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**CORRUPTION IN PAPUA NEW GUINEA:  
TOWARDS AN UNDERSTANDING OF ISSUES**

**edited by**

**Albert Ayius and R. J. May**

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## CONTRIBUTORS

**Albert Ayius** is a Research Fellow in the Political and Legal Studies Division at the National Research Institute, Papua New Guinea.

**Peter Donigi, CBE**, is a Senior Lecturer in the School of Law at the University of Papua New Guinea, and a former ambassador. In 1997-1998, he led a World Bank-sponsored team to draw up an organic law for an Independent Commission Against Corruption.

**Alphonse Gelu** was, at the time of writing, a Senior Lecturer in the Political Science Strand of the School of Humanities and Social Sciences at the University of Papua New Guinea.

**John Collins Hevie** is a Senior Investigator in the Ombudsman Commission of Papua New Guinea.

**Sam Inguba, CBE**, was at the time of writing, the Commissioner of Police, Royal Papua New Guinea Constabulary.

**Joe Kanekane** is a Media Adviser in the Department of National Planning and Monitoring. He spent ten years with *The Independent* newspaper, where he was an investigative journalist and news director until its closure.

**David Kombako** is a Lecturer in the Anthropology and Sociology Strand of the School of Humanities and Social Sciences at the University of Papua New Guinea.

**Ron May** is an Emeritus Fellow at the Australian National University, who is attached to the State, Society, and Governance in Melanesia project within the Research School of Pacific and Asian Studies. He is currently working with the National Research Institute as an adviser, through the Advisory Support Facility.

**Allan Patience** was, at the time of writing, Professor of Political Science at the University of Papua New Guinea. He is currently at the Charles Darwin University in Australia.

**Marcus Pelto** was, at the time of writing, the Executive Officer with Transparency International Papua New Guinea.

**George Sullimann** is the Auditor General of Papua New Guinea

## ACRONYMS

ADB	Asian Development Bank
BSP	Bank South Pacific
CCAC	Community Coalition Against Corruption
CIMC	Consultative Implementation Monitoring Committee
CPI	Corruption Perceptions Index
CPIB	Corrupt Practices Investigation Bureau
EU	European Union
FIU	Financial Intelligence Unit
FOI	Freedom of Information
GDP	Gross Domestic Product
ICAC	Independent Commission Against Corruption
IMF	International Monetary Fund
MP	Member of Parliament
MPs	Members of Parliament
MTDS	Millennium Term Development Strategy
NACA	National Anti-Corruption Alliance
NRI	National Research Institute
PERC	Political and Economic Risk Consultancy
PNGBC	Papua New Guinea Banking Corporation
RPNGC	Royal Papua New Guinea Constabulary
SAI	Supreme Audit Institutions
TI (PNG)	Transparency International Papua New Guinea
UPNG	University of Papua New Guinea

## **PREFACE AND ACKNOWLEDGEMENTS**

This Special Publication introduces current and future research directions on corruption issues, as one of the major developmental issues in Papua New Guinea.

It provides an open forum for discussion on corruption that cuts across and affects all sections of society. The policy dialogue papers that have been included cover key issues that were discussed during the Corruption Seminar which was held at the National Research Institute in Port Moresby on 29 September 2005.

In Papua New Guinea, there is a limited literature on corruption. Although it may be a foreign concept, over the years since independence, it has become a sensitive development issue which diverts funding and energy away from development, and stifles improvements in peoples' quality of life.

The seminar attempted to provide specific directives for research into corruption in Papua New Guinea, and lay the foundation for a better understanding of corruption for the National Research Institute's Research Committee on Corruption.

The editors would like to acknowledge the NRI Publications Committee and NRI Research Committee on Corruption for making it possible to produce this publication. The editors would also like to express their appreciation to the contributors and seminar participants, as well as the Institute's Publishing Division for the editing, formatting, and printing of this Special Publication No. 47.

**Albert Ayius**  
Research Fellow

**Ron May**  
Emeritus Fellow





## **CHAPTER 1: AN OVERVIEW OF CORRUPTION**

*Albert A. Ayius*

### **Introduction**

Corruption is a complex development issue in Papua New Guinea, and can take many forms. It underpins some of the common legal, politico-socioeconomic and cultural problems that contribute to poor governance. Each form of corruption has a specific impact on the development of sound policies, and the formulation and implementation of appropriate plans for nation building. Corruption occurs amongst the networks of professional managers and their associates, who use their positions of power and authority for their own collective and individual political and economic interests. Corruption can be linked to drugs and arms trafficking, money laundering, terrorist attacks, illegal human smuggling, increasing law and order problems, favouritism in the tendering process, and in decisions concerning land-related matters. Corruption legitimises bad governance in Papua New Guinea and diverts funding and energy away from development.

### **The Impact of Corruption**

Since independence, corruption has had a detrimental impact on Papua New Guinea's development processes. It diverts funding and energy away from Papua New Guinea's national goals and development plans. Disappointingly, the Government has reacted to most major corruption scandals, involving millions of kina of public funds, by setting up ineffective, toothless inquiries. Corruption is steadily choking Papua New Guinea to death (Ayius 2002). The manner in which these inquiries have been planned and implemented has also raised serious questions, as they have consumed millions of kina of public funds seemingly without any meaningful outcomes (Papua New Guinea 2002; Papua New Guinea 2003).

Controlling corruption is one of the greatest challenges to the establishment and consolidation of democratic systems. Papua New Guinea has gone through difficult economic times. Many people remain illiterate, and most activities are centralised, with the inevitable blurring of transparency and vagueness in the accountability mechanisms that are needed to maintain control. This has contributed significantly to the creation of a breeding ground for the corruption of individuals and institutions through systemic linkages between politicians, bureaucrats, and the corporate world.

Corruption is continuously leaching away the socioeconomic livelihood of many sections of Papua New Guinean society. The World Bank (2003) estimates that corruption can reduce a country's growth rate by 0.5 to one percent per year. Transparency International (2003) also estimates that more than US\$30 billion in aid for Africa – an amount twice the annual gross domestic product (GDP) of Ghana, Kenya, and Uganda combined – has ended up in foreign bank accounts. Papua New Guinea has suffered similar abuse, with small-scale and large-scale misappropriation through public tender processes, disposal of public property, bribes, favouritism, and money laundering, in which high-level professionals have indulged in criminal activities to manipulate politics (Okole and Kavanamur 2003:7-26; Ayius and Ayius 2005).

According to the Commonwealth Human Rights Initiative (2003), such practices allow developing countries such as Papua New Guinea, to demand 'grease money', or baksheesh, in return for public services and entitlements. This amounts to an illegal tax. The extent of corruption in Papua New Guinea reflects the way in which some of the professional elite, including managers at all levels, conduct business in their normal day-to-day activities.

Papua New Guinea has approximately 800 languages, and diverse cultural mixes, which affect how people behave, and determine the potential for corruption. For example, many Papua New Guineans in traditional societies view a relationship between two or more parties as a kind of reciprocal cultural obligation. Such orientation is conducive to corruption in traditional and modern Papua New Guinean society (Nonggorr 2003:5). *Wantokism* or nepotism incorporates family or tribal obligations, transfers traditional cultural norms into a modern bureaucratic setting, and paves the way for different forms of corruption (Ayijs and Ayijs 2005). According to Nye (1967), *wantokism* can occur secretly or publicly, through illegal remuneration or the embezzlement of government funds for the benefit of blood relatives, or through other network linkages. For example:

... one Minister in the Skate government appointed a relative as a public service commissioner. He was subsequently found guilty and dismissed from public office because of misuse of public office. This exemplifies how seriously one can 'use the system' to quickly appoint somebody, either by blood ties or other network connections, to suit their individual economic and political interests (Ayijs and Ayijs 2005).

Family members or *wantoks* who are employed in key positions can delay or fast track business deals, corrupt practices to influence investment and development, and legitimise bad governance. Corruption is destroying the rule of law while creating a mutually supporting class of overlords, including politicians, elite bureaucrats, and entrepreneurs, who hide their deeds in dark places (Ayijs 2004:11). In Papua New Guinea, these business conditions, have led to the 'criminalisation of politics', the 'politicisation of criminals' and the (Commonwealth Human Rights Initiative 2003), legitimising of bad governance (Ayijs 2004).

Corruption in Papua New Guinea must be eliminated, because it diverts funds and energy away from the goals of progressive development plans for the mass of the population. Ayijs (2002) states that donors, such as the International Monetary Fund (IMF), the World Bank, the Asian Development Bank (ADB), the European Union (EU), the Australian Government through AusAID, and Friends of PNG have questioned the Government of Papua New Guinea about the way that aid funds have been managed and accounted for in the country. It is a sad indictment that successive governments have reacted to most major corruption scandals with a series of non-punitive inquiries, while corruption continues (*ibid.*).

## **Looking for Answers**

Most of the papers in this special publication were presented at a ‘brainstorming’ seminar organised by the National Research Institute (NRI). The seminar attracted policy makers, academics, researchers, and practitioners from the government and non-government organisations to identify directions for future research into forms of corruption, how corruption impacts on Papua New Guinea’s development process and underpins some of the factors that contribute to bad governance, and the use of appropriate information to combat corruption.

This chapter introduces corruption as a developmental issue in Papua New Guinea. Chapter 2 examines definitions of corruption and looks at how it affects the democratic process and decision making. Chapter 3 provides a practical analysis of the forms of corruption in Papua New Guinea from the perspective of the Ombudsman Commission. Chapter 4 discusses the tolerance of corruption in Papua New Guinea, and provides a critical analysis of corruption as part of the cultural orientation, which stifles development and investment. Chapter 5 introduces the idea of corruption as a consequence of ‘cultural and social idiosyncrasies’ in Papua New Guinea. Chapter 6 examines the role of auditors in supporting good governance and combating corruption.

Chapter 7 details the progress of the Royal Papua New Guinea Constabulary in the ongoing fight against fraud and corruption. Chapter 8 provides some insights from a distinguished lawyer who was involved in the drafting of proposals for an Independent Commission Against Corruption, and addresses the question of information for combating corruption. Chapter 9 provides some comparative insights from Transparency International in combating corruption in Singapore and other countries, and urges constructive measures to get tough on corruption in Papua New Guinea. Chapter 10 analyses the seriousness of combating corruption in Papua New Guinea, and Chapter 11 attempts to draw out some possible strategies for future policy-oriented research.

## **Conclusion**

Corruption is consuming millions of kina annually, and it has been the subject of several major investigations since independence. However, corrupt practices continue to have detrimental impacts on investment and development in Papua New Guinea. The inability of administrative officials within our key institutions to function efficiently is often the effect of corrupt practices, which, in turn, have generated the potential and pressure for further corruption.

Corruption is a complex issue that has different cultural connotations at the different levels of society. However, if development is not to be diverted away from the general population, managers at all levels must professionally and honestly exercise discipline and control over the use of human, financial, and physical resources under their authority.

Each chapter addresses the need for policy initiatives, based on hard facts about corruption at all levels of Papua New Guinean society.

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## CHAPTER 2: DEFINITIONS OF CORRUPTION

*Alphonse Gelu*

*‘Opening the new Papua New Guinea Parliament last August (2002), the Governor-General, Sir Silas Atopare, in an unusually blunt speech, said corruption was one of the most significant factors in reducing five million Papua New Guineans to enduring one of the world’s lowest standards of living’ (Islands Business, 28 February 2003).*

*‘In a caustic column, journalist Kevin Pamba of The National newspaper wrote in 2001 that it was no wonder elderly Papua New Guineans nostalgically recalled the days when the Australian colonial government was an assurance of fair and honest rule. If so many of Papua New Guinea’s politicians weren’t crooks “we would not be on our knees seeking help from international financial houses like the World Bank and the International Monetary Fund”’ (Islands Business, 28 February 2003).*

### Introduction

Corruption is the most salient problem affecting the processes of good governance in Papua New Guinea. It has affected the entire system of government, and many commentators have seen it as cancerous to the democratic system of government (Siaguru 2001; Crocombe 2001; Pitts 2002). According to former Prime Minister, Sir Mekere Morauta, ‘Corruption is systemic because it has invaded the whole process of policy making and decision making, and systematic because it is organised’ (quoted in Crocombe 2001:513).

Many democracies, whether developed or not, have been affected by corruption in one way or another. Democracy is built upon trust between the government and the people, and corruption can destabilise this relationship.

According to Philips (2001), corruption involves the degeneration, perversion, defiling, or tainting of something so that its naturally sound condition is debased. Political corruption involves the corruption of politics from its naturally sound condition. This is usually seen as the perversion or destruction of integrity in the discharge of public duties, by bribery or favour, or the use or existence of corrupt practices, especially in a state department or public corporation.

This chapter summarises the different definitions of corruption and the effects of corruption on the principles of democracy, such as the rule of law, legitimacy, and accountability.

## **Definitions of Corruption**

The *Oxford English Dictionary* provides a variety of meanings for corruption. However, according to Heidenheimer (1970) and Philips (2001), the term has been used extensively by social scientists to refer to public office, the market, and the public interest. Heidenheimer (1970) differentiates between a public-office-centred definition, a market-centred definition, and a public-interest-centred definition.

### *Public-Office-Centred Definition*

The public-office-centred definition relates essentially to the idea of public office and deviations from the norms binding upon office-holders. Heidenheimer (*ibid.*:5) cites three other authors in relation to the public-office-centred definition of corruption. According to Bailey (1970:5)

... corruption, while being tied particularly to the act of bribery, is a general term covering misuse of authority as a result of considerations of personal gain, which may not to be monetary.

McMullan (1970:5) states that:

... a public official is corrupt if he accepts money or money's worth for doing something that he is under duty to do anyway, that he is under duty not to do, or to exercise a legitimate discretion for improper reasons.

Nye (1967) defines corruption as:

...behaviour, which deviates from the normal duties of a public role because of private-regarding (family, close private clique), pecuniary, or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behaviour as bribery (use of reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses).

### *Market-Centred Definition*

Market-centred definitions were developed in relation to the theory of the market for Western societies, as well as non-Western societies, in which norms governing public office-holders are not clearly articulated (Heidenheimer 1970). Van Klaveren (1970:5) states that:

... a corrupt civil servant regards his public office as a business, the income of which he will...seek to maximise. The office then becomes a "maximising unit". The size of his income depends...upon the market situation and his talents for finding the point of maximal gain on the public's demand curve (cited in Heidenheimer 1970:5).

Tilman (1970:5) suggests that:

...corruption involves a shift from a mandatory pricing model to a free-market model. The centralised allocative mechanism, which is the ideal of modern bureaucracy, may break down in the face of serious disequilibrium between supply and demand. Clients may decide that it is worthwhile to risk the known sanctions and pay the higher costs in order to be assured of receiving the desired benefits. When this happens, bureaucracy ceases to be patterned after the mandatory market, and takes on characteristics of the free market.

#### *Public-Interest-Centred-Definition*

Some authors believe that the first set of definitions is too narrowly conceived, and that the second set is too broadly conceived. They maintain that the embattled concept of public interest is still useful to illustrate the essence of concepts such as corruption. Friedrich (1970:5) contends that:

...the pattern of corruption can be said to exist whenever a power-holder who is charged with doing certain things; that is, who is a responsible functionary or office-holder, is by monetary or other rewards not legally provided for or induced to take actions which favour whoever provides the rewards and thereby does damage to the public and its interests.

Rogow and Laswell (1970:5) maintain that:

... a corrupt act violates responsibility toward at least one system of public or civic order and is in fact incompatible with (destructive of) any such system. A system of public or civic order exalts common interest over special interest. Violations of the common interest for special advantage are corrupt.

A difficulty identified by Heidenheimer (1970) is how to establish norms of what is corrupt and what is not corrupt. Identifying criteria are set by either the legislature or the judiciary. According to Bryce (1970:6):

... corruption may be taken to include those modes of employing money to attain private ends by political means which are criminal or at least illegal, because they induce persons charged with a public duty to transgress that duty and misuse the function assigned to them.

However, relying on interpretations of the legislature or a legal code can be problematic, as stated by Brooks (1970:7):

...definitions of corrupt practices...found in every highly developed legal code...are scarcely broad enough to cover the whole concept, as seen from the viewpoint of political science or ethics. The sanctions of positive law are applied only to those more flagrant practices which past experience have shown to be so pernicious that sentiment has crystallised into statutory prohibitions and adverse judicial decisions. Even within this comparatively limited circle, clearness and precision are but imperfectly attained.

This is true of the Legal Code governing the conduct of leaders in Papua New Guinea. It is extensive, but its enforcement has been limited, as indicated by those leaders who have escaped punishment by using loopholes in the Legal Code, despite the fact that they may still be prosecuted under the Criminal Code.

An interesting observation on the definition of corruption concerns how the idea is applied in a Western context compared with non-Western societies. Bailey (1970:8), states that:

...it not infrequently happens...in developing non-Western societies that existing moral codes do not agree with Western norms as to what kinds of behaviour by public servants should be condemned. The Western observer is faced with an uncomfortable choice. He can adhere to the Western definition, in which case he lays himself open to the charge of being censorious and he finds that he is condemning not abhorrent behaviour, but normal acceptable operating procedure. On the other hand, he may face up to the fact corruption, if it requires moral censure, is culturally conditioned.

Bailey (*ibid.*) prefers to build upon a Western denotative meaning of corruption even in analysing non-Western systems. Bailey (*ibid.*) defines corruption as 'inducement (as of a public official) by means of improper considerations (as bribery) to commit a violation of duty' (cited in Heidenheimer:522). A bribe is defined as a price, reward, gift, or favour bestowed or promised with a view to pervert judgment or corrupt the conduct of a person in a position of trust (as a public official). Bribery and corruption are intimately linked, but not inseparable. For example, a person who accepts a bribe is a corrupt person, but a person who does not take bribes may also be corrupt. Corruption includes nepotism and misappropriation, and in both cases, there is inducement by means of improper consideration.

Corrupt behaviour is condemned and censured. Corruption is a pejorative term (Bailey 1970). However, applying the label to behaviour on the part of public officials in many non-Western countries poses a dilemma. In many non-Western countries, a person who is corrupt in the Western sense may not be condemned by his or her own society (see Kanekane, this volume). He or she may be conforming to a pattern of behaviour of tolerance which his or her peers, family, and friends support and applaud (*ibid.*). For example, in Africa, India, and Papua New Guinea, a person who uses his or her official position to obtain jobs for his or her relatives is not considered immoral. In traditional terms, he or she is only doing what every loyal member of an extended family is expected to do.

This poses a dilemma for countries such as Papua New Guinea, where culture has been sometimes viewed as sustaining corruption (Gelu 2000:91). For example, during elections in some parts of the country, candidates are required to provide goods and services to the people. Although some may argue that the candidates are merely performing their traditional responsibilities, this practice may be interpreted as corruption, in the form of bribery. The definition of bribery that is used by the courts in Papua New Guinea clearly identifies the cultural responsibilities of candidates as corruption under s.103 of the Criminal Code:

... a voter is guilty of bribery if, before or during an election, he or she directly or indirectly, by himself or herself, or any other person on his or her behalf, receives, agrees, or contracts for any money, gift, loan, on valuable conditions, office, place, or employment for himself or for any other person for voting or agreeing to vote for, or refraining, or agreeing to refrain from voting.

'Treating' is also an offence under the Criminal Code, and s.101 declares that candidates' cultural responsibilities during elections are also illegal. This provision prohibits candidates from providing food, drink, shelter, entertainment, or any form of assistance to the electoral officials. The following letter shows how corruption has affected elections in Papua New Guinea.

### **Letter: An Election Candidate's Sad Experience**

I was not surprised to read comments by Mr. Gabriel Dusava on his electorate of Yangoru/Saussia in your paper last week. In fact, my own experience of PNG politics and the electorate is not very much different. Being a strongly ideological person, I entered this election race not only confident of winning the seat but also of being a catalyst to the dawn of dramatic, positive change to the economic and social fabric of my Sepik society. My high-minded ideals have taken a real battering in the last three months of electioneering.

As we neared the end of the campaign, I became much more philosophical, as the reality of the depths of the corruption that pervades our society dragged me out of my dreams. On the one hand I wept at the total lack of interest that had been shown toward Sepik people on the other side of the Sepik River between our borders with the Highlands and West Sepik. On the other, I was shattered by the attitude of people on my side of the river whose sole drive in life appears to be to live off government or MP freebies for the rest of their lives. These people appear to be under the impression that their MP, all intending candidates, and the Government owe them something. Why the voters are owed money and freebies still remains a mystery, at least to me.

Being a farmer I was fortunate to only associate with hard-working people for a good part of my time here in Sepik, but as I tried to make the transition from farming to politics the other side of my society began to rear its ugly face. I am not a Member of Parliament and may never be, but I already have more than K30 million worth of "funding requests" sitting on my table. Almost all of these requests have no real basis and will give little or no social or economic benefit to anyone, save for a few lucky individuals.

This is excluding the many verbal requests for me to buy radios, give PMV fares, lunch or dinner money, drinking money or money for hospital fees, funeral money or some other item I am "required" to pay for because I am running for elections. I have even had many individuals tell me in no uncertain terms that if I wanted to be an MP, I must pay (bribe) the voter because that "is the way we do things around here".

Even some so-called "born again" Christians and Pastors facilitate this mentality. Worse still, I now have people coming to me with long lists of people who have supposedly voted for me and to whom I must now be indebted and give priority to simply because they voted for me. I thought this was a secret ballot where free elections will be held. The things that trouble me about this brand of "PNG Democracy" are many, but two issues immediately come to my mind, which I think all Papua New Guineans who love this country must consider.

The first one is this: are we voting for all these MPs to serve our personal interests or to work for the common good? What are we really "giving" these MPs? Do we think we are making them instant millionaires? Is this why we must also share in the spoils? What is the role of the MPs anyway? Is it to bring home the bacon so we can all cut it up? Say the ESP provincial Budget is K40 million; should we simply buy radios for all the voters, give them another K50 each and forget about our roads, schools, hospitals, and public service and then wait around for the next budget? The next question is: how did all this start? Or more to the point, who started this? Are our MPs corrupt, or is our society corrupt? If our MPs are corrupt, where did they come from? Did they fall to earth from outer space, or did they come out from society?

After my experience, I am not surprised one little bit about why our MPs disappear to Port Moresby and never return. I have witnessed how disgusting our "morally upright" voters can be at my local MP's home. His wife and children stand at the kitchen all day and night churning out pots of rice and tinned fish to feed the electorate. At one stage, I could not take it any more and angrily chastised those lazy ...forgive me, "good voters" for this conduct.

My MP bolted when I did so, but I could see the relief on his wife's face. Sadly, that is exactly what the electorate desires of their elected representatives in PNG. I am certain if I fronted up at the home of another East Sepik MP, I'd find the same going on.

I believe in hard work and sweat to get my bread and butter and I know therein lies the problem with my country. Most of us are simply content to sit around under the shade of a tree and wait for the government or the local MP to give us some money so that we can put food on the table.

Some others prefer to rob the few of us hard-workers who till the land for sustenance, either through fees or at the point of a gun or other device. I have never campaigned dirty against another candidate, including the sitting MP and should I lose, I would be greatly relieved not to have to deal with the many parasites that exist in our society.

Finally, in all fairness to those voters who did vote with their heart, and not because of the swelling of their pockets, may I suggest to the new government the following measures to reduce the effect of our corrupt society on our system of government.

- Do away completely with the RAP, EDF, or whatever it is called. MPs should not be regarded as a pipeline to never ending supplies of cash and goodies. This system fosters the cargo cult mentality and breeds laziness in our people. We need to do PNG a favour and get all those lazy members of our society back to work.
- Legislate so that any MP or intending candidate (or their associates) who give money, food, clothing, accommodation, or other inducement, no matter how small, is guilty of an offence punishable by dismissal from office or in the case of elections, being ineligible to contest. This way we protect the MP and the candidate from the corrupt voters and we protect the voters from themselves. This will also have the added benefit of evening out the playing field for all candidates. We cannot continue to allow this situation of rich people with money kowtowing to the whims of corrupt voters and destroying our collective ability to vote for genuine leadership.

Allan Bird,  
Wosera Gawi,  
East Sepik

Source: *The National*, 2 July 2002

Allan Bird's letter identifies practices that are supposed to be illegal, but have been taken on board by candidates as a means to getting themselves elected to office. This has placed a burden on politicians, who have to fulfil the promises they have made to the voters in return for their support. It has contributed to extensive, large-scale corruption where public money has been used to satisfy the demands of informal alliances created during the elections (Gelu 2000; Ketan 2000).

The definitions of corruption might therefore be guided by the five key components of corruption (Philips 2001:118):

- 1. a public official (A), who acts;**
- 2. in violation of the norms of public office;**
- 3. and in a manner which harms the interest of the public (B);**
- 4. in a way knowingly exploits the office for clear personal and private gain in a way which runs contrary to the accepted rules and standards for the conduct of public office within the political culture;**
- 5. so as to benefit a third party (C) who rewards A so as to gain access to a good or service which C would not otherwise obtain.**

The ideas of Heidenheimer (1970), and the approaches to corruption referred to in this chapter, will be used to explain corruption in Papua New Guinea.

### **Effects of Corruption on the Rule of Law, Legitimacy, and Accountability**

Corruption is widespread in Papua New Guinea. It has affected the entire political and administrative systems, and society as a whole. Most Papua New Guineans have been affected by the problem, which is like a disease that is eating away the good practices that are part of democratic government. It impacts on the rule of law as well as its principles of legitimacy and accountability. The scandals involving public officials have resulted from ignoring the basic rules that govern public conduct. For example, the saga involving the Minister for Public Service and the Public Services Commission over the appointment of the Attorney General is the result of not following the rules and processes. Laws, by definition, are meant to regulate human behaviour in day-to-day activities, including the activities and decision-making processes of government. Acting outside the rules is a clear breach of the laws, and is corrupt. For a developing democracy such as Papua New Guinea, corruption such as this has contributed to the deficiencies of the Public Service and the administrative system.

Corruption is also about the misuse of authority that affects the legitimacy of the State. The State has responsibilities towards its citizens. It represents the common good through its agent, which is the government. It is a requirement that the State should be as law-abiding as the citizens themselves. When agents of the State waiver from their primary responsibilities, their authority will be diminished, and this will result in the State losing its legitimacy. In democracies and non-democracies, corruption has been identified as the major factor undermining the state's authority, resulting in declining legitimacy and 'state failure' (see Allan Patience, this volume).

Accountability is affected by corruption when public officials fail to account for their actions. Liberal democracy is about elections, but after elections have been conducted, there must be other mechanisms for holding the government-of-the-day accountable for its actions on a regular basis (Peters 2001). McLean (1996) defines accountability as the requirement for representatives to be answerable in the process of execution of their powers and duties. They must act upon criticisms or requirements made of them, and, in turn, accept responsibility for failure, incompetence, or deceit.

In Westminster political systems, the concept of accountability is clearly defined. As stated by Peters (2001: 1), the theory of accountability:

... remains focused largely on the relationship between the government and parliament, with the constitutional principle being that the government is the agent to whom powers have been delegated by parliament; those powers in turn having been granted by the people. The government-of-the-day must respond to questions on the floor of parliament, it may have to respond to motions of no- confidence, and committees are increasingly empowered to investigate and evaluate the programs of the government.

In Britain, the fundamental constitutional principle is that the government is accountable, through its Ministers, to parliament. According to Woodhouse (1994:3):

...the constitutional requirement and the political need for accountability are most obvious when mistakes have been made and the government is under pressure, but there is also the expectation of routine accountability by Ministers for the actions of their departments. Such accountability is central to the concept of responsible government, and may be regarded as essential in a system with a dominant executive and without the legal checks provided by a constitutional court.

Traditionally, accountability is seen as operating through the conventions of both collective and individual ministerial responsibility. Collective responsibility provides parliament with the means of holding the government, as a body, accountable, and individual ministerial responsibility enables the parliament to focus on a particular Minister and his or her responsibilities without the need to censure the whole government (*ibid.*).

In other democratic systems, such as the United States of America, the legislature may not be able to call the chief executive to account, as it can in the Westminster system, except in impeachment proceedings. However, in such cases, individual agencies, departments, or committees are forced to appear before the legislature to render account (McLean 1996; Peters 2001). Public organisations are also forced to account for their actions through the budgetary process, as well as in a variety of substantive investigations and policy discussions. Other specialised institutions, such as the ombudsman, which originated in the Scandinavian countries, but is now widely diffused, must enforce accountability (Peters 2001).

Accounting is one of the important tools for ensuring accountability (Peters 2001). Legislatures have invested a great deal of time and effort in monitoring the use of public expenditure to see that public money is used appropriately. The United States of America has its General Accounting Office, Great Britain has its National Audit Office, and Papua New Guinea has the Auditor General's Office. These offices are concerned with the efficiency and effectiveness of expenditures. According to Peters (*ibid.*), it is no longer sufficient to simply demonstrate that money has been spent legally. Public organisations must also demonstrate that the money has been put to the best possible use, or for the nominated purpose.

Peters (*ibid.*) indicates that, in the past two decades, changes have been made to the idea of accountability, with a shift from judging procedures to evaluating outcomes, and developing outcome measures that can be used to evaluate performance. The result is that accountability is coalescing even more closely with evaluation and policy analysis. For public servants, the idea is that if proper procedures are followed they cannot be held responsible for any failures, because the produced results should be efficient. Managers are placed on performance contracts, rather than taking positions as part of a career in government. Peters (*ibid.*) argues that this has resulted in accountability playing a large part in measuring that performance. Further, the idea of accountability has shifted from one of detecting error and punishing the malefactor, to one which emphasises a results-driven approach and rewards good performance.

The principles of accountability for performance apply more to public organisations and individual administrators than to political executives. However, an executive who has been held accountable for poor policy choices may lose office in an election. More

recent changes in accountability have begun to make organisations and individual administrators more directly liable for their actions (*ibid.*). This shift from the traditional concept of accountability is explained clearly by Day and Klein (2001):

... there is now multiple accountability, rather than any single form. Public organisations are now being held accountable upward to the sources of delegated powers, down to the public, and also to objective performance standards. All these measures are designed to be means of ensuring that there is democracy (meaning here adherence to the laws adopted through democratic means), after elections have been completed (cited in Peters 2001:3).

An important area of accountability concerns the role of the representatives. Who asks the questions? Does anybody answer? What happens if problems are found? On the issue of representative democracy, Catt (1990:95) argues that:

...central to ideas of representative democracy is the idea that people have power because they choose representatives, and those representatives are regularly accountable to the voters for the decisions that they make for the collectivity. Representatives are meant to make decisions for the population, either as delegates with instructions, or as trustees relied upon to listen to the arguments and to make good decisions. People have power to the extent that they have a choice between candidates and can periodically make the choice anew, thus keeping the MPs accountable for the decisions that are made.

Corruption takes away that sense of responsibility on the part of representatives, who tend to make things possible for themselves and their associates, rather than performing their primary responsibilities. In Papua New Guinea, this is evident in the number of cases where politicians have been dismissed from office as a result of misappropriating public funds.

There are many reasons why corruption is endemic in Papua New Guinea. However, greed and self-interest stand out. Public servants and politicians are appointed or elected to serve the public interest, but in Papua New Guinea a culture has developed whereby the norms and good practices of their offices have been eroded by a growing mentality of corruption.

## **Conclusion**

Corruption is a major concern for Papua New Guinea which has affected the entire administrative and political structures of the country. To an extent, corruption has come to define a new political culture that is becoming part and parcel of the administration process. Successive governments during the past ten years (and even before, as indicated in the passing of the Leadership Code in 1976) have committed to the fight against corruption. However, the leaders themselves have been embroiled in some large-scale cases of systemic corruption.

The fight against corruption must continue, and those responsible must be vigilant in recognising the different forms that corruption can take. Corruption has affected public office, the market, and the public interest in Papua New Guinea. Once these three very

important areas are affected by corruption, the interests of society are affected, and the much-needed goods and services that should be going to the people will be hijacked.

The following quotations from prominent Papua New Guineans summarise the state of corruption in Papua New Guinea.

- **‘Our society is corrupt and corrupt societies elect corrupt leaders’ (Fr. Robert Lak);**
- **‘If we charged everyone who is corrupt, we’d probably have no-one left to run the place’ (Sir Buri Kidu);**
- **‘You steal a tin of fish, and you’re in jail. Leaders misappropriate millions, but they’re still on the streets’ (Sir Charles Maino); and**
- **‘PNG politics is fuelled by self-interest and greed, at the expense of the people and the nation (Archbishop Sir Brian Barnes).**

Currently, we have proposals by Kappa Yarka MP, to allow MPs to continue in office, even if found guilty of misconduct, and by Andrew Kumbakor to increase the Rural Development Fund to K1.5 million per member. These proposals are nothing more than attempts to serve the interests of those in power. Although they have nothing to do with enhancing the interests of society, the interests of society must prevail.

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## **CHAPTER 3: FORMS OF CORRUPTION**

*John Collins Hevie*

### **Introduction**

Corruption has become one of today's most salient issues which attracts considerable world attention to its effects, especially on developing and often fragile and vulnerable Third World economies. A lot of attention has been focused on identifying its causes in many countries, but it is commonly accepted that it is not possible to pinpoint a single cause. According to the World Bank, 'causes of corruption are deeply rooted in the particular political and economic conditions of each country and, as such, its causes are as complex as the types of corruption are varied' (White et al. 1996:1). Corruption does not have one face or colour. There is a wide range of corrupt acts which makes it difficult to define satisfactorily (Holmes 1993:77-89).

A generally accepted definition of corruption is 'the misuse of public office for personal gain' (Klitgaard 2000:2). Public office is abused and misused when an official accepts or solicits a bribe, or when a private agent offers bribes in order to circumvent public policies and processes of competition for advantage and profit.

What is acceptable behaviour and practice in one country may not be acceptable in another. For example, a transaction or a gift that is seen as a gesture of benevolence, goodwill, or friendship may be regarded as corrupt in another country. When the British established indirect rule in Nigeria, through the people's institutions, some actions which were acceptable to the natives were alien to the British and would not be tolerated. Khan (1996:13) states that, succinctly, '... if collusion of a particular type is corrupt in one country, but not in another, we should not simply look at the effect of collusion in the first country, but should instead identify its effects across countries'.

### **Starting Point**

During a seminar on corruption, organised by Transparency International Papua New Guinea (TI PNG), the chairman of the Papua New Guinea Manufacturers' Council, stated that corruption was not driven by politics, but by a lack of a sustainable economy (TI (PNG) Press Release, 23 March 2000). This is a good point of departure, because corruption is linked to the lack of development in developing countries, including Papua New Guinea.

Experience suggests that, however you try to combat corruption, it resurfaces in another form. Consequently, there needs to be a body in charge of the campaign against corruption, and that body must receive the full support of the Government. We have witnessed a high level of publicity in recent times on the issues of corruption. The Media Council of Papua New Guinea has developed an elaborate publicity campaign against corruption through the print media, radio, and the only television station, EMTV. Also, there are various non-government organisations, the churches, and reform-oriented groups such as the Consultative Implementation Monitoring Committee (CIMC). These initiatives should be commended, but are they effective in the long

term? The ‘hidden’ nature of corruption means that much of what happens remains undetected.

### **The Ombudsman Commission of Papua New Guinea**

The Ombudsman Commission of Papua New Guinea was created by the Constitution of Papua New Guinea in 1975. Sections 218 and 219 of the Constitution clearly outline its main duties and functions and how it conducts its investigations. The Commission’s jurisdiction covers all government departments, agencies, officials, and government-funded institutions and organisations. The three main statutory functions are to:

- investigate alleged wrongful conduct and defective administration by government bodies;
- investigate alleged discriminatory practices, by any person or body; and
- investigate alleged misconduct in office under the Leadership Code.

There is no definition of corruption in the Constitution. Corrupt conduct is not specifically included amongst the examples of wrongful conduct in s.219 (2) (Ombudsman Commission 2000:5). However, it is a term that is used a lot in Papua New Guinea today. Allegations of ‘corruption’ are often raised, whereby a person might be accused of participating in a ‘corrupt’ transaction, or a deal that may be said to be ‘corrupt’.

**Section 219(2) of the Constitution states:**

**Subject to subsections (3) and (4), and without otherwise limiting the generality of the expression, for the purposes of Subsection (1) (a), conduct is wrong if it is:**

- (a) contrary to law; or**
- (b) unreasonable, unjust, oppressive, or improperly discriminatory, whether or not it is in accordance with law or practice; or**
- (c) based wholly or partly on a mistake of law or of fact; or**
- (d) conduct for which reasons should be given but were not, whether or not the act was supposed to be done in the exercise of deliberate judgment within the meaning of s.62 (decision in “deliberate judgment”).**

The Ombudsman Commission receives complaints against government departments, agencies, and instrumentalities from citizens who have reasonable grounds to believe that a government official has used his or her official position to approve a certain transaction or make certain decisions that would benefit the official or his or her associates.

The Ombudsman Commission is also empowered, under s.18 (1) of the *Organic Law on the Ombudsman Commission* to request certain information, reports, documentation, or relevant materials from government agencies which are the subject of

the complaint. The Commission then assesses the information it receives to form an opinion on whether to conduct an investigation. A good example was the Commission's Final Report (2000) on the lease and proposed purchase of Malagan House in Brisbane, in which it was determined that a private property was purchased at an artificially inflated price, and part of the proceeds of the purchase were shared with the official who authorised the purchase.

**Section 18(1) of the *Organic Law on the Ombudsman Commission***

**The evidence in this circumstance must be subjected to the provisions of ss.18 (1) and 19 of the *Organic Law on the Ombudsman Commission*. The Commission may, from time to time, require any person who, in its opinion, is able to give any information relating to any matter that is being investigated by the Commission to furnish to it that information, and to produce any documents, papers, or things that, in the opinion of the Commission, relate to any matter being investigated by it and that may be in the possession or control of that person.**

### Classifying Forms of Corruption

Certain actions can be viewed as corrupt, but may reasonably be seen as legitimate in terms of cultural, social, and other considerations. Consequently, there might be problems in distinguishing a 'bribe' from a reasonably legitimate gift. Some of the common actions or inactions by government officials that are investigated when complaints are received from aggrieved citizens are listed in Table 3.1.

**Table 3.1: Some examples of Forms of Corruption**

Forms	Examples
<ul style="list-style-type: none"> <li>• Not following the correct procedures of procurement and tendering processes</li> </ul>	<p>A certain company may have colluded with officials of a government agency to bypass tendering processes when they knew that the money to be paid would be over K100 000. It is a requirement that, if money payable for services rendered is over that amount, then it has to go through the tender process.</p>
<ul style="list-style-type: none"> <li>• 'Double dipping'</li> </ul>	<p>A senior government official might move into an institutional house while still receiving a housing allowance. When investigations reveal this, they would quickly apply for salary deductions to repay money that was received as housing allowance.</p>
<ul style="list-style-type: none"> <li>• Wantok system or nepotism</li> </ul>	<p>This system has its advantages and disadvantages, and depends very much on how the system is applied. It can be considered corrupt when preference is given to one's relatives or people from the same area, district or province, irrespective of their qualifications and experience.</p>

<ul style="list-style-type: none"> <li>• Merit based appointment/political appointment</li> </ul>	<p>Many appointments to top positions are not done on merit, and appointment procedures are not strictly adhered to, even by Ministers. Sometimes people with no knowledge are appointed to technical areas.</p>
<ul style="list-style-type: none"> <li>• Interference by politicians in administration</li> </ul>	<p>There have been instances where Ministers have interfered in administrative matters, which should have been left to bureaucrats. A Minister might award a certain contract to his relative's company, or to others, for a certain percentage of the payment.</p>
<ul style="list-style-type: none"> <li>• Receiving of commission or kickback</li> </ul>	<p>This is a common practice amongst senior government officials. The fee for a certain service is inflated so that when payments are approved and made, a portion goes to the approving official.</p>
<ul style="list-style-type: none"> <li>• Abuse of power</li> </ul>	<p>It is common amongst newly appointed Chief Executive Officers and heads of departments that as soon as they are appointed, they terminate career officers who have the experience and knowledge of the job, and appoint persons who have no relevant knowledge.</p>
<ul style="list-style-type: none"> <li>• Misuse of funds</li> </ul>	<p>Many people argue that it is normal practice to use money belonging to another portfolio when needed, as long as it can be reimbursed when the current project funding becomes available. According to the <i>Public Finances (Management) Act</i> this is not acceptable.</p>
<ul style="list-style-type: none"> <li>• Lack of moral judgment</li> </ul>	<p>Many people cannot make sound moral judgments, especially managers and line managers</p>
<ul style="list-style-type: none"> <li>• Condoning unacceptable behaviour</li> </ul>	<p>The Royal Papua New Guinea Constabulary is the main culprit of this form of behaviour. Some members use excessive force when dealing with unarmed civilians, and even though they have a Complaints Handling Branch, its impartiality is doubtful. Police cases have been at the top of the list for claims against the State in recent years.</p>

The examples in Table 3.1 are not exhaustive, but illustrate some of the specific forms of corruption in Papua New Guinea. They are also not exclusive, as a single act can involve more than one form of corruption. To combat corruption it is important that specific forms of corrupt behaviour are categorised, and that those forms which pose the most serious risks to society are distinguished from those that involve lesser risks.

### **The Next Step**

As there is no well-defined or universally-accepted taxonomy of corruption, the best approach for Papua New Guinea might be to adopt some of the research techniques of the Independent Commission Against Corruption (ICAC) in New South Wales. Its approach establishes a system for coding allegations of corrupt conduct as a basis for analysing the patterns of corruption on the information it receives. Having done that, each allegation is summarised by pairing it with an area of workplace activity. For example, tendering for a development application might be aligned with bribery as a misuse of public resources.

### **Conclusion**

It is not easy to eliminate corruption as it is something that is part and parcel of human existence. What may appear to be perfectly acceptable behaviour in one culture may be considered to be corrupt in another. Because of these disparities in understanding, it is particularly important that there is more information about, and better understanding of corruption, to better equip us to prevent its occurrence. To combat corruption, we must try to understand the different forms that it takes and the circumstances in which it originates so that information and empirical data can be discussed to provide remedies to reduce corruption.

As one of the leading government organisations in Papua New Guinea, which investigates grievances against government departments, agencies, and instrumentalities, the Ombudsman Commission deals with complaints which can be labelled 'corruption,' on a day-to-day basis. It can assist research and help to build a corruption-resistant culture, as required by its mandate under s.218 of the Papua New Guinean Constitution.

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## CHAPTER 4: TOLERANCE AND CORRUPTION IN CONTEMPORARY PAPUA NEW GUINEA

*Joe R. Kanekane*

### Introduction

Corruption in Papua New Guinea has been widely considered to be morally wrong and unacceptable. Yet, to some extent, it is an alien, Western-imposed notion. Observers have been quick to label corruption as a major crime, without actually examining why it has increased in Papua New Guinea. There is a dichotomy between what is perceived as corruption by outsiders and what is accepted by Papua New Guineans. Those who take the hard line that corruption is a black and white issue must realise that practices which are defined as corrupt may be culturally and socially accepted, or at least tolerated practices in Papua New Guinean societies.

### Politicians Setting the Pace

In 1983, at the height of the Barnett inquiry into the forestry sector (Asia Pacific Action Group 1990), the Forestry Minister Ted Diro was forced to resign. He was effectively barred from politics for several years, but he resurfaced in the 1997 general elections, winning the Central Regional seat from former close parliamentary colleague, John Orea. Moreover, he convincingly was able to reorganise and rejuvenate his People's Action Party. Former Kompiam-Ambum MP and sometime Minister for Correctional Institution Services, Tom Amiau, who spent some time in gaol in 1982, was re-elected by his constituency in 1987. Former Ialibu-Pangia MP, Cabinet Minister, and an Opposition leader, Roy Yaki also served a gaol sentence while he was MP, but was able to beat his rivals in the 1992 elections. Paul Pora, the former Mt. Hagen Open MP and National Party leader was implicated in corruption by the Ombudsman Commission, but scored a resounding electoral victory, securing tenure for another term, despite the episode. Former Yangoru-Saussia MP and Cabinet Minister, John Jaminan, was voted into office, despite being charged with carnal knowledge (though the charge was subsequently withdrawn).

To a foreigner, this is a bizarre reflection on voters and their choice of leaders. However, for the average Papua New Guinean, there is sympathy, a primordial acceptance that, although MPs have done wrong, they should be given a second chance. This might be juxtaposed against Western interpretations, in which the accused has erred and needs to be punished, in the hope that others do not follow such behaviour. For Papua New Guineans, forgiveness is an integral social norm – they have a conveniently short memory and are often willing to forgive and forget. MPs may be found guilty and shamed through media coverage, but they get re-elected. It does not affect their leadership acumen, presumably because such behaviour has been accepted as a prevailing norm. This suggests that Papua New Guineans are followers, aligning themselves with leaders who are perceived as outstanding in their conduct as leaders, and not being easily swayed by foreign ideologies. Attempts to impose external values often cause confusion. For example, the campaigns by the National Aids Council created a lot of confusion and stigma, beginning with the word *koap* and the use of

messages about condoms. Although the intent of the campaign was to prevent the spread of HIV/AIDS infection, the message has not penetrated the thinking of the mass of the population.

Lagaip-Porgera MP, Kappa Yarka's proposed bill to allow MPs found guilty of misconduct to serve out their parliamentary terms epitomises such acceptance at the political level. His argument is simple; leaders are pressured and often succumb to pressures, and should not be dismissed for doing so. The Yarka Bill is reflective of earlier comments about forgiveness, relationships, and disregard of accepted norms of corruption. [However, there has been considerable public opposition to the member's proposal].

Legal arguments have also been raised concerning the authority of the Ombudsman Commission and the Royal Papua New Guinea Constabulary's National Fraud Squad to dismiss MPs who have been voted in by their constituents. The only way to depose an MP, it is argued, should be through the election process.

A further issue is how MPs have managed to cling to power, despite being referred to the Ombudsman Commission. At the time of writing (October 2005), Ministers Dr. Puka Temu (Lands and Physical Planning) and Gabriel Kapris (Works) were still holding onto office. In developed countries, one might expect them to resign or step aside until cleared of allegations. It has been argued that, in Papua New Guinea, with its complex leadership structure, people naturally follow the leaders. They look at what the leaders are doing and either imitate them or see how the leaders' actions fit into their day-to-day activities. If the citizenry can benefit from the actions of their leaders, even if what they are doing is wrong, they will do so (cf. Allan Bird's letter, Chapter 2, in this volume). Corruption by leaders is accepted by many sections of society because most Papua New Guineans want tangible benefits and support the type of leadership that provides those benefits.

### **Globalisation and Corruption in Papua New Guinea**

Global agendas about corruption and the indicators which categorise Papua New Guinea as a vulnerable or fragile country have not been readily embraced. The reason is simple, because Papua New Guineans value relationships, whether they are attachments to clan, *wantok* group, or region. Along with that comes an obligation to strengthen such relationships, either through formal processes or casual gestures.

The Waigani courthouse is usually packed with supporters, opportunists, and sympathisers of party candidates. In a recent sitting the former Secretary for Agriculture, Mathew Kanua, who had been sacked by the Minister for Agriculture, Mathew Siune, had his men show up *en masse* at the court. The offences that the former secretary had allegedly committed were immaterial. Their presence was a show of strength which was intended to show the Minister that he was going to have a tough fight.

MPs, senior public servants, and company executives all have entourages supporting them in court. If you were to ask the supporters, their response would be that their

member, *wantok*, or mate, was innocent. Thus, corruption in the Papua New Guinean context is not black or white, its roots extend deep into a way of life.

The term 'deal' is currently gaining currency around offices in Waigani. It implies bypassing the system, or using a process outside of the system; that is, if you cannot get through the front door, there is always an opportunity to get what you want (often at a lower cost), through the back door. For example, recently at the Transport Department's Traffic Registry, disgruntled PMV owners were complaining that new PMV licences were still being allocated, despite an agreed ceiling on the number of licences. Such action was corrupt, insofar as it did not adhere to the law. However, it brought benefits in that commuters had more buses to choose from, and some Papua New Guineans gained employment. When Papua New Guineans talk about corruption, they often separate the 'black and white' issues from what they perceive to be in the best interests of themselves and their kinfolk and community. When 'deals' are made, both parties benefit and others are lured into the arrangements.

Another controversial topic is 'double invoicing' or 'double dipping'. Known clients approach suppliers who provide invoices, and after payment is made, the same invoice is submitted again, and again paid, despite audit queries. All of those who are involved receive a commission, and everyone is happy, as there are many beneficiaries to the deal.

Papua New Guineans regard friendships as being far more important than most other things, and they go out of their way to strengthen relationships. For example, if someone ends up in gaol as a result of a corruption charge, everyone will rally behind him or her. With the help of smart lawyers, culprits tend to only get light sentences, if they are not acquitted. Cultural factors are embedded into the way people perceive corruption, notwithstanding Western notions of corruption. People lie under oath in order to protect their *wantoks*, and refuse to participate in corruption advocacy initiatives. Lea (2001) argues that the Aristotelian approach reminds us that rules are only functional insofar as they point the way to the achievement of the *telos* or goals of the enterprise. Corruption laws exist, but they are not always fully applied or accepted.

### **Accepting Corruption**

One of the problems with corruption is its generic description. According to a lot of people, corruption relates to white-collar activities, and not petty theft, stealing, lying, or even laziness. The average person does not feel that corrupt behaviour applies to him or her. She or he perceives that corruption relates to those people in high office, and that his or her behaviour is not subject to scrutiny. In 2001, at the height of the 'War Against Corruption,' which was spearheaded by the PNG Media Council, a lot of complaints were received about corruption. Most of the complaints did not relate to activities within a local context, but were directed against leaders and public servants. The abuse of school board fees, and violence against women were not ranked as corruption.

Dorney (1998) states that this perception is widespread and that the citizenry do not implicate themselves in corrupt practices. In one case in 2005, Justice Bernard Sakora, in his ruling, was asked to consider what the accused had done for the community. The accused, Iori Veraga, was a former valuer who was heavily implicated in the National

Provident Fund scam. In his submission, Veraga pleaded for leniency, citing his contributions to the local church and community and even his conduct as a citizen of his village. In short, his plea was that, if he stole, it was through the influence of another person, and he should be allowed to go free. Interestingly, a local pastor, Gabi Dori, submitted an affidavit to back Veraga's claim, which was noted by the court.

The pastor argued that the accused's good deeds should be taken into account, and that the court should consider a lesser sentence, or even acquit the accused. Christian notions of forgiveness were put forward by the defence team.<sup>1</sup> In a lengthy deposition, Mr. Dori attested to the previous good character of the accused and his history of church and community involvement and assistance, all of which were intended to commend his character and leadership qualities. However, the court was firm in its decision, sentencing Veraga to six years in gaol. This case illustrates how corruption can be viewed as an accepted practice, irrespective of its magnitude. Even the clergy are willing to recommend that the guilty should be forgiven, when they are helpful members of the community.

### **Conclusion**

Corruption in Papua New Guinea is dominated by external concepts, resulting in the non-acknowledgment of the practice. Moreover, there is a general acceptance and forgiveness, in a cultural context, of what Westerners perceive as corruption. People are often willing to protect an accused person from going to prison, or even facing trial. The laws concerning corruption are clear, but policing demands a lot of commitment against politics within key agencies, nepotism, undesirable work ethics, and a multiplicity of associated factors.

On the other hand, there is increasing global pressure for good governance and anti-corruption measures. It is important to be aware of popular perceptions and to educate the populace about corruption. Awareness efforts have so far been concentrated in the urban areas. More effective ways must be found to promulgate awareness and develop an understanding of corruption as a development issue throughout Papua New Guinea. However, changes in attitudes will take time.

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<sup>1</sup> See p.11 of National Court Decision in *The State v. Iori Veraga*, [N2921, 2005].

## CHAPTER 5: CORRUPTION AS A CONSEQUENCE OF CULTURAL AND SOCIAL IDIOSYNCRASIES IN A DEVELOPING SOCIETY

*David Kombako*

### Introduction

Corruption originates and flourishes within the context of organisations. The factors that give rise to corruption vary in form and shape, and are culturally and socially determined. Organisations are seen as the potential breeding grounds for corruption. In the course of trying to ‘get things done’, they provide an environment that is conducive to the perpetuation of corruption. People within organisations use their official positions for private gain, not necessarily because they want to deliberately flaunt organisational rules and procedures, but because personal attitudes and actions of corruption are culturally and socially determined.

This chapter focuses on government organisations in contemporary Papua New Guinean society, the extent of corruption as a deliberate practice by officials within government organisations, and to what extent ‘a trail of administrative incompetence...[leads] to the suspicion of corruption’ (Ombudsman Commission 1997). It also highlights some culturally and socially determined instances of corruption. Larmour (1997:9) states that there are instances of deliberate use of corrupt practices by those who wield power and authority within public organisations, including politicians and public servants. The lack of foresight and careful planning in executing important government decisions has resulted in the wastage of public funds and other government resources. The consequence of such incompetence, when reported in the media, provides public perceptions of corrupt practices. These perceptions are often enhanced when politicians and senior public servants go to the media to make public statements.

The analysis employs a wide range of perspectives, covering economic, political, and social idiosyncrasies that tend to give rise to instances, or perceived instances, of corruption in a ‘weak State’ (Dinnen 2001). The whole government machinery and its bureaucracy, and those who wield power within this machinery are collectively considered to be an entire organisation. *Government* means those elected representatives or Members of the National Parliament, while *bureaucracy* means the public service machinery that stands ready to serve the government-of-the-day in whatever capacity.

### Theoretical Framework

Organisations exist ‘to get things done’ (Hall 2002: 4). They come in different sizes and shapes, and exist to serve different functions and purposes in our lives.

The study of organisations is as old as the field of sociology itself. Weber (2003) and others noted the growth in the number and power of government officials. Weber’s analysis (*ibid.*) provides the most complete and systemic conceptualisation of this change in governmental systems (in Scott 2003:319). Weber was aware of the use and

the possible misuse of power in modern organisations, where problems occurring within an organisation can affect those who rely on the organisations, those who work within the organisations, and the public who rely on organisations for goods and services. The environment within which an organisation is located can be social (the public who seek its services), or physical (the natural surroundings and resources on which it depends). The environment directly influences an organisation, and in turn, is influenced by the organisation (Hall 2002:92).

Organisational structures – especially bureaucratic and political ones – and the players within those structures, are central to the analysis and discussion in this chapter. The relationship between an organisation and the environment is mutually dependent; that is, action in one entity (whether good or bad) leads to reaction in the other. For example, when the Government makes a decision to cut school fee subsidies, this automatically forces parents to make extra efforts to obtain funds to compensate for that decision. An example of the environment affecting an organisation is when a rise in criminal activities in a poorly serviced section of a city prompts the Government and the municipal authorities to introduce measures to address the social problems.

Within the bureaucratic set up of government in Papua New Guinea, the usual norms and principles inherent in an ideal bureaucracy (Weber's model) are generally absent or deficient. This has created opportunities for corrupt practices to creep into the structure. When not investigated and contained, corruption becomes embedded, invades the whole process of policy making and decision making and encroaches upon the life of the organisation itself (Centre for Independent Studies 2003:4).

The focus has always been on the structures and purposes of organisations and their general relationships to their environments and society at large (Michels 1962; Baron 1984; Shafritz and Ott 2001; Hall 2002). However, personal idiosyncrasies, over which an organisation has little control, and the long-term consequences of those idiosyncrasies on the outputs of an organisation need to be analysed. Ideally, a formal, rationally-organised social structure involves clearly defined patterns of activity in which every action is functionally related to the purposes of the organisation (Merton 2001:103).

Bureaucracy involves a clear-cut division of integrated activities, which are regarded as duties inherent in the office. Regulations which give effect to these duties provide a system of controls and sanctions. The assumption is that the 'organisational culture' which is derived from the rationally-organised structure is sufficient to restrain and guide officials in their public conduct for the benefit of the organisation and the external environment. However, there is little mention of how cultural and social idiosyncrasies of officials affect organisational behaviour and outcomes. This chapter explores social and cultural idiosyncrasies within a framework of cultural practices and social networking in political organisations and their bureaucratic arms.

Corruption is linked with the State and those who run the state machinery. Dinnen (2001) uses the term 'state' to refer to the government machinery and the players who interact in that arena in the course of carrying out their respective duties and responsibilities. These players include politicians and their administrative officials,

public servants, and other persons who directly or indirectly influence the affairs of the government machinery. Dinnen (*ibid.*) asserts:

The State is clearly central in the study of illegal practices, including crime. Criminal networks, communal violence, official corruption, and so on, do not exist apart from the State, nor the State from them. State law and the evasion of state law are defined in relation to each other and must be examined together.

Lamour (1997:9) also emphasises the link between political leadership and public sector management in many South Pacific countries. In the case of Papua New Guinean and Solomon Islands, timber industries, corruption by politicians, officials, and local leaders took place within a much wider context of professional misconduct, by lawyers acting for both sides in negotiations, through tax evasion by transfer pricing, and failure to implement statements of national policy. The Barnett Commission of Inquiry in Papua New Guinea found that fraud and corruption took place within a framework of comprehensive mismanagement. The absence of policy, inadequate legislation, lack of information, confusion of responsibilities, and the ineffectiveness of government bodies such as the taxation office (*ibid.*).

Corruption flourishes in those public institutions where there is a serious breakdown in checks and balances. Concerned leaders and civil society may be firmly committed to eradicating corrupt practices, but they are powerless when corruption is deeply embedded in the psyche of the community at large. Corruption has become another form of social exchange and reciprocity in the business of wealth creation and distribution. The integrity and independence of organisations and officials has become tainted to such an extent that it is impossible to determine which came first, the officials who corrupted the organisation or the organisational culture that corrupted the official. It is a far cry from Weber's ideal bureaucratic organisation.

### **Definition of Corruption and Its Limitations**

In 1982, the Law Reform Commission of Papua New Guinea attempted to address the issue of corruption and bribery among politicians (Law Reform Commission 1982). It was one of the first formal reactions to the phenomenon of corruption and bribery in Papua New Guinea at the highest political levels. Citing sources from various pieces of legislation, the Commission's understanding of corruption was:

a person acts "corruptly" if he or she offers a fee or reward deliberately and with the intention that the person to whom the offer is made should enter into a corrupt bargain even if the offerer or himself or herself has no intention of carrying out the transaction and accepting the favour which he or she sought (*ibid.*:2)

The definition of corruption used here is not an exclusive or confined one. It is a comprehensive one which is applicable to any instance or circumstance that is perceived to constitute corruption. In this context, corruption might be said to occur when an organisation's rationally-organised rules and procedures succumb to the pressures of the social and cultural idiosyncrasies of persons, within and outside the organisation, which render the organisation's productivity and performance ineffective. Corruption might

constitute buying someone lunch or offering money in order to establish an understanding. For example, an officer from the Department of Personnel Management investigating foul play in a provincial administration stated that he was offered a fairly large amount of money, cartons of beer, and the possibility of women as sex partners for good measure, in order to make his stay in the province as comfortable as possible. Corruption depends on the situation and the social context within which the interaction takes place.

Everyone, regardless of social status or standing in society, tends to engage in 'corrupt' practices of one form or another. For example, a police officer who accepts K20 from a motorist who has been booked for a breach of the traffic laws is viewed as being corrupt, as is the motorist who offers the K20. Similarly, if an immigration official 'receives' free alcohol and food from an illegal foreigner's restaurant, because if the latter refuses he is likely to be deported, the immigration officer is viewed as corrupt, as is the illegal foreigner. This chapter focuses on 'leaders', which includes Members of Parliament (MPs), secretaries of government departments, judges of the National and Supreme Courts, managing directors, and chief executive officers of state-owned corporate bodies, and provincial administrators (Ombudsman Commission 1990).

### **An Historical Perspective on Corruption in Papua New Guinea**

There were disturbing signs that not all Papua New Guineans who were recruited into the public sector in the 1970s and early 1980s, to fill the gaps after the Australian officials following independence in 1975, were inculcated with the Western bureaucratic work ethic. Some used their positions to amass private wealth at the expense of the rest of the country.

By the early 1980s, corruption was recognised as a growing problem in government circles and more widely. Several instances were subsequently the subject of scrutiny by government agencies working against corruption, as well as by the courts. For example, the 'Diaries Affair' in 1981 involved the prosecution of a number of senior public servants who were implicated in illegal payments relating to the purchase of some 15 000 executive diaries from a Singaporean businessman at a cost of K82 000 when they could have been produced in Papua New Guinea for K27 000. In another case, a Minister was referred to the Leadership Tribunal and subsequently recommended for dismissal from office (Ombudsman Commission 1982).

The Law Reform Commission (1982), made it clear that corruption was steadily creeping into government circles, with very little being done to contain its spread. One difficulty in prosecuting corruption cases was that, as corruption became prevalent, fewer people were inclined to regard it as a serious matter (Law Reform Commission *ibid.*:8). Another difficulty was that there was a lack of competent manpower in some law-enforcement agencies. For example, in one of its annual reports in the early 1980s, the Office of the Public Prosecutor stated that there was a huge backlog of cases dating back some ten years, but with insufficient staff, the office was unable to pursue most of them. Even with the establishment of the Permanent Parliamentary Public Accounts Committee, which has done valuable work in revealing corruption and inefficiency,

there seems to have been little follow-up of the Law Reform Commission reports. Lack of trained support staff was identified as a major impediment. Within the public sector generally, disciplinary action against recalcitrant officers has not been strictly enforced, thereby doing little to remove the temptation for public servants to engage in corrupt behaviour.

Other factors which contribute to the prevalence of corruption were identified as a lack of proper screening of appointed officials in positions of trust and responsibility—especially managers of state-owned enterprises and business corporations and the practice of transferring corrupt officials from one government department to another instead of discharging or disciplining them. The symptoms of corruption were identified and remedies suggested, but few people wanted to tackle the issue head on.

In 1986, a Commission of Inquiry was set up to determine whether there had been a breach of the Leadership Code following the float of shares by a local company. Many prominent public figures, including the then Minister for Finance, made substantial profits from their share acquisitions (Dinnen 1997:9). The findings of this inquiry have never been released. Commissions of Inquiry – legally-sanctioned *ad hoc* committees endorsed by the Prime Minister on advice from the government’s legal agencies, and approved by Parliament – have been used increasingly to look into allegations of corrupt behaviour.

Another Commission of Inquiry (the Barnett Commission) was established in May 1987, as a result of persistent rumours of ministerial misconduct, corruption, and transfer pricing in Papua New Guinea’s forest industry. The Commission’s final report, which was completed in July 1989, documents endemic corruption and mismanagement. Among the long list of leaders who were implicated in the inquiry were the then Prime Minister and his deputy. A leadership tribunal found the Deputy Prime Minister to be in breach of the Leadership Code on 83 counts, mainly arising from what the inquiry described as ‘the reckless destruction of forests and a plan to systematically cheat [the landowners] of their rightful profits’ (Dinnen 1997:9; Asia-Pacific Action Group 1990).

Other investigations into alleged abuses have related to the award of contracts for major construction and infrastructure projects that showed a flagrant disregard of public tender procedures, and numerous other breaches of laws dealing with the award of contracts for public works. During the early 1990s, the Government made an executive decision to seek a loan of some \$US56 million from private interests in Malaysia to build institutional housing for the disciplined forces – the Royal Papua New Guinea Constabulary, the PNG Defence Force, and the Correctional Institutional Service. An enquiry by the Ombudsman Commission subsequently found that the agreement contained a number of irregularities:

- there was no public tender (the Supply and Tenders Board was pressured to issue a Certificate of Expediency to the Malaysian contractor to bypass the tendering process);
- the Malaysian contractor was granted a tax exemption; and
- materials and labour were brought in from abroad.

The Ombudsman Commission concluded that the loan agreement was the result of a bad government decision, without due regard to national policy statements or the availability of local skills and resources (Ombudsman Commission 1994).

In the mid-1990s, the municipal authority of the capital, Port Moresby, entered into an agreement with a Malaysian company to upgrade the water supply system in the city. The company had no similar project experience of such magnitude, and there was a public uproar over how the company was awarded the contract. To make matters worse, there was a serious discrepancy between the cost estimates provided by the Malaysian company and those of two local companies, whose cost estimates were well below that of the Malaysian company. An investigation by the Ombudsman Commission came to a similar conclusion to that in the 1994 case. There had been a serious disregard for prudent public financial management, and lack of foresight in getting value for money. The Ombudsman noted that, as long as irrational decisions were made that resulted in the unnecessary spending of millions of kina of public money 'we will have a system of government based on distrust, suspicion, and greed' (Ombudsman Commission 1997:5).

In 2000, an inquiry was held into the management of the National Provident Fund, after millions of kina of workers' superannuation funds went missing.

In 2003, the state-owned Papua New Guinea Banking Corporation (PNGBC) was sold to Bank South Pacific (BSP), as part of a controversial privatisation policy intended to divest the government of several state enterprises. In the light of complaints that the sale price was significantly lower than the market price, the government established a Commission of Inquiry into the sale of the PNGBC. During hearings, the former managing director of the Privatisation Commission (the body tasked with carrying out the privatisation policy) told the inquiry that he was aware of financial irregularities and breaches in relation to the keeping of financial records and acquittal of funds when he started work with the Commission in June 2001 (*Post-Courier*, 21 March 2003). However, the managing director's statement was challenged by the chairman of the Commission, who described the former managing director as 'inefficient and incompetent' and claimed that administrative matters that needed direct attention were not attended to during the six months it took the former managing director to assume office (*ibid.*: 20 March 2003).

### **Perceived Instances of Corruption**

Allegations of corruption are generally made by high-ranking government officials, but few perpetrators are punished. This has inevitably led to the conclusion that there are two laws – one for the rich and the other for the poor. Former Prime Minister, Sir Mekere Morauta, once stated that corruption is both 'systemic and systematic' – systemic because it has invaded the whole process of policy making and decision making, and systematic because it is organised and often highly sophisticated (Centre for Independent Studies 2003:4).

Some allegations of corruption have been confirmed by the courts and leadership tribunals. Others have been the result of perceptions or suspicions of wrongdoing, sometimes reinforced by the way that government procedures have not been adhered to or by failures in implementation processes. Sometimes, lack of consultation with

relevant government agencies, the urgency of the matter at hand, or fear of opposition mean that certain procedures have been ignored or skipped, and decisions are implemented, whether the effect of the implementation is detrimental or beneficial.

Nepotism, which is the favouring of family members, relatives, or persons from the same language group by persons in position of power, is deeply entrenched. Some officials tend to recruit persons they know personally. During the past two decades, the educated population has come to suspiciously view the way that successive governments in Papua New Guinea have appointed officials to important government departments, such as Finance, and Foreign Affairs, and state-owned enterprises such as Post and Telecommunications, the PNG Electricity Commission, and the Papua New Guinea Banking Corporation. The appointment of clan members or political cronies to public office, regardless of merit, has politicised and destabilised the bureaucracy and state-owned enterprises, many of which are running at a loss.

In some instances, jobs are also given on the basis of political affiliation, as a means of keeping political rivals away from information and policy implementation. Thus, when a new government assumes power, it tends to change heads of government departments and other state institutions and put in its 'own men'.

According to public service regulations and procedures for recruitment, vacant positions must be publicly advertised in order to attract suitable candidates on merit. However, this does not always happen. For example, it is not uncommon for public service positions to be filled internally by shifting current officers to different jobs within the same administrative set-up. Public advertisements of vacant positions are taken out merely to fulfil the requirement of the regulations. Non-public servants may find it difficult to enter the system because they lack public service experience. Occasionally, job positions are withdrawn for reasons known only to the department issuing the advertisements. On one occasion, a former governor of Madang Province wanted to change the provincial administrator when the latter's contract term was about to expire. The governor resolved to recommend someone he knew personally as being dependable and industrious. However, his recommendation did not get the approval of the national government, which wanted to reappoint the incumbent provincial administrator. The governor had to acquiesce to the decision of the national government, which he saw as following party lines.

### **Political, Cultural, and Economic Idiosyncrasies**

Three important concepts have gained ground as the phenomenon of corruption has spread – *the 'big man' mentality*, *gift-giving*, and *the wantok system*. These three concepts are intertwined and represent respect, sharing, and reciprocation. All three have their origins in the traditional cultural practices in Papua New Guinea and other Pacific Island countries.

The 'big man' concept refers to what may be categorised as a chief or patriarch of an extended family, clan, or tribe, who represents his family and kin in important exchange ceremonies in order to obtain wealth and bring it into his social networks. His group supports him, in terms of wealth contribution, when an important exchange is about to take place, so that the group does not lose face. If the group is initiating the exchange,

the 'big man' and his kin must always have the upper hand in the exchange; that is, the amount of wealth which is distributed must be greater than what the receiving party expects to receive. This is how status, reputation, and the satisfaction of instilling awe in the other party are achieved. The other party, while not wanting to be outdone, will likewise distribute greater wealth than in the previous exchange and so the self-sustaining cycle continues.

Traditionally, gift-giving is a simple way of creating and maintaining friendships. During any exchange, goods are bartered and friendships are made. A gift given to another person symbolises an obligation on the part of the recipient to repay. The repayment can be delayed and may come in various forms, such as helping the gift-giver to build his house or food garden.

The *wantok* (literally 'one-language') system is an intricate network of people from an extended family, tribe, or language group who help each other in times of need or emergency. There may be no obligation to repay within the family or tribe/kin group, but the obligation to repay is greater if one is from outside the family or has no kinship ties. The *wantok* system can be viewed as Papua New Guinea's version of 'social welfare' or 'safety net'. For example, in urban areas where there are few opportunities for paid employment, it is common to find more than five dependents (adults and children) living under a single roof, with only one breadwinner.

Many urban people in contemporary Papua New Guinea resent the idea of supporting unemployed *wantoks* on their meagre incomes. The main reason for assisting *wantoks* is the fear of being seen as a 'greedy' person, which can lead to strained relationships within families, gossip, shaming, and in extreme cases, sorcery. Thus, the *wantok* relationship is part of an ambivalent system.

The reason for introducing these three concepts is to look at how they have made their way into the modern, formal, bureaucratic organisations that are supposed to be impersonal and rational.

Politicians who have been accused of corruption sometimes defend their behaviour as 'traditional', or appeal to a disjunction between local traditions and introduced colonial law. One Papua New Guinean Prime Minister exonerated himself from criticism over payments to prevent a state minister from defecting to the Opposition by arguing that gift-giving is part of Melanesian political tradition (*Pacific Islands Monthly*, June 1992:12). The difference between gift-giving per se, and gift-giving as amounting to bribery has been addressed by a number of South Pacific courts when interpreting electoral acts. However, the results have been somewhat inconsistent.

In Western Samoa, the Supreme Court cancelled the result of a by-election after it found that money, cigarettes, and food had been distributed before the election, which, although of no 'great magnitude', amounted to a 'systematic and sustained effort to subvert the electoral process' (*Islands Business*, February 1992:10). In Kiribati, a government Minister who handed out gifts of tobacco during his election campaign was found guilty of electoral malpractice and dismissed from office. His wife replaced him as the MP, made similar gifts, and was also prosecuted and dismissed (Koae, cited in Larmour, 1997:3). However, a few years later, a presidential candidate in Kiribati who

gave gifts of tobacco to elders within a *maneabas* (meeting house) was found by the High Court not to have acted corruptly. In this case, the Court was making decisions about context – what was appropriate behaviour in one context was corrupt in another (Larmour 1997:3).

In terms of kinship and tribalism, there is some evidence of correlation between ethnolinguistic fractionalisation and corruption. It has been suggested that officials favour their own ethnic groups when it comes to recruitment into the public service (Mauro, quoted in Larmour 1997:3). This is a negative aspect of the *wantok* system in Melanesia. For example, as a political staffer in the office of the provincial governor in my home town, my friends, and people from my tribe argued that, now that we (referring to the governor who was my *wantok* and had recruited me to his administrative staff) were in power, we should give more money and resources to our own people first, and let others worry about themselves when they come into power later. One has to grab the opportunity while one is in a position of power.

It is difficult to analyse corruption in contemporary Papua New Guinean society without taking a holistic approach that recognises the social and cultural forces which bind leaders, public servants, and the people together. Dinnen (2001: 51) stated that:

the syncretism between different social traditions has also been noted in the crimes of the elite. Discussions of corruption often raise questions about the effects of kinship obligation in modern institutional contexts. Thus, the prevalent concern between the official and political “corruption”...is partly about the conflict between the obligations of kinship and the public service.

The first-past-the-post voting system heightened this contest by turning elections into a zero-sum competition between rival clans. Electoral politics account for the majority of government overspending and official corruption. It costs a lot of money to get elected, and there is a high turnover among incumbents (80 of Papua New Guinea’s 109 parliamentarians lost their seats in the 2002 National Elections). If returned, MPs seek to recover their considerable political expenses. Many run as independents and join political parties during post-election ‘horse trading’. This produces unstable coalitions which are held together more by patronage; that is, an offer to pick up the cost of election expenses or to be given a ministerial post, than party loyalty, which is based on common policies or ideas. Candidates are also under tremendous pressure to reward supporters:

almost all expenses can be forwarded to your member (MP) if you voted for him (Centre for Independent Studies 2003:6).

This means that the pursuit of personal wealth is seen as both rational and imperative for political survival.

Public office and public sector jobs, which are funded largely by mineral and petroleum revenue and aid receipts, are fiercely contested prizes, which increase the power and resources of the Government and bureaucracy, relative to the rest of society. The resulting politicisation of public life raises the stakes in the struggle for power. Democratic elections have become the primary means of accessing the finances of the

State, which is why almost 3 000 candidates nominated for the 109 seats in the 2002 National Elections.

### **Lessons to Be Learned**

Corruption in Papua New Guinea is often described in the local press and international circles as endemic, and permeating the very fabric of society. From past experiences, what lessons might be drawn?

One important lesson is that, when leaders are corrupt or seen to be corrupt, they set in progress a domino effect of societal disintegration. From the top, down to the bottom, people indulge in all manner of corrupt social and financial transactions, from tribal warfare and rising crime rates in rural and urban areas, to the weakening of the State in its ability to deal effectively with such issues as the rising inflation rate, deteriorating health and education services, run down physical infrastructure, and so on. The legitimacy of the State is seriously in question, if it fails to fulfil two of its primary functions – the delivery of goods and services to the masses, and the maintenance of order in civil society.

A second lesson is that, when leadership is corrupt, goods and services do not flow as they should. For example, in 2003, political observers noted that the Prime Minister was facing a serious government backbench revolt (*Post-Courier*, 13 March 2003). The backbenchers were unhappy with government performance, and the appointment of political cronies, without merit, to government departments and state-owned enterprises. The ‘jobs-for-the-boys’ style of political appointments had deprived some ministries of talented public servants, corporate memory, and frank advice. Also, with several departmental heads seen as politically compromised, professional civil servants were demoralised and insecure. These problems were exacerbated by several changes in ministerial portfolios.

A third important lesson is that, when corruption permeates the State, political office becomes the most promising avenue for gaining access to resources for local ‘redistribution’. Political leaders build prestige and following through the allocation of grants, development projects, infrastructure services, and other resources to their constituencies. State ‘gifting’ becomes a means for constituting political ‘bigmanship’. However, it is not so much that ‘big men’ use the State primarily to accumulate personal wealth (although this practice is increasing rapidly). Rather, political leaders use the State to distribute wealth in order to accumulate personal power and status. Government Ministers use their official powers to appropriate entire national policies and divert public resources for their own personal agendas (Dinnen 2001:191).

One of the much talked-about, contentious privileges of incumbent politicians is the discretionary funds that are made available for ‘local development’. Although rarely entrenching individual leaders, these funds promote a hybrid style of ‘big man’ politics and state gifting, while subverting more equitable processes of service delivery (Dinnen 2001:192). The insertion of a ‘big man’ model of leadership into a Melanesian gift economy subverts the integrity and effectiveness of government institutions and delivery systems.

## Conclusion

In a culture where very few people have easy access to material wealth, and the majority of people struggle to make ends meet, even in the urban centres, it is not difficult to imagine how corruption develops. Personal priorities tend to take precedence over community and national priorities, and the State is seen as the source of money and other resources.

Given the cultural idiosyncrasies of an emerging nation such as Papua New Guinea, it is understandable that a traditional practice of social exchange and reproduction can make its way into formal public organisations, where laws are laid down to guide officials in discharging their duties and responsibilities. In creating a nation, it was obvious that traditional social structure was far removed from, and not compatible with, European models of governance and civil society. Instead of individuals *adopting* the modern system and institutions, these were *adapted* into the indigenous culture, and modified to suit local circumstances and conditions. The end result is that these institutions and organisations now work for the individuals, rather than individuals working for them.

It is arguable whether what appears to be ‘corruption’ is corruption, when it is a whole family or tribe that benefits because the ‘breadwinner’ is fulfilling a traditional social obligation to share resources within the group. On the other hand, one must be wary of public officials who ignore clear-cut rules and responsibilities in an organisation that seeks to serve its public. Any breaches of rules and responsibilities, such as duty statements or job descriptions that define their duties and limits, are clear cases of corruption, and must be dealt with. Many public servants have used available opportunities to reward themselves from the public purse, or award jobs or contracts to their own *wantoks*, families, or relatives.

There is a tendency among bureaucrats and politicians to shift the blame and point the finger at one another when some important decision backfires, as may be seen in the daily newspapers. Politicians are under pressure to meet the expectations of their voters. In turn, public servants are under pressure to acquiesce to politicians’ demands, even when such demands are inconsistent with existing policies, or are perhaps legally questionable.

The biggest problem in fighting corruption is not the courts or the law, it is the failure of the bureaucratic process to prosecute the perpetrators of corruption. The reasons for this failure may be lack of competent personnel, lack of funds, or lack of consistency in setting goals because of the constant reshuffling of personnel through political appointments. However, it might also be because of cultural respect for the ‘big man’. It is a cycle that tends to repeat itself every time a new government takes office.

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## **CHAPTER 6: THE ROLE OF THE AUDITOR GENERAL**

*George Sullimann*

### **Introduction**

Worldwide, in both government and the private sector, there is recognition of the importance of an independent, efficient audit function to scrutinise the manner in which public and private sector entities carry out their operations. Successful government and business operations go hand-in-hand with good management. Independent audit committees are an essential part of the governance process. Interesting audit examples are the failures of high-profile international businesses and government operations, such as ENRON, HIH, and more recently the National Bank in its currency dealings, where the role of internal audit has been suppressed, under-resourced or ignored.

In some more developed countries, companies and government agencies have expanded the traditional role of internal audit. As well as having an inspection role, they review internal controls and examine the processing of transactions. More and more auditors are examining the reporting and governance processes that senior executives rely upon to manage their operations.

This chapter addresses a more fundamental issue that is relevant to Papua New Guinea – the role of auditors in supporting good governance and combating corruption. The Foreword to *The Medium Term Development Strategy (MTDS), 2005-2006*, stresses the importance of good governance and public sector reform to Papua New Guinea in meeting the challenges of the MTDS. The MTDS deals with some of the effects of poor governance in past years, particularly the lack of accountability and transparency, which leads to poor fiscal and financial management and in the worst instances, corruption.

A recent report by the Commonwealth Secretariat and the Asian Development Bank to the Pacific Islands Forum<sup>2</sup> stated that a World Bank estimate of the aggregate loss of Gross Domestic Product (GDP) to Papua New Guinea for the period 1975-2003, as a result of poor governance, including corruption, was US\$52.8 billion; that is, approximately K170 billion, which exceeds the total government budgets for Papua New Guinea for that period.

Corruption has become a serious problem for our nation. Daily media reports highlight instances of fraudulent and corrupt behaviour at all levels of our society. The Auditor General has the important role of providing leadership in the fight against corruption. Internal audit shares this responsibility. The roles are complementary, and personnel should strive to work in partnership.

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<sup>2</sup> Towards a New Pacific Regionalism: An Asian Development Bank-Commonwealth Secretariat Joint Report to the Pacific Islands Forum Secretariat, p.12.

## **The Role of the Auditor General**

The Auditor General's role and responsibilities are established by the Constitution and the National Parliament. The Auditor General is essentially the independent external auditor to the Parliament and the people of the Independent State of Papua New Guinea. His position as a constitutional officer and the provisions of the *Audit Act 1989* give him very broad, but significant powers.

The Auditor General has an important role in helping to maintain the integrity of the systems of government. Parliament, and through it the people of Papua New Guinea, relies on the Auditor General to provide independent assurance that the government's activities are carried out, accounted for, and are consistent with Parliament's intentions. How does this relate to dealing with corruption and corrupt practices?

As well as providing reports and advice to the Parliament on the financial accounts of the State and its agencies, the Auditor General's mandate, as set out in s. 3 of the *Audit Act 1989*, 'requires' him to look further, to cover management frameworks and control structures over efficiency and effectiveness, legal compliance, and 'waste and extravagance', as the fraud and corruption preventer. He must provide reports on his work to the agencies involved, mainly through 'management letters'. Further, he must report the results of audits, investigations, and reviews to the Parliament, and in the normal course of events, these reports are referred to the Parliamentary Public Accounts Committee. Where appropriate, the Parliamentary Public Accounts Committee will undertake hearings into matters raised, and the Auditor General along with others, may be called upon to give evidence or assist these inquiries. This is often the point at which agencies and individuals are called to account for their actions.

As Borge (2001) stated at the Tenth International Anti-Corruption Conference in Prague, in 2001:

'Through concerted actions, Supreme Audit Institutions (SAIs) play an important role in promoting a culture that rejects waste, and values honesty, responsibility and rational utilization of economic wealth'.

This principle can be used by the Auditor General in preparing audit reports, as it is essential to ensure that audit work examines the manner in which agency management meets its governance responsibilities. It is at this level that culture is influenced, not just by management setting an example, but in ensuring that the work environment is consistent with the culture.

It is important to understand how agency management performs, and how management undertakes its role:

- Does it have a plan?
- Does it report, and receive reports, on achievements against this plan?
- Does it understand the risks that the agency faces in its operations?
- Does it have a fraud (control) plan?

- Does it have an effective control environment to address business and financial risks?
- Does it have processes in place to ensure that these controls operate effectively?
- Does it ensure that any inappropriate behaviour is pursued and action taken against offenders?

Borge (*ibid.*) stated that the main contribution of an SAI with regard to the prevention and detection of corruption and fraud lies in improving overall public sector transparency and accountability, supporting an environment that limits the opportunity for acts of corruption, and creating a climate of good governance. The contemporary belief of SAI is that, by fostering strong financial management, based on reliable, adequate, and timely reporting, including the disclosure of deviations, along with effective internal control systems, represents the basic elements of an SAI's role. A well-resourced, independent Auditor General is essential in the fight against corruption. However, the Auditor General is only one player in the fight and there are limits to what he can, and should, address, and what he can achieve. One must work with others, including internal auditors, to achieve the national goals.

### **Opportunities, Challenges, and Barriers**

Like most agencies, the Auditor General's Office is constrained by the available resources, and cannot provide even the most basic audit reports or opinions regarding the financial statements and reports produced by government departments and state agencies.

The Auditor General's current mandate covered:

- some 28 national departments and their agencies, some of which have a presence across all provinces;
- some 19 provincial governments and their business arms;
- more than 450 local-level governments and their business arms; and
- more than 330 financial statements by authorities and commercial agencies.

In addition, there are 19 provincial treasuries, and an increasing number of district treasury offices, hospitals and their boards, schools and other institutions of learning, and many trust accounts.

Significant challenges that the Auditor General's Office faces are to recognise the inadequate resources, and the way we need to work to maximise returns:

'We must change the manner in which we undertake audits and prioritise work so that we only do that which is essential. We must look broadly across our mandate and determine if there are audits and reviews not currently undertaken which are more important than audits that we currently undertake, and change our audit strategies and plans accordingly (personal communication).'

This will allow more resources to be devoted to work with agency management and regulatory agencies, such as the Department of Finance, to improve financial reporting frameworks, internal control environments, and governance structures, and fewer resources to be devoted to the symptoms of things that are not working properly – the errors and inappropriate behaviour. The latter is more the responsibility of agency management and regulatory agencies, especially through audit committees and internal audit. It is essential that audit reports focus on opportunities to enable clients to improve.

An added challenge that internal auditors face is the lack of qualified staff to work in audit. It is important that collective strategies are pursued to recruit, train, and retain good officers. Bodies such as the Institute of Internal Auditors can perform an essential role in this regard.

While resource constraints often make it difficult to pursue fraudulent activity, the Auditor General strives to do that. This includes:

- understanding the action that management is taking to ensure that its governance process are working;
- making sure that consideration of the internal control environment identifies fraud and corruption risks;
- reporting instances to management, or other responsible authorities, where inappropriate action has occurred; and
- reporting control weaknesses to agencies and the Parliament, and monitoring and reporting on action to address these weaknesses in the control environment.

### **Working Together**

While it is often possible to make some judgment on management – including governance, internal control frameworks, and legal compliance – as evidenced by some of the issues raised by the Public Accounts Committee over the past year, the Auditor General’s Office does not have the resources to even scratch the surface of these very important issues. The Auditor General and internal auditors share common goals and must take every opportunity to work together. This might be achieved in several ways:

- through exerting influence on central agencies and other agencies to recognise the importance of internal auditors roles, and to ensure they are independent and adequately resourced;
- ensuring open lines of communication between the Auditor General and internal auditors, to facilitate:
  - sharing of planning information;
  - consultation on risk assessment; and
  - sharing of audit findings and experience;
- providing assurance to management on internal audit, as part of the internal control framework;
- advising the audit committee on the internal audit mission, charter, planning, and scope of work to be undertaken; and

- relying on each others' work.

In the normal course of events, where issues or transactions may be inappropriate or fraudulent, the practice is for the matter to be referred to management. Often, internal audit is then called upon to undertake investigations on behalf of management, and to prepare briefs for further action, including prosecution. These investigative activities require special experience and skills that are more likely to be found within internal audit than external audit. The effective sharing of information is essential in such circumstances.

### **Conclusion**

The work of the Auditor General and internal auditors is a significant element in reducing fraud and corruption. It is undoubtedly more cost-effective to deter and prevent fraud than to detect and investigate it. This is one priority of the Auditor General's Office in respect of fraud and corruption. However, the primary focus of the office is on improving overall financial accountability, as well as audit, and thereby creating a climate of transparency and good governance.

## **CHAPTER 7: THE POOLING OF RESOURCES AND EXPERTISE IN COMBATING CORRUPTION**

*Sam Inguba*

### **Introduction**

This chapter highlights the progress that the Royal Papua New Guinea Constabulary (RPNGC) is making in the ongoing fight against fraud and corruption.

The degrees of corruption vary greatly, from minor uses of influence and patronage – giving and returning favours – to institutionalised bribery and beyond. Simply, corruption is the lack of integrity or honesty – especially susceptibility to bribery. It is the use of a position of trust for dishonest gain.

In recent years, we have seen an increase in the number of fraud cases involving large sums of public money. It is becoming increasingly evident that there is an extensive network of people from within government departments, as well as others, working together to defraud the State of millions of kina, which, if used properly, would vastly improve the lives of the people of Papua New Guinea.

There is no single fix-all solution to corruption. It must be fought using all the resources that are available in both the public and private sectors.

Every day in the newspapers there are articles on corruption involving government departments, or public servants. This is most unfortunate, as corruption consumes Papua New Guinea's limited resources. By tackling corruption intelligently, poverty can be reduced and the economy of our nation improved. The role of internal audit is significant in identifying corruption, and reporting it to senior management. It is very important that appropriate measures, in the form of stringent financial controls, policies, and procedures, are put in place to minimise future opportunities for corruption. To achieve this, it is essential to make staff aware of what corruption is, and how bad it is for the organisation and the country as a whole.

### **Combating Corruption**

Fighting corruption is the responsibility of everyone in an organisation, from senior management to the lowest ranking officers. It is necessary to support those who report corruption, and to protect them in the workplace. It is a major responsibility for management to make sure that there is a policy in place to protect those who risk coming forward to expose corrupt practices.

Internal auditors are in the front line in identifying fraud and corruption within organisations. Most fraud and corruption is identified by staff or internal audit. Therefore, it is essential to ensure that there is an effective internal audit capacity to deal with corruption, and take appropriate steps to stop it. Internal auditors need to be:

- qualified and trained to perform the role;

- conscientious and industrious; and
- fearless in reporting any suspicious or unexplained expenditure.

For an internal auditor to function effectively, he or she must report directly to the chief executive officer of an organisation. Further, the internal auditor must have unrestricted authority to delve into every area of an organisation when conducting an audit. The audit should not be restricted to financial expenditure, but must also look at tender and procurement policies and whether they are functioning properly. Random audits, without warning, should be conducted to keep organisations on their toes. Chief executives should support internal auditors in doing what they are paid to do!

The National Fraud and Anti-Corruption Directorate within the Police Department (hereafter the National Fraud Squad) is situated at its new premises in Konedobu. It is the main criminal investigation unit charged with the responsibility to investigate fraud and corruption. The detectives there are amongst the most dedicated in their duties. A forensic accountant and a legal adviser support the National Fraud Squad and work closely with police investigators.

This multi-disciplined arrangement has been a new concept for the police in Papua New Guinea. Accountants have the expertise in financial analysis and audit, lawyers provide the legal support and advice, and the police investigators conduct investigations and interviews with witnesses and suspects. The concept of pooling professional support to obtain the maximum benefit has been working very well.

Police receive complaints from the public sector, the private sector, individuals, commissions of inquiry, and the government, amongst others. All fraud and corruption complaints are funnelled into the National Fraud Squad, where they are assessed. They are either accepted as cases which fall within the criteria for investigation by the National Fraud Squad, or are sent to a local Criminal Investigation Division for appropriate action. The work load of the National Fraud Squad is very heavy, and it has limited resources. After the assessment process takes place, the investigation is referred to an investigation team.

To support the National Fraud Squad, provincial fraud units have been set up in major centres throughout the country. All fraud investigators are trained in conducting investigations, interviewing witnesses and suspects, collecting and analysing evidence, and preparing quality court files for prosecution.

The National Fraud Squad was given the daunting task of investigating a number of referrals arising from the National Provident Fund Commission of Inquiry. This was a major challenge that tested the capacity and resources of the National Fraud Squad. To date, steady progress has been made in these investigations. One matter, involving a series of false valuations, has been determined before the National Court, and the offender has been sentenced to six years imprisonment. Many other cases are now waiting to be heard in the National Court.

### **The National Anti-Corruption Alliance**

In April 2004, the National Anti-Corruption Alliance (NACA) was formed. The Commissioner of Police was the inaugural chairman of NACA and worked closely with senior colleagues from the other agencies. There are nine public sector agencies committed to NACA – RPNGC, Public Prosecutor's Office, Ombudsman Commission, Auditor General's Office, Solicitor General's Office, Department of Treasury, Department of Provincial and Local Government Affairs, Internal Revenue Commission, and the Department of Personnel Management. These agencies are working together to combat corruption in the public sector. The members of NACA are very committed and hard-working officers who are trying to make a difference in reducing, if not eradicating, corruption.

NACA's main functions are to:

- identify major fraud and corruption cases for member agencies to prioritise, investigate, report upon, and prosecute;
- work in a cooperative spirit, sharing expertise and resources; and
- exchange information, complying with the various agency legislation that governs us.

NACA has a significant role to play in the investigation and prosecution of public sector fraud in the future. This is a new concept for Papua New Guinea with the pooling of limited resources and expertise to maximise the impact in reducing fraud and corruption. Corruption should be dealt with in a two-pronged manner – investigate and prosecute offenders, then the courts to apply an appropriate penalty. Imprisonment and heavy fines should act as effective deterrents.

### **The Proceeds of Crime Act**

Equally, attempts should be made to recover monies that have been misappropriated or stolen from the State. Every effort should be made to have these monies returned to consolidated revenue. Recently, the *Proceeds of Crime Act* was passed by Parliament. That legislation will now allow the Public Prosecutor to recover property and monies that have been obtained through criminal activities. Police will be able to request the courts to forfeit tainted property obtained by organised crime **and** transnational crimes involving drug trafficking, prostitution, illegal gambling, and the illegal production and sale of liquor. There are special powers to freeze bank accounts, on suspicion that money laundering has taken place.

The police are in a position to recover monies that have been obtained through fraud and corruption. Powers under the *Proceeds of Crime Act* include the ability to seek compensation for the State. The success of enforcing the Act will depend on the support that the police can get from cash dealers to report suspicious or unusual financial transactions. Cash dealers include financial institutions such as the commercial banks, insurance companies, securities and futures dealers, operators of gambling casinos, lawyers, and accountants.

## **The Financial Intelligence Unit**

The RPNGC is in the process of establishing a special police unit, to be called the Financial Intelligence Unit (FIU), which will investigate suspicious cash transactions in accordance with the *Proceeds of Crime Act*. The FIU will be created within the National Fraud and Anti-Corruption Directorate. Its role will be to collect, compile, analyse, and retain information received from cash dealers, and to disseminate it amongst investigating authorities. All cash dealers have an obligation to report cash transactions of K10 000 or more to the FIU, report any suspected transactions, and establish and maintain internal reporting procedures. The FIU will exercise its powers and duties and conduct investigations under the *Proceeds of Crime Act* in consultation with relevant institutions and organisations. The setting up of the FIU will require substantial new infrastructure and resourcing to cater for a team of eight police personnel who will be supported by a forensic accountant and a legal adviser.

The Commissioner of Police has had to deal with internal corruption within the RPNGC. The organisation is not immune to selfish individuals who seek to take advantage and steal the limited funding provided to the police. Extensive investigations have been conducted into various risk areas that are exposed to corruption. There was evidence of widespread corruption by some officers in the Lands and Buildings Unit who were seen to be colluding with shady builders and contractors to the detriment of the constabulary. Investigations revealed that certain contractors were favoured and there were kickbacks to some individuals.

A major investigation into the Finance Unit of the Police Department also revealed corrupt work practices. This is a critical area, and funding was sourced from the Law and Justice Program to engage consultants to review the administration and operation of the Finance Unit. Many recommendations from that review are now being implemented. Another area which has been investigated is the Transport Branch. All areas investigated thoroughly by police resulted in many officers being charged with serious criminal offences, suspended from duty, and/or dismissed from the constabulary.

## **Managing Institutional Corruption**

Every organisation can be exposed to corruption. It is important that organisations which are facing corruption have strong leadership to deal with the problem, and that the leadership comes from senior management. Senior management must take the lead to show others that they will not tolerate corruption. The consequence of not taking decisive action is that the organisations will be exposed to wider corruption from other areas. If staff members see the Chief Executive Officer or senior management with their hands in the till, then they will want to do the same and will justify their criminal behaviour by reference to their peers. Senior management must lead by example, setting the standards expected of officers in resisting corruption, and managing risk exposure.

The role of internal auditors is to advise management of financial irregularities. They must work honestly, diligently, and without fear or favour. Management must take the lead and support and encourage internal auditors to do their work effectively. Internal auditors must be allowed to use their initiative and challenge the systems,

policies, and procedures that are in place. Their role is to strengthen these systems, policies, and procedures to resist corruption from within the workplace, and from outside.

Staff must be made aware of corruption and encouraged to report such activity to management. Officers must be educated and protected, otherwise they will lose confidence and not bring unlawful activity to the notice of management.

Management must take firm action to dismiss officers who are involved in corrupt activities, and should report such conduct to police to investigate. Often, such individuals are allowed to resign without any attempt being made to obtain compensation for what has been stolen, or reporting the matter to police.

The work of internal auditors within an organisation is likened to that of a 'watchdog'. They are there to protect assets, from those who wish to steal them. They are the last line of defence. Senior management must support their good work and protect them from those who attempt to influence or intimidate them.

Finally, ethical issues, standards, and behaviour represent a universal challenge, not just for internal auditors, but for every citizen. The RPNGC is concerned about corruption and its role and responsibilities in regard to fighting corruption. The police cannot combat all the evils of the world, but they must hold strong opinions and beliefs about what is right and what is wrong. They must be willing to take unpopular stands for what they believe in. Certain individuals are working together to deprive the community of basic services so let us work together to expose them and bring them to justice.

## **CHAPTER 8: APPROPRIATE INFORMATION FOR COMBATING CORRUPTION**

*Peter Donigi*

### **Introduction**

The issue of corruption has been with us since the beginning of time, when one person schemed to take advantage over another. There are legalised schemes of corrupt behaviour, and behaviour that is frowned upon and made illegal. In the development of any legalised, anti-corruption measures, it is imperative to decide which behaviour should be restricted and which should be permissible.

To do that, we should look at the elements that make up corrupt behaviour. The starting point in any such discussion should lead to an understanding of the opposite of corrupt; that is, what is classed and divinely sanctioned as perfect. Anything that is not perfect is, by nature, a corruptive outcome of projecting the 'individual will' over the 'divine will'. For example, the United Nations' Millennium Development Goals are directed at the eradication of poverty and achievement of social justice by targeting perfection. Similarly, Papua New Guinea has to find the perfect outcome, or be lost in the abyss of despair and wanton greed. Strategies must be directed at the common good, not the good of an individual at the expense of society in general.

Like many other nations in the world, Papua New Guinea has laws to guide human behaviour in an effort to achieve perfection. There is an abundance of laws dealing with corrupt behaviour, from the Criminal Code, to offences covered by various legislation regulating the conduct of people in their interactions with each other. They range from health regulations to regulations about trading practices, professional conduct, and corporate behaviour. Any breach of these laws can be classified as corrupt behaviour, and punished in order to deter further behaviour of a similar nature.

However, many people use legal precedents to devise new schemes to avoid being caught. One example is in the field of taxation, where tax avoidance is legal, but tax evasion is a crime. In a perfect world there would be no need for either, as both are based on 'taking' rather than 'giving'. From Bugi-Buteim ancestral knowledge, the role of the chief is based on 'giving' rather than 'taking'. This might be distinguished from Papua New Guinea's Highlands societies which are based on the 'big man' or acquisitive culture. 'Taking' depletes, while 'giving' regenerates relationships. Papua New Guinea's policy makers must distinguish between these two opposing cultures to create a way forward for future generations in order to combat corruption.

### **The Principle of Double Jeopardy**

The principle of double jeopardy states that one cannot be tried for a second offence, based on facts that were already produced in a trial for another offence in another court of law. The law is very clear on this issue, and there is no grey area:

Leadership offences in Papua New Guinea under the code of conduct of individuals, do not amount to crimes or offences at law. And in so far as they amount to offences

at law, the principle applies where the leader is under sentence of imprisonment for a period exceeding nine months (Constitution s.103 (3)(d)).

In relation to the issue of sentencing, the potential for corrupt behaviour in any society is automatically presented when a discretionary power is established, either by the legal system or by administrative procedures. In order to remove the possibility of the exercise of discretionary power, all legislative schemes and administrative procedures that grant discretion must be removed, and replaced with a simple and transparent step-by-step approach to decision making. Section 103 of the Constitution created the potential for incentives to be offered to bypass the system, because it provides for a situation where the court has deliberated and imposed a penalty in excess of nine months. It provides for the exercise of discretion by the judge. To avoid the possibility of misuse of discretion, the constitutional provision should be changed to state that, 'where the leader is found guilty of an offence which carries a maximum prescribed penalty of nine months'. Minor offences should be targeted within the category of leadership offences, not serious crimes such as stealing or murder, which carry penalties in excess of nine months imprisonment.

The issue of double jeopardy is very simple, but the general public have not been properly educated about the situation created by the Constitution. The history of the Leadership Code goes back to the arguments before Parliament about the need to keep leaders honest. Two options were considered at that time. One was for all MPs to declare and list their assets publicly in Parliament, and to make that list available for public scrutiny. Some leaders opposed making their private assets known to the public. The compromise was to not make the assets of the leaders' public, but to place the knowledge with an independent body – the Ombudsman Commission – which is supposed to ask the right questions about the sources of accumulation of wealth, and keep leaders honest. This placed an additional responsibility on the Ombudsman Commission to manage honesty on the part of the leaders, for and on behalf of the public.

A constitutional scheme was then developed to facilitate the prosecution of leadership offences, which are transgressions against the moral code and not transgressions of the law as such. Leadership Code offences are offences against the *moral* code and are not *criminal* in nature. The mechanism for enforcing the moral code is the Leadership Tribunal. The Constitution makes it plain that the Leadership Tribunal is not a court of law, and proceedings before it should not be classed as legal or judicial proceedings (see s.28(5) of the Constitution). The minimum requirement in terms of the procedures of the tribunal is to apply the principles of natural justice. Section 28 also states that proceedings before the tribunal are '*not a bar* to other proceedings provided for by law', and 'no other proceedings provided for by law are a bar to proceedings that are before a leadership tribunal'. Therefore, the principle of double jeopardy does not apply to leaders. Rather, there can be concurrent proceedings before the Leadership Tribunal as well as before a criminal court for transgressions against the criminal laws of Papua New Guinea, arising out of the same set of facts.

The standard of proof for the tribunal is a civil standard, while that in a criminal court is higher. The former is based on a balance of probabilities, while the latter must be beyond reasonable doubt. An excuse for the lack of prosecution of leaders is the

inability of the police to properly carry out the investigations, collate and protect evidence, and then prosecute leaders under the Criminal Code.

This highlights the fact that the police must be properly resourced in terms of manpower, financial, and technological capacities to enable them to carry out their functions effectively. For example, white-collar crimes cannot – and should not – be expected to be investigated thoroughly and prosecuted by members of the police force who have Grade 10 or Grade 12 education. Persons who commit white-collar crimes may have paid substantial amounts of money to lawyers and accountants to create schemes to hide their crimes. Consequently, an equally skilled team of combatants in the police force is needed to unravel these schemes, collate information and facts, and properly prosecute criminal offences. This highlights the need for an Independent Commission Against Corruption (ICAC) in Papua New Guinea to deal with the pressing issues of corruption.

### **An Organic Law on the Independent Commission Against Corruption**

A team comprising Peter Donigi, Sir Barry Holloway, and Paul Bengo was financed by the World Bank to work on an Organic Law for an Independent Commission Against Corruption (PNG ICAC). The team studied systems in Hong Kong, Singapore, Queensland, New South Wales, and New Zealand, and visited Hong Kong, Queensland, and New South Wales.

The team devised a system based on the ICAC in Hong Kong. The PNG ICAC was only to be given authority to investigate a select list of offences. Five different classes of offence were identified, in addition to conspiracy to commit those offences. Another category covered offences created by the ICAC law itself, with respect to its implementation. The categories were:

- bribery of Members of Parliament;
- disclosure of official secrets;
- corruption and abuse of office;
- secret commissions;
- corrupt and improper practices associated with elections; and
- conspiracy to commit any of those offences.

However, instead of defining corruption, the team members considered that there were already sufficient laws dealing with the issue of corruption and its undesirable consequences on society. The problem was in respect of the implementation of those laws. They recommended the establishment of a special independent constitutional body with the necessary powers to investigate all these categories of offences and crimes, and urged that all leaders, from the Governor-General down, should be subject to the jurisdiction of the ICAC. Provision was made for recourse against the ICAC in order to make it answerable for its actions in case of abuse of its powers and authority. Provision was also made for the protection of whistleblowers, including making arrangements for a change of their identity. The team developed an organisational structure and a budget for the running of the ICAC.

The then Prime Minister, Sir William Skate, tabled the Organic Law in Parliament, in December 1998. Since then, Parliament has not moved a vote on it, nor has Parliament rejected it. There was only superficial debate of the proposal. No serious effort has been made by the current Prime Minister, Sir Michael Somare, to re-table the Bill and bring forward debate on it. It is obvious that no Member of Parliament is interested in passing a law that could affect his or her personal interest, even if it promoted the well-being of the nation. There is simply no political will.

When the team leader went before the Parliamentary Committee on the ICAC, in 1998, several issues were raised by Members of Parliament. One member asked if the jurisdiction of ICAC would be limited to only future offences and crimes. The team leader suggested that Members of Parliament must answer the question, 'Should leaders be immune from prosecution for offences committed by them prior to the passing of the ICAC law, while ordinary citizens were not so protected?' He pointed out that there is no time limitation for prosecution of criminal offences within our criminal justice system. If evidence is uncovered, a person can be prosecuted for an offence committed twenty years ago. (This is to be distinguished for civil claims where there is a time limitation of seven years.) It must be acknowledged that a crime is a crime, no matter who commits it. By virtue of their position, leaders should receive a heavier penalty, if found guilty, than an ordinary villager who is guilty of greed.

### **Custom Is No Excuse**

Another issue that always accompanies discussions of corruption is that of custom. Those people who appeal to custom do so out of ignorance of the criminal justice system. It is taken into account only to determine the sentence that has to be meted out to the guilty. To argue that custom can excuse corruption confuses the issue of guilt with the issue of an appropriate penalty.

The Criminal Code (s.23) is specific in its use of the words '...ignorance of the law does not afford an excuse for an act or omission that would otherwise constitute an offence'. The law is the law. It is paramount. Custom in its totality cannot be used to defeat the supremacy of the law. Custom is dealt with by Schedule 2.1(2) of the Constitution, which provides that custom does not apply if it is inconsistent with a constitutional law or a statute law, or if it is repugnant to the general principles of humanity. The custom of offering or taking incentives is inconsistent with the constitutional law, the Criminal Code, and arguably, with the general principles of humanity. Leaders who 'take', at the expense of the nation, should be told in no uncertain terms that they do not deserve the position of trust which was bestowed on them by their electors.

### **Conclusion**

Much energy and money was expended on the establishment of the proposed ICAC, which has yet to be implemented. The ICAC should be immediately established, and must be properly resourced to implement its task to combat corruption – even if the only way to do this is through development assistance.

After an ICAC is established, it would need to be properly resourced to make it fully functional. Development assistance would also be required in this sector, as it is plausible that Parliament may not appropriate a proper budget to make this institution fully functional. Investigations need to be done and prosecutions mounted, for offending leaders, private sector individuals, and civil servants. There will be opposition to the establishment and functioning of an ICAC, and it may be a dangerous task for those entrusted with the role of undertaking investigations. However, the culture of corrupt behaviour needs to be eliminated from the public and the private sectors. It will take time, and those who are dedicated to this task must be prepared for the long haul.

## CHAPTER 9: THE ROLE OF TRANSPARENCY INTERNATIONAL IN COMBATING CORRUPTION

*Marcus Pelto*

### Introduction

What does Transparency International, Papua New Guinea (TI (PNG)) want from the Papua New Guinean research community to assist it in eliminating corruption from public life in Papua New Guinea and focusing on the practical reality of anti-corruption public policy?

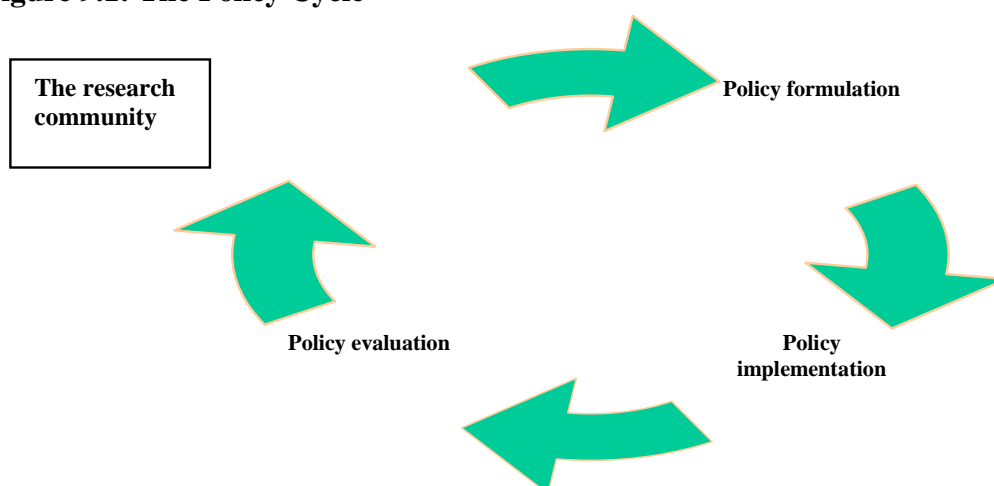
Transparency International's core business is about being an information broker – procuring the 'right' information and providing it to the 'right' people at the 'right' time. As an advocacy group, that is how it achieves public policy goals, providing timely and accurate information, with some objective analysis to decision makers, at the time they need to make decisions.

### Information and Public Policy

*If the change is to 'improve decision making', one of the most obvious ways to do so is to provide decision makers with an understanding of specialised knowledge or expertise that can assist them in making wise choices among alternatives (Barkenbus 1998).*

The TI (PNG) message to the research community in Papua New Guinea is that they should see themselves as an integral part of the policy cycle. The research community should be engaged at every stage of the policy process – *agenda setting, policy formulation, policy implementation, and policy evaluation*. Good information is necessary for good decision making, while poor information will result in poor decisions.

**Figure 9.1: The Policy Cycle**



**Source:** Anderson (1978), cited in Jann and Wegrich (2005).

## **Setting an Agenda**

Public decisions in Papua New Guinea, as in any other polity, are made according to political imperatives. The TI (PNG) response to this challenge is that policy entrepreneurs (politicians, public servants, researchers, and NGO advocates) must look at the policy cycle and create the political market; that is, generate the demand for their product, and set the political agenda.

## **The Maturity of Policy Debate in Papua New Guinea**

Policy entrepreneurship is already occurring in Papua New Guinea, in the form of regular articles in the newspapers from the National Research Institute that address broad public policy issues such as competition in the retail rice market, land titles, and broader economic development. The goal for policy entrepreneurs is to take their debate into the wider community. In a country with very low literacy levels, this is a challenge. Not everyone reads a newspaper or watches Papua New Guinea's only television station, EMTV. However, for those who are willing to apply principles of social marketing innovatively, messages can be communicated to any audience anywhere. It is just a matter of being imaginative with the medium, and staying away from personal politics, which plague public policy discussion in Papua New Guinea.

TI (PNG) has recently experienced this in respect of two private members' Bills that were gazetted in mid-2005. The Bills proposed to exempt MPs from dismissal for breach of the Leadership Code, while raising discretionary electoral funds available to each of the 109 Members of National Parliament by K1 000 000 a year. The strategic objective of the TI (PNG) campaign against these two Bills was to raise public opposition to the extent where parliamentarians who voted for them would be risking their seats in the 2007 National Elections.

To do this, it was necessary to communicate with a wide cross-section of the Papua New Guinean community. The appropriate vehicle was the Community Coalition Against Corruption (CCAC), which is a loose issue-based network of community leaders from the public, private, and community sectors. Through a rolling information campaign that included press releases, information memoranda, and fact sheets distributed to TI (PNG)'s and CCAC's partners, both Bills were withdrawn in late 2005.

Without the support of all partners, this campaign would not have been successful. The churches, the independent media, and non-government organisations throughout Papua New Guinea picked up the campaign. Additionally, there were individual MPs and government Ministers who, at critical stages, gave their support to the campaign.

One MP stated that grassroots people in his electorate approached him about the Bills when he was travelling through some very remote towns and villages, generally beyond the reach of any modern media such as newspapers, TV, or even radio. The only way that these people had been informed was through the churches. This highlights the important role that the churches can play in providing information to their members about issues of national importance.

### **Setting the Public Policy Agenda in Papua New Guinea**

There are two steps to getting a public issue onto the political agenda in Papua New Guinea:

- identifying a real problem which requires the diversion of public resources to address it; and
- political will to take real action, and divert resources to fix the problem.

The latter (political will) may be the missing link in the current anti-corruption public policy cycle in Papua New Guinea. Political will ultimately arises through the primary accountability mechanism between citizens and the State – truly democratic elections.

Following this formula, TI (PNG)'s first strategic priority for 2006–2010 is to bring further effectiveness to the electoral process in Papua New Guinea, as a free, fair, and democratic governance mechanism. It is hoped that the broader goal of bringing grassroots people into public debate will give voice to those people who are currently marginalised within Papua New Guinea, and raise the overall quality of public decision making.

### **Information and Public Management: Formulation and Implementation**

*Decision makers usually operate within a tight timeframe, with inadequate resources and information. They are buffeted by special-interest pleading, bureaucratic imperatives, and political forces whose vision extends no further than the next election cycle (Dye 1984).*

Public interventions are about solutions to problems. For example, a Minister may ask his ministry to develop a policy solution to a political problem. There may be many reasons for the problem becoming political, but fundamentally, it will be to the political advantage of the Minister if the problem is addressed (or at least is seen to be addressed). Often, policy solutions will emerge from the civil service, but bold and innovative policy solutions will not be sustainable unless they are fed with judicious amounts of political will that can only emanate from the executive arm of government.

As one management expert stated, 'One cannot manage what one cannot measure' (Drucker 1994). This adage has been taken up by the public sector as part of the movement from input-based administration to outcome-based management. For the public official who has been tasked to develop an anti-corruption policy by a Minister, information is critical. For example, if a Minister asks his ministry to develop a policy to curb corruption in procurement, the official may ask, 'Where do I start?' This is where the research community has a role to play, for example, by supplying methodologies to test the integrity of public procurement. Such engagement affirms the close interrelationship between public policy players in a dynamic and growing democracy.

Public officials, together with researchers and other stakeholders, can develop the framework of a public policy solution that can be successfully implemented. A public

policy that is not based on quality information or input from researchers or policy stakeholders is bound to fail.

### **Evaluation of Corruption Research in Papua New Guinea**

By its very nature, corruption research has always been a difficult area in which to collect data. If someone was researching roads in Papua New Guinea, questions such as, ‘How many kilometres of sealed road in East New Britain were laid in 1999?’, could be answered accurately using simple methodologies. However, if someone asked the question, ‘How much money was paid as bribes, to Papua New Guinean Ministers in 1999?’, then an accurate answer would be harder to obtain.

This global challenge has given rise to tools such as the TI Corruption Perceptions Index (CPI)<sup>3</sup>, which attempts to measure global perceptions of corruption in given countries. It is often pointed out, in relation to the CPI, that perceptions are not an accurate indicator. However, perceptions may be the most accurate indicator that is available. Obtaining statistics for areas such as convictions in courts, or charges laid is difficult and may be applicable in environments with a properly functioning legal system. However, the current reality in Papua New Guinea is that, in the large majority of instances, corruption does not even get to court, let alone end up with the conviction of a guilty party. In this context, perceptions can present a fairly accurate picture of what is really happening.

The accuracy of the CPI gives rise to another reason why TI (PNG) desires more Papua New Guinean based corruption research. The methodology behind the CPI is sound because it could not have stood for as long as it has, if it was not. However, the information may be skewed. Broadly, surveys are taken from authoritative domestic and international sources to compile the final data. The authors of the CPI emphasise that rankings are not as important as the scores. The sources for the CPI are risk analysis specialists who are based in Papua New Guinea and internationally, and provide their analysis to investors and other interested parties. It is the opinion of TI (PNG) that increased Papua New Guinean based research on corruption will give rise to a more accurate picture of Papua New Guinea in international forums than that which currently exists. It is in the interests of all who are concerned with governance in Papua New Guinea to support corruption research, if only for this reason.

### ***Other Diagnostic Tools that Measure Performance***

The role that diagnostic tools play in measuring performance is well-known in business practice. Companies can measure their performance against indicators such as before-tax and after-tax profit, or gross sales revenue. Public policy has only more recently adopted the practice. The Human Development Index is a well-known indicator which countries can use to measure their development performance.

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<sup>3</sup> See [http://www.transparency.or/policy\\_and\\_research/surveys\\_indices/cpi](http://www.transparency.or/policy_and_research/surveys_indices/cpi).

Transparency International has pioneered and refined the development and use of corruption diagnostic tools, over the past decade. These tools have been designed with national chapters in mind, and consequently they can be simply configured and used. Some of these tools include integrity audits and integrity and corruption surveys. Further information on these tools is available through TI (PNG) or the TI website.<sup>8</sup>

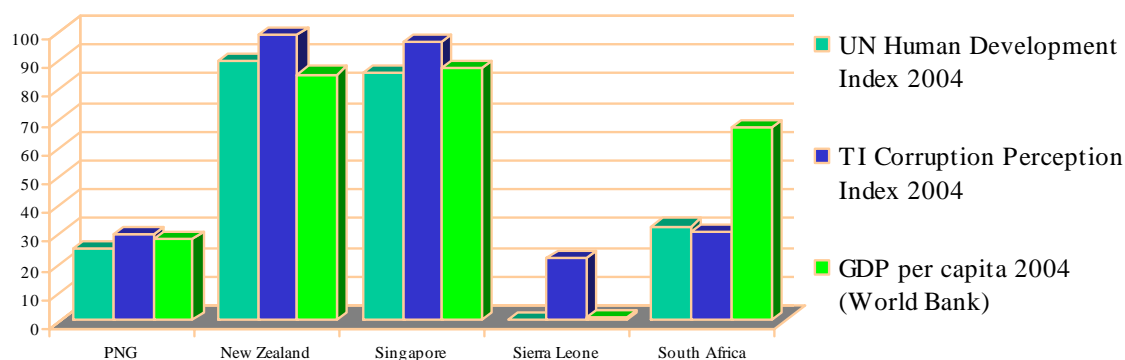
TI (PNG) has been approached by its civil society partners to facilitate a province-by-province Corruption Perceptions Index. This would be a useful indicator for policy makers in Papua New Guinea, and could be used at all stages of the policy cycle. However, considerable political support is required before such an index could be carried out. TI (PNG), with its community partners, can garner the technical resources required to undertake such a survey, but if they undertake such a survey without political support, then a positive outcome would be undermined by an increased level of antagonism between TI (PNG) and its partners within government. This example is indicative of the wider tenet, that Transparency International chapters are most effective when they work with government, not against it.

### *Correlating Diagnostic Tools*

It is important to understand how statistical or diagnostic tools can provide a crude comparative index. A comparative index for Papua New Guinea, New Zealand, Singapore, Sierra Leone, and South Africa is drawn from three separate development indicators for 2004 – the UN Human Development Index, the Transparency International Corruption Perceptions Index, and Gross Domestic Product per capita (see Figure 9.2).

Figure 9.2 shows that development is associated with governance, which is about ensuring that decision makers make decisions on behalf of the polity, and not on behalf of their own or other private interests. If a government wishes to pursue development, good governance is not optional – it lies at the core of the development process. If a government is pursuing development without an accompanying emphasis on anti-corruption, then it will fail in its efforts. Governments that continue to be corrupted by venal interests will undermine their own foundations and the future of the citizens whom they purport to represent.

**Figure 9.2: Comparative Human Development, Corruption Perception, and GDP Indicators, 2004.**



<sup>8</sup> See <http://www.transparency.org/tools>.

## Intellectual Independence

The intellectual independence of the research community is also critical to a functional and contestable public policy environment. For example, when the academic community is captured politically, the quality of public policy declines dramatically. No-one can accurately assert that the Papua New Guinean academic community has been captured by any one political authority or ideology (it has been argued that politics in Papua New Guinea is 'ideology free'). However, there are questions concerning the links between Papua New Guinea's public academic institutions and its politicians.

The 2005 unrest at UPNG<sup>4</sup> attests to this problem, which affects almost every Papua New Guinean public sector agency or institution. In Papua New Guinea, the abuse of the public sector as a vehicle for political patronage is as much a problem as is the resultant performance failures in those same institutions. TI (PNG)'s position is that personnel in the publicly-funded research community should be subject to merit-based appointment and dismissal, and should not be subjected to political interference, either in how they operate their institutions, or in determining the subjects or fields they investigate.

## Freedom of Information

Freedom of Information (FOI) has always been a primary policy goal for the Transparency International movement. When public officials are held to account how they allocate public resources, through a legal mandate that forces them to make public the reasons behind their decisions, then the quality of public decision making is raised.

In Papua New Guinea, there are challenges to the implementation of this policy. The constitutional principle exists (see s.51 of the Constitution), but the application of the principle requires political and administrative capacity and will that currently does not exist. The strategic effect of this is that TI (PNG) has not prioritised lobbying for FOI legislation. There are other things that are achievable, and which will have greater effect. Lobbying for FOI laws is listed as TI (PNG)'s fourth strategic priority for 2006–2010 – 'Working with Government'.

There is very little legislative requirement, beyond that found in s.51 of the Constitution for public officials to make public their decisions. Even when there is, such as in the recently amended *Forestry Act*, or in similar resource management Acts, the reality is that agencies will implement these legislative requirements in an *ad hoc* and random fashion. TI (PNG) has sent letters to one public agency requesting copies of documents such as board papers that have led to various decisions.

This right exists under the current Act governing that agency. However, no written reply to this request has been received. TI (PNG) has had verbal responses, such as, 'The managing director approves all requests for information, and he has yet to approve this request'. TI (PNG) has pointed out that there is nothing in the Act that provides for this, to no avail. Sadly, whether or not public officials are operating according to the Act that sets out their roles and responsibilities does not always determine their career prospects in the current Papua New Guinean public sector environment.

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<sup>4</sup> See <http://www.thenational.com.pg/0712/motion.9.htm>.

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## CHAPTER 10: GETTING TOUGH ON CORRUPTION IN PAPUA NEW GUINEA

*Allan Patience*

### Introduction

- *'Corruption is everywhere [in Papua New Guinea]: in the private sector, public sector, NGOs, including the churches' (Papua New Guinea Chief Ombudsman).*
- *'We politicians are the worst criminals' (The late Hon. Sir William Skate, MP).*
- *'Our society is basically corrupt, and corrupt societies elect corrupt leaders' (The late Hon. Robert Lak, MP).*
- *'If we charged everyone who's corrupt, we'd probably have no-one left to run the place' (Former Chief Justice, the late Sir Buri Kidu).*
- *'PNG politics is fuelled mainly by self-interest and greed, at the expense of the nation and the people' (Sir Brian Barnes, Archbishop of Port Moresby).*
- *'Singapore is one of the few countries in the world where corruption is under control. This is due mainly to the strong political will to curb corruption, firm actions taken against the corrupt, regardless of their status and background, and the general public who do not accept corruption as a way of life' (Corrupt Practices Investigation Bureau, Singapore).*

There is a danger in Papua New Guinea that people have begun to tolerate the intolerable, and to accept the unacceptable. Wrong is perversely accepted as right when it comes to thinking about politicians, senior public servants, and business leaders. Badness and unfairness in public life are now thought to be inevitable, rather than goodness and justice. The sad thing about the Papua New Guineans' quotes at the beginning of this chapter is that so many of their fellow Papua New Guineans – probably a large majority of the thinking population – agree with them, but then shrug their shoulders as if to say there is nothing that can be done about it. This is despite the fact that:

... political corruption has become the most serious problem in the post-independence period. Its seriousness is amplified by the fact that it not only manifests the apparent lack of proper governance, but also erodes the quality of democracy in the country (Okole and Kavanamur 2003:7).

To illustrate just how serious this is, to quote from Crocombe (2001):

... a group with foreign backing threatened to kill the Papua New Guinea Minister for Mines and his staff if they did not get the prospecting licence for the Mt. Kare goldfield. The Minister for Forests who tried to stop rampant exploitation suffered death threats and eventually had to flee abroad with his family. Many Ministers have had attempts or threats on their lives. Opposition leader, Roy Yaki, survived two murder attempts during the 1997 election campaign (Crocombe 2001:513).

## **Addressing Corruption**

The time has come for Papua New Guineans to rise up against the corruption that is endemic throughout their polity and society and which now threatens to drive Papua New Guinea down the slippery slope into ‘failed state’ status – or even to ‘ruined state’ status. They must force their political representatives and public servants to enact and administer effective policies to stem the rising tide of venality, criminal mismanagement, stealing of public monies, policy sabotage, and consequent widespread human suffering that all go under the heading of corruption. Singapore could be used as an example to see how this may be achieved.

In 1965, Singapore achieved its independence, a mere decade before Papua New Guinea. At independence, it was very much a Third World State. It was small (approximately four million people) and poor. It had virtually no resources to rely on for sustainable development, apart from its people. It had an ethnically divided population – Chinese from various ethnic and religious backgrounds, Indians from varied religio-cultural traditions, Malays (some of whom were Muslims), some Christians, and some from other Asian faith traditions. These ethnic divisions threatened to erupt into bitter and devastating communal violence.

The British had bequeathed to Singapore a political system based on representative democracy, and a civil service that was alien to the cultural traditions of the peoples it was administering. With the Third World problems it faced and the unfamiliar political and administrative procedures grafted on to Singaporean society at independence, the situation looked like a disaster waiting to explode. Yet, despite all this, Singapore has developed into a well-governed, orderly, united, and prosperous state.

Today, Singapore is arguably the most prosperous and vibrant city in South-East Asia – perhaps in all of Asia. It hosts an airline which is annually judged to be the best in the world. It has an airport, Changi, that for a decade has also been awarded the accolade of being best in the world. It is the busiest port of trade in the world, and has the world’s fourth-highest per capita income. People are well-housed, well-fed, and secure. Crime rates are low and the police are efficient, courteous, and trusted. Singapore has excellent public hospitals, a cheap and efficient public transport system, excellent schools, very high literacy rates, and two world-class universities. To simplify a complex story, there are two vitally important reasons.

First, Singapore was blessed – and cursed – with a very strong and determined leader, Lee Kuan Yew, who had a clear and precise vision of where he wanted to take his country (Lee 2000). He was frequently a ruthless leader, but was always totally committed to the development of his country. He was rarely, if ever, ruthless merely for his own personal ends. There can be no doubting his integrity on that score. He always put the interests of his state before his own, although he recognised that his own interests were intimately bound up with the interests of his country’s development. Unlike many Third World leaders, he could see that personal and public issues were intimately linked. If you put your personal interests before good public policy, in the end, you and your family will suffer, as well as your country. Lee Kuan Yew made sure that his country prospered so that he and his family could prosper. And prosper they did

– both Singapore and the Lee family. Today, Lee Hsien Loon (Lee Kuan Yew's son) is the Prime Minister of Singapore.

The second reason for Singapore's success is because the government enacted a very strong and extremely effective set of anti-corruption laws. Lee Kuan Yew recognised that, without good governance; that is, tightly regulated politicians, well-qualified and scrupulous public servants, and transparent and efficiently run administrative procedures, there could be no sustainable and successful development.

### **Strategies to Fight Corruption**

The instrument with which Lee chose to fight corruption was the Corrupt Practices Investigation Bureau (CPIB). While the British (who set up this bureau in 1952) had concentrated on smaller players, such as the lower and middle levels of the police, hawker inspectors, and land bailiffs who had to deal with squatters, when Lee came to power after independence, he turned the CPIB in an entirely new direction. He went after the corrupt big men and their cronies, and changed the CPIB to give it much wider powers:

...including arrest and search and investigation of bank accounts and bank books of suspected persons and their wives, children, or agents....The comptroller of income tax was obliged to give information concerning anyone investigated. The existing law that the evidence of an accomplice was unworthy of credit unless corroborated was changed to allow the judge to accept the evidence of an accomplice (quoted by Abaya 2005).

According to Lee:

...the most effective change we made...was to allow the courts to treat proof that an accused was living beyond his or her means or had property his or her income could not explain as corroborating evidence that the accused had accepted or obtained a bribe. With a keen nose to the ground and the power to investigate every officer and every minister, the director of the CPIB, working from the Prime Minister's Office, developed a justly formidable reputation for sniffing out those betraying the public trust (*ibid.*).

In addition, Lee convinced his followers in government to enact laws that were very harsh on offenders who were convicted of corruption. These included long prison sentences, seizure of assets, and bans for life from holding public office of any kind.

Today the effectiveness of this very tough approach to corruption is evident in Singapore's prosperity, its good order, and its international reputation as a State where overseas investors and foreign businesses can feel secure and confident that they are dealing with efficient, transparent, and law-abiding officials in both the public and private sectors.

The Hong Kong-based Political and Economic Risk Consultancy Ltd (PERC) rates Asia's levels of corruption annually. In March 2005, the PERC survey rated Singapore

as by far the least corrupt country in Asia, and one of the very least corrupt in the entire world. On a scale from 1 to 10 (from least corrupt to most corrupt) several Asian countries line up as follows:

• Indonesia	9.10	• Malaysia	6.80
• The Philippines	8.80	• South Korea	6.50
• Vietnam	8.65	• Taiwan	6.15
• India	8.63	• Hong Kong	3.50
• China	7.68	• Japan	3.46
• Thailand	7.20	• Singapore	0.65

(Sources: Philippine Daily Inquirer, 9 March 2005; Alatas 2000)

It would be salutary (and probably very disturbing) to measure Papua New Guinea against the PERC criteria and work out its PERC score.

### **Strategies for Papua New Guinea**

What should Papua New Guinea do to fight against the scourge of corruption? How may Papua New Guineans root out what many astute Papua New Guinean observers are so deeply concerned about?

First, Papua New Guinea's educational institutions (from elementary to tertiary levels) must introduce effective civics curricula that emphasise the values of good citizenship and a corruption-free society and political system. In particular, the concepts of 'civic virtue' (Lutz 1998) and 'trust' (Fukuyama 1995) need to be fully explained because they underpin a modern, developing, intelligent political system. Without a clear, nationwide understanding of the fundamentals of civic virtue and trust there can be no good governance. Good governance depends on the people, just as a good village depends on the careful cultivation of its gardens.

Second, Papua New Guinea has to enact effective laws that protect people who are brave enough and good enough to be 'whistleblowers'; that is, people who will publicly expose corrupt behaviour by their superiors or people junior to them. Those good people who successfully expose criminal corruption should be protected and rewarded, not marginalised, threatened, or made to suffer in any way.

Third, Papua New Guinea needs to introduce laws against corruption, similar to the Singaporean system, including:

- minimum ten-year prison sentences for anyone found guilty of corruption, and for serious corruption, convicted criminals should be given life imprisonment;
- compulsory seizure of all assets of anyone found guilty of corruption. All properties, bank accounts, local and overseas investments, cars and other vehicles, houses and businesses, gardens, village houses, and all personal effects should be cashed in and the proceeds put into general revenue; and
- life-long bans for anyone convicted of corruption, preventing them from serving in any form of public office at any level.

Fourth, a well-resourced Anti-Corruption Commission should be established in close collaboration with the Ombudsman Commission, to actively investigate and prosecute corrupt politicians and leaders. This could be closely modeled on Singapore's Corrupt Practices Investigation Bureau.

Fifth, all politicians and all senior public servants should be required, by law, to list all of their assets on a public register; that is, all properties (both local and overseas) they own or have invested in, all bank accounts, all vehicles registered in their names and in the names of family members, and all other investments. In addition, the same information for their families should also be published on the public register. The dates of acquisition of the properties, the prices paid for them, and the sources of the funds to purchase them should all be detailed. These listings should be updated on a six-monthly basis. Failure to keep the register up-to-date should result in the MP or public servant being dismissed from office immediately, and charged under the anti-corruption laws.

Sixth, when an MP is allocated a ministry, he or she must immediately divest himself or herself from all private business and professional attachments for the duration of his or her time in office.

Seventh, to assist the development of civic virtue and trust in Papua New Guinea's public life, all candidates for public office should be required to undergo a special, three-month, intensive education program, perhaps to be developed and taught by a new national institute of governance, in collaboration with the Institute of Public Administration. They should be required to pass this course before they stand for public office or are employed at senior levels in the public service.

### **Facing the Challenges**

Only by creating a culture of unassailable probity and scrupulous honesty at all levels of Papua New Guinean society – in both the public and private sectors – can thoughtful Papua New Guineans hope to confront the present crisis in governance. Without doubt, the most fundamental cause of this crisis is corruption. Rooting out political habits that have been congealing since the 1990s – such as 'big man' politics and crony-wantokism – has to be seen as a major priority for any effective potential political leader and any genuinely focused political party (Denoon 2005:187).

This challenge lies most heavily on the shoulders of the emerging 'third generation' political leadership in Papua New Guinea. Will the young, educated leaders that are now beginning to come to the fore repeat the mistakes and sins of their predecessors? Will they start out full of idealism, but surrender to the temptations of political power? Will they fail in the ways that so many of those who have gone before them have failed? Or will they break free from the shackles of dead traditions and bad precedents.

They will have to be good and great women and men, if they are going to smash the culture of corruption that has opened like a poison flower in post-independence politics in Papua New Guinea. They will need the wisdom and inspiration of leaders such as Nelson Mandela, Mahatma Gandhi, Dr. Martin Luther King Jr., and Daw Aung San Suu Kyi, if they are going to succeed. They could well study Singapore's success story to find ways of ensuring that Papua New Guinea is rescued from becoming a failing state,

and is turned, instead, into the first ‘tiger’ economy and society of the South Pacific. The time is surely ripe for this to happen.

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## CHAPTER 11: FORMULATING A RESEARCH STRATEGY

*R. J. May*

### Introduction

Corruption has been widely identified as a substantial and growing problem in Papua New Guinea, with serious impacts on economic development, service delivery, and ultimately political stability. However, as the papers in this volume demonstrate, definitions of what constitutes corrupt behaviour are sometimes contestable, and there appears to be some reluctance, on the part of politicians, public officials, and even local communities, to fully enforce legal provisions against corruption, even when there is clear evidence that offences have been committed. And when legal provisions are enforced, the culprits often avoid conviction.

Moreover, while there has been much condemnation of corrupt actions by leaders – which have certainly been widespread and conspicuous – there is less overt recognition that corrupt leaders are frequently responding to the demands of their constituents, *wantoks*, kin, or family. There is ample evidence of corrupt electoral behaviour by political candidates and their supporters, sometimes involving public officials, who may be coerced into supporting the demands of candidates.

Mana (1999) stated that small-scale, ‘petty’ corruption was becoming more common, ‘having spread throughout the bureaucratic machinery’ (*ibid.*:3). Petty corruption involving the misuse of government vehicles and telephones, the payment of gifts to access what should be freely available government services, the adding of ‘ghost’ names to payrolls, the appointment of friends, political allies and relatives to jobs for which they are not competitively qualified, the awarding of contracts to *wantoks*, the acceptance of reimbursement for work not done properly, or not done at all, and so on has perhaps attracted less attention, but has a greater impact than the more high-profile instances of corruption.

It can be argued that the features of corrupt behaviour are well-known and that the legislative provisions to counter it already exist. Therefore, what is needed is not research but action. However, the fact that corruption is recognised and that legal sanctions against it exist – but it continues to grow – suggests that there is a need to better understand Papua New Guinea’s social, political, and economic environments, which have allowed corruption to flourish.

### Defining Corruption

In the discussion of corruption in Papua New Guinea, there is a need to define ‘corruption’. There is a vast literature on the definition of corruption. As early as 2000 BC, the Indian scholar-administrator Kautilya identified some 40 forms of corrupt behaviour against which a ruler should guard, many of which continue to occur today (May and Ray 2006). Since then, scholars and practitioners have identified various categories of corruption – economic, political, and administrative; public-office-centred, market-centred and public interest centred; and so on. Definitions of corruption are discussed by Gelu (this volume) and touched upon by other contributors. In recent

years, definitions provided by international agencies, such as the World Bank, and international non-government organisations, such as Transparency International (TI), have gained widespread currency. Transparency International's Handbook (Pope 2000: Chapter 2) also provides an extensive list of common forms of corrupt behaviour, from bribery and extortion, to fraud and theft; and from nepotism and influence peddling, to failure to perform to one's capacity or accept the responsibilities of one's position. Within Papua New Guinea, the Law Reform Commission (1982) addressed the definition of corruption, cited above by Kombako (this volume), and the topic was revisited by the team appointed to draft an organic law for an Independent Commission Against Corruption (ICAC) in the late 1990s (Donigi, this volume). As Donigi notes:

'Instead of defining corruption, the team members considered that there were already sufficient laws dealing with the issue of corruption....the problem was in respect of the implementation of those laws'.

They proposed that an ICAC be given authority to investigate five areas of offences – bribery of Members of Parliament; disclosure of official secrets; corruption and abuse of office; secret commissions; and corrupt and improper practices associated with elections.

Arguably, corruption has been well-covered and there is ample material to draw upon without conducting further research into definitions. It would seem more useful to attempt to summarise the main legislative provisions that are relevant to anti-corruption policies, from the Criminal Code, through the Leadership Code, to specific legislation such as the recently amended *Public Finance (Management) Act*, the *Public Services (Management) Act*, the *Proceeds of Crime Act*, and the recently amended *Electoral Act*.

### **Corruption and Cultural Context**

Papua New Guineans seem to display a high degree of tolerance towards corrupt behaviour by their leaders. Kanekane (this volume) lists some of the Members of the National Parliament who have been charged over corrupt behaviour, in several instances served gaol sentences, yet have been voted back into office by their constituents. Kanekane and Kombako (this volume) explain this tolerance in terms of Papua New Guinea's culture, specifically in Kombako's analysis, the combination of the 'big man' mentality, gift-giving, and the *wantok* system.

The acceptance of what might be seen by others as corrupt behaviour within a cultural context which emphasises reciprocal behaviour and loyalty to the group or group leaders is not unique to Papua New Guinea. It is quite widespread, and has been documented in a number of African and Asian countries.

The expectation of most people in Papua New Guinea that their Member of Parliament, or 'their man' in the bureaucracy should channel the benefits that come from the State to their group, does not mean that they do not recognise, as corrupt, similar behaviour by a rival MP or a bureaucrat from another group. Behaviour which is defended as 'cultural' or *kastom* within the group becomes corrupt when someone outside the group does it. Most politicians have been outspoken against corruption while campaigning for election, but some of the most outspoken have embraced corrupt

behaviour once elected. This perhaps explains why there was the demand for legislation to create an ICAC, but little interest in Parliament in passing the legislation.

Further research in this area may throw light on the extent of ‘corrupt’ practices (for example in local government and village courts, and in accessing government services at local and national levels), and on the disjuncture between popular anti-corruption rhetoric and the widespread acceptance of corruption. Methodologies are available for standardised surveys to gauge popular attitudes to corruption. However, it is doubtful whether such surveys tell us much that we do not already know – that most respondents are against corruption in its many forms, but nevertheless, are happy to accept corrupt behaviour, if it brings benefits to their group.

Donigi (this volume) argues that, ‘those who appeal to custom, do so out of ignorance of our criminal justice system’, and suggests that *kastom* should not be accepted as an excuse for corrupt behaviour.

It should also be recognised that, to a significant extent, corrupt practices have been introduced and promoted by foreigners. In nearly all of the major cases of alleged corruption – the ‘Diaries Affair’, the Forestry Industry Review, the Poreporena Freeway, the Disciplined Forces Housing Project, the Cairns Conservatory inquiries, the ‘Sandline Affair’, and irregularities in respect of immigration – foreigners (including Australians) have been actively involved.

### **Investigation, Follow-up, and Prosecution**

There have been many commissions of inquiry, leadership tribunals, and Ombudsman Commission reports into allegations of corruption. These are in addition to reports of the Parliamentary Public Accounts Committee, reports on the suspension of provincial governments, audit reports on national government departments and agencies and provincial governments, and a host of reports from internal audits and reviews. Recent public sector reform initiatives, including amendments to the *Financial Management Act* and the *Electoral Act*, and calls for a review of the *Organic Law on Provincial Governments and Local-level Governments* have drawn impetus from the findings of these investigations.

However, the number of inquiries and investigations has not been matched by the incidence of prosecutions of offenders, let alone by changes in behaviour. The 2003 Audit Report on the Southern Highlands Provincial Government is a case in point. The report (by a private auditor contracted by the national government) identified a wide range of financial irregularities involving the disappearance of large sums of money. However, three years later no-one had been charged with an offence. With regard to investigations under the Leadership Code, Masi (2005:6) records that in the almost 30 years to April 2005, investigations under the Code had resulted in 20 leaders being found guilty and dismissed, 11 being fined, and five being referred to the public prosecutor. As against this, five were found not guilty, 16 resigned as leaders after a leadership tribunal was appointed, and six leaders’ terms expired after a tribunal was appointed. Masi (*ibid.*) notes that, in 2002, ‘a lot’ of leaders were being investigated, but more than 50 percent of them lost office in the 2002 General Elections and the Ombudsman Commission thus lost jurisdiction over them.

The reason why the prosecution rate has not been higher has to do with mainly technical problems such as obtaining evidence, getting witnesses to testify, preparing the case for prosecution, and so on. For example, in September 2006, a state prosecutor was charged with contempt of court after failing to appear at a circuit court hearing – allegedly because of lack of funds for travel, and two men charged with armed robbery were acquitted when a state lawyer failed to appear in court (*Post-Courier*, 14 September 2006, p. 8). Other reasons concern cultural ‘tolerance’ and what is loosely described as ‘political will’ (although the real issue is usually less a ‘lack of will’ than the existence of distinct disincentives against taking action).

A possible research project would be to take several case studies, either by selecting a number of events that have been the subject of investigations and reports and seeing whether they were followed through to a satisfactory conclusion, or by selecting a few policy areas, such as the administration of lands policy, financial management, electoral malpractice, or public sector appointments, and documenting and explaining instances or allegations of corrupt behaviour and responses to them. Any such studies should examine data at national, provincial, and local levels, and might seek to test the claim by Mana (1999:7), that ‘both political and petty corruption at the administrative level have increased after the 1995 provincial government reform, as more power and authority was vested in Ministers of Parliament and administrators’.

This sort of research would involve sensitive data and would not be possible unless there was cooperation from the departments and agencies, as well as the individuals concerned.

Such research might highlight problems in public sector management, relative to corruption, and in the capacity of the State to exercise sanctions against corrupt behaviour. However, it may not contribute to the combating of corruption.

### **Policies to Combat Corruption**

In recent years, there has been a number of public sector, anti-corruption initiatives, including the promotion of a *Public Services Code of Business Ethics and Conduct*, and the creation of a National Anti-Corruption Alliance (NACA). Another possible, more action-oriented research project might be to assess how effective these initiatives have been, and to examine a broad spectrum of other measures designed to counter corrupt behaviour – ranging from the mobilisation of civil society at the local level, through civic education, to the strengthening of internal audit provisions, the creation of institutions such as ICAC to specifically target corrupt practices, and the imposition of harsher penalties. As with definitions of corruption, there is already a substantial literature in this area, and research might be more secondary than primary. There may also be virtue in studying comparative efforts to combat corruption (Patience, this volume), and, in conjunction with those pursuing the public sector reform agenda, and advocacy groups such as TI (PNG), seeking to identify measures which might be effective in the Papua New Guinean context.

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