shareholders' meetings that involve the disclosure of a scandal or other embarrassing information will damage a company's image.

The mission of the employees in charge of the meetings was to prevent such embarrassment and "negotiate" with *sokai-ya* for that purpose. In most cases top management people were not actively involved; they simply took it for granted that someone would deal with the problem. It is thus no surprise that these employees, who could not consult with police or lawyers, would pay money to *sokai-ya* to attain their objective.

Japan's business sectors have recognized the *sokai-ya* problem and business associations have repeatedly indicated the need for appropriate frameworks of corporate ethics and corporate governance. The government, especially police agencies, is also concerned because the benefits *sokai-ya* derive from their activities go to the Japanese Mafia. This concern is underscored by a 1994 comment by the head of the police department, who stated that the department does not have an interest in companies' past if they reported the facts and severed the relationship with *sokai-ya*.

Nevertheless, scandals related to *sokai-ya* have continued among large Japanese companies. Corporations' monitoring systems (boards of directors, outside financial auditors, and so on) do not work as expected by law, perhaps because of the tacit consent by senior management on how to deal with *sokai-ya*. In addition, criminal sanctions do not work as well as preventive measures, perhaps because to impose criminal sanctions, malicious intent must be proven, and a failure to monitor improper conduct, even though it was caused by gross negligence, is not grounds for prosecution. Under this system senior management

do not face any meaningful legal sanctions, unless they are actually involved in a *sokai-ya* deal.

Members of the Anti-Racketeering Committee have discussed whether a company is a victim of *sokai-ya* or a target of the committee. While the committee has not reached a unanimous opinion, its members agree that companies need to strengthen their corporate governance and monitoring. Some members are attempting to address the issue by using shareholder derivative suits against company directors. By using private lawsuits, the defendants are not only the staff directly involved in *sokai-ya* deals, but also senior management or other directors implicated because of their failure to monitor payments to *sokai-ya*. The Takashimaya case is a leading example of this type of shareholder derivative lawsuit, employed as an anti-racketeering measure.

THE TAKASHIMAYA CASE

Takashimaya, founded in 1831 and one of Japan's most prestigious department stores, found itself to be one of the most notorious after the media disclosed its complex relationship with the criminal underground. In connection with the 1981 amendment of the Commercial Code, Takashimaya, which had stopped payment to certain *sokai-ya* groups, was afraid that these groups might disturb shareholders' meetings and that the president at the time would not be able to manage the meeting effectively because of his health.

Takashimaya's General Affairs Section decided to ask a Mafia boss to settle all these issues, and paid him -60 million per year (about US\$0.5 million per year), and -80 million per year after 1991 until the disclosure by the media. The Prosecutors' Office indicted a director, an executive director, and staff of the General Affairs Section. Even though the criminal cases were limited to payments of -160 million to the Mafia, it was quite obvious that Takashimaya had paid much more during its long-term relationship with the Mafia.

After the criminal investigation, a lawyers' group decided to bring a shareholder suit against all the company's directors to recover the -160 million. Many members of the Anti-Racketeering Committee joined the litigation, based on the understanding that the management of Takashimaya were not victims, but people who had assisted organized crime through their negligent conduct. In response to the complaint, all the directors except those directly involved in the deal, but including the president and the directors in charge of financial affairs, alleged that they knew nothing, even though more than -80 million per year have been lost from corporate funds during a period of more than 10 years

because of a total lack of corporate governance and of a fundamental sense of responsibility.

The case was settled, as all the defendants acknowledged their legal responsibility and agreed to repay -160 million to Takashimaya. Because the case was brought for policy, not monetary, reasons, measures to assure corporate governance were incorporated as part of the settlement. Takashimaya agreed to open shareholders' meetings to the media to enhance transparency, to further strengthen the role of its Legal Affairs Section in severing any relationship with the Mafia and *sokai-ya*, to cease paying cooperation money to dubious entities, and to strengthen the role of the Business Monitoring Section. The corporate governance of Takashimaya has been restored.

CONCLUSION

The *sokai-ya* problem is unique to Japan; however, the lessons learned have broader implications.

- The Takashimaya derivative suit was made possible by the lead provided by the criminal investigation. If conducted by the private sector alone, evidence gathering would be too burdensome. Yet strictly governed criminal procedures have their own constraints and may fail to target all the individuals involved. As the lawsuit targeted directors' who failed to monitor the behavior of company employees, directors not directly involved were sent the message that they could be prosecuted even in the absence of direct involvement.
- Once a company has become involved with the criminal underground, severing the relationship is difficult; therefore preventive measures are important. For this purpose, strengthening corporate governance and monitoring within the company, especially the establishment of a compliance program, is necessary. However, in some cases companies cannot change their attitudes by themselves, even to correct actions they know to be prohibited, without the "assistance" of efficient law enforcement.

Cooperation between the public and private sectors is desirable for such efficient law enforcement, especially as civil measures have a longer reach than criminal ones. Considering the important role of the private sector, the infrastructure to facilitate private law enforcement, especially measures to correct corporate governance and enforce compliance programs, should be incorporated into the legal systems of each company.

Measuring Corporate Corruption in Korea

■ **Jhung-soo Park**

Corruption represents costs in terms of time and money, but it also creates an environment of uncertainty in the operations of firms. Corruption is an outcome of fundamental economic, political, and institutional causes. How do businesses live with corruption? Do they benefit from it more than they suffer? Is it in firms' interests to fight corruption? Are some groups of firms more transparent than others? These are the major concerns of Korea's business sector in relation to corruption.

Taking a stand against corruption can be costly and risky. Businesses may be better off individually and collectively in a corruption-free environment, but they may be reluctant to push for necessary reforms. This situation is a good example of Olson's (1965) paradox of collective action, often referred to as the free-rider problem. At the same time, when its competitors are free to continue to engage in corruption, for a company to try to change the rules of competition and refrain from participating in corruption is difficult, an example of the so-called prisoners' dilemma.

Until the 1997 financial crisis, Korea's economy had been developing rapidly for the previous 40 years. From 1962-96 it had been growing at an average annual rate of nearly 8 percent in real terms (Sakong 1993, pp. 28-29). However, Transparency International's 2000 Corruption Perception Index, which highlighted the perspective of public officials taking bribes, ranks Korea as 48th among 90 countries (table 21.1). In addition, the Bribe Payers' Index (BPI) for 2000 ranks Korea 18th among 19 countries (table 21.2). This could be explained by the persistent and opaque government-business relationships and the long duration of the practice of accepting graft and bribery as necessary evils.

Table 21.1
Corruption Perception Index, Selected Countries, 2000

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
1	Finland	10.0	8	0.6	9.0-10.4
2	Denmark	9.8	9	0.8	8.6-10.6
3	New Zealand	9.4	8	0.8	8.1-10.2
	Sweden	9.4	9	0.7	8.1- 9.8
5	Canada	9.2	9	0.7	8.1- 9.9
6	Iceland	9.1	7	1.1	7.3- 9.9
	Norway	9.1	8	0.7	7.6- 9.5
	Singapore	9.1	11	1.0	6.2- 9.7
10	United Kingdom	8.7	9	0.6	7.3- 9.7
14	United States	7.8	10	0.8	6.2- 9.2
15	Hong Kong, China	7.7	11	1.2	4.3- 8.6
23	Japan	6.4	11	1.3	4.3- 7.8
48	Korea, Rep. of	4	11	0.6	3.4- 5.6
63	PRC	3.1	11	1.0	0.6- 4.3
	Egypt	3.1	7	0.7	2.3- 4.1
90	Nigeria	1.2	4	0.6	0.6- 2.1

Table 21.2
Bribe Payers Index, 2000

Rank	Country	Score	Rank	Country	Score
1	Sweden	8.3	11	Singapore	5.7
2	Australia	8.1	12	Spain	5.3
2	Canada	8.1	13	France	5.2
4	Austria	7.8	14	Japan	5.1
5	Switzerland	7.7	15	Malaysia	3.9
6	Netherlands	7.4	16	Italy	3.7
7	United Kingdom	7.2	17	Taipei, China	3.5
8	Belgium	6.8	18	Korea, Rep. of	3.4
9	Germany	6.2	19	PRC	3.1
9	United States	6.2			

Rapid economic growth has been controlled by an economic system of regulated capitalism, in which the government either directly participates in, or indirectly renders guidance to, basic industries and other important sectors, including the financial sector. Korea is one of several countries where government intervention in the market, especially in the financial arena, is extensive. This system involves extensive regulations, which became the root causes of corruption. A business environment vulnerable to corruption and with a weak commitment to ethical behavior in its daily transactions may therefore be seen as the product of a coalition between the state and emerging economic entities (so-called *chaebols*, or giant corporate groups and trusts), which benefited from an expansion of state control.

Since the 1997 financial crisis it has become imperative for Korea to increase the transparency of its market economy. Government policies should also be directed toward eradicating corruption by introducing and implementing various initiatives to uproot corruption, focusing first on the public sector.

THE CONCEPT OF CORPORATE CORRUPTION

Examples of corporate corruption include patronage appointments, bribery, misuse of authority and power, and favoritism in awarding contracts (Jain 1998, pp. 13-29). Most of these examples center around deriving economic benefits from institutional power inherent in political and bureaucratic appointments, that is, public sector corruption.

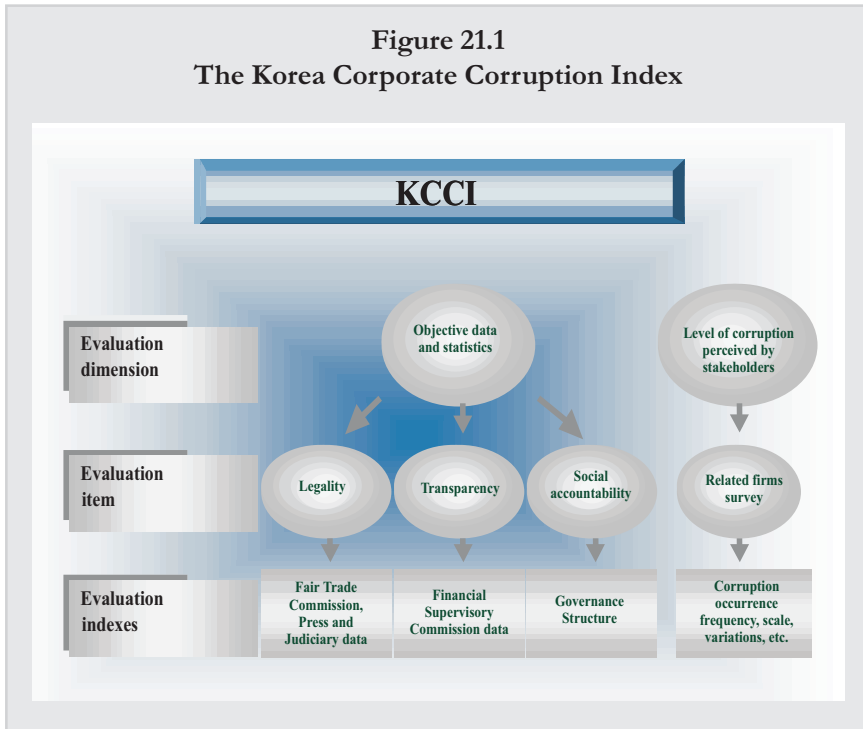
Tanzi (1996) and many others recognize that corruption involves personal relationships, and may even represent informal markets where formal ones have either failed or been circumvented. A broad definition of corruption, which is discretionary violation of an arm's-length principle, could be used as a definition of business corruption.

THE KOREA CORPORATE CORRUPTION INDEX

While a few studies assess the extent to which companies have adopted various practices associated with a corporate ethics program, few have measured individual business corruption practices. Recently, investigators have devised some measures that evaluate the performance of countries or of district governments, such as Transparency International's Corruption Perception Index and Bribe Payers Index, the Institute for Management Development and World Economic Forum's *Global Competitiveness Report*, and the Seoul Metropolitan Government's Anti-Corruption Index,. However, corporate

corruption involves various stakeholders, such as owners, managers, outside stockholders, banks, customers, competing firms, suppliers, employees, and the government.

The Korea Corporate Corruption Index (KCCI) includes two components: the corruption perception evaluates the level of integrity of an individual firm based on related firms' experience and self-evaluation by employees, and the level of corruption evaluates an individual firm's activities using authoritative and objective data and statistics (figure 21.1). Even in the case of a data disclosure problem, the level of business corruption can be assessed by three aspects of this model. The first aspect is the extent to which firms' abide by the current legal system, such as the extent to which they engage in tax evasion and bribes. The second aspect assesses firms' transparency by looking at the level of information disclosure and the accuracy of accounting information. The third aspect looks at social accountability, that is, firms' social responsibility and contributions to society. Survey measurements complement this data.



EXPERTISE SURVEY

A first round expertise survey conducted from 7–31 August 2000 served as a validity test of the KCCI. The respondents were chief executive officers, lawyers, accountants, professors, researchers, government officials, and nongovernment organization activists, of which 195 of the 1,000 sent questionnaires responded.

The survey indicated that the business environment in Korea is considered extremely vulnerable to corruption. Tax evasion, bribery, embezzlement of public funds, fake accounting, dual bookkeeping, money laundering, off-book money, stock trading based on insider information, excessive hospitality costs, provision of political campaign funds, special favors from the government action, and transactions without receipts are reported as very serious. The five items rated as the most important contributors to business corruption by respondents are tax evasion (68.4 percent), bribery (40.9 percent), provision of political campaign funds (37.3 percent), fake accounting (36.8 percent), and double bookkeeping (26.9 percent).

Respondents considered the most serious characteristic of business corruption to be its illegality, its lack of transparency, and the absence of social accountability, in that order.

In response to the question about which group benefits the most from corruption and which is harmed the most, 85.1 percent of the respondents said that the business owner benefited the most, and 56.9 percent said that the customer or the general public was the most harmed.

When asked about the root causes of business corruption in Korea 37.2 percent of the respondents cited endemic social tolerance of corruption practices, 25.9 percent cited pervasive government regulation, and 20.6 percent cited unethical and immoral characteristics of business owners.

Finally, when asked who in a firm was responsible for decisionmaking in relation to corporate corruption, 63.6 percent of respondents cited owners, 16.9 percent cited managers, and 12.8 percent cited chief executive officers. This assignation of blame concurs with government thinking and the government's current reform initiative in relation to corporate governance structures.

CONCLUSIONS AND LESSONS LEARNED

Corruption cannot be fought by political and government action alone. The private sector must do its part by complying with anti-corruption laws and transparency principles, supported by citizens and nongovernment organizations.

Measurements of individual firms level of corruption provide information as important as the measurement of public corruption for combating corruption in society as a whole. The Seoul Institute for Transparency plans to measure corruption levels among major Korean firms categorized by industry in 2001 using the KCCI and hope to have an effective part to play in the fight against corruption.

Corruption is bad for business and business is bad for corruption. Corruption may benefit some firms, but creates problems for all others. Most firms would rather operate in an environment in which the rules of competition prevail and where firms' productivity is rewarded. Such firms can be enlisted as allies in the fight against corruption. Thus even though much of the focus to date has been on what governments need to do to combat corruption, if efforts to counter corruption are to succeed, the private sector needs to be drawn into cooperating in the same battle. The evidence clearly demonstrates that businesses are on the supply side of corrupt practices (Johnston 1999). That said, the abolition of corruption involves work not only on the demand side—the recipients of bribery—but also on the supply side—the givers of bribery.

Successful governance improvement and anti-corruption programs depend on public availability of knowledge and information plus collective action (World Bank 1997). Corruption is not a disease that can be cured by a single dose of medicine, but a symptom that needs to be treated by a systematic and strategic political, economic, and social effort.

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Part IV

EFFECTIVE ACTION

- J. The Public-Private Interface
- K. Public-Private Partnerships
- L. NGOs, the Media, and Development Agencies

**J. THE PUBLIC-PRIVATE
INTERFACE**

Preparation and Implementation of Japan's National Public Service Law

■ **Hideki Goda**

In recent years Japan's public administration has observed serious scandals involving high-ranking government officials. In an attempt to rectify the situation, new measures to restore the public's trust in public duties and government officials were agreed upon at a meeting of administrative vice-ministers in December 1996. These measures included the establishment of ethics codes as an instruction within all ministries and agencies. Despite these efforts another scandal involving government officials came to light in January 1998, and the government began to consider legislation that would govern the ethics of government officials. After deliberate consideration, two bills were introduced: the bill for the Law Concerning the Maintenance of Ethics for Public Officials was introduced in February 1998, and the bill for the National Public Service Ethics Law was introduced in June 1998. On 5 August 1999 the Committee on the Cabinet of the House of Representatives decided to introduce the Bill for a National Public Service Ethics Law as a bill introduced by the committee. The bill passed a plenary sitting of the House by consensus and passed the House of Councilors by consensus on 9 August. The National Public Service Ethics Law was promulgated into law on 13 August 1999.

MAIN COMPONENTS OF THE ETHICS LAW

The main components of the National Public Service Ethics Law are as follows: ethics principles, the National Public Service Officials Ethics Code, a reporting system, and the National Public Service Ethics Board and ethics supervisory officers.

Ethics Principles

The Ethics Law incorporates the following three ethics principles:

- Employees shall not give unfair, discriminative treatment to the public, for example, by giving preferential treatment to particular parties, with respect to information gathered in the performance of their duties, and shall always undertake their duties with fairness, recognizing that they are servants of the entire nation and not of any group thereof.
- Employees shall always distinguish between public and private affairs and shall not use their duties or positions for private gain for themselves or for the organization they belong to.
- Employees shall not take any actions that create public suspicion or distrust against the fairness of public service while performing their duties, such as receiving gifts from entities affected by their duties.

National Public Service Officials Ethics Code

The National Public Service Officials Ethics Code, which is based on the ethics principles, was established as a government order on 28 March 2000, and came into effect on 1 April 2000. The Ethics Law states that the Cabinet shall hear the opinion of the National Public Service Ethics Board when it enacts or revises the code. The board submitted its recommendation regarding the enactment of the code to the Cabinet on 4 February 2000.

The code prohibits the following actions:

- Receiving a gift of money, goods, or real estate from an interested party
- Getting a loan from an interested party
- Obtaining rent free goods or real estate from or at the expense of an interested party
- Receiving free service provision from or at the expense of an interested party
- Receiving stocks that are not publicly held from an interested party with or without payment of the price
- Accepting the hospitality of an interested party
- Dining with an interested party
- Participating in any inappropriate game or golfing with an interested party
- Traveling with an interested party (excluding official travel).

Interested parties are defined as people or entities that could be affected by the actions of government officials during the course of their work, for example, granting permissions or authorizations, providing subsidies, carrying out inspections, providing administrative guidance, supervising businesses, or awarding contracts. Higher-ranking government officials will have contact with more interested parties than less senior officials. The relationship between government officials and interested parties continues, in principle, for three years after the transfer of an official from a particular position. Actions done with an interested party with whom a government official has a private relationship, for instance, a relative or an old friend, may be permissible if they are perceived as not likely to engender public suspicion or distrust.

The code does permit the following actions:

- Accepting a gift from an interested party that is distributed widely as an advertisement or a souvenir
- Accepting a souvenir at a party attended by many people
- Using goods at the office of an interested party during an official visit
- Riding in a car provided by an interested party on an official visit to the office of the interested party (as far as the use of the car is regarded as reasonable given the availability of public transportation and other factors)
- Accepting the provision of refreshment at an official meeting from an interested party
- At a party attended by many people, accepting refreshment from an interested party, and/or eating with an interested party
- At an official meeting, accepting the provision of modest food and drink from an interested party and consuming modest food and drink with an interested party
- Dining with an interested party if employees pay for their own expenses (employees must obtain approval from an ethics supervisory officer if they dine with an interested party at night except for modest dining at an official meeting or negotiations).

Receiving hospitality or provision of financial interest beyond ordinary social courtesy, such as accepting frequent hospitality, from any business entity is also prohibited.

When government officials make speeches, write or edit articles, or appear on radio or television programs for which they are reimbursed and when they do so at the request of an interested party, they shall obtain prior approval from an ethics supervisory officer.

To ensure that government officials understand the new Ethics Law and Code, the Public Service Ethics Board has provided guidance and advice to ministries and agencies. It has also prepared and distributed booklets and conducted training meetings for ethics officials.

Reporting System

Senior officials (assistant director or above) must report to the heads of their ministries or agencies when they receive (a) a gift or hospitality worth more than ₱5,000, or (b) compensation for work performed based on the relationship between an organization or an entity and their duties for which they are paid more than ₱5,000 from an organization or an entity. The most senior officials (deputy director-general or above) have an additional obligation to report their stock transactions and incomes to the heads of their ministries or agencies.

Establishment of the National Public Service Ethics Board and Ethics Supervisory Officers

The National Public Service Ethics Board is responsible for matters regarding the maintenance of ethics related to public duties. Its duties and responsibilities include the following:

- Making recommendations to the Cabinet regarding the enactment of the National Public Service Officials Ethics Code
- Preparing and revising standards for disciplinary actions directed at violators of the Ethics Law
- Planning and coordinating training programs on ethics for government officials
- Examining reports on gifts, stock transactions, and incomes
- Investigating and taking disciplinary action in the case of violations of the Ethics Law.

The Cabinet, with the consent of the Diet, appoints the president and four board members. People who have been in government service for more than 20 years (except as public prosecutors or faculty of national universities) are disqualified from sitting on the board.

Each ministry or agency has an ethics supervisory officer. These officers are responsible for providing guidance and advise to officials in their ministry or agency and for establishing management systems for the retention of ethics under the directions given by the board. Administrative vice-ministers and heads of independent agencies are designated as ethics supervisory officers.

CONCLUSION

The new Ethics Law and Code are in their first year of implementation. The hope is that they will soon restore the trust of the general public in Japan's public administration.

Ensuring Integrity at the Public-Private Sector Interface

■ **Barry O’Keefe**

Government initiatives to create a corruption-free public sector will not be fully effective, and may even fail, unless the private sector is also involved. The private sector must be motivated to act in ways that complement the ways in which public sector officials are required to act.

Most corrupt dealings involve at least two actors: the corrupter and the corrupted. Normally the corrupter is the tempter and the public official is the one tempted. Without a tempter, a public official has little incentive to stray from the path of correct conduct.

For public officials, the private sector is the source of most temptation, with the interface between the public and private sectors providing both the opportunity for and the occasion of corruption. It is the place where each side of the corruption equation balances; where mutual desires or needs are satisfied. Thus corruption can be expressed in terms of the following equation:

$$D (ps) = G (po)$$

in which D (ps) is the private sector entity’s desire or need and G (po) is the public official’s greed or need.

BALANCING THE EQUATION

Government initiatives against corruption are directed at controlling or modifying the conduct of public officials. In doing so they deal with only one side of the equation. This results in an imbalance in the situation. This lack of equilibrium is an unstable state and can lead to a collapse, that is, a departure from correct conduct on the part of public officials. For real success in dealing with corruption in the public sector the private sector must cooperate. To achieve this the authorities need to employ a combination of coercive measures (sticks)

with measures that motivate the private sector to conform to certain ethical norms in dealing with the public sector (carrots).

In relation to the private sector, the government's role should include the following:

- *Putting in place laws that make bribery, insider trading, influence peddling, and other forms of corruption illegal.* The government also needs to enact laws that make it difficult for the corrupt to hide their ill-gotten gains. Cash reporting requirements, laws to prevent money laundering, and similar legislation are vital in this regard. In addition, such laws have an added value: signaling the importance that the government places on the fight against corruption to the entire community.
- *Enforcing the laws that have been put in place.* Enforcement needs to be consistent, impartial, and firm. Enforcement of those laws that strike at corruption signals the seriousness of the government's commitment to a corruption-free society. It also sends a message to the government's friends, as well as its foes, that no one is exempt from or above the law.
- *Putting in place requirements for private business that wish to work with the government.* The government should put in place, either as a law or as a publicly stated and consistently acted upon government policy, a requirement that only those organizations that have codes of conduct that reflect and complement those of the government, as well as mechanisms for monitoring and enforcing their implementation, will have access to government contracts or government-funded projects. Complementary to such action, the authorities can create blacklists of enterprises that infringe anti-corruption laws. The shame factor that accompanies inclusion on such lists can act as a powerful deterrent, but only if such lists are made public. Developing codes of conduct and mechanisms for monitoring and enforcing them can be expensive, and can impose a significant burden for small businesses and individuals. Here trade and professional organizations can play an important role. Such organizations generally have the necessary resources and knowledge to develop a basic or core code of conduct to which their members can ascribe. Trade unions also have a role to play. Their rules can be adapted in such a way as to make them complementary to the codes of conduct applicable to the public sector. This helps to avoid tension between employer and employee.
- *Implementing an effective, ongoing program to heighten awareness of the adverse effects of corruption on the community.* This will require education at all levels, from schoolchildren upward, and should include the political sector. Politicians tend to think of themselves as above such programs, yet experience shows

that perhaps more than most, politicians need rules, codes, and an enforcement mechanism to ensure their integrity and that of the political system.

IMPORTANCE OF LEADERSHIP

People say that the factors for success in real estate are location, location, and location. In the fight against corruption, the factors for success can be expressed as leadership, leadership, and leadership.

Leadership is the first essential for creating an ethical organization, and all the organization's leaders at every level must be committed to ethical conduct. As ethical conduct is unlikely to exist in a vacuum, appropriate leadership with the same objective is also needed at the political and bureaucratic levels. Furthermore, for long-lasting success, community support is required.

The main quality required of leaders is the will to purge their organizations of corruption, and that will must be translated into action. Rhetoric without complementary action will be ineffective; indeed, it is likely to be counterproductive. In addition, leaders require determination and tenacity, because success in the fight against corruption is a lengthy process. Finally, leaders need to be consistent because consistency builds confidence.

The business world is still largely dominated by economic rationalism. The bottom line is all that matters for many in the private sector. Because many people believe that corrupt behavior is a lubricant for commercial transactions, convincing chief executives in the private sector that this is erroneous and that an organization's ethical tone can and does have a positive impact on its profitability is essential. In short, it is necessary to win the hearts and minds of senior management of major industrial, commercial, and financial enterprises to convince them that integrity is good business. To do so successfully, the best approach is to target those at the top, that is, the leaders of the most successful companies, the trendsetters that other companies try to emulate. By all means appeal to their moral sense; however, appeal also to their commercial sense. Show them how disastrous a culture of corruption can be for their organizations.

EFFECTS OF AN ORGANIZATION'S ETHICAL TONE

Research in a number of different economic settings combined with my own experience as commissioner of Australia's Independent Commission

against Corruption clearly demonstrates that the ethical tone of an organization affects an organization's

- Reputation
- Efficiency and effectiveness
- Decisionmaking processes
- Staff commitment and job satisfaction
- Staff stress levels
- Staff turnover.

Each of these factors has an impact on the organization's profitability.

Reputation

The reputation of a commercial organization is a valuable asset and part of its brand image. A company's good reputation generally takes a long time to build up, costs a lot to maintain, and is something that chief executives work hard to protect.

Unethical practices destroy good reputations and consumers' confidence in an organization. Once a company has lost its reputation, regaining it is hard. Both research and experience show that the public remembers events that tarnish a good reputation long after the circumstances that gave rise to those events have been eradicated. Thus avoiding unethical behavior is in a company's best interests.

Efficiency and Effectiveness and Decision-making Processes

Internal unethical behavior or corrupt practices inevitably produce costly aberrations. These include inflated contract prices, contractual terms that are favorable to the corrupter but unfavorable to the company, poorly conceived projects, and distorted priorities. Furthermore, if appropriate laws and governmental practices are in place and properly enforced, breaches of those laws or practices will deprive the organization of access to lucrative government contracts, and even expose the organization's officers to the prospect of criminal sanctions.

Staff Commitment and Job Satisfaction

The positive effects of job satisfaction and commitment to the work ethic are axiomatic. So too is the converse. A workforce that lacks commitment

is generally less productive and is less likely to produce goods or provide services of the same quality as one that is motivated and committed to the organization's objectives. In addition strikes—extremely costly for any organization—tend to be more frequent in organizations where the ethical tone is low.

People want to belong to or identify with an organization or group in which they believe and in which they can take pride. An ethical organization can meet that need. A corrupt one cannot. Decent, honest human beings, which I believe accounts for the bulk of people, do not take pride in or bond with a corrupt organization

Staff Stress

Stress is an expensive and ongoing problem in both the public and private sectors. The high costs of stress in Australia's public sector are well documented. The true costs of stress in the private sector are less well documented, but are nonetheless real. Worldwide stress is a problem of increasing significance, both as a direct cost and through its negative impact on staff morale and commitment.

Research has clearly shown that stress is created when individuals' ethical standards are different from those of their coworkers or their organization. Stress levels are likely to be higher in organizations in which

- Rules are frequently bent, broken, or ignored
- There is distrust between employees and management or between employees
- Appointments, promotions, and rewards are not consistent or are not based on merit
- Management does not stress values, including the value of working toward a goal that employees can respect.

Staff Turnover

Staff turnover is expensive for any organization. When an employee leaves an organization the departure can interrupt a project, lead to delay in its completion, and lower the quality of the output. In addition, the cost in both money and staff time of finding a suitable replacement and then training that replacement is high. Furthermore, when staff turnover is high, especially in the upper echelons of an organization, corporate memory is quickly impaired, and is sometimes lost entirely.

Research has shown that staff turnover is directly related to the congruence between the values of the individual employees on the one hand, and the values practiced in the organization on the other. An unethical workplace has a tendency to perpetuate itself. Those whose values conflict with those practiced in the organization feel stressed, do not have job satisfaction, and tend to leave. The process of replacement tends to select employees whose values are no better than those practiced in the organization. This can be for good or for ill. Just as an unethical workforce is likely to perpetuate itself unless something is done to correct the situation, so too will an ethical workplace tend to perpetuate itself. This is not a new idea. The chairman of McDonalds Australia has stated that the values and norms of behavior at McDonalds are so ingrained that they promote self-selection.

BRINGING ABOUT CHANGE

There are three prerequisites for the success of any program of change:

- Identifying and understanding the prevailing culture within the organization
- Having leadership that is firmly committed to change and to each step along the path of change
- Identifying the existing power networks so as to understand their relationships to each other and to the organization, as well as their effects on the organization.

The following questions indicate whether the prerequisites for success exist:

- Does the organization's leadership have the right qualities?
- Do both employees and managers recognize the need for change?
- Do the organization's employees have shared values, goals, and expectations?
- Are the existing organizational structures and processes appropriate to support the desired change?
- Will the mix of skills and knowledge in the organization enable it to undertake the desired change?
- Does the organization have the personnel and resources capability to implement and maintain the desired change?

If the answer to any of these questions is no, then appropriate actions will be needed before implementing an overall program of change.

A SUGGESTED MODEL FOR CHANGE

The following steps offer an approach to change:

- *Create a sense of urgency that calls for change.* Most change occurs as a reaction. Commonly the reaction is a response to circumstances generally regarded as unacceptable. However, the initial response should not be seen as an instant solution. To be effective and lasting, change must occur over time.
- *Set up a team to implement and sustain the process of change.* While one charismatic person can have a dramatic effect, relying on a single individual is unsafe. If the task is given to a team with little power and expertise or that consists of members with low status in the organization, its credibility will be low, its effectiveness poor, and this signals to employees that those at the top do not take the process of change seriously. Credibility, expertise, leadership, and power are essential if the team is to bring about and sustain change for the better in the ethical tone of the organization.
- *Formulate both a vision and a strategy for achieving it.* This must be done in a way that is realistic, clear, and easy to communicate. It needs to clearly signpost the direction in which the organization wishes to move.
- *Communicate the vision.* Just as a flower that blooms unseen in the desert could be considered wasted, so too is a vision that is not communicated. Unless employees know what the vision is and understand it, they cannot identify with it. Furthermore, management need to take every opportunity to emphasize, by their words and actions, the priority they give to ethical standards and conduct so as to reinforce the vision. If the actions of those in positions of authority are not congruent with the vision of the organization, the likely outcome will be cynicism.
- *Remove obstacles that stand in the way of change.* In organizations that have tolerated unethical behavior or a culture of corruption, some will resist change. There is no place in the organization for such people. If those in managerial or supervisory positions do not believe in change and do not act accordingly, they should be told that they would be better suited to work in another organization unless they themselves are prepared to change. If existing systems encourage or facilitate unethical behavior by rewarding rather than punishing those who engage in it, then systems must be changed. Systems that encourage employees to take shortcuts, make dubious ethical decisions, or place short-term expediency over long-term gain must be replaced with and systems that encourage and facilitate ethical decisionmaking. Similarly, if existing systems of

performance appraisal do not recognize or reward ethical behavior, they should also be changed.

- *Establish mileposts.* Changing the culture of an organization takes time, perhaps longer than the period of employment of many of those involved in the initial phases of the process. As a consequence, there is a danger that employees may see the realization of the vision as remote, perhaps unattainable, and hence not worth striving for. It is therefore psychologically important that the strategy for realizing the vision should have some short-term goals built into it that can be used both to demonstrate that change is occurring as well as to help those who are engaged in the process to feel that they are succeeding. This is important, because success is contagious.
- *Reinforce the gains made and use them as a basis for further change.* Because the task of changing the ethical culture of an organization is never completed, maintaining the desire for change for the better is essential, otherwise an organization may come to believe that it has fulfilled its vision and relax its efforts. Such an organization can become complacent, but complacency is the seed of failure. Ethical practices must remain a visible, significant priority and the organization needs to find new ways need to maintain enthusiasm about changing for the better.
- *Firmly fix the new ethical standards in the organization's culture.* To maintain high standards of behavior and promote further improvement in the ethical tone of an organization, appraisal systems need to recognize and reward relevant behavior. Such systems must be designed in such a way that they can rapidly detect unethical behavior and demonstrate the organization's disapproval in a way that is apparent to all employees.

CONCLUSION

To improve the ethical character of the interface between the public and private sectors, the private sector should act appropriately in relation to the codes, systems, and approaches the public sector has adopted to ensure that it is corruption free. To achieve this the authorities need to convince the private sector that it is in its interests to do so, and can accomplish this using a combination of coercion and incentives and the involvement of trade and professional organizations and trade unions. Community support is also necessary.

Creating an Environment to Combat Corruption

■ **Thomas L. Delare**

The global struggle against corruption has attained intellectual respectability, the acceptance of policymakers, and increased public support. Long years of painstaking negotiation were required to bring the first formal international instruments directed against corruption into being: the Inter-American Convention against Corruption, the OECD's Bribery Convention, and the Criminal Law Convention of the Council of Europe. The current flurry of anti-corruption declarations, the launch of new regional initiatives, and a constant drumbeat of conferences and symposiums indicate that a genuine change in international attitudes toward corruption has taken place.

However, some of the original motivations for these welcome changes have been transitory. The 1997 Asian financial crisis, for example, has largely been overcome, and the intellectual and political changes that followed the end of the Cold War are likewise losing some force. The Asian crisis uncovered systemic problems of directed lending and mistaken macroeconomic policies that otherwise might not have come to light in such an instructive fashion, and Korea's experiences show us how critical the change in the international environment—the end of the Cold War—was in permitting reform to begin. Our problem now is to continue to act upon what we have learned. In addition, those states committed to anti-corruption measures need to ensure that their own efforts are not undercut by others that have not adopted similar measures or are half-hearted in their commitments.

A FRAMEWORK FOR US POLICIES

In the United States we firmly believe that both public support and political will among the leadership are necessary to bring about effective anti-corruption measures; to maintain their effectiveness; and, when necessary, to enlarge their scope. US anti-corruption policies are consciously directed at

building public support in the United States and abroad. We believe that when the people are informed, have reasonable confidence that corrective measures are possible, and come to understand that their own tax revenues and overall welfare are profoundly affected by corruption, they support anti-corruption measures.

THE FOREIGN CORRUPT PRACTICES ACT

Sometimes foreigners view the United States as a large and powerful Don Quixote tilting at the latest windmill and attempting to correct problems that have histories as old as humanity. Perhaps this view has some truth to it, but do forgive us our incurable optimism. Indeed, we think that most problems are solvable, but our urge to reform is not always naïve or dismissive of human nature and habits. Sometimes reform originates in popular disgust and is strong enough to change incentives and behavior.

That is the best explanation for the origins of modern American legal efforts to curb international corruption. The passage of the Foreign Corrupt Practices Act or in 1977, for example, can be directly tied to negative public reaction to revelations about domestic political party financing, and then to scandals linked to payments by US firms to foreign political figures in Japan. In many respects, the act's provisions foreshadowed the OECD Bribery Convention in that they established substantial penalties for people and corporations making payments to foreign government officials, political parties, and candidates to retain or obtain business. Frankly, our original interest in internationalizing these obligations sprang directly from the fears of US firms anxious about being unable to compete in a commercial environment where bribery was an accepted means of doing business.

EXISTING AND PROSPECTIVE INTERNATIONAL INSTRUMENTS

The world has come a great distance since 1977, and the attention given to anti-corruption measures since the beginning of the 1997 Asian financial crisis seems to be on the increase. The US government is encouraged by that and has adopted a policy of actively participating in all relevant anti-corruption instruments and offering support to such regional efforts as the Global Coalition for Africa where direct US membership is out of place. Among recent developments, the US ratified corruption conventions of both the Council of Europe and the Organization of American States. We regard both actions as important symbols of US intentions to fully commit to the same

varieties of anti-corruption obligations that we urge others to adopt. In addition, with our G-8 partners and other United Nations members we are working on a prospective United Nations convention on corruption.

American involvement in the OECD Bribery Convention is probably most noteworthy among our anti-corruption activities. While more limited in coverage than some other anti-corruption efforts, the OECD convention has two important characteristics that make it a model for other instruments. First, it has a geographic scope (membership drawn from five continents) that is unparalleled by any other convention. Given its advanced state of implementation and its sophistication, it is valuable as a model instrument. Second, the OECD has managed to put in place a system of peer review and mutual evaluation of implementation that for now appears unique. As of December 2000, the OECD Bribery Working Group had completed evaluations of 23 countries. I do not believe any of those countries—including the United States—totally escaped criticism. By our informal calculation, nine countries “failed.” Significantly, all nine—with the prominent exceptions of Japan and the United Kingdom—have already begun various corrective actions.

PUBLIC OUTREACH

To build and retain support for anti-corruption measures, the US government makes extensive use of traditional and newer forms of public outreach. For example, we work in close coordination with public affairs departments in all our foreign affairs ministries—the departments of State, Commerce, and Treasury—to place opinion pieces by high-ranking officials in the print media and grant interviews to the regular and specialized trade press. To help build international public opinion in favor of anti-corruption efforts, we have instructed US ambassadors in the other 33 signatories to the OECD Bribery Convention to seek out opportunities to talk to the press on that subject. During the Asian financial crisis we contacted notable public figures and academics and asked them to provide their own opinions on good governance and corruption issues to the media.

Publications by the departments of State and Commerce on anti-corruption efforts are widely circulated among US policymakers and businesses. For example, the departments of State and Commerce publish annual volumes on implementation of the OECD Bribery Convention that provide details of convention obligations and our judgment as to how well other parties to the convention are meeting its standards. Another publication with even wider circulation is *Fighting Global Corruption: Business Risk Management*. Intended for

businesses and public organizations, it provides wide-ranging information on corporate compliance programs, standards of multinational enterprise conduct, and anti-corruption standards.

We also engage in direct contact with the public to advertise our anti-corruption efforts and secure its feedback. For instance, government officials regularly meet with organized business and labor. We also make ourselves available for regular exchanges of views with Transparency International and other nongovernment organizations such as the American Bar Association, the International Chamber of Commerce, and the US Chamber of Commerce.

What may be most exciting is our use of the revolution in information technology. The departments of State, Commerce, and Justice all maintain web sites where they provide information on US anti-corruption policy and all relevant documents. The Department of Commerce has long had a bribery hot line, a phone number linked to a number of trade specialists who can provide advice to business or private citizen callers. Interested parties also make use of a special web site at the Department of Justice where they can report allegations of fraud and bribery. That site is now receiving 8,000 to 10,000 hits a month, with a small number of inquiries coming from abroad.

THOUGHTS FOR THE FUTURE

Turning to the future, the change of administrations in Washington makes it difficult to foresee all aspects of US foreign policy. Nevertheless, a careful consideration of US interests leads to the conclusion that our anti-corruption efforts will not change in any fundamental way. In the first place, the Foreign Corrupt Practices Act will lead us to defend US business interests through our familiar attempts to level the playing field. That will undoubtedly prompt continued support for the OECD and other conventions. In addition, the concerns of financial market makers and academic economists over problems of political and economic risk that are directly linked to corruption are not going to change with new leadership in the White House. If anything, the experience of the Asian financial crisis revealed a great deal of concern among a broad spectrum of economic academics and pundits about good governance and corruption.

What will change? First and foremost will be pressure to enforce existing conventions. Once more, recent European press reports have described disturbing attempts by some leading businesses to circumvent anti-bribery obligations. In some cases the reports mention prominent political figures.

Such cases are unlikely simply to disappear. Even if we do not consider widespread public disgust as a motivating factor for housecleaning, there will be pressure from trade competitors and the OECD process to initiate procedures against corrupt figures.

We can also expect increased pressure on parties with deficient implementation of anti-corruption instruments to improve. Why should Germany be satisfied with ambiguities in French implementing legislation that may permit it to continue less than wholly clean practices? Similarly, why should Germany and France continue to tolerate obsolescent British anti-corruption legislation that appears toothless? Will the United States patiently tolerate a lengthy period of Japanese government consultation about introducing much needed corrections to its legislation? The answers to all these questions should be obvious.

Finally, we can probably look forward to increased pressure on nonparticipating states to raise their own standards of governance and associate themselves with the OECD Convention or other existing or new instruments. In part, the pressure will be political, deriving from competitor states anxious to extend acceptable rules of behavior to all. However, economic self-interest will promote interest as well. In particular, among states anxious to attract and keep foreign investment, the approval to be gained from genuine anti-corruption efforts will probably be paid out in lower risk premiums and more substantial foreign investments.

In 2000 the OECD Bribery Working Group finalized criteria and procedures for admitting new states to the Bribery Committee and to the Bribery Convention itself. Outreach activities have already taken place and an initial review of nonmember hopefuls occurred in October 2000. Even though four Asian states are represented in the OECD Bribery Working Group, Asia as a whole is under-represented. I can hardly be more blunt. The door is open and serious consideration is being given to appropriate applicants.

CONCLUSION

We can anticipate some healthy disputes among allies in this anti-corruption effort. It will attract the interest of our publics. Yet we should all desire the ultimate result. Healthy growth and economic stability will be worth the price. For economies where resources and democratic traditions are in short supply, our success will have an even larger relative impact.

**K. PUBLIC-PRIVATE
PARTNERSHIPS**

Institutional Safeguards for Good Governance: The New Zealand Experience

■ **Anand Satyanand**

In the context of Asia and the Pacific, New Zealand may be characterized by (a) its remoteness and small size, (b) its partly Polynesian history and its indigenous Maori people, and (c) its mode of government and administration. Despite its small size and remote location, New Zealand has many links with Asia and energetically pursues trade and commercial links and cultural contact, both bilaterally with countries such as Korea and multilaterally through membership in Asian-based organizations. Its Polynesian heritage makes notions such as sharing commonplace, and thus sharing ideas and accepting insights from others can be said to come naturally. So far as the government and public administration are concerned, New Zealand has adopted modern means of public sector management with a number of mechanisms available to redress wrongs, including the courts, recourse to ombudsmen, and freedom of information. New Zealand rates consistently as among the least corrupt countries in the world. In September 2000 Transparency International Year rated New Zealand third, slightly behind Finland and Denmark.

Yet New Zealand is not a country that is free from corruption. Recently, in his annual report to parliament, the state services commissioner, the person in charge of administering the public sector, noted cases of corrupt practices on the part of some public servants that had come to light that year. The cases had generated media comment and increased public disquiet.

THE CHALLENGES OF CORRUPTION

Whether corruption is on a large or a small scale, it is its identification and eradication that are important. I am sure that we would all readily agree that corruption is something that needs attention, even where, as in New Zealand, the number of cases is small. We should also remember that corruption is not

confined to a particular country or continent. Consider, for example, the recent Cash for Questions scandals in the United Kingdom; the Carrefours du Developpment scandal in France; the Flick, Barschell, and Hesse controversies in Germany; and the Watergate and Iran-Contra affairs in the United States.

In the same annual report mentioned earlier, the state services commissioner cited the following three reasons for being concerned about corruption:

- Such cases undermine citizens' confidence in public institutions on a scale that is disproportionate to the offense. In a country that relies largely on voluntary compliance with such things as tax laws and licensing and registration arrangements, citizens' compliance is directly related to their trust in the confidentiality accorded to their personal information, the honesty of the officials administering the law, and the perception that all are treated equitably. Such public confidence is fundamental to a successful civil society.
- New Zealand should not take its admirable track record for granted. Plenty of overseas examples demonstrate that once it becomes established, corruption is difficult and costly to eliminate. A willingness to acknowledge the risks and to prosecute those who transgress is fundamental to minimizing such risks.
- Corruption-free public and private sectors contribute to a fair society and a well-performing economy. Corruption serves neither equity nor efficiency.

THE PUBLIC SECTOR

New Zealand's public service comprises 38 government departments and a number of Crown entities and state-owned enterprises. As of June 1999, the service employed almost 30,000 full-time equivalent staff. The population is just over 3.8 million people, the majority of European origin, some 15 percent of Maori heritage, 6 percent of Pacific island descent, and 5 percent of Asian origin. Public service employment roughly repeats this ethnic composition.

During the past 15 years the public sector has been the subject of widespread reform. This has had a number of constituent elements, including

- The passage of laws governing labor organizations and the negotiating environment

- The establishment of state-owned enterprises undertaking operations on a commercially viable basis
- The sale of a number of activities more suited to the private sector, such as railways, insurance, telecommunications, and banking.
- The restructuring of public sector management and the alignment of the public sector with private sector employment regulations by means of a State Sector Act
- The change to employment by means of renewable contracts rather than employment being on a long-term, and sometimes lifetime, basis.

These reforms had a major impact, with one of the most significant being a reduction in the number of public sector employees from more than 90,000 to 30,000.

With a tradition born of its colonial past, which emphasized such things as self-help and an egalitarian approach, New Zealanders dislike both excesses and abuses of power. New Zealand can be described as a relatively small, but reasonably well educated and egalitarian-minded community that dislikes unfairness and will not tolerate corruption. This has a bearing on keeping the amount and degree of corruption at low levels.

COMBATING CORRUPTION

The police are responsible for enforcing criminal law. For serious, complex, and multiple kinds of fraud, in 1990 the government established the Serious Fraud Office to facilitate the detection, investigation, and expeditious prosecution of serious offenders. This office's resources include multidisciplinary teams of investigators, forensic accountants, and prosecutors. Its inception reflected a worldwide trend some 10 years ago to establish similar agencies in the face of increasing difficulties facing law enforcement agencies using traditional methods to come to grips with serious or complex fraud. The office's success in prosecuting fraud cases is running at some 90 percent. The Serious Fraud Office is now turning its attention to international fraud.

In 1962 New Zealand was the first English-speaking country to adopt by legislation the Scandinavian concept of ombudsmen. This notion envisages the independent investigation of citizens' complaints about actions taken by a government department or agency. Ombudsmen are furnished with sufficient powers to make inquiries and obtain the necessary information to form an opinion about the complaint and to make a recommendation for redress where appropriate. New Zealand now has two ombudsmen who undertake some 6,000 cases per year.

All investigations undertaken by the ombudsmen are conducted in private. When an ombudsman believes that a complaint can be sustained, this opinion is reported to the government entity concerned along with any recommendation for action. A copy of this report may also be made available to the responsible minister. At the local government level, the ombudsman reports the finding to the relevant organization and may provide a copy to the mayor. Ombudsmen have no authority to investigate complaints against private companies and individuals or the decisions of judges.

Following a thorough study by a government-appointed committee of senior civil servants, in 1982 the government passed an Official Information Act making New Zealand a freedom of information country. This is based on the principle that information will be made available unless the government has a good reason for withholding it. The act's purposes are to increase the availability of official information to the public and provide proper access by bodies corporate to official information relating to themselves. At the same time it protects official information from disclosure and preserves such things as individual privacy. The ombudsmen can review a decision by a government organization to refuse to supply information, and following such review, the formal recommendation of an ombudsman is binding unless overridden in limited circumstances. The legislation also contains provisions enabling citizens to be advised of reasons for decisions.

Thus the ombudsmen play a role in ensuring the transparency and accountability of government. As such, in the course of this work they can become aware of corruption and can be in a position to recommend appropriate action.

Statutory measures against corruption continue to be added to the law. For example, as of January 2001 the Protected Disclosures Act enables employees who observe serious wrongdoing in or by an organization to disclose that to "appropriate authorities." Such whistle-blowers are protected from civil, criminal, or disciplinary proceedings and from retaliatory action that might be taken by an erstwhile employer.

One of the functions of the State Service Commission is to promote appropriate values and standards of behavior for the public service. It publishes the Public Service Code of Conduct, which comprises three principles: (a) employees should fulfill their lawful obligations to the government with professionalism and integrity; (b) employees should perform their official duties honestly, faithfully, and efficiently, respecting the rights of the public and their

colleagues; and (c) employees should not bring their employer into disrepute through their private activities.

In November 2000 the government appointed the State Sector Standards Board, consisting of senior people from commerce, the government, and the trade unions. The board's task is to advise the minister of state services about acceptable corporate standards that are appropriate for government bodies.

Following the success of the ombudsman model in the public sector, two industries have now adopted this concept. The banking ombudsman scheme began in 1992. It arbitrates unresolved disputes about banking services in an independent and impartial manner, and such help is available free to the complainant. The banking ombudsman can award compensation to cover direct losses of up to NZ\$100,000, inconvenience of up to NZ\$2,000, and some costs. In 1995 the insurance and savings ombudsman's office was established. This is an independent body to help consumers resolve complaints against participating insurance and savings companies. Again, this is a free service to consumers operating independently of the insurance and savings industry and funded by levies upon companies involved in the scheme. The ombudsman's jurisdiction extends to investigations of personal and domestic insurance where less than NZ\$100,000 are involved.

CONCLUSION

This chapter has surveyed the measures available to combat corruption from the standpoint of a small country in the Asia-Pacific region. It is also from the standpoint of a country that has scored high on Transparency International's Corruption Perception Index for a number of years. New Zealand is fortunate in having low levels of corruption, and with the measures described is likely to continue along the same lines in the future.

The Internet Culture in the Fight against Corruption

■ **Gretta Fenner and Frederic Wehrle**

The Internet will save democracy, or so the early 1990s techno-hype led many to believe. Today citizens the world over demand that governments be more open in their interaction with civil society. Access to information and knowledge about the political process and services and choices available is a characteristic requirement in democratic and transparent political systems. Policymakers and analysts see the rapid expansion of modern communication technologies as a new and efficient tool for creating a true and participatory information society.

Anti-corruption initiatives developed over the last decade have shown that a number of key conditions need to be in place to ensure an effective fight against corruption. These include widespread understanding of the causes and effects of corruption, close cooperation between the different actors engaged in the fight against corruption, participation by an active civil society, and continuous monitoring of government action by the public. To achieve this, access to and sharing of information and field expertise is key.

The purpose of this chapter is to analyze the value added of the new communication technologies, in particular of the Internet, in the global fight against corruption and the development of transparent and accountable governance practices. It also identifies the current limits of this tool and actions governments and others can take to increase access to information and strengthen a participatory approach to fighting corruption.

AWARENESS RAISING

The costs of corruption and misgovernance are enormous. Yet public sector managers, senior advisers, legislators, civil society leaders, and the public rarely acquire an in-depth understanding of the multiple dimensions and determinants of corruption or of practical alternatives to improve the situation.

The Internet can help fill this gap. It can rapidly provide independent information to a large number of citizens with limited control restrictions. In addition, information on the Internet is accessible simultaneously from different locations at the same time, and can thereby reach a wide variety of people in different environments and regions.

Thus like other communication tools, but more effectively in many respects, the Internet can contribute to awareness raising by disseminating information, and thus increase citizens' knowledge of what they can do to fight corruption.

CAPACITY BUILDING

The Internet can have a far-reaching, positive effect on the fight against corruption by providing services that can directly affect government policies. In particular, it can be used to establish specialized electronic networks aimed at combating corruption or at ensuring transparency and accountability in public governance. Interested citizens and others who use such electronic networks to share experience and technological expertise with one another can considerably strengthen their political influence by making use of this tool.

Specialized electronic anti-corruption networks can also help speed up the dissemination of best practices and practical tools to governments, especially if those networks establish links with government agencies. To this end the Anti-Corruption Network for Southeast Europe (also known as the Stability Pact Anti-Corruption Initiative) has developed ties with other regional anti-corruption electronic networks under the umbrella of the Anti-Corruption Ring Online (AnCorR web) managed by the OECD. The objective is for specialized government and nongovernment organizations in the OECD countries to transfer their expertise and strategic knowledge to the governments of Southeast Europe and to collaborate on specific issues. As the strategic lessons learned have more or less universal applicability, they can be easily replicated in different regional settings.

The Secretariat of the Stability Pact Anti-Corruption Initiative regularly compiles analysis on governments' anti-corruption policies. The reports are organized around governments' positions on major anti-corruption issues; societal demands and responses; and analyses of other sectors such as businesses, the media, and civil society. These analyses are disseminated via the Internet to some 1,000 institutions, including many government entities.

GETTING CONNECTED FOR A COMMON GOAL

While knowledge about corruption and possible remedies is the first prerequisite for fighting corruption effectively, knowledge alone is insufficient. Without allies, individuals cannot achieve political change. Indeed, individuals stand little chance against the well-organized, complex systems of corruption. Therefore, to have an impact citizens must organize themselves and act in a coordinated way.

Viewed in this light, the Internet can play an important role in linking individuals. It can serve as a meeting place and can help individuals identify others who might have similar concerns. It can provide a common discussion forum for people who are geographically dispersed. A good example of such use of the Internet is the anti-globalization movement, where email and the Internet were principally responsible for its emergence. In addition, the Internet can help unite individuals, both formally and informally. Formal or informal electronic networks aimed at combating corruption can be multisectoral or may focus on a specific anti-corruption area as does, for example, the World Bank's administrative and civil service reform web site. Similarly, the focus can be global, regional, or national.

Formal anti-corruption networks usually have terms of reference, hold annual meetings, and assist their members in various ways. Examples of this type of formal network are the ADB/OECD Anti-Corruption Initiative for Asia-Pacific, the Stability Pact Anti-Corruption Initiative for Southeast Europe, the OECD Anti-Bribery Initiative, and the Anti-Corruption Network for Transition Economies in Central and Eastern Europe. These formal networks often help their member organizations by providing training, as is the case for the ADB/OECD Anti-Corruption Initiative for Asia-Pacific, which in cooperation with the World Bank provides a comprehensive learning program aimed at exchanging field experience and building capacity.¹ The Stability Pact Anti-Corruption Initiative for Southeast Europe helps its participating institutions—civil society and governments alike—by providing technical assistance.

By contrast, informal electronic anti-corruption networks usually do not have terms of reference, hold annual meetings, or have a definite membership. They usually enable users to gain knowledge, exchange

¹ See <http://www.oecd.org/daf/ASIAcom>. For more information about the distance learning project, visit the pertinent section of this web site at <http://www.oecd.org/daf/ASIAcom/CCGDLN>.

information and field expertise, and promote strategic knowledge. An example of such an informal network is the World Bank's Anti-Corruption Knowledge Center. Another example is the OECD's Anti-Corruption Ring Online, whose objectives are to facilitate the flow of information, to spread core anti-corruption values, to speed up the dissemination of sustainable anti-corruption policies to specialized organizations and agencies, and to broaden the reach of anti-corruption efforts. The web site is a repository for more than 5,000 references to books, journals, papers, and other documents, as well as a source of downloadable or online anti-corruption documentation, such as laws, international conventions, anti-corruption strategies, and other information. To create synergies and ensure its impact on a large audience, the Anti-Corruption Ring Online has established partnerships with international organizations, business associations, nongovernment organizations, and academic institutions. These players share the same fundamental values as the OECD—democratic political systems, open market economies, and respect for human rights and the rule of law—but differ in their fields of expertise, prime responsibilities, and main constituencies. As such, they ensure the comprehensiveness of the web's database and permit it to be continuously expanded and updated.

BUILDING STRATEGIC PARTNERSHIPS

As noted, effective action requires a broadly based approach involving all social partners: governments, civil society, enterprises, trade unions, professional associations, and the media. A look at today's most successful societies—both the established democracies and those that have dealt most effectively with the challenges of corruption—reveals densely integrated networks of public and private activities, interests, and resources. Such partnerships draw on the shared interests of citizens, businesses, elected officials, and public officials. Their aim is to break up the monopolies, the unchecked discretion, and the lack of accountability that lie at the heart of corruption.

Discrete activities are not as efficient as when government officials, civil society, and businesses follow a concerted approach. For this purpose, creating a spirit of partnership by strengthening communication and the exchange of experience among the different parties and identifying synergies in their work is essential. The advent of computer networks and virtual communities means that the new communication technologies can be harnessed to build such strategic partnerships. This is particularly important when dealing with geographically dispersed communities.

MONITORING BY TWO-WAY COMMUNICATION

While traditional information channels such as government gazettes, public broadcasts, and electoral campaigns can transfer messages from the government and the public sector to the public, the latter have fewer channels for communicating their needs and expectations to the government. This is especially true in the absence of fair and democratic elections.

If a government is committed to enforcing good governance practices and following the principles of transparency and accountability, it has to find ways to set up two-way communications with its electorate. While governments cannot reasonably provide a 24-hour open door service, electronic communication technologies via the Internet or email can offer such a service. For instance, various government entities could set up Internet discussion groups or make lists of questions and answers publicly available on the web for citizens interested in particular topics.

A true two-way dialogue would not only allow citizens to express their discontent and governments to understand the population's needs, it would also strengthen citizens' trust in participatory government and democracy. Allowing the public to closely follow government action and transmit their requests and concerns in a practical way—via the Internet—would render public-private partnerships and government actions more transparent and accountable.

THE LIMITS OF INFORMATION AND CONTROL ALTERNATIVES

Obviously, the involvement of civil society in anti-corruption efforts via the Internet succeeds best in countries where electronic communication tools are easy to access. However, in many developing countries people do not yet have easy access to the Internet and to other, related communication technologies. For instance, in Africa 77 percent of Internet accounts are concentrated in Egypt and South Africa. Thus for the Internet to reach its full potential in supporting the fight against corruption, electronic communication tools have to be accessible to all members of society. To achieve this, governments that are committed to fighting corruption must provide telephone lines and public access to the Internet, free of charge or at a reasonable rate, in both urban and remote rural areas. At the same time governments are responsible for disclosing and decentralizing information, providing resources to maintain active dialogue with citizens at all levels, and ensuring that civil society is able to monitor government policies.

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Anti-Corruption Network for Transition Economies:
<http://www.oecd.org/daf/ACN>

OECD Anti-Corruption Ring Online:
<http://www.oecd.org/daf/nocorruptionweb/>

Institute on Governance: <http://www.iog.ca/>

Stability Pact Anti-Corruption Initiative for Southeast Europe:
<http://www.oecd.org/daf/SPAIcom>

World Bank Anti-Corruption Knowledge Center:
<http://www1.worldbank.org/publicsector/anticorrupt/>

World Bank Administrative and Civil Service Reform web site:
<http://www1.worldbank.org/publicsector/civilservice>

**L. NGOs, THE MEDIA, AND
DEVELOPMENT AGENCIES**

The Media's Role in Creating a Public Information Network

■ **Natee Vichitsorasatra**

Despite the relative freedom of the press in Thailand, the nation still ranks a lowly 60th in Transparency International's Corruption Perception Index. Worse yet, academics agree that corruption has become even worse since the 1997 Asian economic crisis. Contrary to the Western belief that financial restructuring and better administration will create transparency and efficiency, Thailand continues to sink lower into the dark pits of graft and abuse of power.

The collusion between business people, civil servants, and politicians is regularly exposed in Thai newspapers and television and radio news programs. Such collusion has become so common that it has virtually become a way of life for both the corrupt and the victims of corruption. More than 90 percent of Thai business people have attested to knowledge of corruption, while as much as 20 percent of the national budget is lost in graft.

While Thailand's mass media can boast of being among the freest in Southeast Asia, Thailand is ranked much worse for corruption than a number of other Southeast Asian nations where press freedom is still questionable. Thus making a direct link between press freedom and corruption may not be possible, because several other factors are also important.

The collusion between members of the corruption network has become so systematic that the only way to expose the process is through informers. Those who cooperate in destroying the country for their own gains know the law and the system so well that they are often not punishable. According to research by Chulalongkorn University, the public rank the media as third in stopping graft in the nation. Unfortunately, for the time being the public may be placing its trust in a powerless and ignorant institution.

Many professionals who have worked in the media for a long time like to deceive themselves and say that the media are indeed major players in resolving the problem of graft. With the Thai media reporting on 278 issues pertaining to corruption in the last five years and producing 4,200 newspaper articles, perhaps it is not all about self-deception. Yet all the media are really doing is acting as a mouthpiece for those who are fed up with corruption. The lack of investigative reporters and of legal protection for those in the media has significantly weakened the Thai media. External influence has also caused harm.

Taken at face value, Thailand's investigative reporters may not be completely toothless. However, in every single significant scandal that has occurred in Thailand, the media were not the first to speak out. In the US\$35 million scandal in the Ministry of Public Health, doctors who were fed up with the system spoke out and revealed that hospitals were paying 20 to 30 percent more for medicine than the normal market price. Even when the Asian economic crisis was breaking out, private members of the financial industries were the first to speak publicly about the inefficiency of private banks and crumbling financial institutions.

Trained in journalism rather than academic issues and realities in the political economy or the economic world, Thai journalists know little about corruption until they are told about it. This is not to say that they are incompetent. When they are provided with a leak and substantial evidence, headlines on how the process works abound. Unfortunately, they cannot do so until someone actually takes their hands and guides them through the practicalities of the real world. This is reflected in the many stories on corruption that never have an ending. After a while, the primary whistle-blowers begin to become a little less vociferous and slightly more cognizant of the fact that they might be endangered by the information they give away. Soon sources dry up and the subject fades away.

The Office of the Official Information Committee, a state mechanism that allows a number of official documents to be revealed to the public on request, is one of Thailand's most important news sources. However, in one of the most dramatic exposures of the government, the Ministry of Public Health medicine scandal, the committee's director was removed after he had decided that the information could be revealed to the public. In 1999 the committee received 78 requests for information and ruled on 38, of which it granted 34. However, the committee operates under provisions on what type

of information cannot be revealed, which allows room for interpretation and evasion.

If they were provided with better legal mechanisms, the media could certainly do more after being provided with a leak. Unfortunately, Thailand still lacks an equivalent of the First Amendment or a public interest law. Several newspapers are facing hundreds of lawsuits, many of which they can expect to lose, because of their honest reporting of corruption and abuses of power. The fear of such lawsuits means that the Thai media are far less outspoken than they could be.

In addition, business people or the state dominate the media. The state owns most of the country's television stations, and instances of directors of state-owned television stations being removed from their positions following broadcasts about corruption are not unusual. One television station has sold more than 50 percent of its stock to a company owned by a telecommunications tycoon who was aspiring to become prime minister.

This problem of ownership is not limited to television stations. National newspapers are clearly partisan. The side they take depends heavily on sponsorship by and private relationships developed between the newspaper and influential individuals. Under such circumstances, impartial reporting cannot be taken for granted.

Despite these problems, the role of the media should not be underestimated. While the media are powerless in hunting down graft, they are among the most powerful institutions in distributing the information to the public. The media are weak on their own, but strong when they join hands with individuals or institutions that want a case publicized and the perpetrators of graft shamed.

At present, the most efficient way to block corruption is to reveal it and to minimize opportunities for corruption. Academics, both in Thailand and abroad, are finding ways to increase the costs of corruption and to boost accountability. The media could participate actively in such a strategy if the relevant institutions were to become more sincere in their efforts to curb corruption.

Thailand needs an information network against corruption. Currently the National Countercorruption Commission, the Office of the Civil Service

Commission, and the bureau to follow up on the budget comprise the information network. A number of nongovernment organizations are also playing an active role in exposing corruption. Sadly, the bureaucracy's deeply entrenched sentiment is that what goes on in the state should be kept within the state. It also feels that government departments need not concern themselves with what goes on in other departments. As a result, one office deals with corrupt politicians and another with corrupt civil servants, while other bodies oversee corporate governance.

This fragmentation among Thailand's anti-corruption agencies needs to be ended so as to promote a comprehensive information network. The new constitution's institutions, already overworked, need to enlist the media's curiosity to help them work. Unfortunately, the institutions fighting corruption seem to be reluctant to use the media to punish wrongdoers for fear of becoming martyrs in a country still dominated by cronyism.

The outcomes of corruption continue to be chilling, especially with the privatization of state enterprises and the rise of the telecommunications sector, which will give rise to even more procurement and contracts. The media are still too weak and too uninformed to track down new instances of corruption while keeping track of current corruption activities. However, as a mouthpiece for the brave, no whistle-blower will find an outlet as loud and as bold. Used wisely, a public information network formed by the brave and powered by the media can be immensely powerful.

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Making Anti-Corruption Actions Work: Enlisting the Media, Nongovernment Organizations, and Aid Agencies

■ **Manzoor Hasan**

Established in 1996 as a trust, Transparency International Bangladesh (TIB) is now recognized as Bangladesh's lead agency in the fight against corruption through the use of awareness raising. TIB carried its first survey on corruption in Bangladesh in 1997. In 1998 it looked at corruption from the public's perspective. These two activities were not only powerful awareness building tools, but also provided useful insights into public perceptions of corruption and the public's attitude toward fighting it. (For information on both activities and for other information, see TIB's web site: <http://www.ti-bangladesh.org/>.)

Both studies revealed that notwithstanding the endemic and deep-rooted nature of corruption in Bangladesh, people believe strongly that given the political will to do so, corruption can be brought under control, and that many people are neither willing to take nor to give bribes. This was the first concrete evidence that the general public was not prepared to throw in the collective towel, but was prepared to battle it out. The next step was for TIB to develop strategies against corruption that could be implemented at various levels. TIB's trustees and allies have now reached consensus on the first phase of a five-year plan of action.

TIB's strategy is based on a common understanding of the issues realized through numerous interactions and from a needs assessment carried out among various socioeconomic groups in both rural and urban areas. The key aspects have been outlined in TIB's strategic plan, which has been revised through a series of consultations with various groups, including donors.

The major thrusts of the current phase are as follows:

- Establishing a number of committees of concerned citizens in selected areas to act as core units
- Supporting the committees of concerned citizens by providing advice and information centers that would act as resource units for these committees
- Providing documentation to support advocacy and campaign activities
- Undertaking research
- Developing TIB as a primary organization supporting a movement to reduce corruption in those areas where TIB will operate and influencing other areas to take steps against corruption by creating an enabling environment.

TIB will focus on advocacy and on the formation and activities of the committees of concerned citizens. The prime objective is to ensure the accountability, transparency, and efficient functioning of public and private bodies and to create an environment in which anti-corruption activities can be enhanced and made socially acceptable to all.

The needs assessment study probed ordinary people's perceptions of corruption. It found that people across different social levels believe that they have little control over their lives because of the universal corruption that touches most aspects of their lives. The range of definitions of corruption by those interviewed was also wide. It included bribes for services and to get business orders, corruption of political parties while conducting elections, and "social terrorism" through toll collection. People thought that public bodies could not function properly because of corruption, and that corruption is linked to the existing political system.

The study also revealed that despite a negative environment regarding the elimination of corruption, people have a significant desire to eradicate corruption. They do not take action against corruption themselves because of the high risks involved in doing so, including physical, mental, social, and economic risks. The general feeling is that a social movement against corruption is needed. To achieve this a facilitating body is needed, and TIB, which has counterparts in other parts of the world, seems to fit this need well.

THE ROLE OF CIVIL SOCIETY IN COUNTER-CORRUPTION STRATEGY

The role of civil society is crucial in promoting an enabling environment to curb corruption. TIB believes that any long-term anti-corruption strategy must have active participation by civil society, and without such a commitment, meaningful achievements will be elusive. TIB also believes that true civic participation in a democracy can only be achieved when citizens have access to information. Thus TIB's long-term objective is for civil society in Bangladesh to eventually be able to take its legitimate position in the public decisionmaking process.

The Role of Watchdog Agencies and the Media in Strengthening Integrity

Given the high economic costs of corruption, TIB should focus its plans and programs on the development of effective watchdog agencies and public awareness of their existence. Various regulatory bodies have been functioning as watchdogs in a conventional, but ineffective, manner. The following are some of the reasons for their lack of effectiveness:

- They are controlled by groups with vested interests
- The laws governing these watchdog agencies have been applied selectively
- Follow-up actions have not been taken
- Evaluations of these agencies have not been done.

The ineffectiveness of these watchdog agencies is compounded by citizens' lack of awareness of their rights and lack of information about bureaucratic procedures, rules, and regulations. Clearly in Bangladesh the watchdog concept is either misunderstood or is a misnomer.

The investigative media have been a central plank in TIB's activities and will continue to be in the forefront of any future plans. A vigilant press may be inconvenient, but is nevertheless essential in safeguarding the interests of the majority. TIB will continue its special relationship with the printed media and encourage the highest standards of journalism by providing awards, training, sabbatical allowances, and information.

TIB's News Scan Reports

In 1997 TIB carried out a modest news scan analysis, and based on that pilot experience carried out a second study in 2000. TIB was able to undertake such an exercise mainly because Bangladesh enjoys a vibrant and relatively free press. TIB felt that it could assist the process of investigative journalism by adding value to the valiant efforts of Bangladeshi journalists. Furthermore, TIB felt that aggregating information about bad governance could strengthen civil society by reinforcing bilateral relationships, for example, between relevant nongovernment organizations (NGOs) and the press and between academics and newspaper readers and eventually the electronic media.

TIB has put together its first six-monthly report and plans to publish such reports every six months by extracting the new items on corruption in both government and nongovernment sectors. Below are some extracts from the first report. The full report is available on TIB's web site.

The sampling technique included developing a database by collecting news from nine national dailies over a six-month period (January–June 2000). Newspapers are a good source of current information, because they contain many corruption-related reports focusing on various sectors, such as the police, the Forest Department, and local governments. TIB's news scans database team gathered information about 1,345 corruption cases.

CORRUPTION BY SECTOR, DEPARTMENT, AND DIRECTORATE. The team found corruption cases involving officials in 36 of Bangladesh's 37 sectors, departments, and directorates. The highest incidence of corruption was in the Law Enforcement Agency (20.67 percent of the cases). Table 28.1 ranks the corruption cases by sector, department, and directorate.

The first four entries in table 28.1 represent roughly half of all reported cases (51.08 percent) and the next eight represent about 30 percent of all reported cases. The Bureau of Anti-Corruption was the only department without any reported cases.

CORRUPTION BY LEVEL OF OFFICIAL. At the level of individual officials, first-class officials were found to be more corrupt than others, with 399 reported cases against them (table 28.2).

Table 28.1
Distribution of Corruption by Sector, Department, and Directorate

Sector, department, directorate	Reported Cases		Sector, department, directorate	Reported Cases	
	Percentage of Total	Number		Percentage of Total	Number
Law enforcement	20.67	278	Cultural affairs	0.67	9
Local government	11.67	157	Agriculture	0.59	8
Education	10.93	147	Prison Administration	0.52	7
Health	7.81	105	Department of Narcotics	0.52	7
Forestry and the environment	4.46	60	Public works and housing	0.45	6
Direct and indirect taxation	4.46	60	Judiciary	0.45	6
Finance	4.31	58	Energy and mineral resources	0.45	6
Communication	3.79	51	Civil aviation and tourism	0.37	5
Water resources	3.49	47	Disaster management and relief	0.37	5
Post office and telecommunications	2.97	40	Defense services	0.30	4
Power	2.90	39	Sports and youth	0.30	4
Land administration	2.38	32	Religious affairs	0.22	3
Commerce and industry	1.26	17	Information	0.14	2
Shipping	1.12	15	Election Commission	0.07	1
Parliamentary affairs	1.12	15	Bureau of Anti- Corruption	0.00	0
Passports and immigration	1.12	15	NGOs	1.56	21
Social welfare	0.82	11	Private service organizations	4.68	63
Food Department	0.82	11	Political parties	1.56	21
Fisheries and livestock	0.67	9			
Total				100.00	1,345

Source: TIB database (January–June 2000).

Table 28.2
Number of Reported Cases by Level of Official

Level	Reported cases	
	Percentage of total	Number
First-class official	29.67	399
Second-class official	16.28	219
Autonomous official	9.74	131
Elected official	8.18	110
Higher official (joint secretary and above)	6.99	94
Third-class official	3.57	48
Autonomous official	3.05	41
Unknown level	22.52	303

Source: TIB database (January–June 2000).

Table 28.3
Victims of Corruption

Victim	Reported cases	
	Percentage of total	Number
Government	36.95	497
Citizen	31.08	418
Student	7.21	97
Business person	4.54	61
Government official	2.75	37
Farmer	2.16	29
Teacher	0.82	11
Journalist	0.22	3
NGO worker	0.22	3
Doctor	0.15	2
Lawyer	0.15	2
Unknown	13.75	185
Total	100.00	1,345

Source: TIB database (January–June 2000).

IMPACT OF CORRUPTION AND ACTIONS TAKEN. Table 28.3 shows the distribution of victims of corruption in reported cases. It is evident from the table that the state is the main victim, with about 500 of the reported cases.

The effects of all reported cases could not be measured in monetary terms. Some cases reflected damage to the environment, some violated human

Table 28.4
Effects of Reported Corruption Cases

Effect	Reported cases	
	Percentage of Total	Number
Financial losses	48.40	655 (government 211, citizens 72, unknown 372)
Violation of citizen's rights	16.73	225
Environmental degradation	5.35	72
Deterioration of law and order	5.28	71
Violation of human rights	2.01	27
Physical harassment	1.12	15
Other	6.91	93
Unknown	13.9	187
Total	100.00	1,345

Source: TIB database (January–June 2000).

and citizens' rights, while some cases were related to physical harassment. Table 28.4 summarizes the effects.

During our study period the total losses to the government from the reported 211 cases amounted to Tk 11,535 crore (equivalent to about US\$2.14 billion). This figure does not include the losses to citizens who paid bribes to corrupt officials. It also does not include the misappropriation of food grains by officials of Union Parishad, which were estimated to be 1,000 metric tons during the study period. During our study period 655 reported cases related to financial loss, of which 211 cases concerned various government sectors (table 28.5). The education sector incurred the greatest financial losses, followed by local governments.

A World Bank (2000) report stated that Bangladesh could achieve 2 to 3 percent of additional growth in its gross domestic product by eliminating corruption.

NETWORKING AND COALITIONS

TIB's activities have taken advantage of the network of active NGOs operating in Bangladesh. Bangladesh has a diverse and unique NGO component within its civil society focusing on poverty alleviation, rural development, disaster management and relief, gender issues, and human rights.

Table 28.5
Financial Losses by the Government Sector

Sector	Financial Loss	
	Tk in crore	US\$ billions
Education	2,305.48	0.43
Local government	2,111.23	0.39
Health	2,051.42	0.38
Water resources	1,978.83	0.37
Finance	993.25	0.18
Commerce and Industry	783.47	0.14
Shipping	638.42	0.12
Forestry and the environment	228.67	0.04
Direct and indirect taxation	119.32	0.02
Communications	106.08	0.02
Power	87.58	0.02
Food Department	12.09	0.01
Social welfare	1.53	-
Passports and immigration	1.05	-
Law Enforcement Agency	0.87	-
Other	115.69	0.02
Total	11,534.98	2.14

Source: TIB database (January–June 2000).

TIB aims to promote awareness building and networking within the private sector, because the business community has also become quite vocal within civil society. As the issue of governance is relevant to most of these civil society organizations, TIB could develop coalitions on various matters to tap the enormous wealth of local information.

TIB is one of the founding members of a coalition known as the Governance Coalition. This coalition has an informal structure and its partner organizations have agreed to build an internal alliance in an attempt to achieve the following:

- Obtaining support from other organizations in achieving its objectives
- Working collectively on major governance issues
- Improving human resources within the Governance Coalition
- Increasing the capacity of the partner organizations
- Strengthening the ongoing programs
- Speaking with one voice
- Saving time and resources

- Obtaining grassroots-level information
- Avoiding duplication of efforts
- Gathering information on good governance.

The Governance Coalition has prepared a paper on the nature of politics in Bangladesh as perceived by a cross-section of the population. This paper is being used as an ideas paper to generate debate within civil society. Various partner organizations of the coalition are involved in the process of consultation, which is seen as a way to build links with the various elements of Bangladesh's civil society of and also a way to foster congenial working relationships between and among various organizations.

DONOR CONSORTIUM

TIB requires substantial funding at three levels—core level, project level, and technical assistance level—to undertake its plans and programs. It envisages that some of the core funding could come from project financing.

TIB has been investigating the idea of a consortium of various donors pooling their resources and giving TIB flexibility in terms of developing its projects. The rationale behind such an approach is to ensure that the ownership of TIB activities remains with Bangladesh's civil society and is not led by the donor community.

TIB has presented a five-year plan, known as Making Waves, to a group of donors, and a joint consultation process has been undertaken. TIB considers this process as an awareness raising exercise for donor organizations in terms of important governance issues as they currently exist in Bangladesh.

CONCLUSION

TIB activities would ultimately be reflected as the platform of a greater social movement. These are early days, and much concerted effort has to be invested over a considerable period before any change can be expected.

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The Role of Nongovernment Organizations in Preventing Corruption

■ **Nam-Joo Lee**

Recently the OECD, the World Bank, the United Nations, Transparency International, and other organizations have pointed to civil society and nongovernment organizations (NGOs) as the principal driving forces for the effective prevention of corruption. This chapter explains the reasons for this, discusses the role NGOs should play, and suggests how NGOs might cooperate in fighting corruption.

PARADIGM SHIFT

The first reason why civil society and NGOs have emerged as the most appropriate bodies for fighting corruption is a change in the understanding of the root causes of corruption. Previously the approach to discovering the causes of corruption focused mainly on those individuals involved in bribery, and corruption was therefore regarded as a series of isolated incidents. However, a close look at the latest corruption cases revealed that this approach could no longer explain the true nature of corruption for a number of reasons described in the following paragraphs.

Systematized Corruption

Today the biggest problem concerning corruption is that it is widespread and systematized, and people tend to view its proliferation as a natural phenomenon. When bribery and corruption are constant occurrences, it is systematized. Systematized corruption prevails in countries lacking both surveillance of and restraints to political power and checks and balances within the bureaucracy. Corruption is no longer a problem that occurs on an individual level, but on organizational, social, national, and even global levels.

Emphasis on Ethics

The most serious consequence of corruption is people's resulting lack of confidence in the government in general. The OECD has termed this type of distrust as "confidence deficit," and has focused on the integrity of public officials and the transparency of their transactions. In line with this trend, ethics has been added to the "three Es" considered of greatest importance in relation to corruption: the economy, efficiency, and effectiveness. Ethics is now the fourth E.

Corruption as a Worldwide Phenomenon

Until the 1980s analysts and observers saw corruption as being prevalent mostly in the developing countries, and recognized it as something that undermined development. However, corruption is now becoming an important issue around the world, regardless of whether countries are developing or industrial.

Over the last 10 years efforts to combat corruption have become more widespread. The OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions came into effect in 1999, and other international anti-corruption covenants have also come into force. The emergence of Transparency International in 1993 also attracted worldwide attention to the public's new attitude toward corruption.

New Understanding of Civil Society

Recent discussions of civil society differ significantly from past concepts. Society is now viewed as a three-dimensional sphere consisting of governments, markets, and civil society. Civil society can watch the transactions between the government and the market. This is another reason why NGOs can be effective in preventing corruption.

THE NEW RELATIONSHIP BETWEEN CIVIL SOCIETY AND NGOS

People in civil society freely and autonomously build and secure a social sphere in which they can create new standards for reform and new values as a result of communication and interaction. As a consequence they continuously challenge various sectors of government, the economy (markets), and society to bring about change.

The most important tasks of many Asian countries have been constructing a modern state from a feudal society, building a democratic nation after breaking away from colonial rule, and industrializing. However, many countries tried to accomplish these tasks through economic development under a powerful government dictatorship. Since the 1990s many NGOs have drawn attention to serious problems inherent in these countries' governments and markets, where the development of civil society has been constrained.

PREVENTING CORRUPTION AND BUILDING CIVIL SOCIETY

NGOs' interests in and commitment to the anti-corruption movement are an inevitable outcome of government policies' failure to curb corruption. However, corruption is a serious obstacle to building civil society. NGOs need to empower people to strengthen their capacities to overcome corruption.

One of the merits of NGOs, compared with governments, is that NGOs can embrace social equalities, provide meaningful inputs into a new way of life, monitor government transactions, and maintain political independence. The OECD and other international organizations recognize NGOs as having the highest integrity and seek their contributions.

The role of NGOs in preventing corruption may be illustrated by some practical examples of how NGOs in Korea work and what they have done. A conglomeration of more than 900 civil society groups has formed coalitions under the Anti-Corruption Network. The following paragraphs describe some of their activities.

Law to Prevent Corruption

The legislation for a basic law to prevent corruption was strongly urged and proposed to parliament by 24 national NGOs. In recent years Korean society has undergone a number of agonizing changes caused by the 1997 economic crisis that was caused by Korea's political and economic systems. The outcome was weakened competitiveness, international distrust, and destruction of the national economy. Civil society and NGOs formed the Civic Solidarity Network for the Legislation of Law to Prevent Corruption. This law was proposed to parliament in late 2000 through public hearings and enacted in June 2001.

Political Reform

Together with 500 civic groups, the Citizens' Coalition for the 2000 General Election launched a campaign against certain candidates. The coalition laid down guidelines that in their view made candidates ineligible to run.

The coalition disclosed a list of 86 people who would be the targets of its campaign 10 days before election day. It compiled this list based on a screening of 1,000 candidates on such criteria as (a) involvement in bribery, (b) violations of election law, (c) contributions to the destruction of constitutional government, (d) human rights record, (e) instigation of local antipathy (localism/sectionalism), and (f) reactions to reform bills and policies. Other criteria included unregistered private property, avoidance of military service and tax payments, and any previous criminal offenses. The coalition chose 22 of the 86 candidates for intensive targeting. It organized bus tours of the country to inform voters of about the candidates' shortcomings and led a sign-up campaign asking voters not to vote for those disqualified by the coalition and to agree not to accept money or gifts in return for their vote. As a consequence of the campaign, 59 of the 86 targeted candidates were defeated.

The coalition's campaign did not succeed in overcoming voter apathy and encouraging young people to vote. Participation by voters was the lowest of all general elections, and many obstacles to political reform remain. Nevertheless, the coalition's achievements were valuable as a step toward future political maturity.

Education and Public Awareness and Leadership Development

The program of education for civil movement leadership is open not only to NGOs, but also to ordinary citizens. The program last five days and is organized four or five times a year. Some 25 to 30 people participate each time. The focus is on civil movements, local self-government, social welfare, and youth movements.

As a way of extending educational opportunities while facing a turning point in Korea's history, NGOs organize education programs in response to the need for a new direction and new management. These education programs are run in cooperation with the Konrad Adenauer Foundation.

Minority Shareholders Campaign

Since 1997 the NGO People's Solidarity for Participatory Democracy (PSPD) has launched the Minority Shareholders Campaign to protect minority shareholders' rights and to increase the transparency of corporate management. The campaign works to uphold the rights of minority shareholders as guaranteed by commercial and securities exchange laws.

The PSPD's Minority Shareholders Campaign aims at going beyond raising awareness about the problems to actually transforming companies. The PSPD believes that this will have a significant impact on Korea's corporate management environment, and that it will play a large role in the reform of the *chaebols* (conglomerates). Its activities include the following (see <http://www.peoplepower21.org>):

- Watching the big five *chaebols*, filing lawsuits in the public interest, and organizing campaigns such as the Minority Shareholders Campaign
- Protecting the interests of minority shareholders
- Monitoring *chaebols* policies and restructuring
- Campaigning for the elimination of corruption
- Campaigning for the enactment of the Anti-Corruption Law drafted by the PSPD
- Organizing campaigns for the disclosure of information
- Monitoring the government's budgeting process and advocating enactment of the Law on Anti-Corruption in Budgeting drafted by the PSPD
- Advocating protection for whistle-blowers
- Advocating introduction of the Informants Protection Act and counseling informants who reveal various social injustices.

Improving Cooperation between Development Agencies, Governments, and Civil Society

■ **Phil Mason**

Over the past decade an unprecedented openness and commitment to discussing corruption issues has developed, along with their recognition as factors that significantly affect international development. This has offered major opportunities to make progress in an area that hitherto had often seemed out of bounds to development practitioners.

There has rarely been a more conducive climate for tackling corruption. The nature and impact of corruption on development are increasingly understood, with an emerging consensus on the adverse consequences for investment and growth. More than ever citizens in developing countries are demanding better of their political leaders and public officials and raising their expectations of government. Taxpayers in industrial countries are increasingly concerned about ensuring that development assistance is used effectively and to the benefit of the poorest. International trade and financial ministries in industrial countries have taken important steps to act against bribery in trade and the use of international financial systems to launder the proceeds of crime and corruption.

Development agencies have also stepped up their efforts. However, increased donor commitment and activity has yet to translate into a fully coherent donor response. This chapter seeks to offer practical suggestions for improving cooperation among development agencies in anti-corruption work.

THE CONTEXT

Primary responsibility for tackling corruption must rest with national governments. Development agencies have declared their commitment to

supporting governments committed to bearing down on corruption. The current context for anti-corruption work is characterized by increasing levels of activity by development agencies in recent years, but coupled with often low levels of coherence at the point of impact in-country.

The different mandates and types of expertise of development agencies lend themselves to different perspectives, each of vital importance, but each needing to be complemented by actions elsewhere to be fully effective. For example, the International Monetary Fund's focus on budgets and public expenditure confines its concerns to the economic policy environment. It does not seek to tackle corruption in member countries more generally. The World Bank operates comprehensively on public sector institutions. Its mandate does not extend to directly addressing the political aspects of corruption. Bilateral development agencies can often have less limiting mandates, but most cannot operate in all countries and need to focus their efforts in a narrower range of countries.

At present, the scene often appears to be one of fragmented enthusiasm. This is least helpful to governments that are often themselves facing challenges of coordination and strategic prioritization. The aim must be to harness the rich diversity of skills and perspectives in all quarters to generate action that is concerted and united at the point of impact. This chapter offers observations from a development agency perspective on the scope for doing that, endeavoring to focus on practical actions.

COUNTRY-LEVEL COOPERATION

The specific forms of cooperation among development agencies that are best to pursue in each country will depend crucially on the local context, and especially the national government's approach. While some broad principles of donor cooperation will be appropriate in all contexts, distinguishing between the types of settings likely to be encountered is helpful, because these will often indicate particular actions as being more appropriate than others.

Optimal cooperation between development agencies will take different forms in each of the following settings: (a) where the government is determined and proactive in tackling corruption, (b) where the government is ambivalent or noncommittal or where the issue is not openly on the public agenda, and (c) where circumstances are nonconductive.

Before considering each in turn, two general points should be made. First, the introduction of the Poverty Reduction Strategy (PRS), associated with the World Bank's Comprehensive Development Framework approach, offers new opportunities in many countries for both addressing corruption as a general factor in national development and for providing a strategic framework for cooperation for all development agencies in a country. This makes it desirable for all PRS papers to address corruption. Second, if the PRS commitments are to be meaningful, they need to be based on a well-thought out anti-corruption plan. This means that development agencies should always be aiming collectively to encourage governments to develop holistic anti-corruption plans, providing assistance if required.

Where the Government Is Determined and Proactive

Where the government is determined to tackle corruption and is willing to develop a long-term vision (either through a PRS or, if this approach is not applicable, through other relevant national development strategies), development agencies could best assist collectively in the following ways:

- *Buying into the government's anti-corruption plan.* Where the government has a national anti-corruption plan that can link activities in different sectors and institutions in an integrated way, direct support from all development agencies is likely to offer better prospects for long-term results than where the agencies separately seek out their own avenues for tackling corruption. Such an approach works through and strengthens established government mechanisms rather than creating new ones. Where an explicit anti-corruption plan has yet to be developed, development agencies collectively can lend powerful support to its development. Another possible starting point for collaboration is concerted efforts to ensure that corruption is addressed as part of the broader governance agenda.
- *Developing joint donor-government liaison.* An informal or ad hoc working group on corruption could ease the government's liaison burdens and improve opportunities for collective agreement on priorities. A working group could be a conduit for providing technical assistance, for example, in developing and implementing anti-corruption strategies. The pivotal positions of multilateral agencies such as the World Bank and the United Nations Development Programme could often be better exploited for increasing coordination and collaboration.
- *Pooling information.* Most development agencies operate with only partial information on the state of corruption in a country. Better sharing of

up-to-date information and, perhaps more important, of new developments, could significantly enhance collective action. One donor agency in each country could serve as a clearing house for collecting information from development agencies and circulating collated information to the donor community.

- *Sharing analyses.* Donors' willingness to use each other's analyses as the basis for committing funds reduces both donor and government transaction costs in program preparation.
- *Promoting joint programming.* Promoting jointly financed programs, using common procedures, and pooling resources offers the prospect of enhanced impact and reduced transaction costs. The Utstein group has agreed, in principle, to take this approach on a pilot basis in one country.
- *Providing expertise.* Joint arrangements for identifying technical expertise and synthesizing experiences can reduce fragmentation. The Utstein group plans to develop a resource center to support its work on corruption and provide assistance to developing countries. This could be developed on a larger scale with the support of other interested development agencies.
- *Creating a contact point for civil society.* The diversities of both civil society and the donor community make collaboration between the two complex and often fragmented. One donor could serve as a representative contact point in country for improving the coherence of communication. This would work best where a similar representative body existed on the civil society side.

Where the Government Is Ambivalent or Noncommittal

Where the government's stance on corruption is ambiguous, or where the issue is not yet openly on the national agenda, collective efforts by development agencies can play a vital role in fostering the climate for change and encouraging movement toward a clearer commitment by the government to tackle corruption as follows:

- *Articulating the issue.* Development agencies together can be influential in supporting nascent efforts in-country to get corruption issues explicitly acknowledged by exploiting opportunities, both public and private, to highlight the importance the donor community attaches to corruption.
- *Making the case.* Joint donor efforts to support (or undertake) diagnostic analyses to demonstrate and publicize the negative effects of corruption could be influential in persuading the government to initiate action. Acting collectively, development agencies can present a strong voice on

the likely costs to the government of failing to act in terms of future donor support.

- *Addressing the fundamentals.* Collaboration between development agencies on assessments of national financial and procurement systems and joint action to support improvements in core budgeting, financial management, accounting, and procurement are an essential prerequisite to initiating wider change.
- *Supporting civil society.* Collective support for fostering national pressure through civil society organizations and the media can begin to generate a groundswell of opinion.
- *Supporting South-South contacts.* Development agencies could collaborate in supporting more systematic efforts to promote South-South sharing of approaches and experiences. This could subsequently develop into systems of peer review and monitoring of progress.

Nonconductive Environments

Where the environment currently appears to be nonconductive to anti-corruption work, there is a premium on development agencies acting in a concerted way to encourage a more positive response through such actions as

- *Ensuring donor consistency.* Development agencies need to work in harmony to carefully balance the desire to remain engaged with creating sufficient incentives for reform. Should degrees of disengagement be judged necessary, consistent donor action is essential. Development agencies must avoid giving mixed messages. If some suspend or reduce assistance while others increase their support, such inconsistencies reduce the likelihood of successful donor influence.
- *Creating concerted pressure for change.* In countries where commitment appears low, development agencies can organize specifically to create pressure for change. In one country development agencies jointly took an initiative to establish a formal group with broad membership. This group brought together bilateral development agencies and the international financial institutions to prepare common donor positions and support a dialogue with the government on behalf of the whole donor community.
- *Engaging through alternative channels.* Where significant obstacles to reform are evident and the prospects for progress are limited, development agencies may need to widen channels of engagement in-country.

INTERNATIONAL AND GLOBAL COLLABORATION

Two broad areas for improved donor cooperation at the international or global level are the international architecture for combating corruption and enhanced donor management mechanisms

The International Architecture

The current international architecture could be strengthened by improving donor collaboration in the following areas:

- *Anti-bribery and money laundering regimes.* Ministries of home affairs, trade, and finance are implementing the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions and the Financial Action Task Force's recommendations on money laundering. Donor agencies have a role to play in presenting the development perspective. Development agencies could
 - Strengthen publicity for the OECD anti-bribery convention within development agencies' countries and encourage compliance. This could include support for the OECD itself or work in donor countries to ensure application of the convention.
 - Support action in development agencies' own governments to press for action to implement the task force's recommendations and for stronger commitment to mutual legal assistance, including providing technical advice to countries preparing requests to recover assets.
 - Stimulate efforts to promote regional efforts to develop similar regimes and encourage the development of regional groupings for joint action.
- *Wider efforts.* More generally, donors and developing country governments could make increased efforts to
 - Explore the scope for regional development banks to play a higher profile role in spearheading regional approaches to anti-corruption efforts.
 - Explore the scope for developing regional review agencies and for peer review mechanisms.
 - Increase support for World Bank, World Bank Institute, and United Nations Development Programme work on anti-corruption mapping and program development.
 - Support the proposed United Nations convention on corruption.

Overall, few formal collaborative forums exist, either at the global, regional, or country levels, for development agencies to review their approaches collectively,

or to do so jointly with governments. This is a major inhibitor of cooperation and could bear deeper examination.

Enhanced Donor Management Mechanisms

Efforts to improve donor management fall into three main areas: improving coordination domestically and internally in agencies, increasing accountability for the use of development assistance, and developing proactive means of protecting development assistance funds from corruption.

IMPROVING DOMESTIC COORDINATION. Given the wide-ranging nature of the problem, anti-corruption work in donor countries and within development agencies is frequently fragmented. Lead responsibility for the domestic aspects of key issues (such as national corruption law or anti-money laundering regimes) will often lie outside the development agency. Within the agencies themselves, efforts can be fragmented, for example, between departments responsible for geographical programs and those for sectoral policy such as governance, social development, economic policy, and procurement. Collective international performance could be improved if the industrial countries ensured that they had holistic, governmentwide strategies. Internally, development agencies might find benefit from having a single point of coordination for anti-corruption policy.

INCREASING ACCOUNTABILITY FOR THE USE OF DEVELOPMENT ASSISTANCE. Increased accountability can be encouraged through a collective donor effort to provide information about development spending and program performance and enhanced consultation and discussion. This is especially important in developing countries, because it can create opportunities for civil society and the public at large to exert pressure to ensure that their governments use development funds effectively. There may be scope for joint agency initiatives in particular countries.

DEVELOPING PROACTIVE MEANS OF PROTECTING DEVELOPMENT ASSISTANCE FUNDS FROM CORRUPTION. Many development agencies have acted to strengthen their own procurement systems. Sharing this experience will promote improved practices. Collective action is also needed to deal with firms debarred because of evidence of malpractice or bribery in connection with winning development assistance contracts. The World Bank and the European Community have taken a lead in this regard. If investigations produce legally defensible information, the scope for other development agencies acting on this information also to debar firms from their development assistance programs appears to offer a potentially powerful deterrent against corrupt practices in development assistance procurement.

Part V

CONCLUSIONS

Promoting Regional Cooperation in Corruption Prevention

■ Key-Chong Park

Corruption is a global problem and exists everywhere, in the private and public sectors, in rich countries and poor. Bribery takes place in all kinds of businesses, local as well as international. Thus corruption is not only a national, but also an international problem. Some countries have succeeded in tackling this problem; others have not. Why did some succeed while others failed? Most likely the unsuccessful countries lacked sufficient political will and local mechanisms such as effective programs and infrastructure to prevent corruption. In some other instances the momentum needed to curb corruption has not been sufficient. Local ability to combat corruption might have been constrained either by a lack of resources, a lack of skills, or insufficient efforts.

In these circumstances countries will be able to cope with corruption more effectively through either international or regional cooperation. International cooperation can provide countries with the resources necessary to initiate anti-corruption programs. It can also help individual countries develop the necessary political will and mechanisms. International cooperation can be bilateral in the form of assistance by international organizations or multilateral in the form of regional cooperation among neighboring countries. International society can play an important role by providing aid to support democratic reforms, more competitive economies, and improved governance.

Some encouraging examples of regional cooperation are available. In March 1996 the Organization of American States (OAS) adopted the Inter-American Convention against Corruption in Caracas, Venezuela. Of the OAS's 34 members 26 signed the convention. Recognizing that corruption is one of the major obstacles to business and to economic development in Latin America, the OAS General Assembly adopted the Comprehensive Plan against Corruption at its meeting in Lima, Peru, in June 1997. Under the plan the OAS will provide support to its member countries and cooperate with local

governments and with other international organizations to prevent and control corruption.

Similarly, in February 1999, 11 African countries meeting in Washington, D.C. adopted 25 principles to combat corruption. They emphasized national action and encouraged countries to develop strategies in accordance with national realities and circumstances. The principles cover prevention, enforcement, public participation, and the establishment of government-to-government mechanisms to monitor the implementation of these principles. At the Ninth International Anti-Corruption Conference held in Durban, South Africa, in October 1999, African countries agreed to integrate the 25 key principles into the national policy frameworks of states that are committed to fighting corruption.

THE KOREAN EXPERIENCE

Korea's experience provides an example of international cooperation supported by an international organization, namely, the World Bank. Since the 1970s various Korean administrations have tried to eradicate corruption by introducing such mechanisms as the Public Servants' Ethics Law, the Freedom of Information Act, and the Real Name Accounting System. However, these efforts were largely limited to measures taken after the fact, such as the detection of corrupt activities and the ensuing punishment of public officials. The failed attempts to combat corruption were an outcome of a lack of preventive measures and political will.

Many believed that the financial crisis that engulfed Korea in 1997 could be largely attributed to societywide corruption. As a result, Koreans wanted more decisive and comprehensive government measures against corruption. To ensure further economic growth and to successfully implement political and economic reforms, first stamping out corruption was imperative.

Soon after President Kim Dae-Jung's inauguration in February 1998, Korea implemented various initiatives to combat corruption, initially focusing on the public sector. In 1998, the government carried out a nationwide anti-corruption campaign to find and punish corrupt government officials. As a result thousands of government officials were fired, arrested, and/or prosecuted.

Many Koreans thought that detecting and punishing offending government officials was more effective than any other means of curbing corruption. Some of them have still not recognized the importance of carrying out systemic improvements to prevent corruption. In addition, Korea was not ready to allocate resources to establish any anti-corruption programs; it had little budget for them and lacked know-how and experts.

Under these circumstances, in 1998 the World Bank offered Korea a grant for developing anti-corruption programs. Korea accepted this offer and initiated the first stage of its anti-corruption programs. This stage involved reviewing both the extent and causes of corruption and the current corruption control system so as to build a more effective system. A priority was to carry out administrative reform in corruption-prone areas to improve transparency, accountability, and the integrity of public officials.

Soon, however, the government realized that Korea had neither the expertise nor sufficient know-how to formulate strategies and concrete countermeasure. While the government was aware of Hong Kong, China's; and Singapore's success in fighting corruption, detailed information was not available. Nevertheless, the government completed Korea's first comprehensive anti-corruption programs, which were based on three strategies: promoting administrative reforms in corruption-prone areas, establishing an anti-corruption infrastructure, and expanding citizen participation in anti-corruption efforts.

The programs were announced in August 1999 and have been undergoing implementation since that time. They include the establishment of a presidential committee on anti-corruption, the passage of new legislation on corruption prevention, the protection of whistle-blowers, an increase in salaries for public servants, the adoption of online procedures for interaction between the public and the civil service, and tax deductions for credit card payments. The Korean government is now preparing the second stage of its anti-corruption programs.

THE NEED TO IMPROVE INTERNATIONAL AND/OR REGIONAL COOPERATION

There is no doubt that the World Bank grant helped the Korean government initiate comprehensive anti-corruption programs. Thus Korea's experience demonstrates that international cooperation can provide not only financial assistance, but can help engender the momentum to initiate the fight

against corruption. Furthermore, international organizations can play an important role by taking initiatives in preparing for an international convention such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The success of regional cooperation in both South America and Africa shows that this is a time of opportunity for the Asia-Pacific countries to try to tackle the problems of corruption together. Most of the region's countries recognize that corruption should be eliminated to build more just and fair societies and to promote economic growth; however, because of cultural differences and because of the range of stages of economic development, their political will and strategies to fight corruption might differ. Furthermore, some countries clearly do not know what steps to take, others have neither the requisite resources or skills, and others may simply lack the momentum to initiate any anti-corruption plans. In this situation, neighboring countries should try to help each other and to work as a group rather than as individuals.

Proposals for Institutionalizing Regional Cooperation

The countries in the Asia-Pacific region do not have a convention or scheme for dealing with corruption at the regional level. To organize regional cooperation effectively both to prevent corruption and to enforce anti-corruption measures, the Asia-Pacific countries need to move toward institutionalization as seen in other parts of the world. This would be particularly useful in, for example, extradition procedures and the exchange of information on best practices and experiences. Those countries that are working hard in the fight against corruption should participate in drafting a convention and creating a regional organization such as an Asia-Pacific anti-corruption council.

The convention would include the basic framework and principles for countries to follow. The council could be organized within the framework of the Asia-Pacific Economic Cooperation, and could seek to promote anti-corruption cooperation in the region by facilitating the exchange of information, experts, and know-how.

International conferences and workshops could broach the idea of developing national strategies against corruption and provide examples and technical assistance to help other countries design their own strategies and programs. The council could organize conferences, seminars, and workshops on anti-corruption themes so that participants from member countries could discuss and share experiences and develop national strategies and programs

for reducing corruption; help assess countries' anti-corruption efforts and the level of cooperation among countries; identify best practices and publicize them; and establish an accessible regional information center and database on anti-corruption initiatives.

A permanent funding source for anti-corruption programs in the Asia-Pacific region would greatly benefit the promotion of public integrity throughout the region. I therefore recommend that we consider creating a fund in cooperation with such international organizations as the ADB and the World Bank. If a significant number of countries agree to this proposal, Korea will contribute to the fund. I hope that other Asia-Pacific countries and international organizations will participate in such an effort.

Initiatives

The enthusiasm and determination to fight against corruption shown by the participants at this conference will certainly contribute to uprooting corruption in the Asia-Pacific region and makes it all the more important that we devise an effective mechanism for institutionalizing regional cooperation as I have suggested. This will obviously take time; however, given the potential of such regional cooperation for stamping out corruption, we should begin the process now.

I announced at this conference that the Government of Korea is ready to cooperate with any countries or international organizations, either bilaterally or multilaterally, in sharing its experience and know-how and in exchanging personnel. In recent years Korea has acquired a good deal of experience with anti-corruption measures and would be happy to share this information. Collaboration and cooperation at the regional level will strengthen the capacity of individual countries to fight corruption. Let us work together to combat corruption and eventually uproot it from the Asia-Pacific region.

In 2003 Korea is planning to hold a large anti-corruption conference in Seoul. It will host both the Global Forum III and the 11th International Anti-Corruption Conference simultaneously. On consultation with the parties concerned, Korea plans to try to merge the two conferences.

Conference Conclusions and Recommendations for Action

Conference participants generally agreed and acknowledged that corruption is highly detrimental to the stability of all democratic institutions, erodes the rule of law, undermines citizens' trust and confidence in the fairness and impartiality of public administration, discourages domestic and foreign investment, harms countries' competitiveness, distorts the allocation of resources, hampers economic growth, and undermines poverty reduction efforts. They agreed on the need to fight all types of corruption at all levels.

Priority Measures

Delegates reaffirmed that political commitment at the highest levels is necessary, and agreed on the following priority measures:

- Taking effective measures on the basis of existing international instruments and standards, in particular, those of the OECD, the United Nations, the World Trade Organization, and the Global Anti-Corruption Forum
- Promoting good governance through legal, structural, and administrative reforms for better transparency and accountability of public administrations
- Strengthening the rule of law by ensuring the independence of investigative and judiciary bodies
- Promoting integrity in business operations through the enactment and effective enforcement of laws and regulations and the development of an anti-corruption corporate culture
- Developing proactive strategies to promote citizens' participation in anti-corruption efforts.

Regional Co-operation

Regional cooperation was generally recognized to be a powerful tool to support national efforts to curb corruption. Thus delegates agreed to continue to develop their cooperation on the priority areas identified at the Manila conference and to include the following topics in the agenda of future meetings: combating political corruption; promoting the integrity and independence of judicial systems; strengthening national audit institutions; and involving professional organizations, such as organizations for lawyers, accountants, and engineers, in the fight against corruption.

The participants called upon governments from inside and outside the region and international organizations to provide support and assistance in drawing up and implementing anti-corruption strategies at the national and regional levels. Furthermore, they welcomed the proposal made by the Government of Korea for countries in the region to develop a regional anti-corruption compact to promote cooperation to combat corruption both in terms of prevention and enforcement.

Implementation

To implement this initiative, the following mechanisms have been agreed on, to be taken in the framework of the ADB/OECD Initiative:

- *Annual conferences.* The purpose of the annual conferences is threefold:
 - To exchange experience among governments, business, and civil society organizations active in the fight against corruption in the Asia-Pacific region
 - To foster regional cooperation in combating corruption and poverty
 - To evaluate progress and problems encountered in the implementation of anti-corruption programs on the basis of country reports and case studies.
- *Knowledge sharing and capacity building.* The East Asia and Pacific Region of the World Bank joined the ADB-OECD initiative to promote knowledge sharing and capacity building activities using the distance learning centers, which are part of the Global Distance Learning Network initiative of the World Bank. The ADB and OECD plan to further expand the initiative's web site for the purpose of exchanging information and facilitating electronic discussion between the annual conferences.

- *Technical cooperation.* International organizations and governments participating in the ADB/OECD Initiative endeavored to provide assistance for capacity building within the region to develop and implement anti-corruption programs. The co-chairs welcomed the proposal of the Korean government that a special fund be established under the auspices of the initiative and hosted by the ADB. Donor countries and organizations are encouraged to contribute to this fund.

APPENDIX

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