

TOWARDS IMPROVED CORPORATE GOVERNANCE:

A Handbook on Developing Anti-Corruption Programs



HILLS GOVERNANCE CENTER

Asian Institute of Management
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FOREWORD

Towards Improved Corporate Governance: A Handbook on Developing Anti-Corruption Programs, prepared by the Asian Institute of Management - Hills Governance Center and funded by the World Bank, represents another significant building block in establishing a solid foundation for Corporate Governance in the Philippines.

The Philippine business community has evolved and developed over the decades, mirroring the changes in the global (mainly American) business environment. Where once profit was the priority, today's profit is generally regarded as the result of customer service quality. The proverbial "bottom-line" is turning into a "triple bottom-line" with shareholders, the community and the environment as key factors in corporate strategy. In the Philippines and elsewhere, Corporate Social Responsibility (CSR) goes beyond "public relations" and the sense of social service is pervasive both within the organization and across the business community.

That said, Corporate Governance is making far less headway. Perhaps understandably, CSR has a strong "feel good" factor. On the other hand, Corporate Governance, after Enron et al, contains a strong element of sanctions for wrong-doing. Furthermore, there is a more-or-less general (and global) consensus on how to approach CSR. One of the current major "tools" of Corporate Governance, the Sarbanes-Oxley Act of 2002, is under criticism in America itself, for being too expensive to implement comprehensively and too control-oriented to motivate the organization. The Board of Directors oversees both CSR and Corporate Governance. However, CSR does not generate organizational tensions with the board. On the other hand, every Philippine board must grapple with the Corporate Governance precept of keeping an "independent director"—in the context of dominance by a single shareholder, family firm, or business group. Finally, while CSR focuses on building networks to help

people, Corporate Governance currently focuses on corruption to punish transgressors.

In the Philippines, corruption is a widespread concern in both the private and the public sectors, and its corrosive power is affecting country and business competitiveness. Although there are several organizations, including the Hills Center, that are engaged in anti-corruption activities, success still appears to be a long way into the future. There is therefore some merit in the comment that corporate governance is still “in the eye of the storm.”

Given the above description, the Hills Center prepared the Handbook, as one more effort in a long process. The Handbook is intended to assist corporations in developing their own approaches to corporate governance. It is not intended to be a template for every firm, since each company has its own specific issues and approaches on implementing governance. The Handbook offers specific insights rather than general models. For instance, the research in the Handbook includes discussions on procurement practices and surveys that explore attitudes. Therefore, the recommendations on improving company governance practices are a result of fieldwork, and are relevant and applicable in that context.

In closing, the Hills Center wishes to express its appreciation to the World Bank for its financial assistance in developing the Handbook, and to Mr. Roderick Hills for his unstinting support of the Center’s projects.

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INTRODUCTION

If globalization was the development issue of the nineties, governance is the development issue of the first decade of the new millennium. Understandably so, for the two are not distinct from each other – globalization demanded that markets and firms be competitive and achieving competitiveness required good governance.

Corruption has been one of the major issues associated with governance. On one aspect, it is perceived as the antithesis to good governance. On another, good governance is seen as a prerequisite to anti-corruption reforms. Where once corruption surfaced only during discussions of public sector performance, corruption is now properly viewed in a more comprehensive context that involves political and economic activities in both the public and private sectors.

Because of the reach of its activities and its capability to offer direction to the private sector, business has always been in the forefront of development efforts. Just as business responded to the challenges of a globalizing economy, it is now called upon to contribute to good governance in general and to anti-corruption efforts in particular. The challenge is not merely a collective response from the business sector, but from individual firms as well.

The main objective of this Handbook is to provide a guide for individual firms formulating their anti-corruption programs or participating in similar efforts initiated by professional and business organizations, civil society, or government.

Specifically, this Handbook aims to:

1. Provide basic information on corruption by discussing definitions and concepts;
2. Discuss the costs of corruption;
3. Explain the rationale and present the existing strategies for addressing corruption;
4. Present the elements of a corporate anti-corruption strategy at the firm level;
5. Discuss the preparedness of Philippine firms in implementing anti-corruption measures; and
6. Discuss the importance of sustaining anti-corruption efforts.

Although the Handbook was written primarily for business, it is general enough to be useful to the public, government policy makers, and non-government institutions.

ORGANIZATION OF THE HANDBOOK

The Handbook package is composed of two parts. Part One is the *Handbook proper* and is organized along the objectives enumerated above. Part Two consists of the input documents, namely, *Review of Literature on Corruption in the Philippines*, *Opinion Surveys on Corporate Wrongdoings*, and *Focus Group Discussion Reports on Procurement*. While the Handbook proper is most comprehensive in scope, the input documents are nonetheless stand-alone works which could be referred to for elucidation on specific areas or issues.

WHAT IS INSIDE?

As the title implies, the Handbook is an initial guide to improve Corporate Governance. It is neither a complete review of Corporate Governance to date, nor is it a definitive “how to” publication on the conduct by firms of Corporate Governance. The Handbook is relevant to practitioners because it is based on field research. The research involved both focus group discussions on corruption and surveys on business attitudes. Another section covers the review of literature, which is intended for the reader who is interested on the issues of Corporate Governance. Furthermore, the section on corruption in procurement is deemed important because the bidding on goods and services provided by the private sector for government contracts or projects represents one major “intersection” of potential corruption between the two sectors.

ACKNOWLEDGEMENTS

Towards Improved Corporate Governance: A Handbook on Developing Anti-Corruption Programs represents the work of several members from the management and research teams of both the Ramon V. del Rosario, Sr. Center for Corporate Responsibility and the Hills Governance Center, and are hereby acknowledged for their work in developing this Handbook:

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The AIM-Ramon V. del Rosario, Sr. Center for Corporate Responsibility was officially launched in July 2000 as a research and program center of the Asian Institute of Management. The main thrust of the Center is the management of corporate citizenship relative to the competitiveness of corporations and their impact on society. The Center promotes corporate responsibility through case-writing, research, survey research, investigative research, program development, executive education training and conferences.

Two of the major challenges that the Center faces are to engage firms and industries in Asia in Corporate Responsibility as a core business strategy, and to expand Corporate Responsibility as fundamental to doing business in a globalized economy.

In the course of the Center's research, it has been determined that Corporate Social Responsibility and Corporate Governance go hand-in-hand in the development of the corporation's social network. Various research in both areas, including their impact and relevance to Asian corporations and societies, have been undertaken. This knowledge has been infused into the curriculum of the programs of the Asian Institute of Management through the development of case studies, original research, training and surveys.

The AIM-Hills Governance Center was launched in September 2003. The Center seeks to promote good governance across the private, public and civic sectors by addressing institutional sources of corruption, and

promoting transparency and accountability within and among these sectors.

The Center studies governance issues and norms in the corporate and public sectors. It examines the links between corporate governance and national governance, and the causes and consequences of poor governance. It facilitates dialogues to help build coalitions and formulate anti-corruption and governance reform agendas, including the development of benchmarks, monitoring and evaluation systems.

In all of its endeavors, the Hills Center aims to:

- (a) Nurture mutually reinforcing working relationships with professional associations, governments, civil society organizations, and research institutions dedicated to supporting and promoting good governance;
- (b) Build partnerships to ensure full involvement of major stakeholders, and identify strategic entry points for intervention and collaboration;
- (c) Help create an enabling environment for building consensus, coordinating and sharing expertise, and facilitating further policy dialogue on good governance; and
- (d) Disseminate best practices and raise awareness among stakeholders.

The Hills Governance Center's major sponsors are the Hills Program of the Center for Strategic and International Studies, and the World Bank.

PART ONE
HANDBOOK PROPER

1

Definitions and Concepts

How is corruption formally defined?

The World Bank defines corruption as “the abuse of public office for private gain.” The *Handbook on Fighting Corruption*, developed by the Office of Democracy and Governance of the U.S. Agency for International Development (USAID) shares the World Bank definition.

The World Bank further explains:

“Public office is abused for private gain when an official accepts, solicits, or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit if no bribery occurs, through patronage and nepotism, the theft of state assets, or the diversion of state resources” (Coronel, 2002).

A similar definition is acknowledged in *Transparency International's Source Book* authored by Jeremy Pope entitled, *Confronting Corruption: The Elements of a National Integrity System*. The Source Book further explains that corruption involves “behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by misuse of the power entrusted to them.”

This concept of corruption, however, has since evolved. Consider the following contexts:

- In a situation involving corruption, government officials and employees were viewed as culprits and private individuals, while businesses as victims. It is now recognized that corruption takes place with the tacit

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cooperation of both parties, which are equally to blame for corruption.

David Kang, in *Crony Capitalism: Corruption and Development in South Korea and the Philippines*, a comparative analysis of business dealings with the government, illustrates an underlying tension in the relationship. On one hand is a "top-down predatory state" illustrated by a government strong enough to protect property rights as well as confiscate the wealth of its citizens. On the other hand is a "bottom-up interest group" wherein market dominance by powerful business groups overwhelms the ability of the state to contain and channel their demands.

Corruption thus should be seen as the product of a system jointly put in place and sustained by the government and the private sector.

- The *Transparency International Source Book* observes that with the wave of privatization and the transfer of traditional state functions to the private sector, the government and private sector now share the accountability associated to the provision of public goods. In many cases, government accountability is significantly diminished.

The definition of corruption should thus "include corrupt conduct in the private sector – outside as well as within its interface with the public service – conduct that nonetheless has negative consequences."

What are the similarities in the definitions and illustrations mentioned above which are significant in describing corruption in the Philippines?

Susan Rose-Ackerman, in her book entitled, *Corruption and Government: Causes, Consequences, and Reforms*, states that the study of corruption focuses on "the tension between self-seeking behavior and public

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values." This statement precisely identifies the two common elements in the definitions of corruption provided, namely, personal or private gain, and sacrifice of public benefit. The third element, indicated in the *Transparency International Source Book*, is the misuse of entrusted power.

It should be mentioned that the relevant Philippine statute, *Republic Act No. 3019* or the *Anti-Graft and Corrupt Practices Act*, stops short of giving a precise definition of corruption. However, the acts it classifies to be corrupt have the three above-mentioned elements.

In the broader context, corruption refers to the personal or private gain that could be acquired by either public officials and employees or private entities. The "public" includes a broad range of participants, such as civil society, taxpayers, shareholders, or the consumers. Power is entrusted to persons through popular election, political or civil service appointment, election by shareholders, or appointment by the management of a private company. Corruption can occur regardless of the means of gaining power.

Therefore, it is maintained that corruption has evolved as a concept that has acquired a universal definition, notwithstanding cultural contexts. By recognizing the extent of corruption in society, all sectors and entities would benefit and contribute in the improvement of business and social environment.

What are the causes of corruption?

The *USAID Office of Democracy and Governance Handbook on Fighting Corruption* discusses anti-corruption measures by initially considering the causes of corruption. From an institutional perspective, it notes that corruption takes place when public officials have the following:

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- *Wide authority.* Opportunities for corruption increase as the number of activities that public officials are allowed to control or regulate.
- *Little accountability.* The probability of detection and punishment of corrupt practices is low
- *Perverse incentives.* These refer to low salaries and rewards for performance, unstable security of employment, and the lack of professionalism in the public service, all of which encourage self-serving rather than public-serving behavior.

Related to the presence of perverse incentives, poverty is regarded as the main cause of corruption. While it seems reasonably straightforward to accept this assertion, the *Transparency International Source Book* points out otherwise:

"If poverty were the cause of corruption, then it would be hard to explain why rich, wealthy countries are beset by scandals – very few of which involve anyone who might be categorized as being "poor" or in "need." It would also virtually equate poverty with dishonesty – which is a concept vehemently attacked by a number of critics, who see this alleged linkage as being little short of a blanket defamation of the poor. Nor can it be said that those who manipulate banking systems, producing "non-performing loans" and conducting insider deals with deposits made by an unsuspecting public are exactly poverty-stricken. Corruption is therefore a double-edged sword – it can emerge from wealth and abundance, or it can emerge from the lack of it."

With regard to the private sector, the Source Book observes that:

- The traditional view of the firm holds that it is the responsibility of corporations to generate profits for its shareholders. Indeed, this is referred to as the "profitable bottom line." The *Transparency International Source Book* notes that if this practice is invoked, it is

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reasoned that should businesses fail, their employees would suffer along with their shareholders.

- Everybody does it. Corruption is often justified in this manner and overlooked because the business at stake generates jobs. What remains unsaid is the fact that the same corrupt act could be costing jobs elsewhere.
- It seems to be quite acceptable to engage in petty (versus grand) corruption. Petty corruption has even managed a dignified-sounding euphemism: facilitation of payments. Bribes are given to minor officials, who will provide services to expedite the process for the client.

What are the so-called ethics-based and compliance-based factors?

On one hand, ethics are driven by morals, values, and attitudes, which are determined by culture. Compliance, on the other hand, is driven by responses to incentives and penalties embodied in laws and regulations. When an entity makes the decision to engage in or to avoid corruption, it does so – consciously or subconsciously – through the consideration of ethics-based and compliance-based factors. A policymaking body or regulatory agency with an anti-corruption mandate studies these same factors when it designs an anti-corruption program.

2

The Effects of Corruption

Which sectors of society are affected by corruption?

Corruption is like a virus that spares no one. Corruption affects governments and bureaucracies, businesses, and individual citizens, as well as the international community. Corruption is a cancer that weakens the organs and institutions of society. As the former President of the World Bank, James Wolfensohn stated in the *World Bank Annual Meeting* in 1996, "We need to address transparency, accountability and institutional capacity. And let's not mince words: we need to deal with the cancer of corruption."

What are the effects and costs of corruption?

Corruption has deleterious effects on economic performance. Various empirical studies have shown that countries that are more corrupt have lower rates of economic growth and per capita income. Corruption deters investments, reduces tax collection and the productivity of public expenditures, and distorts the allocation of resources. Corruption, such as the payment of bribes, acts like an additional tax that raises the cost of doing business, and also the uncertainty and risk of doing business. The parties involved in a corrupt transaction do not have guarantees or protection from the state in case of default or abuse by one party. Michael Johnston, in *Unpredictable Rules, Dishonest Competition, and Corruption: Cost for Development and Good Governance* points out that when a firm pays a bribe, it puts itself outside the protection of the law and has no recourse in the event of default by the other party. It also creates evidence of criminality that officials can use to extort further payments.

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Johnston further points out that corruption improves efficiency by cutting through red tape and bureaucratic delays. This is based on the assumption that there is only a finite amount of red tape in the system. On the contrary, corruption can worsen red tape and bureaucratic delays, as it induces officials to contrive more ways of delaying transactions to extract more bribes.

According to Susan Rose-Ackerman, in *The Political Economy of Corruption and Consequences*, corruption is also harmful to competition and efficiency. It creates an uneven playing field: allowing inefficient firms to operate while building roadblocks to efficient companies. When payoffs are common, government contracts and concessions may not be awarded to the most efficient bidders, but rather to the unscrupulous ones with strong connections to the government. Thus, countries that are more corrupt tend to have a lower rate of investment, particularly foreign direct investments.

Countries that are more corrupt also have difficulties in collecting taxes. Tax administration is also weak with many leakages in the system in terms of kickbacks and tax evasion. As a result, the amount of resources collected by the government for public purposes is usually inadequate. This problem is compounded by poor selection and implementation of government programs and projects. Project choices are determined not on the basis of economic and social rates of return but with respect to the amount of corruption paybacks. Consequently, the allocation of government expenditures tends to be biased towards military expenditures at the expense of education and health expenses. Corruption is also associated with poor quality of public infrastructures.

Kofi Annan, *United Nations Secretary-General* highlights, "Corruption hurts the poor disproportionately—by diverting funds intended for

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development, undermining a government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid."

Where do corrupt transactions typically take place?

As in many business transactions, corruption has a demand side and a supply side. The demand side refers to those in the government sector who can provide undue advantage or rents in exchange for certain payments. The supply side pertains to those in the private sector seeking and willing to pay to get undue advantage or rents from the government.

Andrew W. Goudie and David Stasavage, in *Corruption: The Issues*, OECD Development Center Technical Paper No. 12, present a *Typology of Public Sector Corrupt Practices*:

Public Sector Activity	Elements Open to Corrupt Practices
Procurement of both current goods and services and capital assets	<ul style="list-style-type: none">• Negotiation with domestic and multinational operators• Selection of suppliers, contractors and operators• Pricing of procurement
Tax legislation/administration	<ul style="list-style-type: none">• Determination of liabilities and their collection
Licensing of entities to undertake specific economic activities (e.g. import/export, exploitation of natural resources)	<ul style="list-style-type: none">• Selection of entities• Determination of supply level• Pricing of licenses
Regulation of private sector activities	<ul style="list-style-type: none">• Determination of pricing• Control on scale and location of operation• Environmental controls
Allocation of resources (e.g. credit, guarantees) through centrally administered structures	<ul style="list-style-type: none">• Selection of recipient• Determination of values of allocation• Pricing of allocation• Management of default situations
Privatization Program	<ul style="list-style-type: none">• Determination of asset valuation• Determination of terms and conditions of sale• Selection criteria of buyer
Operations of public enterprises	<ul style="list-style-type: none">• Invoicing of imports and exports
Government budget preparation and implementation	<ul style="list-style-type: none">• Regional and sectoral allocation of the budget• Prioritization of expenditures and of program implementation• Determination of expenditure quality• Diversion of goods for personal use

Why is corruption prevalent in procurement?

In various surveys conducted by the Social Weather Station, three of the four top government activities where corruption was perceived to be rampant are activities in procurement, namely the building of roads, providing textbooks to students in public schools, and purchasing of office supplies and equipment. The only non-procurement-related activity is the collection of taxes.

And in a more recent survey, people believed that 30-50 percent of funds for procurement is lost to corruption. The reason why corruption is rampant in procurement in the Philippines is because it is a high reward-low risk venture. The Philippines used to have numerous laws and provisions regarding the procuring of goods and services, which had led to the inefficiency of the process. The World Bank, in the *Country Procurement Assessment Report*, specifically described Philippine laws on procurement as “dysfunctional” because of “multiple laws, rules and regulations, which, while adhering to the principles of competition and transparency, are inefficient and prone to abuse.” In this regard, the Government of the Philippines passed a new law in 2002, *Republic Act No. 9184*, that standardizes government procurement in the country.

What are some examples of corrupt practices in procurement?

Corruption happens when suppliers/contractors connive with government employees and officials who can be corrupted. Under the prevailing procurement environment, the pressure to succumb to corrupt practice is enormous and the incentive too tempting.

The range of corrupt practices and its variants identified from the Focus Group Discussions conducted by the Hills Governance Program are:

- Over-statement of contract prices that gives opportunities to

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suppliers to over-price and the requisitioning end-users of the agency to ask for a commission.

- NGAs still practice favoritism among preferred bidders in spite of the G-EPS portals requiring NGAs to post requirements for bid.
- Instead of registering with the Department of Budget Management /G-EPS, some end-users merely inform the Procurement Section of the agency that the services/transaction is already completed. Since the system allows justification, the Procurement Section has no recourse but to justify it.
- Some top management relatives exert pressure to force the end-user to resort to negotiated procurements, justifying the need as urgent.
- End-users and suppliers may collude on the specifications of goods and services such that only that same supplier will eventually be awarded the contract.
- There are cases wherein the Notice of Award is about to be issued and a Purchase Order finalized, but the end-user still withdraws the document from the Bids and Awards Committee (BAC), informing them that the required specifications have changed. Another Purchase Requisition is made and the process is repeated making sure that the preferred supplier wins in exchange for bribes or favors.
- Divulging of insider information, such as a “sealed” financial bid, which unduly favors a selected bidder.
- Some BAC members ask for a commission with a promise to award the contract to a bidder.
- Some NGA-BACs include companies with unsatisfactory performance in tendering activities.
- There are cases where prospective /qualified bidders are not informed about the bidding to ensure that only the favored bidders participate. The practice can be selective and discretionary.

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- Sometimes NGAs employ strict bidding rules, which are not specified in R.A 9184 and the requirements of which only few can comply with.
- Sometimes “Call for Tenders” are published inconspicuously to limit the participation to favored bidders.
- Short-listing of bidders using biased ratings favor the chosen group of bidders, some of which are not perfectly qualified.
- Extending or re-scheduling the original bidding schedule to favor some bidders.
- Soliciting gifts from suppliers/contractors in exchange for favors related to tendering activities.
- Insertion of documents altering the bid amount.
- Favorably considering the wrong specifications submitted by bidders.
- Connivance of supplier (for repair shop-vehicle) with the drivers.
- Connivance in the preparation of acknowledgement receipt from the property section with the level users.
- Supplier threatens the BAC Secretariat or gives bribes.
- During the inspection of goods, inspectors make suppliers feel a need to bribe or give gifts to them in exchange for facilitating inspection or they intentionally delay the process to force suppliers to bribe or give gifts to them in exchange for facilitating inspection.
- End-user accepting deficient delivery of product or service, certifying full compliance with contract obligations and specifications, in exchange for money or other considerations.
- Ghost deliveries happen and the end-user and supplier collude.
- Supplier delivers items directly to the end-users, and not to the warehouse or office.

What areas in procurement are most prone to corruption?

The Focus Group Discussions also identify the following critical risk areas in procurement:

- **Specifications Setting.** There is a lack of guidelines in formulating specifications of goods, civil works and services. End-users experience difficulty in drawing up specifications because they are not allowed to use brand names under the GPRA. Nonetheless, inexperienced end-users often end up seeking the services of suppliers (who by default, will later be the winning bidders) to draw the specifications.
- **Choosing the Mode of Procurement.** RA 9184 provides for some instances where other modes of procurement can be utilized by the end-users in procuring goods and services. Corruption is easier to do in the other modes of procurement than in public competitive bidding.
- **Evaluation.** The discretion to choose a rating scheme for evaluating bids rests with procurement officials. Arbitrariness in the assessment often favors a selected bidder.

3

Addressing Corruption

Whose business is it to curb corruption? Which sectors and entities should be involved in addressing corruption? What should their respective roles be?

The literature on corruption, and anti-corruption conventions and agreements unambiguously maintain the need for a multisectoral collaboration in addressing corruption. For example, the *United Nations Convention Against Corruption* does not only emphasize the need for states to cooperate with each other but also for governments to have the support and involvement of civil society. The World Bank and the Anti-Corruption Action Plan for Asia and the Pacific espouse the same collective action.

Curbing corruption is thus everybody's business. However, existing mandates as well as varying interests and capabilities determine the nature and extent of participation of individuals and sectors in anti-corruption efforts. In general the following describe the roles assumed by specific sectors:

- **Government** – It is expected to be the lead convener of anti-corruption forums and efforts for two reasons. First, it has the mandate to protect public interest and well-being and oversee the socioeconomic development of the country, all of which are directly imperiled by corrupt practices. Second, legal and institutional frameworks for preventing and combating corruption are within government control. However, since the political leadership and the civil service are frequently the target of such moves, government

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should strengthen its political will to be able to take the lead in anti-corruption reforms.

- **International and regional organizations** – The members should consolidate their resources and coordinate their efforts to prevent the effects of corruption from acquiring a transnational scope. They also provide the forum for the drafting and signing of anti-corruption conventions and agreements. Through compliance monitoring, these conventions and agreements are ideal springboards for benchmarking and standard setting because these international organizations have the jurisdiction, mandate, and technical capabilities to undertake such tasks.
- **Professional and industry-specific organizations** – To uphold the principles of integrity and transparency, they should participate in the formulation of rules and standards for specific professions and industries. Specific examples are bar and accounting associations and chambers of commerce.
- **Civil society** – It broadly covers the general public and non-governmental entities that have built a track record on advocacy work. It has been observed that many civil society organizations can actually participate in anti-corruption efforts even without being organized for that purpose primarily because the negative effects and costs of corruption are borne by the general public. Examples are the church, family, gender, and community groups.

The *Transparency International Source Book* observes:

“ ... the private sector is coming to see itself more as a part of civil society than it has in the past. In the pursuit of profit, private sector players are simply self-serving; however, when they address community and society objectives and enter

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into coalitions with others to pursue a wider public benefit, they are acting as a civil society member. "

- **Academe** - In an effort to be upright and in pursuit of excellence, the academe should contribute to anti-corruption efforts through education, training, research, monitoring, and advocacy work.

It is interesting to note that with the exception of the government sector, business could actually situate itself in the efforts of international and regional organizations, professional and industry-specific organizations, civil society, and the academe. These possibilities point to the strategic position and role of business in anti-corruption efforts, denoting both a rich opportunity and serious responsibility.

What principles should underlie anti-corruption efforts? Where are these principles articulated?

In 1999, former World Bank Country Director Vinay Bhargava prefaced his proposed *Nine-Point Approach to Fighting Corruption in the Philippines* as follows:

"Drawing upon our global experience and the Philippine-specific analysis, we recommend that a national strategy for fighting corruption in the Philippines should focus on reducing opportunities and motivation for corruption and should make corruption a high-risk, low-reward activity."
(emphasis supplied)

This broad guide is correctly premised on efficiency considerations, which should be sustained by certain principles that are collectively the antithesis of corruption. A perusal of landmark conventions and agreements on anti-corruption, and which the Philippines is a party to, sheds light on these principles.

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A sampling of provisions follows (emphasis supplied):

1) From the **United Nations Convention Against Corruption**:

On preventive anti-corruption policies and practices:

"Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability." (Chapter II, Article 5)

On the public sector:

"Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavor to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and where appropriate, other non-elected public officials, that are based on the principles of efficiency, transparency and objective criteria such as merit, equity, and aptitude." (Chapter II, Article 7)

On codes of conduct for public officials:

"In order to fight corruption, each State Party shall promote, *inter alia*, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system." (Chapter II, Article 8)

On the private sector. The principles which have specific reference to preventing corruption involving the private sector are embedded in the enumeration of recommended measures:

" (a) Promoting cooperation between law enforcement agencies and relevant private entities;

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(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honorable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

x x x

2) From the **Anti-Corruption Action Plan for Asia and the Pacific**:

The Action Plan establishes three so-called pillars, each advocating a general course of action. Each pillar, in turn, espouses a set of specific principles and measures. The pillars and principles are enumerated below:

Pillar 1 - Developing effective and transparent systems for public service

Principles: integrity in public service
 accountability and transparency

Pillar 2 - Strengthening anti-bribery actions and promoting integrity in business operations

Principles: effective prevention, investigation and prosecution
 corporate responsibility and accountability

Pillar 3 - Supporting active public involvement

Principles: public discussion of corruption
 access to information
 public participation

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3) From the **United Nations Global Compact**:

The Tenth Principle:

"Businesses should work against corruption in all forms, including extortion and bribery."

4) From the **Pacific Basin Economic Council (PBEC) Statement on Standards for Transactions Between Business and Governments**:

The preamble states:

"Integrity, transparency, and accountability in the awarding of government contracts and permits, in tax matters, in environmental and other regulatory matters, and in judicial and legislative proceedings are necessary for a productive economy and an open and predictable trade and investment climate. Integrity, transparency, and accountability strengthen the efficient management of enterprises, facilitate the operation of open, competitive markets, and bolster consumer welfare. x x x"

"Recognizing the strong linkage between good governance and economic growth and the need for prompt and effective action, PBEC advocates zero tolerance for infringements on transparency in business-government transactions. x x x"

5) From **Republic Act No. 3019**:

The statement of policy reads:

"It is the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto."

How should these principles find their way to anti-corruption programs?

A sound anti-corruption program and its measures should embody and operationalize the principles enumerated above. Although changes could be subsequently enforced, these changes should be determined based on the same principles.

Broadly, what should be kept in mind in the design of an anti-corruption program?

It is noted here that the anti-corruption programs discussed in this section are those at the national level, primarily implemented by the government with the participation of other sectors. While this Handbook is primarily for the use of business firms, discussion of programs at the national level is nevertheless deemed important.

First, anti-corruption programs at the sub-national level and the firm level should find directions and strategies from national and more comprehensive programs. Subsequent revisions could be prompted in the same manner. This makes for an integrated strategy with all players certain of their roles and expected contributions. Second, the drafting of anti-corruption plans is an ideal participatory activity. This macro-perspective would serve business well as it prepares its contributions to national anti-corruption programs.

The next section, The Firm as an Anti-Corruption Agent, is devoted to the discussion of anti-corruption programs at the firm level.

The design of World Bank Institute's course entitled, *Controlling Corruption: Towards an Integrated Strategy*, interestingly parallels the phases on the exercise of designing anti-corruption programs. They are:

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- The initial phase is where assessment and diagnostics are carried out, followed by the strengthening of political will and building of broad coalitions; and
- The phase where the substantive areas of reform are identified and individually considered. These areas could be the judiciary, public procurement, financial management, civil service, customs, media, parliament, and local government.

For the initial phase, a couple of points in *Transparency International's Source Book* are worth pondering:

- Any reform aimed at containing corruption should consider the perspectives of leaders and persons in authority.
- The public should be made aware of what acceptable behavior is and what the costs of corruption are.

Is there such a thing as a menu of anti-corruption measures, which policymakers could refer to?

There could probably be as many menus as there are studies about corruption, and an exhaustive list would be evasive. For a quick sampling of measures, the following list is presented. It is drawn from the USAID Office of Democracy and Governance Handbook on Fighting Corruption.

1) Institutional measures

For *limiting authority*: privatization, liberalization, competitive procurement, competition in public service

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For *improving accountability*: freedom of information legislation, open budget process, financial management systems and audit offices, anti-corruption agencies, legislative oversight, hotlines, whistle-blower protection, judicial reform

For *promoting ethical behavior in public service*: active human resources management, fair compensation systems, performance-based incentives

2) *Societal measures*

Use of surveys. Surveys are useful for diagnostics and assessment of problems associated with corruption. They facilitate indirect probing of sensitive issues, such as dissatisfaction over service delivery systems.

Public relations campaigns. These help cultivate public awareness of its rights and the benefits of eliminating corruption.

Investigative journalism. This is a powerful means of putting pressure on erring entities. It also requires a free press and competent, trained, and responsible journalists.

Supporting civic advocacy organizations. These groups have proven to be vital partners in promoting ethical practices.

Is there an ideal mix of measures in an anti-corruption program?

As with any political and social phenomenon, corruption is a dynamic process. The mix of measures, the sequence of their implementation, and the structures that would best implement them would vary across countries and across time.

What would be the elements of a sound anti-corruption program for the Philippines?

Combating Corruption in the Philippines enumerates some strengths in the country's anti-corruption efforts. They are useful in determining future directions and provide hints on program design:

- In the past decade, policy and regulatory reforms have reduced opportunities for corruption.
- The country meets several preconditions for a successful anti-corruption campaign:
 - 1) A vibrant civil society and media
 - 2) A legal framework and institutions with anti-public sector corruption mandates
 - 3) Sufficient knowledge and understanding of the problem of corruption in the country

The same document presents the *Nine-Point Approach for Fighting Corruption in the Philippines*. Its key elements are as follows:

- **Policy reforms and deregulation to reduce opportunities for corruption**
 - The targeted areas should be particularly interesting and highly relevant to business – tax policy, regulation of infrastructure services and public utilities, and corporate finance reform (particularly in the financial services area).
- **Reforming campaign finance** – Unabated participation by business, which has the resources for campaign finance, creates “dysfunctional incentives” that impinge on the efficiency and effectiveness of the public sector.
- **Increasing public oversight**
- **Reforming the budget process**

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- **Improving meritocracy in civil service**
- **Focusing on selected departments and agencies** – These should be selected based on public priority concerns. Identifying “quick wins” in each area will give an anti-corruption program good momentum.
- **Strengthening sanctions for corruption**
- **Developing partnerships with the private sector**
- **Supporting judicial reform**

More is said about public - private sector partnership. It is imperative for anti-corruption efforts to include the private sector for two reasons. First, it is a major source of funds for corrupt activities. Second, private sector involvement is a way of pressuring the sector to practice good ethics and maintain high standards of behavior.

The *Nine-Point Approach* suggests the following activities in a government - private sector partnership:

- Private sector involvement in designing anti-corruption strategies in the so-called vulnerable areas. These are customs, taxation, industrial policy, infrastructure, and investment
- Dialogues on addressing bribery
- Determining and practicing higher standards of corporate governance
- Developing and implementing company codes of conduct and ensuring proper support such as internal control mechanisms, personnel training, and sanctions.
- Ensuring transparency through accounting and auditing rules and standards.

Are there guidelines for implementation?

Combating Corruption in the Philippines states that “having a good anti-corruption strategy is a necessary but insufficient condition for progress – effectiveness in implementing the strategy will be a key determinant of success”. The document identifies six recommendations:

- Appointing strong leadership and management
- Convening a multisectoral advisory group
- Developing a sequenced action program
- Immediate implementation of programs in the priority agencies
- Upgrading the capacity of anti-corruption institutions
- Initiating intergovernmental and inter-institutional efforts

4

The Firm as an Anti-Corruption Agent

The corporate crises that shook the United States and other developed countries at the start of the millennium spoke of deep-rooted weaknesses in the governance and management of corporations.

Needless to say, these crises shook investor confidence worldwide. As a result, evolutionary reform processes commenced and continues to this day.

Several independent agencies proposed new legislation and regulations on corporate governance. Many consider the summit to be the Sarbanes-Oxley Act of 2002, which protects investors by ensuring that disclosures are properly made in pursuant to securities laws.

Another view on corporate governance suggests that it should encompass both the traditional profit bottom line and the expanded social bottom line of firms. The *Corporate Governance Framework* of the Asian Institute of Management - Ramon V. del Rosario Sr. Center for Corporate Responsibility (AIM-RVR Center) suggests several key drivers.

The firm exercises its traditional concern over its strategy and operations primarily through the value chain management system. The objective is to address shareholder concerns, among them dividends, growth and returns, and in some cases, labor relations. Herein lies the traditional place of corporate governance. The board is the agent of the shareholders; in turn, it oversees its own agent, which is the firm's management.

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Within the environment of the firm's operations, there is a need to consider the community, government, multilateral organizations, and larger society. Thus,

- Firms have placed a premium on community relations and have taken initiatives to address the needs of specific communities. This may be in the form of "active" partnerships and "passive" philanthropy.
- Governments exercise regulatory and enforcement functions locally and globally. Multilateral organizations, both non-government and public, are actively advocating issues on social accountability, codes of conduct, and the like.
- Societal demands on the firm are increasing, in part because the government of a developing country is often overwhelmed by the needs of its citizens. Demands may come in the form of public goods and services as well as intangibles, such as human rights and the rule of law.

The above framework generalizes a worldwide development observed in *Transparency International's Source Book*:

"Standards of corporate governance are being developed to provide greater protection, not only for corporations and their shareholders, but for all those who have a stake in the success of the private sector, which includes just about everyone."

What then, is the link between corporate governance and corruption?

Good corporate governance prevents corruption, or at the very least, limits its negative effects. Good corporate governance is grounded on socially acceptable principles, promotes honest and responsible

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behavior, and adheres its practices to the letter and the spirit of the law. Collectively, these are the antithesis of corruption.

The *World Bank Poverty Reduction and Economic Management (PREM) Network's notes on Implementing Anti-Corruption Programs in the Private Sector*, states that good governance is a prerequisite to anti-corruption programs. It also remarks that, "the increase in anti-corruption programs in the private sector coincides with the recent global focus on corporate governance."

What typical scenarios do we have of a private firm being involved in corruption?

The *Transparency International Source Book* notes that the activities of the private sector, which could lead to corruption take place in "two quite separate arenas." There could be corruption involving public officials and corruption wholly within the private sector.

The *Source Book* states that, "corruption of public officials is explicitly or implicitly illegal in every country which has a legal system, therefore it should not be an option for any private sector company."

Corruption in the private sector needs more elucidation. It is more often subject to heated debate and could still benefit from more research, documentation, and articulation. Two of the most common corrupt practices are bribery and occupational fraud. In turn, the major areas where private sector bribery could occur are procurement, distributorships, access to proprietary technical and commercial data, financial industry, and even scrap disposal.

What are the components of a sound corporate anti-corruption strategy?

In *Implementing Anti-Corruption Programs in the Private Sector*, the World Bank advocates for a compliance system with three components, namely,

- A company code of conduct,
- Training and dissemination procedures, and
- Information and support systems.

Although anti-corruption programs worldwide are adapted to specific cultures, they invariably have these three components. Each one will be tackled below.

The Company Code of Conduct

The drafting of a company code of conduct starts with the identification of the values that a firm should espouse. And the firm's vision and mission also play a role in drafting the code. The participation of the board, management, and workforce in the formulation of values statements is imperative since they are expected to carry out the provisions of the code.

As the *World Bank PREM Notes* highlights, in-house surveys and discussions are good starting points for the determination and articulation of company values. The same activities could be carried out when periodically reviewing codes for relevance.

The *PBEC Statement on Standards for transactions Between Business and Governments* adds that the provisions of company codes of conduct should be consistent with the applicable laws in the economy.

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The effectiveness of company codes of conduct is necessarily a paramount concern. The Transparency International Source Book cautions that codes of conduct should be the means, rather than the ends in themselves. It also describes the spectrum that company codes could be situated in:

"...The least useful are those which are limited to well-intentioned, but vague expressions of principle. The most effective are those which are specific in their descriptions of what employees are not allowed to do on behalf of the company. The best are those which are not only specific, but also require an annual or six-monthly signature from the chief executive to confirm that they have been observed in every aspect." (emphasis supplied)

The Philippine Experience

In 2004, the *RVR Center and the Hills Governance Center* prepared a paper on *Reforming Corporate Governance in the Philippines by Engaging the Private Sector*. One major section of the paper deals with the development of the corporate code of conduct as promulgated by the Philippine Securities and Exchange Commission.

The following excerpts provide information and insights on the Philippine experience in the drafting of such codes.

"... A weak regulatory framework circumscribed the power of enforcement to ensure compliance. The combination of these factors made for an undesirable environment in terms of accountability, and transparent mechanisms for good governance... The Philippines embarked upon the winding journey of corporate and financial reforms in 2000. The process was put into motion by the Central Bank of the Philippines (the *Bangko Sentral ng Pilipinas*, BSP) when it created the Central Monetary Authority, an act that enabled the BSP to impinge upon a poorly regulated system vulnerable to political influences."

Concurrently, the *Securities Regulation Code of 2000* was put into place, backed by a World Bank review of standards on corporate governance in 2001 and the formation of the Capital Markets Development Council, as mandated by the President.

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The BSP and SEC consequently lead the corporate governance reform effort in the Philippines. The predominant issues at hand were based on globally-accepted good governance principles, namely protection of stakeholder rights; commitment to installing sound corporate governance structures (accountability and ethics in business practices); effective board governance (to uphold shareholder value); transparency and disclosure in financial and non-financial reporting; and the external audit function. The locus of initial reforms by the BSP and SEC focused on all-out compliance...

... The Philippine corporate sector has received the Code of Corporate Governance with varying degrees of enthusiasm, citing the SEC's over-reliance on OECD-style corporate governance best practices in formulating its basic tenets. According to Manuel V. Pangilinan: 'A number of new regulations and laws in the Philippines are what we call aspirational, which tend to be – at least for the moment, not at par with the reality of Philippine business.'

... The majority of corporations have adopted the Code at a minimum compliance level... Antonio G. Pelayo, Vice-President for Finance at the Petron Corporation believes that: 'We can adopt the best practices of the US and Europe, but they may not necessarily work in the Philippines – and you cannot implement all the practices you would like to implement from day one – there must be a transition.' (emphasis supplied.)

Lilia R. Bautista, (then) the Commission's Chairperson and chief architect of the Code, iterates that the Code's aims are positive and is confident that the active promotion of corporate governance in the country will raise investor confidence, develop capital markets and achieve sustained economic growth. 'We have to admit that we lack capital resources, and to improve and mobilize, we have the confidence of investors – both domestic and foreign – in our markets.'"

As the preceding quotations imply, the government, for various reasons, felt compelled to provide a code of conduct on the corporate sector. Discussions are continuing on implementing the code and the dialogue appears encouraging.

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Training and Dissemination Procedures

The board, management, and workforce of a firm should participate in the drafting of a code of conduct. Thus, they should be familiar with its practical application, which are based on actual company experiences. Case studies can be used as training materials.

The *World Bank PREM Notes* states that senior executives and employees performing critical functions, such as sales and procurement, need more critical training. Affiliates, joint venture partners, and suppliers should likewise be asked to join these training sessions.

Information and Support Systems

Information and support systems primarily serve as warning systems. As such, they are the most contentious component of a corporate anti-corruption strategy. Hotlines and whistleblower protection should be established and implemented. Hotlines should also be used not only to report erring officials and employees, but also to seek counsel in making decisions in a potentially corrupt situation.

What is the role of the board in a company's governance reforms and anti-corruption strategies?

Consider the following *five principle tenets of good governance*.

First, a commitment to disclosure and transparency of information ensures a corporation's accountability to its investors and other stakeholders and benefits the firm because the commitment inspires trust, confidence and credibility and allows shareholders and would-be investors to make informed decisions.

Second, with regard to checks and balances, the system of internal control should be embedded in the operations of the company and form part of its culture. The emphasis on director independence serves to ensure independent judgment on Boards to help corporations prosper and evolve. The presence of competent and genuinely independent directors is the market's signal mechanism. It conveys that the corporation is serious about protecting the rights of all shareholders and the integrity of the company.

Third, regarding effective board structures, and their size and composition, the number of members on the Board must allow for meaningful and lively discussion and efficient decision-making. Smaller boards have the benefit of facilitating discussion and interchange of ideas, while the composition should be dispersed between shareholders, management and an appropriate number of independent directors (at least 25 percent of the Board).

Fourth, according to *Arthur Levitt*, a former *SEC Chairman*; "Qualified, committed and tough-minded audit committees represent the most reliable guardians of public interest."

Fifth, an effective board structure requires a solid Selection and Compensation Committee because excessive executive compensation is one of the leading issues in the governance debate and the issue of how to align executive compensation with stock performance has not been adequately tackled. The Committee tasks include:

- Designing a compensation package that will attract, motivate and retain the right senior executives
- Deciding whether to expense options and equity compensation
- Nominating, selecting, training, and evaluating directors
- Designing effective orientation programs for new directors

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Governance revolves around the “agency issue,” e.g., the management is an agent of the board and the board is an agent of the shareholders, and the issue has expanded over the years with the evolution of governance. The agency issue is necessarily related to the cycle of control (Professor Leonardo R. Silos, *Corporate Governance and Control*, AIM, 23 February 2004):

“The concept of the control function of the Board of Directors over the management, if generalized is problematical. For if, as a general control principle, one agency needs to be controlled by an external agency to it, the question arises: what external agency will control the Board of Directors? The problem does not stop there. What agency will control the external control agency that controls the Board of Directors? The series does not stop...The concept of a self-contained control system seems to skirt the problem of the unending series of one agency controlling another. It is a circular, cybernetic, self-learning system.”

What is the role of top management?

The Board provides the vital link between owners and managers. It is concerned with the short-term success and long-term competitiveness of the corporation. They also ensure that a corporate strategy is developed, implemented, and carried out. The CEO and top management must focus on managing the Enterprise through an ever-changing business climate, by designing a cohesive strategy—one that describes how value will be created for shareholders, and then effectively communicating strategy to the Board. The responsibilities of the Board and top management are designed to be complementary in nature – to enhance and protect shareholder value through fair and equitable treatment, equal access to all publicly-released information on financial standing of the company. Shareholders can then question the Board and Management about profits and disclosure of information, and related issues.

However, in the Philippines, and in many Asian countries, the distinction between the Board and Management is blurred, especially in family-owned/controlled corporations. For instance, the positions of Chairman and CEO are held by the same person. The Board and Top Management are therefore engaged in a fine “balancing act” where the oversight and strategy tasks overlap.

What else about Asian and Philippine corporate culture and conditions should be factored into governance reforms and anti-corruption strategies?

According to *Mr. Washington Z. SyCip*, Chairman of the AIM Board of Governors, Chairman of the AIM Board of Trustees, Chairman of the AIM-Scientific Research Foundation Board of Trustees and Board Member of the AIM-Hills Governance Center Board of Advisors (*Managing Corporate Governance in Asia Conference, September 4, 2004*):

“We are all here to talk about the emerging structure of Corporate Governance in Asia and about global standards and local practices. The challenge before us is whether we will take standards that are applicable globally and apply these in a manner that they will take into account different stages of economic development, together with differences in culture and practices. At the same time, we need to ask ourselves whether we really want to adapt these standards to our local setting. Ideally a set of standards should be based on the needs of a country and should not hamper economic growth.”

He went on to outline six fundamental differences between Asia and “the West”:

- The role of government as the visible hand that guides economies
- The role of business as an active partner in nation building
- The structure of business where economic power is concentrated by dominant shareholder groups

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- The current business environment wherein professional managers are not yet displacing owners from positions of corporate control
- The cultural differences that emphasize harmony and relationships as the foundations of doing business
- The different stages of development of capital markets in Asia

In the Asian financial environment, publicly-traded corporations are not necessarily widely held and most bourses in the region require only 20-25 percent as the minimum shares to be floated in the market. It thus reduces transparency and increases control by the non-traded block of shares.

The *Asian Business Council's Corporate Governance Task Force* states that:

"Asia is a continent of great diversity and Asian business systems reflect this diversity. Domestic markets range from the world's largest to among its smallest. Certain economies are among the most developed and industrialized to those still largely agricultural. There are great differences between *and* within economies in Asia in terms of market structures and economic development.

Governments have strong presence in many Asian economies playing one or all of the following roles as regulator, shareholder, and political agent.

The character of Asian Business also reflects certain dynamics common across different economies. Economic power is concentrated in dominant shareholder groups in many cases. In smaller economies, large enterprises play a strategic role in the economy necessitating government protection in the name of national interest. Conglomerates, in many country cases, are created in a manner where the control rights over subsidiaries that are in excess to actual cash flow rights. This is achieved through pyramid structures and/or cross-holdings in favor of dominant shareholders where investor protection is weak in legal enforcement.

In Asia, certain realities underscore business systems. These realities include:

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- Concentrated share ownership in dominant shareholder groups including families, related interests, or government. (The World Bank notes that affiliation with a corporate group is common in East Asia but nonexistent in the United States and many other developed countries).
- Capital markets at different levels of development and maturity. (While providing significant capital for large firms, capital markets are not readily available to the majority of small and medium enterprises in most economies).
- Bank-led or external finance as a major source of funds of most Asian firms.
- Relationships in business as being as important as formal contractual arrangements among Asian firms or for doing business in Asia.
- Disclosure standards that need to be upgraded in most Asian economies.

In Asia, there is also the recognition of a societal role that business is expected to play. The stakeholder view of Business sees the corporation as providing protection and extending respect towards different stakeholders many times in a paternalistic manner as manifested by such practices as life-long employment (though since declining in practice).

Corporate citizenship sees the importance of individuals practicing corporate responsibility towards bettering society. Corporate philanthropy is the most common manifestation of this worldview often serving as an extension of individual citizenship. Philanthropy in Asia is many times characterized as a form of repayment to society for successes earned or gained earlier in one's career and a legitimate and important way of redistributing wealth in society.

Political stability and economic development are viewed as two factors essential for the development and survival of strong states. Business is therefore expected to play a key role in nation building in East Asia. Strong Government-Business connections/relations in many Asian economies, both developed and developing, are viewed as necessary to ensure that (a) stable political regimes are created to ensure economic growth, and (b) limited economic resources are channeled to areas of the economy that can grow and support political regimes against external and internal threats.

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In Asia, publicly-traded corporations are not necessarily widely-held. There are large differences across Asia. In Japan, less than 10 percent of listed corporations are controlled by families, while nearly 80 percent are widely-held. In Korea and Taiwan, however, families control 48 percent of corporations while the percentage is even higher in Thailand (62 percent) and Malaysia (67 percent). For widely-held companies, the classic agency issues between investors and managers arises with the latter enjoying superiority in terms of information for decision-making. Key governance concerns include the protection of minority shareholder rights, oversight and control over management, particularly the chief executive officer (CEO), and the issue of appropriate compensation and benefits for executives and directors that do not expropriate value at the expense of shareholders.”

There are two potentially different paradigms for assessing governance in Asia. Consider the two business realities in Asia and two paradigms for corporate governance with the same end in mind.

<u>Governance Principle</u>	<u>Widely-held Corporation</u>	<u>Dominant Shareholder</u>
Checks and balance mechanisms	Expropriation of value by management	Expropriation of value by dominant shareholders (who in turn control/are management)
Disclosure	Presentation of timely and material information	Access to material information
Provision of independent views (Board level)	Independent view of the Board	Independent views on the Board
Role of committees	Check management	Check dominant shareholder (who is also management or controls management)

Since most of the firms in the Philippines are small and medium enterprises (SMEs), what is the state of corporate governance among these SMEs?

In some sense, the current thrust on good governance represents “preaching to the converted”—among others, the large, local conglomerates that have already incorporated corporate responsibility (and governance), the multinational corporations in the Philippines that

are already held accountable by their corporate headquarters, and firms listed in the NYSE, with its own compliance code for good governance.

Governance practices still have to “cascade downwards” to the majority of Philippine firms—mainly small and medium enterprises (SME).

A cursory exploration of SMEs arrived at the following conclusions:

- SMEs do not distinguish between board-level governance and top management strategy. There is no “Chinese wall” separating the two levels, especially since SMEs are either entrepreneurial or family firms.
- Nevertheless, SME governance particularly in family firm has shown signs of improvement over the last generation, partly because the children of the founders often take MBAs where they are introduced to corporate governance.
- Unfortunately, the quest for improved governance takes second priority to ensuring the firm’s competitiveness and growing profitability. The limited exercise of governance appears further confined to periods of success.
- Family firms go through a transition process involving succession, professionalism, and governance. Note that governance is the last-stage of the transition process.

Separation of powers in general does not exist among SMEs. The founder-entrepreneur often knows everything about the business, and equally often takes over the major management functions of finance, production, marketing, and personnel. One reason lies in the founder-entrepreneur’s personal psychology for dominance and control. Another reason is the small size of the enterprise at the start-up stage of growth. It cannot afford

too many (expensive) professionals. Unfortunately, as the enterprise grows, the founder-entrepreneur often cannot overcome his or her previous management style.

Therefore, even as the firm grows and more professionals enter the organization, the founder-entrepreneur still sets the firm's strategic directions. The founder-entrepreneur as CEO, by virtue of ownership, is also the Chairperson of the Board. He performs both the governance and the operating roles for the firm. Family members occupy both the board of directors and the top management positions. Furthermore, family members, almost by definition of family roles, must be subservient to the decisions of the parent-founder. Unfortunately, big firms sometimes continue to act as though they were still small, struggling firms, and do not improve on governance.

However, you will note that the above problems apply to large, listed companies and SMEs. Indeed, fortunately for governance but unfortunately for the SME, the latter often cannot take refuge under the "moral hazard" argument. For example, a large firm with over-extended debt in danger of bankruptcy might receive concessions from the banks and/or the government financial institutions because "it is too big and too important to fail."

The large firm thus can take more risks because it can count on leniency, if not outright protection, should its expansion or investment decisions prove wrong. On the other hand, the SME may lack the visibility or political clout to be worthy of attention.

Relatively speaking, governance improves with the passage of time, as small firms grow larger, for the following reasons:

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- Growth often strains the capacity of the SME to finance expansion from internal sources. At some stage, the SME “graduates” from making deals with its “friendly banker” to negotiating with a consortium of banks usually led by a multinational bank. The latter requires greater professionalism on the part of the SME, such as submitting financial statements, doing a project feasibility study, defending the assumptions of cash flow projections, and so on. Larger size tends to develop at least the trappings of professionalism and good behavior, Enron notwithstanding.
- Growth also often forces an increase in the firm's capital or equity base, a by-product of the Asian Crisis, where firms large and small were demonstrably undercapitalized and over-leveraged. Public listing in the stock exchange carries with it the requirement for somewhat more transparency—issuing financial statements and disclosures, documented minutes of meetings, rulings and limits on DOSRI (directors, officers, shareholders and related interests) dealings, etc. While listing is no assurance of good governance, much like the ISO certification, it provides a first step in the path towards good governance.
- For export-oriented firms, the SME tends to grow rapidly once it becomes a permanent sub-contractor of a large corporation's global supply chain. Global corporations prefer to keep a network of reliable suppliers rather than switching solely on the basis of price. However, the price for increased growth is increased scrutiny by the large firm's export agents or representatives. At minimum, these agents demand greater transparency in the use of funds, for example, for the letters of credit, in order to ensure prompt delivery and to prevent diversion of funds to uses unrelated to the export order.

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- Over time, as the SME expands, it undergoes a “learning curve” with respect to looking after minority shareholder rights-- for the following reasons:
 - Growing SMEs sometimes take in minority partners who provide technical or marketing expertise. The founder-entrepreneur and the board thus become more comfortable with “dealing with outsiders.” These minority partners have a stake in the success of the business so they are actively involved in both governance and strategy. Moreover, since they enter with a necessary expertise, they have a voice that goes well beyond their minority ownership position.
 - The growing SME wishing to expand beyond its own local market to other developing countries will likely become a minority partner in any overseas joint venture/alliance. With the exception of government-designated “essential or pioneer industries,” few host country governments in developing countries allow majority ownership and control by a foreign firm of a local enterprise, even if it is a joint venture. The SME thus learns what being a minority partner means.
- For family firms, governance seems to improve over time for the reasons mentioned above, but also because of the second-generation children of the founder-entrepreneur who acquire MBAs. For SMEs, the MBA is now an acceptable substitute for the tradition of “learning on the job.”

The conclusion after reviewing the state of governance in both large and small firms is that governance has a long way to go. For large firms, they are in the “eye of the storm.” For small firms, they are still “under the radar screen.”

5

Preparedness of Philippine Firms to Implement Anti-Corruption Programs*

Prof. Ned Roberto, Ph.D., Principal Researcher of the AIM Business & Social Research Desk, with the assistance of the Social Weather Stations and staff of the AIM-RVR Center undertook a survey that explored the views and attitudes of CEOs on corporate misconduct. This was followed by a second wave of surveys that in turn looked into attitudes and perceptions of corporate middle managers and rank-and-file employees regarding corporate corruption and misconduct. The studies provided useful insights regarding both attitudes (ethics-based factors) and policy behavior (compliance-based factors) indicating the readiness of Philippine companies in carrying out anti-corruption programs. It also points to some policy directions that are useful in the design of a company's anti-corruption program.

A Discussion on the First Wave of Survey: Looking into the Perception and Attitude of Top Management on Misconduct

This First Wave of the Survey conducted by Professor Ned Roberto, Ph.D. focuses into the discussion of corporate misconduct based on the perspective of a top management executive. It delves into the aspect of corrupt behavior that executives perform, their attitude toward the misconduct of middle management and rank and file employees, as well as the initiatives undertaken in reaction to such behavior. Furthermore, it explains the implications of the findings on the issue of corporate

* The text of this section is taken from the executive summaries of Prof. Ned Roberto's study entitled "Corporate Corruption and Misconduct, as Seen by Top Management Executives" and "Corrupt Practices in the Private Sector, as Seen by Rank-and-File and Middle Management."

misconduct. And, it looks into the possible anti-corruption measures that the corporation can undertake to limit the extent of corruption.

What are top management executives' attitudes toward rank-and-file misconducts?

1. *Senior executives do not have standards by which they measure rank-and-file misconduct.*

Behaviors that are usually seen as wrong are still regarded as "wrong only sometimes" by some senior executives. For example, while 89 percent regarded temporarily placing company money in personal accounts as "always wrong," four percent saw it as "wrong only sometimes," and one percent saw it as "not at all wrong."

2. *Most senior executives do not believe that whistle-blowing will minimize or control corrupt rank-and-file practices.*

A majority of the respondents (57 percent) think that "it's OK" to keep quiet about others' misconduct at work.

3. *Most senior executives believe that doing something inherently wrong for a friend or close relative makes it right.*

This practice of giving and receiving favors is prevalent in our culture. While corporate executives are quick to judge government officials as guilty of this cultural (mal)practice, they look the other way when it comes to misconduct from within their ranks.

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4. *Senior executives believe that the purchasing, accounting and finance, and sales and marketing departments are most guilty of corporate misconduct.*

In identifying company departments or organizational units that they believed to be corrupt, senior executives mentioned the purchasing department four times more than they did the accounting and finance departments.

What are top management executives' attitudes toward middle and senior management misconducts?

1. *As with rank-and-file misconduct, senior executives do not have standards by which they measure middle and senior management misconduct.*

Again, even behaviors that are usually regarded as wrong are still seen by some senior executives as "not at all wrong" or "wrong only sometimes." For example, three percent regarded "fixing" the winner of a promo to get something in return from the winner as "not at all wrong," while four percent thought that it was "wrong only sometimes." Eighty-two percent of respondents believed that this practice was "always wrong." If senior executives can distort the meaning of "wrong" to protect their own interests, it is easy to assume that they would do the same about the misconduct of their staff and subordinates.

Columnist Conrado de Quiros of the Philippine Daily Inquirer coined a term to refer to this attitude: M.Q., or "moral quotient." He rated most politicians as having "low to very low" M.Q.s, and would say the same of corporate executives if he was to analyze the statistics.

2. *Most senior executives see accumulating favors as a wise political capital investment.*

There is a common belief that donating to foundations of well-known powerful individuals, with whom corporations will eventually have dealings, is “not all that wrong” and may even be good for business. Fifteen percent of senior executives see this practice as “not at all wrong,” while 26 percent sees donating to prospective business partners as “wrong only sometimes.”

Condoning wrongdoings of others in the company because of friendship or position/seniority is regarded as “always wrong” by only 56 percent of senior executives. A good five percent of respondents even claimed that this was “not at all wrong.”

3. *Manipulating corporate documents and financial statements, as in the Enron-Andersen case, is believed to be tolerable, or even acceptable, under certain circumstances, by an alarming 24 percent of top management executives.*

The rest believe that tampering with the company’s business records and financial results is always wrong. An extreme two percent, however, was honest and frank enough to say that, for them, this is “not at all wrong.” Overstating one’s assets in order to get a loan was seen as wrong only by 54 percent of top executives. A significant six percent even sees this as acceptable behavior.

4. *Top management executives are ambivalent about underhanded activities involving their competitors.*

The following results support this proposition:

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- Tampering with or sabotaging a competitor's product is seen as "always wrong" by only 77 percent of top management executives. Four percent sees it as "wrong only sometimes," but three percent claim that it is an acceptable practice because it is "not at all wrong."
- Likewise, only 64 percent of top management executives believe that spreading false information about a competitor is always wrong. Ten percent regard this as "wrong only sometimes," while three percent believe that it is "not at all wrong."
- Even the personal lives of competitors' executives are not spared. Spying on competitors or looking into their personal lives is acceptable for 22 percent of top management executives. Only 47 percent believe that this is always wrong.

These indicators show that politics rears its ugly head even among business leaders.

5. *Top management executives do not think that transparency in their business dealings is important and compelling enough.*

Two attitude indicators support this claim:

- Only 42 percent of top management executives believe that full disclosure about a product's faults is necessary. Almost a fifth believes that it is not wrong, with 14 percent believing that it is "wrong only sometimes," while a significant five percent claim that it is "not at all wrong."
- Forty percent of top management executives think that it is all right to interfere in their companies' bidding processes. If they do not like the winning bidders, they search for shortcomings that will allow them to award the contract to other bidders they favor. Three percent even believe that this is acceptable corporate behavior.

What are the policy behaviors and responses of top management executives to wrongdoings?

1. *Most top management executives classify wrongdoings according to their severity and/or repetition, and respond to these in stages. (To simplify, let us call this the "stages policy approach.")*

Four scenarios define this "stages policy approach:"

- Seventy-six percent of respondents said that they give a warning to individuals involved in corrupt or unethical practices. If this becomes a trend, they "arrange for a graceful exit."
 - Seventy-one percent of respondents claimed that they reprimand employees who have committed minor offenses; they suspend those with serious offenses; and they ask those with repeated offenses to resign.
 - A majority (53 percent) of the respondents said that, in most cases, erring employees are taken out of their positions or rotated.
 - Almost half (49 percent) said that they first re-assign the erring employee, and then terminate only if the wrongdoing is repeated. If the person resists, then some companies even go as far as filing a criminal case against the employee.
2. *The next most common response to employee misconduct is to first consider the guilty person's position in the organization, and/or the amount involved in the misconduct (if any).*

The following illustrate this approach:

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- Fifty-nine percent of respondents said that guilty parties are reprimanded only if they are new to the company, and if the amounts involved (if any) are small. But if the amounts involved in the corrupt act are huge, then these employees are terminated.
 - Fifty-seven percent said: "When the executive is valuable (to the company), (s/he) gets a mild reprimand from the owner. If (s/he) persists (in committing the wrongdoing), it is all up to the owner (to act on the situation)."
3. *Another approach in dealing with employee misconduct is to follow a strict rule of termination, without regard for the position or amount involved.*

These responses reflect this policy approach:

- "I don't tolerate it. I see to it that the person gets fired." (A response chosen by 29 percent of the respondents)
 - "We don't (act on) a wrong doing (based on the guilty party's) level or size. If someone did (something) wrong, then that person must be terminated." (A response chosen by 25 percent of the respondents)
4. *The last category of approaching employee misconduct is to not do anything for one reason or another.*
- Twenty-four percent of respondents claimed that they "do not want to tolerate" the act, but they just choose to look the other way because there is nothing they can do about it.
 - Eighteen percent of respondents bluntly said that they just "turn a blind eye" on employee misconduct.

If the data on attitudes were allowed to group themselves, what data-driven attitude categories will emerge?

Rank-and-File Misdemeanors

The following were derived from the factor analysis of the research data:

Attitude Category #1: Misdemeanor, minor or petty misconducts

- Collectors of company receivables placing their collections in their personal accounts, for a span of time, before surrendering the money to the company.
- Bringing home the company's product samples without authorization.
- Secretaries and clerks filching office bond papers, pencils, and other supplies.
- Cheating on time cards, such as punching in for someone else.

Attitude Category #2: Misconducts driven by the favor-giving/receiving culture

- Writing out the requirements for a bid so a supplier-friend can qualify.
- Asking a client for a small gift (e.g., a VCD) before signing a deal.

Attitude Category #3: Misconducts driven by the culture of awarding unfair advantage to oneself, or to one's relatives and friends

- Employees printing multiple copies of their resumes using the company's printer or photocopier.

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- Helping a relative get a job in the same company (which received a 43 percent “always wrong” rating).

Conclusions

First, when the attitude data are allowed to seek their own groupings, the resultant categories differ from the item-by-item, logical, and face value analyses. For example, the face value analysis categorized the attitude item “I have a relative who’s well placed in that office. So he got me into the front portion of the waiting line” as belonging to the giving/receiving-favors category of wrongdoings. The factor analysis categorized this misconduct as belonging to the category of “misconducts driven by the culture of awarding unfair advantage to oneself or to relatives and friends.” The factor analysis gave a richer, more insightful categorizing of rank-and-file wrongdoings.

Second, the percent ratings of attitude items are not a good basis for grouping and categorizing data, and are not reliable predictors of underlying attitude categories. So, to understand the true categories and underlying categories of a set of attitude scales, we must rely on a factor analysis more than a face-value relative frequency distribution analysis of those scales.

Attitudes toward Middle and Senior Management Misconducts

The factor analysis run on the data yielded the following:

Attitude Category #1: Social inequity-driven misconducts

- Tampering with the company’s business records and financial results.
- Taking the credit for another colleague’s work.

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- “Fixing” the winner of a promo to get something in return from the winner.

Attitude Category #2: Dishonesty-based misconducts

- Overstating one’s assets in order to get a loan.
- Donating to foundations of well-known, powerful people with whom the company will eventually have dealings.

Conclusions

First, and similar to the set of factor analyses that we ran, when the attitude data are allowed to seek their own groupings, the resulting categories of attitudes differed from the item-by-item, logical, face value analyses. The face value analysis came out with four categories of top management attitudes toward middle/senior management wrongdoings. In contrast, the factor analysis identified just two categories of middle/senior management misconducts: the social inequity driven misconducts, and the dishonesty based misconducts. As in the preceding section, the factor analysis gave the richer, more insightful, more parsimonious categories of middle/senior management wrongdoings.

Second, as was true in the first set of factor analyses, the percent ratings of attitude items were not a good basis for categorizing data and did not reliably predict underlying attitude categories. So, as before, we must continue to rely on a factor analysis to understand the true categories of a set of attitude scales.

If the data on policy behavior and response were allowed to group themselves, what data-driven behavior/response categories will emerge?

Four categories of policy behaviors emerged from a factor analysis of top management executives' responses to how they would deal with misconducts in their company:

Policy Behavior Category #1: Ostrich-like policy behavior toward misconducts

- Not wanting to tolerate misdemeanors, but "closing one's eyes" because nothing can be done about the situation.
- Turning a blind eye in most cases.

Policy Behavior Category #2: Sanctioning misconducts by stages

- Following a company policy of initially reassigning the employee, then terminating if the misdemeanor is repeated. If the guilty party resists, then the company files a criminal case against him/her.
- Reprimanding employees for minor offenses; suspending them for serious offenses; asking them to resign for repeated offenses.

Policy Behavior Category #3: Strict dismissal policy for any misconduct

- Not basing the judgment about an employee's wrongdoing on his/her level or amount of influence in the company.
- Not tolerating misconducts and seeing to it that guilty parties are fired.

Policy Behavior Category #4: Conditional, either-or policy behavior for misconduct

- In most cases, taking employees out of their positions or rotating them.
- Talking to the guilty person if s/he is new to the company, and if the amounts involved (if any) are small. But if the amounts involved are huge, then the employee is terminated.

Conclusions

As in the two preceding factor analysis runs, it is the factor analysis that gives the richer and more insightful categories of policy behavior and responses to wrongdoings. Therefore, understanding the true categories of a set of policy behavior scales must rely on a factor analysis more than a face-value relative frequency distribution analysis of those scales.

Does attitude determine policy behavior toward misconduct, or is it policy behavior that determines attitude toward misconduct?

For a program aiming to control corporate misconduct to be effective, it must be based on a clear understanding of the corporate corruption problem. More specifically, it must be based on the correct definition of the problem.

- Are inappropriate company policies a direct result of company executives' wrong attitudes toward misconducts?

OR

- Are these wrong attitudes toward misconducts caused by companies' flawed policy behaviors?

This is the classic debate, the chicken-or-egg question that asks if attitude determines behavior (from the social psychological school of thought), or if behavior determines attitude (from the behavior modification school). If it is true that attitude determines behavior, then a company's anti-corruption program must work on attitude change. For some companies, this is what their "Code of Ethics" or "Ethics Program" is for.

However, if it is behavior that determines attitude, then a company's anti-corruption program must focus on changing policy behaviors and responses towards misconducts, knowing that the correct attitudes will follow. The "Compliance Programs" of some companies are based on this model.

The Ethics Program approach seeks to preempt misconduct through value and attitude formation. On the other hand, the Compliance Program approach expects to control corporate corruption primarily through behavior control. By "institutionalizing a culture of compliance... backed by systems designed to reduce the prospect of criminal activity within the company and detect such activity where it exists," companies can effectively curb corruption within their ranks.

In practice, curbing corporate corruption is not an either-or choice. The two approaches co-exist, but each one's priority over the other just varies from case to case. So our analysis sought to answer the question: "From one situation to the next, which approach takes priority over the other?"

This question implied that we test the hypothesis through a series of pairwise testing of 20 hypothesis pairs. From these series, and from the paired 26 multiple regression runs that we used to analyze the data, we saw the following:

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First, there are many occasions where it is attitude that determines behavior. In these cases, therefore, it is a company's ethics program that should lead its anti-corruption efforts:

- The case of ostrich-like policy behavior toward misconducts, which was usually a function of attitude. An exception to this is when it is the behavior of turning a blind eye away from misconducts that drives the favor-giving/receiving culture
- The case of sanctioning misconducts by stages, which was, in three out of five cases, a function of attitude. Exceptions to this are where it is this behavior of sanctioning in stages that drives attitudes toward the favor-giving/receiving culture and attitudes toward dishonesty-based misconducts.
- The case of strict dismissal policy for any misconduct, which was, in four out of the five cases a function of attitude. The exception to this is again where it is this behavior that drives the attitude toward misconducts driven by the favor giving/receiving culture.
- The conditional either-or policy for misconduct was, in all of the five cases, a function of attitude.

Second, there were a number of occasions where behavior shaped attitude. These were the exceptions that we had identified in the preceding section. Here, it is the Compliance Program that should take priority over the Ethics Program.

Overall, of the 20 equation pairs that we analyzed, 16 of them showed that attitude determined policy behavior. Therefore, in these 16 cases, the Ethics Program should lead the anti-corruption Compliance Program. In the remaining four pairs, policy behavior shaped attitude, and should

therefore be addressed by using the Compliance Program to lead a company's anti-corruption efforts.

Are the attitudes and perceptions of top middle management on corporate misconducts shared by middle management and the rank-and-file?

The data analysis of the second wave survey in May 2005 on the attitudes and perceptions of corporate middle managers and rank and file employees compared with those of top management, uncovered the following insights and drew the following policy implications regarding corporate corruption and misconduct:

Attitudes and Perceptions

- The three levels of management (i.e., top management, middle management, and rank-and-file) have differing perceptions regarding acts of corporate misconduct that are "always wrong." This suggests that corporations should promote a common understanding of corporate wrongdoings and develop specific standards that will dictate how these wrongdoings are to be controlled and penalized, or both, as an integral part of good corporate governance practice.
- Most respondents from the top management and the rank-and-file levels do not believe in "whistle-blowing" as a means for controlling common corrupt practices. However, more than a majority of middle managers believe that whistle-blowing on corporate wrongdoings is acceptable.

In rating the 15 attitude items toward corporate wrongdoings, the middle managers regarded many of these practices as "always wrong." They also demonstrated a relatively stricter attitude towards corporate wrongdoings (compared with the top

management and rank-and-file), suggesting that more whistle-blowers should come from their ranks.

- About 20 percent of respondents from each level believe that an inherently wrong act, when done for a friend, for an immediate family member, or for a close relative, is “not that wrong.” In light of this, it has been suggested that this segment of respondents be targeted for value reformation as part of a company’s Ethics Program. They should be the priority candidates to undertake a course on “good manners and right conduct.”
- Top-level managers regard a company’s purchasing departments as most guilty of corporate misconduct. Middle managers, on the other hand, regard both the purchasing and the accounting and finance departments as most guilty. To the rank-and-file, the most corrupt department in a company is accounting and finance. Based on these findings, it may be said that perceptions regarding a department’s level of corruption depends on who in the corporate organization is talking, and with which department the respondent is more professionally and personally proximate.
- Respondents from the rank-and-file are probably correct in saying that the accounting and finance departments are most corrupt, especially in regard to “small-ticket” corruption (i.e., padding or altering receipts, padding liquidation expenses, etc.). For “large-ticket” corrupt practices (i.e., favoring supplier friends, overpricing, etc.), however, middle-level and top-level managers may be correct in saying that the purchasing department is most corrupt. It is also likely that top managers are turning a blind eye on corruption in the accounting and finance departments because of their personal and professional proximity to members of these groups.

Are the perceived company policy responses to acts of corporate misconduct by the three levels of management similar?

- When responding to an act of misconduct by a corporate officer or staff, many respondents from all three management levels believe that it is appropriate to proceed by stages. This is true for as low as 59 percent of top managers, and for as high as 76 percent of middle managers. This suggests that corporations have subconsciously adopted a “leniency rule” that will ultimately be ineffective in combating and eliminating corporate corruption.
- The company response to corporate misconduct that was rated the next highest is to first consider the guilty person’s position in the organization, and then to consider the amount involved in the misconduct, if any. This perception was true for as low as 16% of middle managers, and for as high as 39 percent of top managers. As a policy response, this is worse than the “leniency rule” because it erroneously, though unintentionally, supports the poisonous concept of *palakasan* (“it is whom you know that matters”). It also allows for demoralizing exemptions to rules based on how “small” the amount involved is—which is often arbitrarily and subjectively defined.
- Another way to deal with employee misconduct is to follow a strict rule of termination without regard for the employee’s position or the amount involved in the misdemeanor. As low as 25 percent of top managers and as high as 51 percent of the rank-and-file believe in this approach.

Based on their responses, it seems that the rank-and-file are best fit for a Compliance Program, while the top managers are best fit for an Ethics Program. The rationale and dynamics of these programs will be discussed in later sections of this report.

- According to the survey data, the last category of company policy responses to corporate misconduct is to not do anything at all—for

one reason or another. As low as 16 percent of middle managers and as high as 24 percent of top executives believe in this, the worse policy response of all.

The equivalent to being in denial, this kind of response may only be combated through a strictly implemented and a relentlessly executed Compliance Program.

- Because there are differing standards for corporate ethics (as shown in the attitude portion of the survey), it is not surprising that there are also differing policy responses to corporate corruption and misconduct (as shown by the data about company policy responses). To change attitude and behavior towards corrupt corporate practices, companies must combine a Compliance Program, or one that is meant to change corporate behavior in order to change corporate attitude towards corruption, with an Ethics Program—which is meant to change attitude and values first in order to change behavior. Every company must institutionalize and implement both programs, and not just one or the other.

What can be done?

The following are the reactions and practical suggestions made by businessmen and executives regarding corporate misconducts that may help to significantly reverse the cancerous culture of corporate corruption that plagues all levels of the private sector.

- Following are the action recommendations made by the Association of Accredited Advertising Agencies (4As):
 - Produce a movie—or, better yet, a TV serial—regarding the “corporate ombudsman.”
 - Set up an internal affairs unit within companies, similar to what exist in police and military establishments, and make a

TV serial on those who are knowledgeable about ongoing corrupt corporate practices. This internal affairs unit may be composed of such “corporate corruption experts” as company accountants, auditors, lawyers, human resource managers, or information technology executives.

- Highlight “work crimes” or corrupt work practices in regular television programs (such as *Imbestigador*) as a way of raising the “moral and social costs”, as well as public awareness, of corporate corrupt practices.
 - Implement a campaign to promote whistle-blowing as part of responsible corporate citizenship, and as instrumental in eliminating corruption in the private sector.
 - Regularly publicize models of company code of ethics and model compliance programs to serve as industry benchmarks for addressing corporate corruption.
 - Support a sustained campaign promoting honesty, transparency, and accountability in the private sector.
 - Support a sustained campaign to reverse the “burden of proof” mindset for corporate corruption cases, which essentially assumes that one is corrupt until proven innocent.
- Meanwhile, these are the action recommendations from the Market and Opinion Research Society (MORES) Conference:
 - Expand the first-wave corporate corruption research to cover the following:
 - Corruption as perceived or as practiced, or both, by middle managers
 - Corruption as perceived or as practiced, or both, by the rank-and-file
 - Corruption as perceived or as practiced, or both, by suppliers

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- Conduct corruption research on other critical segments of the private sector, such as the following:
 - Agriculture and farmers
 - Education, schools and teachers
 - Banking and finance
 - Trading and retailing services
 - Professional services and professionals
 - Religious services and the Church
- Conduct research to better understand some of the important and critical concepts uncovered in the first study, such as the following:
 - The attitude of executives and the public toward whistle-blowing
 - The hierarchy of ethical business values and priority-setting of business values among executives and staff
 - The role of ethics programs and compliance programs in business value formation
 - The mainstreaming of business values into the workplace

6

Sustainability of Anti-Corruption Efforts

How can anti-corruption efforts be sustained?

Reforms are ultimately measured by the degree by which objectives are met. Plans, however thorough, mean little in the longer horizon of history. Initial success is easy to achieve for popular reforms such as, anti-corruption programs. However, the more difficult yet unheralded task is to sustain gains, interest, efforts, and resources, in order to achieve lasting and meaningful changes.

Political will and public support and cooperation are necessary in anti-corruption reforms. They are, however, not sufficient for the sustainability of these reforms. They have to be supported by tools to provide direction and substance. These tools are outlined below.

How can anti-corruption efforts be measured?

Measurement is essential for diagnostic and benchmarking purposes at the onset of anti-corruption efforts. The nature and extent of corruption must be determined, and incorporated into plans and policies. Standards setting, in particular, will not prosper without solid measures. Thereafter, measurement supports the monitoring and evaluation process, which in turn, supports the iterative nature of policy setting and program implementation.

Two measurement tools that are particularly useful to anti-corruption programs are surveys and scorecards. As a data gathering tool, surveys reach more people and places than discussion groups. As noted elsewhere, they also facilitate indirect probing of sensitive issues. Probing

issues is an indispensable and difficult task that survey and focus discussion groups supplement.

Scorecards and their underlying measures, indices, and indicators, in turn provide a comprehensive description of a situation that relates to the problem at hand. They are based on accepted frameworks and are widely used because of their effectiveness in aiding comparisons, either vis-à-vis standards or vis-à-vis other sectors or countries.

The RVR Center Scorecard, SMARTS, provides the broader framework in which the prevention of corrupt practices could be facilitated at the firm level. SMARTS represents the first letter of its six core components.

Shareholder Value is the starting point. Standard financial measures such as return on investment (RoI), return on equity (RoE), return on capital employed (RoCE), economic-value added analysis (EVA), can be aggregated or indexed to use at the industry level.

Management Competence refers to top management's capacity to formulate and implement strategy. Efficiency measures include growth in share of market (SoM) and increasing return on sales (RoS, which is the ratio of net profit to net sales), or earnings before interest taxes, depreciation, and amortization (EBITDA). Value-chain management is probably critical, and the different cost-components in the chain can serve as benchmarks for assessing management competence.

Accountability of Actions applies to both board members and senior managers. Independent committees or consultants should regularly monitor and evaluate the performance of the relevant/key actors in the firm. Assessing accountability requires documenting and analyzing the consequences of policies or decisions and assigning responsibility for the consequence (both good and bad).

Responsiveness originally referred to the firm's concern for the environment, for instance, in the context of concern over industrial pollution and waste management. The more recent interpretation includes increased responsiveness to sustainable development initiatives (of which the environment is one major factor). Sustainable development is sometimes promoted as an alternative model to "Western" free-market capitalism. ISO compliance is one measure of responsiveness.

Transparency in formulating policies relates closely to accountability and can be assessed through the quality (and frequency) of documents that are made available to the public. For example, the minutes of board meetings are open to scrutiny, or a government department can hold public hearings prior to setting a policy. Transparency is essential to ensure both high quality and industry-wide acceptability.

Stakeholder Concern moves governance from the perspective of the specific SHARE-holders to the broader base of STAKE-holders, for example, from respect for the rights of minority shareholders to active cooperation with the community.

To include, the anti-corruption agenda will not wait for international and regional conventions and agreements to support efforts. It is, however, important that compliance with these measures be noted and when necessary, sanctions should be applied. In addition, there has been considerable progress in legislation pertaining to corrupt practices in the public sector, particularly on the abuse of power. However, there is still a need for legislation to tackle corruption that takes place wholly in the private sector.

PART TWO

INPUT DOCUMENTS

1

Review of Literature on Corruption

I. INTRODUCTION

What determines corruption and what are the causes and consequences of corruption? A survey of literature suggests that corruption in itself have numerous definitions, as perceived by different stakeholders. The Norwegian companies listed the some of the key elements of corruption. To wit:

“Abuse of the power inherent in a position of authority; those who participate in the abuse of power gain advantages; third parties are the ones who suffer; transactions take place in secret.” (NHO)

Furthermore, NHO, an organization advocating corporate social responsibility based in Norway, has argued that corruption “may be in the form of money or of providing services in order to gain advantages such as favorable treatment, special protection, extra services, or reduced delays.”

What is corruption? Defining corruption can have normative undertones, as some analysts noted. Joseph Nye describes corruption as a “behavior which deviates from the formal duties of a public role because of private-regarding (personal, close, private clique), pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence” (Thomas and Meagher, 2004).

In addition, the World Bank (WB) together with Transparency International (TI), a global corruption watchdog, formulated a simplistic definition which is, “The abuse of public office for private gain” (Coronel, 2002). More elaborately, the World Bank explains:

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"Public office is abused for private gain when an official accepts, solicits, or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit if no bribery occurs, through patronage and nepotism, the theft of state assets, or the diversion of state resources." (Coronel, 2002)

Adopting this definition to Philippine politics poses problems because in the country corruption has taken the form of patronage for status gain, because a politician can provide a job for his friends but this is not considered as corrupt. In fact, it is even considered as socially acceptable (Coronel, 2002). To wit:

"Indeed the practice of dispensing government largesse is widespread and seen as socially acceptable. Thus, every president who is appointed to office names thousands of new people, mainly his or her supporters, to various government posts. Neither laws nor prevailing social norms condone the practice. There are legal limits to the appointment of relatives, of course, but there are big loopholes as well - relatives are allowed as "confidential " appointments, such as staff officials or as consultants -- Former Senate President Jose Avelino " (Coronel, 2002).

The Causes of Corruption

The Center for Institutional Reform and the Informal Sector (IRIS) of the University of Maryland further highlighted two main approaches in analyzing the causes of corruption: structural approach and the individualist approach rooted in New Institutional Economic (NIE).

The structural approach focuses on the norms, values, regime, culture, history and loyalties that a polity has. Some of the causes of corruption are: "(1) what might be termed the "political prerequisites" (i.e. the need for a government, the separation of the public and private spheres) for the definition of corruption to be applicable; (2) the pattern of dominant loyalties and obligations in the society (include patron-client relationships);

and (3) the degree to which government is constrained from within or without by other centers of power." (Thomas and Meagher, 2004)

Moreover, focusing on the individualist approach, the New Institutional Economics perspective has been the one used often. Concentrating on the individual, it argued that individuals tend to maximize their gains at the expense of others. Similarly, using Klitgaard's formula that explains corruption: "Corruption = Monopoly + Discretion – Accountability." This can be explained by saying that, if a government official has a monopoly of some good and has a discretion on how it would be allocated, the agent would allocate this good in such a way as to ensure his own gain, at the expense of the public interest. (Thomas and Meagher, 2004)

The Costs of Corruption

The Asian Development Bank (ADB), having formulated anti-corruption policies and guidelines has briefly described the different costs of corruption. It has been argued that corruption result to far more costs than benefits. A study of corruption in a particular country would expose one to the negative consequences brought about by corruption, not just to the individuals but the country as a whole.

First, corruption strongly affected the development process. According to the research made by the ADB, corruption leads to the "favoring of inefficient producers, the unfair and inequitable distribution of scarce public resources, and the leakage of revenue from government coffers to private hands." Hence, rather than promoting an equitable distribution of income, corruption distorts the allocation of resources, as it favors the rich, the powerful and the politically well connected.

Second, corruption distorts the merit-based system, as it compromises service professionalism and esprit de corps. Hence, instead of people

complying with the stipulated rules and regulations within a bureaucracy, corruption in fact encourages them to perform ineffectively, thereby resulting to the poor performance of government.

In addition, Rose Ackerman further elaborates on the different consequences of corruption. She highlighted that corruption can lead to: 1) inefficient government contracting and privatization; 2) delays and red tape in government service; 3) inefficient use of corrupt payment and; 4) damaged political legitimacy as citizens lose confidence in the government. (Ackerman, 1997)

Moreover, as Shakut Hassan asserts, corruption is a serious development challenge that needs to be urgently addressed. Otherwise, this can certainly lead to further instability and uncertainty, as inequity and poverty increase. He recommends that there is a need for coordination among the various agencies of government in order for corruption to be curtailed and prevented. (Hassan, December 2004)

Michael Johnston, on the other hand, argues that there is a close link between corruption and democratic consolidation. As corruption distorts the government's development strategies, it also affects the state of a country's democracy. Corruption impedes consolidation, and thus hampers long-term development. In order to address this dilemma, Johnston posits that there is a need to analyze a country's history, so as for one to clearly pinpoint the areas that needs to be focused on. (Johnston, 2000)

Types of Corruption

Corruption has been classified in various forms, as seen in different levels and forms. Sheila Coronel highlights the different types of corruption.

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She distinguishes the type of corruption depending on the situation by which it is consummated. According to her, there are three types of corruption found in the government, such as “public sector corruption”, “bureaucratic corruption”, and “political corruption.” She contextualized the practice as follows:

- *Public Sector Corruption* wherein a corrupt practice happens within the government. While *private sector corruption* involves those in businesses, NGOs, foundations or professional associations. (Coronel, 2002)
- *Bureaucratic Corruption* occurs in the civil service, involving the state officials and employees who run the day-to-day activities of the government. Bureaucratic corruption may involve low-level officials or high-level officials. (Coronel, 2002)
- *Political Corruption* involves elected officials and typically involves vote buying, corruption of the electoral system, the political or regulatory harassment of opponents, and the preferential treatment of friends and allies. Similarly, it also involves the use of influence to be able to get appointments, tax incentives, behest loans and other concessions from the government. (Coronel, 2002) As Emmanuel de Dios and Ferrer noted, this is the most evident type of corruption in the Philippines (de Dios and Ferrer, 2000).

Furthermore, corruption can also be categorized based on its intensity. Coronel explains that corruption can either be petty or grand. *Petty or street level corruption*, on one hand, is what ordinary citizens experience in their everyday life. *Grand corruption* on the other hand, involves big amounts of money. For instance, the Amari scandal in the Philippines, which hit the headlines during the 90s, involved a total of P3 billion. (de Dios and Ferrer, 2000)

De Dios and Ferrer (2000), furthermore, classified corruption on the basis of individual actions. They defined bribery, as an act where one gives anything of value, either in kind or in cash to an official "in exchange for an act or an omission in that official's public functions." Patronage, according to De Dios and Ferrer, is an action that involves the distribution of government largesse (i.e. jobs, subsidized housing, public goods and other services) by state officials in exchange for political support.

Looking at the Philippine case, the country has been characterized as patronage based (Coronel 2002). Because of this, personal relationships between friends and relatives often interfere with politics. Thus, cronyism is seen when personal relationships (relatives, friends, classmates, and personal associates) become predominant in transactions in government. It is considered as "an extreme form of corruption in which the allocation of rents to elites is a function of their loyalty to individuals or power" (Coronel, 2002).

II. A REVIEW OF LITERATURE ON CORRUPT PRACTICES IN THE PUBLIC AND PRIVATE SECTORS

Corruption in the Public Sector

Corruption has always been a major problem in the Philippine government. It has become a way of life that is deeply embedded in the culture. Corruption in the bureaucracy is not isolated in history but has evolved with it. In narrating the origin of corruption in the Philippines, Sheila Coronel (2002) states:

"Corruption is as old as history itself. In the Philippines the origins of corruption have been traced to the Spanish colonial era, when public office was auctioned off to the highest bidder and the government was mainly an instrument for extracting money and labor from people...

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The United States saw itself as a more benevolent and modernizing colonizer, but it also introduced U.S.-style machine and pork-barrel politics...

After World War II, corruption flourished as politicians scrambled for a share of war damage payments. In the 1950s and 1960s, opportunities for corruption were created by the imposition of import and foreign exchange controls, the issuance of logging and mining permits, and preferential access to government loans and pork-barrel funds."

Perhaps the most famous corruption case in the Philippines is that of former President Ferdinand Marcos when he declared martial law in 1972. Marcos and his cronies "amassed billions in ill-gotten wealth" from various profitable sectors in the economy, particularly agriculture (Coronel, 2002). According to Ricardo Manapat (1991), "Marcos and his cronies exerted a vice over the national economy until it became under their total control or became their private possession."

After Marcos was ousted, corruption has gotten worse. The succeeding democratic government of President Corazon Aquino decentralized corruption and restored the pork-barrel and money politics, which can be attributed to a patronage-based political system or an oligarchic democracy where a small elite class dominates both the government and the economy (Coronel, 2002). According to the Office of the Ombudsman, from 1977 to 1997, the Philippines may have lost \$40.6 billion dollars, an amount much greater than the total foreign debt of \$40.6 billion (cited in Coronel, 2002).

In October 2001, Transparency International launched a new annual publication called the Global Corruption Report (GCR). These reports include an analysis on corruption and the fight against corruption around the world including the Philippines. The 2004 Global Corruption Report focused on political corruption, which is described as:

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"an obstacle to transparency in public life. In established democracies, the loss of faith in politics and lack of trust in politicians and parties challenge democratic values, a trend that has deepened with the exposure of corruption in the past decade. In transition and developing states, political corruption threatens the very viability of democracy, as it makes the newer institutions of democracy vulnerable."

To determine a country's corruption rating, Transparency International applied the Corruption Perception Index (CPI) and Bribe Payers Index (BPI). In the 2004 GCR, Gabriella Quimson indicates that the Philippines scored 2.5, with 1 as the lowest and 5 as the highest, in the CPI and the country ranks 92nd out of 133 countries.

Quimson (2004) also mentions the legal and institutional changes concerning corruption that occurred in the Philippines since 2002. To wit:

- In July 2002, an e-procurement programme was introduced in sub-department offices, government-owned-and-controlled companies (GOCCs), and state universities and colleges to reduce corruption in public procurement.
- In December 2002, government-owned-and-controlled corporations and their subsidiaries were subjected to a performance evaluation system for corporate governance practice.
- Also in December 2002, three bills on political financing were presented in the Senate. The first bill sought to provide finances for the improvement of the political party system. The second aimed to institutionalize campaign finance reforms. The last one aimed to create a presidential campaign fund for expenditures in presidential and vice-presidential elections.

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- The Government Procurement Reform Act and the Anti-Money Laundering Act were both signed in 2003. The Procurement Reform Act “provides for the modernization, standardization, and regulation of public procurement...” by “increasing transparency, competitiveness, efficiency, accountability and public monitoring of both the procurement process and the implementation of awarded contracts” (Quimson, 2004, p. 237). The Anti-Money Laundering Act allows authorities to report transactions from 4 million pesos (US \$75,000) to 500,000 pesos (US \$9,000), and the central bank to monitor deposits.
- Quimson also discussed the Presidential Anti-Graft Commission's (PAGC) lifestyle check initiative, which President Gloria Macapagal-Arroyo proposed in 2002. Government officials, including the police and military, were subject to a lifestyle check to determine any disparities between the declared income and apparent lifestyle.
- Also discussed in Quimson's study (2004, p. 239) is the PIATCO controversy in August 2002 when the government announced a takeover of the newly constructed Terminal 3 at the Ninoy Aquino International Airport (NAIA) after a dispute between the Filipino and German partners of PIATCO (Philippine International Air Terminals Company). The government takeover of Terminal 3 was said to jeopardize the Philippine government's effort to curb corruption through privatization.

Based on the paper done by the Philippine Center on Transnational Crimes (PCTC) on graft and corruption, there are six common forms of corruption in the public sector, such as ghost projects and payrolls, evasion of public bidding in awarding of contracts, nepotism and favoritism, extortion, protection money, and bribery. Each of these types

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of corruption is briefly discussed below.

Ghost projects and payrolls are non-existing projects and personnel or pensioners paid for by the government. High-ranking officials in the public works and social services often do this practice.

There is an evasion of public bidding in the awarding of contracts when the authorities, specifically the bids and awards committees, forgo the proper process of a public bidding by subjectively awarding the bid to a favored contractor who can provide them with personal benefits.

Nepotism occurs when government officials choose or appoint relatives and close friends to government positions regardless of their qualifications or merits for the job. Nepotism, according to PCTC, is "one of the root causes of inefficiency and the overflowing of government employees in the bureaucracy."

Extortion is commonly practiced in agencies tasked to issue licenses and documents, and recruit personnel. Based on the PCTC paper, extortion occurs when government officials "demand money, valuable items, or services from ordinary citizens who transact business with them or with their office."

To secure illegal operations and activities, citizens deliver protection money or "tong" to law enforcers. The giving out of large sums of money is a form of bribery in exchange for unhampered illegal operations and protection of the citizen concerned. Gambling lords, drug syndicates, smugglers, and businessmen without the necessary permits mostly practice this act.

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Bribery or the “lagay” system is an act mostly done by citizens to cut through the bureaucratic red tape. A substantial sum of money is given to a government official who can facilitate and hasten the issuing of permit, licenses, clearances, and other necessary but hard to obtain documents. In explaining why citizens resort to bribery, the PCTC paper states:

“Too much paper requirements, long and arduous processing of documents, ineffective and inefficient personnel management and the absence of professionalism in the public service force ordinary citizens to employ extraordinary and illegal methods for the immediate processing and issuance of required personal documents.”

The prevalence of corruption in the Philippine government is attributed to weaknesses in the institutional infrastructure. Kaufmann, Hellman, Schankerman and Jones (1999) explain that corruption is “a symptom of fundamental institutional weaknesses” because “[i]t thrives where the state is unable to reign over its bureaucracy, to protect property and contractual rights, or to provide institutions that support the rule of law. Paul Hutchcroft contends that the Philippines has weak institutions that is why corruption is prevalent. He even considers the country as a “predatory” and “booty capitalist” state.

Additionally, the presence of a small elite class or “cacique” in the government has contributed to the persistence of corruption in the Philippines. *The Rulemakers: How the Wealthy and Well-Born Dominate Congress* (2004) provides a documentation of the men and women in the Philippine legislature for the last 100 years, tracing their family lineage, demographic characteristics, and assets and sources of wealth. The legislature, according to this book, has always been dominated by a privileged few who are “richer, older, better educated, and better connected than the rest of [the Philippine society]” (Coronel, 2004). Furthermore, the lawmakers often come from political clans that have been in the Congress and Senate for many decades. *The Rulemakers*

depicts how lawmakers employed their powers to further enrich themselves and entrench their families in power. The powers to make laws, decide on the national budget, and steer the country towards its future. Because of the powers vested to the legislature, the elites occupying the important positions in the government have the leverage to influence both the law and the economy to get benefits for themselves, their allies, and their kin.

Besides the institutional forces contributing to corruption, Emmanuel de Dios and Ricardo Ferrer (2000) explain that there is a larger dimension to corruption. According to de Dios and Ferrer, corruption is determined by the historical and social context, which includes "social cohesion (income and wealth, education, ethnic and other differences), the economic strategies pursued by the government (minimalist vs. interventionist), the political system (autonomy of the bureaucracy, the degree of centralization), extent of market transactions (local or global), and the rate of and sources of economic growth."

The demand and supply side of corruption depends on the type of corrupt practice that the public sector engages. The public sector is usually associated with the demand side of corruption nevertheless it does not mean that they cannot be involved in the supply side of corruption as well. Some of the corrupt practices are found in the procurement process, electoral fraud, allocation of pork-barrel funds, and taxation. Note that the different types of corrupt practices may occur in all of them such as bribery, patronage, nepotism, rent-seeking and theft of state assets.

1. Procurement Process

Procurement or contracting is a means employed by governments in acquiring goods and services for public use. Kelman defines it as, "a business arrangement between a government agency and a private

entity in which the private entity promises, in exchange for money, to deliver certain products or services to government agency or to others on the government's behalf" (Kelman, 2002).

Yvonne Chua (2002), in her book *Robbed*, identified corrupt practices that have plagued the Philippine government bureaucracy. These are as follows: ghost deliveries and delays in delivery, ghost teachers and students, kickbacks or "tapon" and "SOPs", bribery, uncalled negotiation of contracts, defective or obsolete items purchased, "advance" payments, "consortium" system, "padulas" or grease money, horse-trading with Congress, underdeliveries, overpricing and purchase of unnecessary equipments, falsifying qualifications, teachers teaching students to cheat, and "School canteen" corruption.

Because of these corrupt practices evident in the procurement of goods and services, the quality and the cost of the goods does not reach the optimum combination. As Søreide asserts, "Corruption in public procurement makes the officials or the politicians in charge purchase goods or services from the best briber, instead choosing the best price-quality combination." (Søreide, 2002) With high costs and poor quality of goods, the government is unable to provide for the interests of the public.

2. Electoral Fraud

Elections are crucial especially in democratic societies. It acts as a mechanism for representation of the public's interest in the government's agenda. Elections are considered as one of the procedural manifestation of democracy, as Sidney Hook would assert. It enable citizens to vote for their candidates and thus, representing their interest in the programs of the government. Despite the noble intention of elections, that is equal representation; there had been concern on the validity of the said

process in providing an avenue by which the public can assert their interest.

Problem in the elections arise, when business is mixed with politics. In the book, *The Rulemakers: How the Wealthy and Well-Born Dominate Congress* by Sheila Coronel et al. (2004), documented Filipino provincial family clans that had been dominating the seats in Congress for decades. This can be interpreted as a fact that there are diverse opportunities for congressmen when in power. Thus, these family clans would want to stay in power. The benefits of politicians may arise from their capacity to hold leverage in their business or to pursue their own personal interests through their power. In this light, congressional seat, or any political position had been closely fought for.

Because of the coveted perks of being an elected official, candidates running for office have cheated their way towards winning their position. Malicious action during elections can be considered as electoral fraud. On a formal note, electoral fraud is a "deliberate interference with the process of elections." According to Ding Tanjuactco (2000), there are two stages by which election fraud is present. One is during the registration of voters and two is during the election day, which also covers the tallying of returns. However, it is important to note that the tallying of votes is a significant area by which election results can be manipulated.

During the registration of voters, electoral fraud can be in the form of "inflating the vote or deflating the vote." On one hand, inflating the vote imply that non-qualified voters are able to register, as well as multiplying the number of times a single person can vote. Also, there had been instances when dead people are able to register and vote. On the other, deflating the vote imply that voters are threatened or coerced thus, "preventing" them from voting. In addition, controlling the counting of the

ballot by “losing or misplacing the ballot boxes” also affect the number of votes. (Tanjuactco, 2000)

On the day of the elections, there are various methods employed to manipulate the electoral process, such as: vote buying, negative vote buying, waylaying of voters, stuffing of ballot box with fake ballots, ballot box substitution, falsification or tampering of election returns, and falsification of statement of votes. (Tanjuactco, 2000)

3. Pork Barrel Allocation

The Countrywide Development Fund (CDF), Public Works Fund, School Building Fund, and Congressional Initiative Allocation (CIA) are funds allocated to Congress. These congressional funds are allotted to congressmen for the development of their respective districts. It is a means by which elected officials are able to give back to their own districts through education, social services, and public works projects. On a theoretical basis, congressional funds can be classified as honorable. However, on a realistic basis, its noble cause is eroded as the interest of politicians affects their motives in entering politics. Because of this, there has been an increased interest among congressmen to hold senior committee chairs. (Parreño, 1998)

Because of this, congressional allocations are known as “Pork Barrel Funds.” William Safire explained that the term “Pork barrel” dated back from the pre-civil war days in the United States. He said that, “masters” would give barrels of salted pig to blacks when they feel generous. Another political commentator in 1912 assert that,

“Oftentimes, the eagerness of the slaves would result in a rush upon the pork barrel, in which each would strive to grab as much possible for himself. Members of Congress, in their rush to get their

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local appropriation items... behaved so much like Negro slaves rushing to the pork barrel." (Earl Parreño, 1998)

Because of this, pork has been viewed as a source of politician's leverage for his personal interests. In addition, pork is considered as a vehicle to get bribes and commissions from contractors of pork-funded projects.

The public now acknowledge the fact that these congressional funds do not actually benefit them, thus with increased awareness are seen to be suspicious of actions of congressmen. In Pulse Asia's October-November 2004 *Ulat ng Bayan National Survey on Filipino's View on the Fiscal Crisis under Pork Barrel Funds*, a huge majority of Filipinos (84 percent) favor either a reduction or an elimination of the Priority Development Assistance Fund. The bulk of this number (54 percent of total respondents) agreed that pork-barrel funds should be reduced but not totally eliminated. Only 16 percent say that the current level of the pork barrel should be maintained.

Corruption in the Private Sector

The pervasiveness of corruption is not only limited in the public sector but rather it is also present in the private sector. Because of its presence, it then hampers the productivity as well as it discourages in the private sector.

The same rationale, in explaining the cause of corruption in the public sector, can be utilized for the private sector. As rational individuals, executives and managers focus their actions and behavior towards earning profit for their business. In their aim to earn more profit than usual, companies have performed illegal actions.

1. Procurement: Private-to-Public Corruption

Procurement of goods and services by the government is an area wherein corruption exists through the relationship between private and public sector. Corruption in the procurement process entails the consent of these two actors for the malicious act to consummate. The government must be willing to coordinate with the private company in their transactions to complete such act.

During the procurement process, there has been collusion between suppliers. Similarly, during the public bidding stage, there are instances when a private individual bribes a government official in order to gain the contract. PCIJ lists several reasons why this was done. To wit:

"to be included in the list of qualified bidders and to restrict its length; to acquire inside information such as minimum and maximum price thresholds, average-offer prices, and project evaluation criteria; to induce public officials to formulate the bidding specifications so that the firm becomes the only qualified supplier; to be selected as the winning contractor; or to get inflated prices or to skimp on quality upon winning the contract." (Chua, 2002)

Thus, bribes are used by private firms to induce certain behavior or decision from the government official in accordance to their interest. To explain further, bribes are in the "form of money, travel, meals, gifts, favors, discounts, and even future employment" that may benefit the public official or their family, friends, and relatives" (Chua, 2002).

The extent of corruption in the procurement process can be illustrated in the succeeding discussion. The statistics below shows the breakdown of procured goods by the Philippine government from, supplies and materials, library books and materials, other services, gasoline, oil and lubricants, land and land improvements outlays, buildings and structures

outlay, furniture, fixtures, equipment and books outlay, to information technology (IT) equipment outlay in the years 1998-2001.

Magnitude of National Government Procurement Outlays in the Philippines

Expense Classes	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
Supplies and Materials	15.750	15.587	17.012	20.295	16.879
Library Books and Materials	0.034	0.158	0.094	0.225	0.071
Other services	15.096	17.232	15.430	18.676	19.322
Gasoline, Oil and Lubricants	1.883	1.766	2.099	2.593	2.622
Land and Land Improvements Outlays	43.621	68.337	50.406	63.497	59.985
Buildings and Structures Outlay	17.533	12.579	10.175	11.431	6.570
Furniture, Fixtures, Equipment and Books Outlay	11.275	6.307	9.23	5.723	3.642
Information Technology (IT) Equipment Outlay	0.10	0.226	0.799	0.716	0.932
TOTAL	105.202	122.192	105.245	123.156	110.023
Source: Budget of Expenditures and Source of Financing. FYs 1999, 2000, 2001, 2002, and 2003 (World Bank, March 2003) Country Procurement Assessment Report					

In contextualizing this information gathered, one can infer the following— It has been asserted that almost an average of Php 113 billion were used by different national agencies from the year 1997 to 2001 for “annual outlays for procurement of goods, works and services”, and “assuming a conservative estimate of 20%” goes to corruption, “what this means is that in 2001 when the Philippine government's public procurement budget amounted to 82 billion pesos for the national government and 22 billion pesos for local governments, an estimated 21 billion pesos was the potential leakage through corruption” (Syquia, 2003).

Given the assertion stated above, one can employ it to discuss the impact of misused funds. In using 2002 figures, “21 billion is twice the annual budget of the Department of Health.” Also, “it is equivalent to 520 million textbooks for public school children, can construct around 63,000 new classrooms, or around 1,500 kilometers of concrete farm-to-market

roads in the Philippines.” Furthermore, “by the late 1990’s, when payoffs were reportedly eating up 20 to 65 percent of textbooks funds, the public school system lack 70 million textbooks and, as a result, 6 children in grade school and 8 in high school had to share 1 textbook.” (Syquia, 2003)

Because of the procedural nature of the procurement process, corruption can lie at different stages of the transaction of the public agency and the private contractor. This deceitful act is evident in the pre-bidding process, the awarding of contracts and even the delivery of the procured goods.

a. Corruption in Infrastructure

The Department of Public Works and Highways (DPWH), according to National Secretariat for Social Action—Justice and Peace (NASSA), is one of the most corrupt agencies in the Philippines. In fact, according to the Department of Budget and Management (DBM), almost 50 percent of infrastructure allocations go to corruption. (NASSA)

In the study of Eric Gamalinda (2000), he asserted that the DPWH had been ubiquitously surrounded by corrupt practices in choosing contractors and consummating contracts in building public infrastructures. He discovered that, “there is an open acknowledgement that corruption is endemic in road building, permeating the entire life of road projects, from bidding to completion.” Among the means where this is evident are “collusion among contractors bidding for project, ‘ghost’ deliveries, ‘ghost’ projects, the use of substandard materials, the intervention of politicians, and the outright bribery of highway officials” (Gamalinda, 2000).

b. Corruption in Education

As already mentioned above, corruption in the education department has also been prevalent. The report of PCIJ journalist Yvonne Chua vividly describes the different forms of corruption that occurs in Philippine education. Not only does this involve public officials who have the monopoly of the government largesse, those in the private sector take part as well. Suppliers of school supplies and equipment also engage in corrupt acts, as they produce and deliver materials of low quality. Moreover, collusion also persists among officials and suppliers, thus distorting the procurement process. In fact, as the PCIJ further reports, DepEd has already overtaken DPWH as the most corrupt agency (Chua, 1999). Both suppliers and officials take advantage of the huge amount of money allotted to the department.

For instance, looking at the case of textbooks, DepEd suppliers, which are mostly from the private sector, actually kept to themselves five to ten percent of the contract, since they gave bribes to the regional office and schools divisions (Chua, 1999).

Corruption in the Department of Education is possible through the “bureaucrats who have the power to request for supplies, to sign contracts, to monitor delivery and release payments.” This is prevalent in every stage of the procurement process—“from the accreditation of the suppliers to the time when the materials had been delivered and paid for” (Chua, 2000). Specifically, the problems of corruption in the procurement process in the Department emanates from the under-delivery of the specified quantity in the contracts, overpriced and sub-standard quality of the procured goods.

In the investigative research executed by Yvonne Chua, she discovered that “under-deliveries range from 30 to 60 percent of the total contract.”

To illustrate "in an Php 81.7-million contract to supply armchairs, delivery was only 40 percent even if the supplier got paid in full and in advance." Because of this, the delivery of armchairs lacked a total of 111,000. Furthermore, "overpricing and the delivery of substandard or defective items are rampant". For example, prices of procured goods are overpriced as high as 1,000 percent and the defective goods can reach 98 percent of the delivery. (Chua, 1999)

c. Corruption in Health

The collusion between suppliers and officials has also been evident in the health department. With the adoption of the Local Government Code in 1991, municipal governments are given the capability to spend their respective health budgets. However, rather than improving the scenario, problems persisted like the "culture of waste, corruption, and patronage" (Olarde and Chua, 2005).

The extent of corruption in the procurement of drugs in the health sector, as reported by the Philippine Star, was that the prices of drugs were overpriced up to 100 percent, with the difference in prices is distributed between local officials and the suppliers (Newsflash). The decentralization of health services further increased the level of corruption. To illustrate, "of the nearly P1 billion allotted in 2003 for the maintenance and other expenses of all rural health units, P100 million to P700 million could have been lost to graft" (Olarde and Chua, 2005).

However, corruption is not solely limited to the local level. Gemma Luz Corotan also investigated corruption in the national level. After being tasked to do a background-check on the newly appointed Department head, former Mindanao representative Hilarion Ramiro, she uncovered appalling information where the said department secretary was receiving 20 percent commission from the department purchases. (Corotan, 2000)

2. Tax Evasion

Tax evasion is predominant and has become a way of life in the Philippines. Both the taxpayers and the government have contributed to the problem. On one hand, those in the private sector falsify their annual income and do not pay the corresponding taxes to the government. On the other hand, the poorly paid officials, who have grown used to supplementing their incomes with bribes, had resisted attempts for reform. These officials only have a salary of around P12,000 a month at the Bureau of Internal Revenue (BIR), which is about half of what they could have earned in the private sector (Johns, 2003).

In studying the behavior of taxpayers, Tess Bacalla, a journalist who investigated corruption in the BIR, noted that the "business people in [Chinatown] paid only about half of the tax they were supposed to, because they could get away with it and because the money never came back in the form of public services" (cited in Johns, 2003). Another testament of this fact is the case of business tycoon, Lucio Tan, who was charged of tax evasion. Tan had a P27-billion tax evasion case, but a decade has passed and no resolution had been made (Johns, 2003). The attitude of businessmen to evade paying their taxes properly has, therefore, caused government revenues to decline and budget deficits to rise, which further contributes to the underdevelopment of the country.

Private to Private Corruption

As the Transparency International Source Book (2002) indicates, "private sector corruption is also pervasive in all parts of the world and in numerous industry sectors." Transparency International further notes that there is a prevalence of bribery in the private sector, specifically in the following areas:

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- *Procurement.* Bribery of purchasing agents for private sector projects is also common. Looking at the case of the US, efforts were made to bribe buyers for large chains, such as Walmart and K-Mart.
- *Financial Industry.* Bribery of financial officials is also common. Bribes were given in order for one to be able to obtain loans or better interests, following bank scandals in Japan, Indonesia and the US. Even in the securities industry, bribes were also given to obtain special allocations of shares in the IPO.
- *Sports.* Members of the International Olympic Committee as an example, accepted bribes from managers of fighters to grant higher rankings, which would qualify boxers for more matches, "bookmakers who have bribed cricketers to under-perform; and football players rigging results."
- *Retail Display Space.* TI highlights that sales representatives of consumer goods bribed store managers a favorable display of their products. Similarly, disc jockeys were bribed by record companies in order for records be played.
- *Scrap Disposal.* This also considered a common type of bribery, often involving organized crime. Among its variations include: bribery of quality control inspectors to reject good products, which would be bought as scrap and then resold as quality products.

III. WHAT HAS BEEN DONE TO COMBAT CORRUPTION

International initiatives

There have been numerous efforts exerted to combat corruption in all sectors of society. Among these are the government and private sector. These efforts have taken the form of either policy or rule-based programs and ethics/values-based programs. Ultimately, the approaches to combat corruption range from far-reaching and comprehensive programs like the United Nations Development Program (UNDP) activities to the more local and highly specific ones such as a company's code of conduct. Hence, the following discussion delves on what has been done in the quest to fight corruption at the international level.

The UNDP has made several efforts to fight corruption. It is an international organization that actively promotes transparency, accountability and good governance. This is in keeping with its commitment to sustainable development and the alleviation of poverty. The main thrusts of the UNDP programmes on corruption are on applied policy goals, the three-tiered approach, global actions, regional programs and country initiatives.

First, applied policy goals deal with partnerships between the UNDP and state governments and other stakeholders. As an international organization, the UNDP can effectively furnish nation-states with the knowledge and assistance that can make anti-corruption efforts work. According to the *UNDP Activities in Anti-Corruption*, "Precisely because UNDP is in position to provide globally generated knowledge, resources and expertise, it can add value to innovative methodologies that analyze the nature and extent of corruption, and for assessing the effectiveness of particular reforms."

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Second, the three-tiered approach deals with fighting corruption on three specific levels. These are the country offices, sub-regional resource facilities, and the BDP Institutional Development Groups. Each level has a different purpose.

Third, global actions focus on the wide-ranging functions that the UNDP does to support anti-corruption efforts. According to the UNDP paper, *Activities in Anti-Corruption*, "At the global level, focus has been on: facilitating co-ordination and dialogue, building partnerships, and strengthening capacities at the national level to develop comprehensive anti-reform strategies."

Fourth, regional programs center on promoting good governance in the main areas of the globe particularly Africa and the Asia Pacific.

Finally, country initiatives consist of specific recommendations for each country with regard to approaches in combating corruption.

In 1996, the United Nations officially declared their stand against corruption. This was done through the *United Nations Declaration Against Corruption and Bribery in International Commercial Transactions (1996)*, which states:

"Recognizing the need to promote social responsibility and appropriate standards of ethics on the part of private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions, inter alia, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection."

The UN declaration mandated all member states to abide by twelve commitments to combat corruption. These twelve commitments include

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developing standards, enhancing cooperation, and promoting development to eliminate bribery.

Aside from the UN official declaration, the United Nations officially established the Global Programme Against Corruption or GPAC in 1999. According to an article from the United Nation, *Corruption*, the GPAC was specifically aimed at improving awareness and efforts towards eliminating corruption. Since the creation of GPAC, it has been active in the following areas:

“(1) providing technical assistance to Member States in strengthening their legal and institutional anti-corruption framework, (2) supporting and servicing international groups of Chief Justices on strengthening judicial integrity, (3) the development and dissemination of anti-corruption policies and tools, and (4) enhancing interagency anti-corruption coordination.”

There was also the UN Convention Against Corruption in 2003. The UN convention, which was held in Mexico, garnered much support from member countries. The UN convention asserted the firm belief of member countries that eliminating corruption was necessary to achieve good governance and further economic development (UN, Corruption):

“Throughout the world there is a growing tide of awareness recognizing that combating corruption is integral to achieving a more effective, fair and efficient government. More and more countries see that bribery and cronyism hold back development and are asking the UN to help them gain the tools to curb such practices. Since the causes of corruption are many and varied, preventive, enforcement and prosecutorial measures that work in some countries may not work in others.”

The Council of Europe also has its own promulgated rules or policies against corruption. As a manifestation of its commitment to fight corruption, the Council's *Civil Law Convention on Corruption* (1999) emphasizes, “corruption represents a major threat to the rule of law, democracy and human rights, fairness and social justice, hinders

economic development and endangers the proper and fair functioning of market economies..."

The European Union (EU) member-states created a preamble in 1999 that officially declared their stand on the issue of corrupt practices. In this preamble, the EU states manifested their belief on the destructive character of corruption. The preamble of the EU consists of three main chapters, namely 1) measures to be taken at the national level, 2) international cooperation and monitoring of implementation, and 3) the final clauses. The first chapter defines corruption and the liabilities that come with corrupt practices. The second chapter delves on cooperation and the implementation of the convention and the specific policies promulgated. The final chapter deals with policies on agreements and further amendments.

The Organization of Economic Cooperation and Development (OECD) recognizes the need to have policies to address corruption. In 1997, the OECD Convention on Combating Bribery of Corrupt Public Officials in International Business Transactions was held. The preamble of this initiative has 17 articles. Each article deals with specific aspects of corruption such as bribery as an offense to public officials, and sanctions for bribery practices. This convention was held mainly because the OECD recognized the gravity and the extensity of bribery across the world. According to the OECD (1999), "Considering that bribery is a widespread phenomenon in international business transactions, including trade and investment, which raises serious moral and political concerns, undermines good governance and economic development, and distorts international competitive conditions".

The United States Agency for International Development (USAID) is another organization that aids in fighting corruption. In its commitment to this goal, USAID published *A Handbook on Fighting Corruption* in 1999. The

aim of the handbook is to present “a framework to assist USAID missions develop strategic responses to public corruption. The framework sets out root causes of corruption, identifies a range of institutional and societal reforms to address them, and introduces a methodology for selecting among these measures” (Center for Democracy and Governance, 1999)

The World Bank is also an organization that helps in the quest to eliminate corruption. As a multilateral organization seeking to promote economic development and poverty alleviation, the World Bank conducts studies on specific public policy issues concerning member countries. *Combating Corruption in the Philippines* (2000) is a report on the “corruption issues facing the Philippines, ongoing anticorruption efforts in and outside the government, and suggested elements for a national anticorruption strategy, drawing on global experience.”

Local initiatives

The Philippines is in dire need of eliminating corruption. Corruption is believed to be an impediment to sustainable development and poverty alleviation. It exhausts public funds, which otherwise would have been used for infrastructure, for education or for promoting the general welfare of the nation. Corruption also makes governance and transactions extremely inefficient. It also slows down the policy process as much as it pollutes the entire policy-formulation-implementation cycle.

One of the more popular local initiatives to face corruption was the G-Watch Monitoring of the Ateneo de Manila University. This project was tasked to oversee the procurement of textbooks in the Department of Education (DepEd) and infrastructure development in the Department of Public Works and Highways (DPWH). This was in cooperation with the Transparency Fund.

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The *Medium Term Philippine Development Plan* of the Arroyo administration is another example of a local initiative in combating corruption. Applied from 2004 to 2010, the administration's anti-corruption efforts focus on three areas (NEDA, 2004):

“Punitive measures that include effective enforcement of anti-corruption laws; enforcement mechanisms within revenue generating agencies with BIR and BOC as showcases; Morality, Lifestyle and Nightlife Checks; Text-CSC Program and other programs to facilitate participation of the public. Preventive measures that include the strengthening of anti-corruption laws, improvement of integrity systems; conduct of integrity development reviews, strengthening of financial accountability reforms. Finally, promotion of zero tolerance for corruption through societal values formation that includes values formation and ethics compliance for government officials and employees as well as the strengthening of people's values to achieve zero tolerance.”

Initiatives on eliminating corruption in public procurement also gained much attention due to its importance. In 2003, a convention was held in Seoul, South Korea. This was the 11th IACC Conference for the Workshop on Combating Inefficiency and Corruption in Public Procurement. Kristine Pimentel represented the Philippines. The main thrust of her presentation was on the importance of the legislature in the quest against corruption. For initiatives to work and be successful, the legislature must be active in working for the same objectives.

To address the ethical side of corruption, the Civil Service Commission created a discussion on the ethics-based initiatives in the Philippines with regard to addressing corruption. The emphasis is on the applicability of ethics and accountability in government. From the article *Enhancing Ethical Behavior in Business and Government*, the Civil Service Commission states, “as shown and proven with quite a measure of success by many studies, ethics and accountability are keys not only to effective government but also to effective governance.” This is specifically tailored

to the current situation of the Philippines in relation to trust in public office and the accountability of public officials.

Probably the most recent anti-corruption effort in the country is the Arroyo administration and the Office of the Ombudsman's *Eight-Point Comprehensive National Anti-Corruption Strategy* (2002). This strategy, as the name implies is composed of eight components. These are 1) Aggressive imposition of administrative functions, 2) speedy investigation and prosecution of graft and corruption cases, 3) efficient and responsive public assistance program, 4) intensive graft-watch over the bureaucracy, 5) people empowerment, 6) values orientation seminars, 7) linkages with other government agencies and international corruption fighters, and 8) systems and procedures improvement.

Local laws on corruption

The first official Philippine policy against corruption was made in 1960. This was Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. According to this act, "It is the policy of the Philippine Government in line with the principle that a public office is a public trust, to repress certain acts of public offices and private persons alike which constitute graft or corrupt practice or which may lead thereto." This specific act distinguished the practices that were considered by the government as corrupt. These were acts like persuasion of public officers to act in violation of rules and regulations, direct or indirect request or acceptance of gift in connection with any contract or transaction, acceptance of employment from a private entity with pending business transaction with the government, provision of unnecessary benefits, direct or indirect interest in a business transaction by utilizing official public functions, granting of licenses or permit to benefit specific persons or entities, and leakage of information to unauthorized persons. Moreover, the act

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specified prohibitions on private individuals as well as public officials and relatives of public officials.

In 2001, Executive Order No. 12, Creating the Presidential Anti-Graft Commission and Providing for its Powers, Duties and Functions and for other Purposes, was signed. The Presidential Anti-Graft Commission (PAGC) is a government agency formed to oversee the implementation of policies on corruption. PAGC is the successor of the National Anti-Corruption Commission that was abolished in 1994. PAGC is composed of a Chairmen and two Commissioners, all of whom are appointed by the President. Its jurisdiction was specified by the E.O. as to oversee, investigate and hear the violations of the following acts:

- "1) Republic Act No. 3019 "Anti-Graft and Corrupt Practices Act",
- 2) Republic Act No.1379 on the unlawful acquisition of property by a public officer or employee"; 3) Republic Act No.6713 "Code of Conduct and Ethical Standard for Public Officials and Employees",
- 4) Presidential Decree No. 46, making it punishable for public officials and employees to receive gifts on any occasion including Christmas, 5) Any provision under Title Seven, book Two of the Revised Penal Code"

In 2002, Executive Order No. 317, Prescribing a Code of Conduct for Relatives and Close Personal Relations of the President, Vice President and Members of the Cabinet, was signed by President Joseph Estrada. This law prohibits the unethical practices and relations between the President, Vice President and Cabinet members and their relatives. This basically means the specific public officials mentioned were not to use their positions to further private interests and favor family members.

Perhaps the biggest and most far-reaching policy of the Philippine government on corruption is Republic Act No. 6713, Code of Conduct and Ethical Standards for Public Officials and Employees. This law outlines the ethical standards and norms that public officials must live by especially the conviction that the public office is to serve public interest

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and not private ones. More specifically the act identifies the values and norms that public officials must internalize into their offices, such as the commitment to public interest, professionalism, justice and sincerity, political neutrality, responsiveness to the public, nationalism and patriotism, commitment to democracy and simple living.

Aside from the above specified acts and policies, certain government agencies are tasked that deal with and minimize corruption. These are the Office of the Ombudsman, Sandiganbayan, Civil Service Commission, Commission on Audit, Inter-Agency Anti-Graft Coordinating Council, and Legislative Oversight Function.

The Office of the Ombudsman performs numerous functions. Specifically, the 1987 Constitution gives the Ombudsman the mandate to fight graft and corruption in various ways: "through public assistance, graft prevention, investigation, prosecution and administrative resolution." The Ombudsman investigates and hears cases against administrative officials with or without complaints as long as there is sufficient reason to suspect foul play.

The Sandiganbayan is a special court. It only hears cases against high-ranking public officials. As compared to the Ombudsman, the powers of the Sandiganbayan are limited involving only the following violations (Rimban, 2002):

"1) R.A. 3019 (Anti-graft and Corrupt Practices Act), 2) R.A. 1379 (Forfeiture of illegally Acquired Property), 3) Revised Penal Code listing crimes committed by public officials – bribery, indirect bribery, and corruption of public officials; and 4) R.A. 9160 (Anti-Money Laundering Act), a new addition to the Sandiganbayan's jurisdiction."

The Civil Service Commission has similar functions with the human resources department of companies. According to Rimban (2002, p. 263),

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"it makes sure that the country's ½ million civil servants comply with the standards required of them under the Administrative Code and the Civil Service Law, as well as the Code of Conduct and Ethical Standards for Public Officials and Employees." The Commission also sanctions and investigates cases of civil servants that violate the specific codes and acts stated in its mandate.

The Commission on Audit (COA) specifically deals with the allocation of public funds among government agencies and oversees how these funds are utilized. COA "makes sure government spends money wisely, collects the correct amount of revenues, and detects fraud in government transactions" (Rimban, 2002). COA does not have the power to prosecute cases; nevertheless, it has the power to investigate and question suspicious allocations and transactions.

The Inter-Agency Anti-Graft Coordinating Council (IAAGCC) was created to coordinate the anti-corruption efforts of the different government agencies to avoid conflicts and overlaps. The IAAGCC is composed of the Ombudsman, Civil Service Commission, COA, National Bureau of Investigation, PAGC, and the Department of Justice (Rimban, 2002).

The Legislative Oversight Function is composed of different committees or tools that the legislative branch uses to override certain anti-corruption policies or policies that otherwise would have gone in a different direction. Examples of which are the Commission on Appointments, Blue Ribbon Committee, and Congressional Ethics Committee. The Commission on Appointments reviews the probable appointments submitted or proposed by the President, and has the discretion to reject such appointments. The Blue Ribbon Committee specifically checks on corruption in the executive branch (Rimban, 2002). It has the powers to investigate, summon and question the President upon cases of graft and corruption. It investigates without following a certain judicial procedure

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and may recommend a formal trial after which. The Congressional Ethics Committee deals with possible wrongdoings and abuse of power by legislators. According to Rimban (2002), "As a rule, the House, through the Ethics Committee, glosses over its members' misdeeds or launches token investigations of them, but hardly meets out any sanctions or penalties."

2

OPINION SURVEYS ON CORPORATE WRONGDOINGS

RESEARCH PROJECT- HISTORY, OBJECTIVES, PLANNING AND METHODOLOGY*

Part I. Perception and Attitudes of Top Management

Defining the Research Need: the Search

Initially, we based our need for this research study on the following premises:

- The Asian Institute of Management provides a venue and forum for the ongoing debate among businessmen and business schools about corporate governance and corrupt corporate practices. The debate on corporate corruption intensified following the Enron and Andersen scandals.
- Differing and contrasting views have been expressed in past fora and conferences on corporate corruption in the Philippine setting. AIM wanted scientifically gathered data about the views of two business sectors who represent the executives in the Enron and Andersen cases: the corporate accountants and auditors, and the corporate CEOs and COOs.

Based on these needs, the Institute initially designed a survey research that would answer the following questions:

1. To what extent do Philippine accountants, auditors, CEOs and COOs know about:

* This section is lifted from the main reports of Prof. Ned Roberto's study entitled "Corporate Corruption and Misconduct, as Seen by Top Management Executives" and "Corrupt Practices in the Private Sector, as Seen by Rank-and-File and Middle Management"

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- The Enron and Andersen cases, and
 - What specific corrupt corporate practices were allegedly committed in these cases?
2. How do they regard these “corrupt” corporate practices? Do they regard them as “definitely” or “generally” corrupt, as long-standing behaviors, or as behaviors whose “corruptness” they are uncertain about? Why do they feel this way?
 3. What other corporate practices do they regard as corrupt? What makes each of these corrupt?
 4. Have they seen these practices in Filipino companies? What had happened to those companies involved?
 5. What about insider trading? To what extent do they believe this to be happening in our stock exchange? What is their opinion about this practice? How should it be dealt with? Who should deal with this practice, and how?

We initially thought that a two-phased survey research would suit these research objectives.

The 1st Phase:

For this phase, a qualitative study would generate two sets of items:

1. A list of perceived corrupt corporate practices, and
2. A set of Likert-scale attitude statements about corporate corruption and corrupt practices.

We expected that this qualitative study phase would help us better understand the mindsets that accountants and top corporate management executives bring to the topic. In the process, we also expected to gain an appreciation of the language and vocabulary that our subjects used in discussing this subject.

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This phase was to take the form of a series of focus group discussion (FGD).

Study Location: Metro Manila

- FGD 1: Senior corporate accountants and auditors of publicly listed or large corporations.
- FGD 2: Corporate CEOs and COOs of publicly listed companies or large corporations.

The 2nd phase:

We planned the study's second phase as a survey that would quantify the findings in the qualitative phase.

This phase was to utilize office-to-office, face-to-face interviews to gather data:

Study Location: Metro Manila

Target Respondents: Senior corporate accountants/auditors, and corporate CEOs/COOs of publicly listed companies or large corporations

Sample size: 200 respondents

- 100 senior corporate accountants/auditors
- 100 corporate CEOs/COOs

In the course of the FGD sessions and in-depth interviews with CEOs and COOs, the term

"corruption" was replaced by "wrongdoing." The CEO and COO suggested the replacement to avoid what they felt was a "defensive posturing" that the use of the term "corruption" provoked. They predicted that, otherwise, a large sample of surveyed executives in the quantitative phase would react in a more defensive manner.

The Revised Research Design and Objectives

There were other important insights that came from the FGD sessions and in-depth interviews, as well as in the research teams' brainstorming over these insights. They led us to defining the study's objective as answering the following six key research questions:

1st. What are top management executives' attitudes toward rank and file misconduct?

2nd. What are top management executives' attitudes toward middle and senior management misconducts?"

3rd. What are the policy behaviors and responses of top management executives to wrongdoings?

4th. If the data on attitudes were allowed to group themselves, what data-driven attitude categories will emerge?"

5th. If the data on policy behavior and response were allowed to group themselves, what data-driven policy behavior categories will emerge?

6th. Does attitude determine policy behavior toward misconduct, so that it is the Ethics Program that should lead a company's anti-corruption efforts; or is it policy behavior that determines attitude toward misconduct so that it is the Compliance Program that should lead the anti-corruption efforts?

The data analysis methods used in answering each of these questions are explained in each section of this report that deals with each key research question.

The “Big Picture”

The AIM BSR Desk Team, in partnership with the Social Weather Stations (SWS), its commissioned survey research agency, pursued the study’s research objectives and undertook the required steps to validly implement and analyze the gathered survey data. They were guided by the following research premises:

1. *The BSR Desk and the SWS Team decided to prioritize the need for “effectiveness” (i.e., doing the right things) over the need for “efficiency” (i.e., doing things right).*

In this survey project, the effectiveness issue centered on ensuring that we received the data from the defined target respondents themselves (i.e., the top or senior corporate management officers), and not from their secretaries or assistants. We acknowledged that this would mean extending the survey data collection period. On the other hand, the efficiency issue centered on completing the survey project on time, instead of delaying for the sake of being able to interview the defined target respondents.

Most of the reported previous research studies on corporate CEOs, COOs, and top senior management had only a near majority of such respondents actually answering the questions. Most of those who were actually recruited as respondents were the executive assistants, middle management designates, and even secretaries of these target top-level executive respondents.

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We believed that such substitution compromised the internal validity of the study.

This survey responded to this invalidity threat by extending the data collection period just so respondents who were actually interviewed belonged to the target executive respondents. Summary Table 1 shows that the survey succeeded in getting 73 percent of its internally valid respondents.

2. *This study opted to prioritize achieving internal validity over external validity.*

Internal validity requires that the survey measures what it intended to measure. External validity relates to how our measures can generate generalizations or conclusions about the larger population being studied. There is obviously a tension between these two standards of a scientific survey.

The issue of internal validity related to our issue of effectiveness because if our intention was to measure the opinions of top management, then the data must come from top management officers themselves, and not from their delegated surrogates.

The internal validity issue also opposed our efficiency requirements. For the yielding data to be internally valid, our questionnaire and actual sources of data had to be pre-tested to ensure that they measured what we intended to measure. But pre-testing takes time, and, for us, it meant taking additional time. (A soft copy of the pre-tested final survey questionnaire is available upon request.)

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In the interests of achieving internal validity, it became clear to us that we had to choose effectiveness over efficiency.

3. *What is the pay-off in prioritizing “effectiveness” and internal validity concerns? How does it affect AIM’s goal to produce a highly respectable and scientifically acceptable research study?*

“What are Top Management Executives’ Attitudes toward Rank-and-File Misconducts?”

This portion of the study asked senior executive respondents to express their attitude toward rank-and-file misconducts. They did this by rating 15 common employee wrongdoings along a 4-point scale:

- 1 = this misconduct is not at all wrong;
- 2 = it’s wrong only sometimes;
- 3 = it’s wrong in most cases; and
- 4 = it’s always wrong.

The survey sourced a large number of misconduct items, and then short-listed them into the 15 here. They were pre-tested with volunteer senior executive respondents, ensuring that we had sample wrongdoing items representing Rose-Ackerman’s (1996) categorizations of corruption. These categories are by nature and by level the following:

Corrupt practices by nature:

- Paying for benefits, like to influence bidding results.
- Paying to avoid costs, like to ensure that something that’s due is done on time.

Corrupt practices by level:

- Petty corruption, which in its mildest form is similar to tips.

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- Grand corruption, as in public works or procurement in government business.

The short-listed 15 misconduct items rated were as follows:

- Q1: "I have a relative who's well placed in that office. So he got me into the front portion of the waiting line."
- Q2: "Employees printing a dozen or so copies of their CVs or bio-data using the company's printer or photocopier."
- Q3: "Collectors of payments to the company placing their collections in their personal accounts for some span of time before surrendering them to the company."
- Q4: "Bringing home the company's product samples without authorization."
- Q5: "Keeping to oneself knowledge of wrongdoings going on."
- Q6: "Using company time to make their kids' assignments, make personal calls or such other things for one's own benefits."
- Q7: "I asked a client for a small gift (just a VCD) before I initialed a deal. The client gave me the gift."
- Q8: "Entertaining co-workers and then declaring they entertained a client."
- Q9: "Using the internet and downloading things for one's own personal use or benefit."
- Q10: "Secretaries and clerks filching office bond papers, pencils and other supplies."
- Q11: "Cheating on time cards like punching in for someone else."
- Q12: "I wrote out the requirements for a bid so that my supplier friend can qualify."

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- Q13: "I leaked out our preferred prices so that we will get a low quotation from my supplier friends."
- Q14: "Sales reps padding hotel lodging and representation expenses."
- Q15: "We padded our liquidation expenses by charging the company for '*pasalubong*'" (gifts for co-workers back in the office).

Summary Table 2 presents the senior executives' attitude ratings of this set

Even behaviors that are usually seen as wrong are still regarded as "wrong only sometimes" by some senior executives.

of rank-and-file misconducts. Several disturbing propositions came out from the summarized ratings.

Proposition #1: Senior executives don't have standards by which they measure rank-and-file misconduct.

Even behaviors that are usually seen as wrong are still regarded as "wrong only sometimes" by some senior executives. For example, while 89 percent regarded temporarily placing company money in personal accounts as "always wrong", four percent saw it as "wrong only sometimes", and one percent saw it as "not at all wrong".

This is true for the next two rank-and-file misconducts with the most "always wrong" ratings:

- "Cheating on time cards, like punching in for someone else." (Q11)
 - "Always wrong": 82 percent
 - "Wrong only sometimes": 4 percent
 - "Not at all wrong": 1 percent

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- “Sales reps padding hotel lodging and representation expenses.” (Q14)
 - “Always wrong”: 82 percent
 - “Wrong only sometimes”: 4 percent
 - “Not at all wrong”: 2 percent

Proposition # 2: Most senior executives don’t believe that whistle-blowing will minimize or control corrupt rank-and-file practices.

Of the 15 attitude items, “Keeping to oneself knowledge of wrongdoings going on” had the lowest “always wrong” rating, with less than a majority (43 percent) regarding it as wrong. So the effective majority opinion (of 57 percent of the respondents) says that keeping quiet is not always wrong. This cultural rejection of whistle-blowing seems to be still true even among most senior executives.

Proposition # 3: Most senior executives believe that doing something inherently wrong for a friend or close relative makes it right.

As **Summary Table 2** shows, here are the items that support this proposition:

- Q1: “I have a relative who’s well placed in that office. So he got me into the front portion of the waiting line.”
- Q6: “Using company time to make their kids’ assignments.”
- Q12: “I wrote out the requirements for a bid so that my supplier friend can qualify.”
- Q13: “I leaked out our preferred prices so that we will get a low quotation from my supplier friends.”

This practice of giving and receiving favors is prevalent in our culture. While corporate executives are quick to judge government officials as

guilty of this cultural (mal)practice, they look the other way when it comes to misconduct from within their ranks.

Proposition #4: Senior executives believe that the purchasing, accounting and finance, and sales and marketing departments are most guilty of corporate misconduct.

Here is the ranking of company departments according to perceived corruptness:

- Purchasing department: 75 percent
- Accounting and Finance: 17 percent total (13 percent and 4 percent, respectively)
- Sales and Marketing: 13 percent total (8 percent and 5 percent, respectively)
- All the other departments: less than 10% mention.

Please see **Summary Table 3** for the details of this proposition.

“What are Top Management Executives’ Attitudes toward Middle and Senior Management Misconducts?”

This portion of the study asked senior executive respondents to again express their attitude toward misconduct, but this time by executives in the middle and senior management level. Respondents expressed this attitude by again rating 15 common middle and senior management wrong doings along a 4-point scale:

- 1 = not at all wrong;
- 2 = wrong only sometimes;
- 3 = wrong in most cases; and
- 4 = always wrong.

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The 15 middle and senior management misconduct items rated were as follows:

- Q16: "Spying or giving orders for your managers to spy on a competitor, for example hiring a security and investigation agency to look into the personal and private life of a competitor."
- Q17: "Spreading false information or badmouthing a competitor."
- Q18: "Claiming credit for what another colleague had been able to accomplish."
- Q19: "Taking advantage of some suppliers by purposely not paying them on time."
- Q20: "We offer a minimum 20% discount to clients. But I have an agreement with some clients that 5% of the 20% goes to me."
- Q21: "If don't like the winning bidder, I search for a shortcoming that will allow me to give the contract to another one I favor."
- Q22: "Donating to foundations of well-known, powerful people with whom we will eventually have dealings."
- Q23: "Tampering with the company's business records and financial results."
- Q24: "Tampering with or sabotaging a competitor's product."
- Q25: "Knowing there's something wrong with your own product and not making a full disclosure of it."
- Q26: "Fixing the winner of a promo and then getting something in return from the winner."
- Q27: "Making decisions based on the advice of a fortune teller or a feng shui expert."

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- Q28: "Overstating one's assets in order to get a loan."
- Q29: "Accepting to be a director or even owning some equity of a supplier's business."
- Q30: "Condoning wrong doings of people in the company because they are friends or in a higher position than me."

Summary Table 4 presents the senior executives' attitude ratings of this set of middle and senior management wrongdoings. Similarly, if not more, disturbing propositions clearly came out:

Proposition #1: As with rank-and-file misconduct, senior executives don't have standards by which they measure middle and senior management misconduct.

Again, even behaviors that are usually seen as wrong are regarded by some senior executives as "not at all wrong" or "wrong only sometimes." Here are the top three malpractices with the highest "always wrong" ratings:

- "Fixing the winner of a promo and then getting something in return from the winner." (Q26)
 - "Always wrong": 82 percent
 - "Wrong only sometimes": 4 percent
 - "Not at all wrong": 3 percent
- "We offer a minimum 20% discount to clients. But I have an agreement with some clients that 5% of the 20% goes to me." (Q20)
 - "Always wrong": 79 percent
 - "Wrong only sometimes": 8 percent
 - "Not at all wrong": 1 percent
- "Tampering with or sabotaging a competitor's product." (Q24)

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- o “Always wrong”: 77 percent
- o “Wrong only sometimes”: 4 percent
- o “Not at all wrong”: 3 percent

If senior executives can distort the meaning of “wrong” to protect their own interests, it’s easy to assume that they’ll do the same about the misconduct of their staff and subordinates. The columnist Conrado de Quiros coined a term to refer to this attitude: **M.Q., or “moral quotient”**. He rated most politicians as having “low to very low” M.Q.s, and would say the same of corporate executives were he to see our statistics.

Proposition #2: Most senior executives see accumulating favors as a wise political capital investment.

According to **Summary Table 4**, the attitude item with the lowest “always wrong” rating and the highest “not at all wrong” rating is: “Donating to foundations of well-known, powerful people with whom we will eventually have dealings.” (Q22)

A significant 15 percent of senior executives finds this to be “not at all wrong.” A little over a fourth (26 percent) sees this practice as “wrong only sometimes.” This is clearly a case of senior executives stretching the concepts of right and wrong.

Related to this is how people within a company look the other way when faced with the misconduct of friends or superiors. Condoning wrongdoings of others in the company because of friendship or position/seniority is regarded as “always wrong” by only 56 percent of senior executives. A good five percent (5%) of respondents even claimed that this was “not at all wrong.”

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Most of us were born into and live in a culture where giving and taking favors is as ordinary as saying “thank you” and “you’re welcome”. But if donating to earn “political points” or condoning a wrongdoing are regarded as giving favors, then this otherwise sincere act is contaminated by the motivation to take later advantage of others. It becomes a malicious (mis)interpretation that breeds a culture of corruption.

Proposition #3: Manipulating corporate documents and financial statements, as in the Enron-Andersen case, is believed to be tolerable, or even acceptable, under certain circumstances, by an alarming 24 percent of top management executives.

Summary Table 4 shows that 76 percent of executive respondents consider tampering with the company’s business records and financial results (Q23) as “always wrong.” Twenty-four percent say it that is not always wrong. An extreme two percent, in fact, was honest and frank enough to say that, for them, this is “not at all wrong”. This may mean that, to this large minority, doing business a la Enron and Andersen are even acceptable.

This attitude repeats itself in yet another form in this survey. “Overstating one’s assets in order to get a loan” was perceived to be “always wrong” only a little over half (54 percent) of the surveyed top management executives. A significant 6 percent even sees this practice as “not at all wrong.”

We were born into a culture where giving and taking favors is as ordinary as saying “thank you” and “you’re welcome”. But if condoning a wrongdoing is regarded as giving a favor, it becomes a malicious (mis)interpretation that breeds a culture of corruption.

Proposition #4: Top management executives are ambivalent about underhanded activities involving their competitors.

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This proposition is reflected in the ratings of these three attitude items:

- "Tampering with or sabotaging a competitor's product."
(Q24)
 - "Always wrong": 77 percent
 - "Wrong only sometimes": 4 percent
 - "Not at all wrong": 3 percent
- "Spreading false information or badmouthing a competitor."
(Q17)
 - "Always wrong": 64 percent
 - "Wrong only sometimes": 10 percent
 - "Not at all wrong": 3 percent
- "Spying or giving orders for your managers to spy on a competitor; for example, hiring a security and investigation agency to look into the personal and private life of a competitor."
 - Always wrong": 47 percent (or less than a majority)
 - "Wrong only sometimes": 16 percent
 - "Not at all wrong": 6 percent (an alarming 22 percent if we combine those who perceive the act as not always wrong)

These indicators show that politics rears its ugly head even among business leaders.

Proposition #5: Top management executives don't think that transparency in their business dealings is important and compelling enough.

Two attitude scales statistics support this proposition:

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- “Knowing there’s something wrong with your own product and not making a full disclosure of it.” (Q25)
 - “Always wrong”: 42 percent (or below majority)
 - “Wrong only sometimes”: 14 percent
 - “Not at all wrong”: 5 percent
- “If don’t like the winning bidder, I search for a shortcoming that will allow me to give the contract to another one I favor.” (Q21)
 - “Always wrong”: 60 percent
 - “Wrong only sometimes”: 13 percent
 - “Not at all wrong”: 3 percent

“What are the Policy Behaviors and Responses of Top Management Executives to Wrong Doings?”

This portion of the study asked top management respondents to indicate their policy behavior and response toward wrongdoings and misconduct. They did this by rating each of 13 common policy behavior and response statements along a 4-point scale with:

- 1 = this response “never happens;”
- 2 = “sometimes happens;”
- 3 = “happens most of the time;” and
- 4 = “always happens.”

The 13 policy behavior and response statements are as follows:

- Q31: “If it has the blessing of the owner or the board, we don’t do anything.”
- Q32: “We follow a company policy of re-assignment first and if the wrong doing is repeated, then we terminate the person. If the person refuses, we go as far as filing a criminal case.”

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- Q33: "In most cases, we take them out of their position or rotate."
- Q34: "For minor offenses, we reprimand; for serious offenses, we suspend; for repeated offenses, we ask the person to resign."
- Q35: "If the guy is new and the amount is small, we talk to the guilty person. But if it's big, we terminate employment."
- Q36: "When the executive is valuable, he gets a mild reprimand from the owner. If it persists, it's all up to the owner."
- Q37: "We give a warning to the person involved. If it becomes a trend, that's the time we arrange for a graceful exit."
- Q38: "If the company doesn't suffer much or it's a tolerable level, I let it be."
- Q39: "I don't want to tolerate it but I just have to close my eyes because there's nothing I can do."
- Q40: "We don't distinguish about a wrong doing's level or size. If someone did wrong, then that person must be terminated."
- Q41: "I don't tolerate it. I see to it that the person gets fired."
- Q42: "If the person is high in the organization, we don't do anything about it especially if he has to close a deal."
- Q43: "In most cases, I turn a blind eye."

Summary Table 5 shows how often each of these 13 common policy behavior and response statements takes place or is followed. Some logical groupings emerge from these statistics, as profiled by the following propositions:

Proposition #1: Most top management executives classify wrongdoings according to their severity and/or repetition, and respond to these in stages. (To simplify, let's call this the "stages policy approach".)

If we analyze the data from **Summary Table 5** by each policy response's "two combined top-box scores" (i.e., % always happens + % happens most of the time), the following policy behavior and response statements define this stages policy approach:

- "For minor offenses, we reprimand; for serious offenses, we suspend; for repeated offenses, we ask the person to resign." (Q34)
 - With two top-box scores: 40% ("always happens") + 36% ("happens most of the time") = 76% prevalence.
- "We give a warning to the person involved. If it becomes a trend, that's the time we arrange for a graceful exit." (Q37): 26% + 45% = 71% prevalence
- "In most cases, we take them out of their position or rotate." (Q33): 13% + 40% = 53% prevalence.
- "We follow a company policy of re-assignment first and if the wrong doing is repeated, then we terminate the person. If the person refuses, we go as far as filing a criminal case." (Q32): 14% + 35% = 49% prevalence.

Proposition #2: The next most common response to employee misconduct is to first consider the guilty person's position in the organization, and/or the amount involved in the misconduct (if any).

The following reflect this category of approach to managing employee misconduct:

- "If the guy is new and the amount is small, we talk to the guilty person. But if it's big, we terminate employment." (Q35): 24% + 35% = 59% prevalence.

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- "When the executive is valuable, he gets a mild reprimand from the owner. If it persists, it's all up to the owner." (Q36): $18\% + 39\% = 57\%$ prevalence.
- "If it has the blessing of the owner or the board, we don't do anything." (Q31): $10\% + 29\% = 39\%$ prevalence.
- "If the company doesn't suffer much or it's a tolerable level, I let it be." (Q38): $10\% + 27\% = 37\%$ prevalence.
- "If the person is high in the organization, we don't do anything about it especially if he has to close a deal." (Q42): $9\% + 17\% = 26\%$ prevalence.

Proposition #3: Another approach in dealing with employee misconduct is to follow a strict rule of termination, without regard for the position or amount involved.

These policy behavior and response statements define this category:

- "I don't tolerate it. I see to it that the person gets fired." (Q41): $9\% + 20\% = 29\%$ prevalence.
- "We don't distinguish about a wrongdoing's level or size. If someone did wrong, then that person must be terminated." (Q40): $6\% + 19\% = 25\%$ prevalence.

Proposition #4: The last category of approaching employee misconduct is to not do anything for one reason or another

The supporting policy behavior and response statements for this proposition are:

- "I don't want to tolerate it but I just have to close my eyes because there's nothing I can do." (Q39): $6\% + 18\% = 24\%$ prevalence.

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- “In most cases, I turn a blind eye.” (Q43): $3\% + 15\% = 18\%$ prevalence.

“If the data on attitudes were allowed to group themselves, what data-driven attitude categories will emerge?”

In this portion of the study, we re-examine the attitude statements relating to top management executives’ attitude toward rank-and-file wrongdoings and toward misconduct among the middle and senior management level. The objective of the data re-analysis is to uncover the “underlying constructs” (or, in this paper, “categories”) measured by each of our sets of attitude scales (Parasuraman, 1991: p. 442).

The analysis tool we used here was factor analysis. It is “a multivariate statistical technique used to summarize information contained in a large number of variables ... to identify underlying factors (or constructs) with no distinction between dependent and independent variables” (Haire, Bush and Ortinau, 2000). Our factor analysis therefore involves:

- Summarizing or short-listing each of our 15 attitude scales into a smaller number of subsets, and
- Identifying and interpreting the attitude category underlying each uncovered subset.

In the second step, we refer to the “construct validity” concept, which has long been positioned to be at the very center of scientific progress (see, e.g., Osgood, et. al.: 1957; Torgerson, W. S.: 1958; Thurstone, L. L.: 1959; Coombs: 1964; Bohrnstedt: 1970; Robinson, John and Philip Shaver: 1973). According to Churchill (1988: p. 324), it is ...

“Most directly concerned with the question of what the instrument is, in fact, measuring. Does the measure of, for example, attitude measure attitude or some other underlying characteristic of the

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individual which affects his attitude score? Scientists need constructs in order to communicate. Thus in marketing we speak of consumers' personality, their attitudes, and so on. These are all constructs which we use in an attempt to explain marketing behavior. And while vital, they also are unobservable. We can observe behaviors related to these constructs, but we cannot observe the constructs themselves. Rather, we operationally define the constructs in terms of a set of observables. When we agree on the operational definitions, precision in communication is advanced. Instead of saying what is measured by 75 questionnaire items is the consumer's brand loyalty, we can speak of the notion of brand loyalty."

Three attitude-categories emerge toward rank-and-file misconducts:

- Misdemeanor, minor or petty misconducts;
- Misconducts driven by the favor-giving/receiving culture; and
- Misconducts driven by the culture of awarding unfair advantage to oneself or to relatives and friends.

Why factor-analyze our attitude data? Factor analysis tests the internal consistency of our set of attitude items—and note that

internal consistency and validity is an important objective of this study. According to one authority on attitude measurement, Bohrnsteadt (1970: p. 93), "if a set of items is really measuring some attitude construct, then the underlying construct causes the covariation among the items. The higher the correlations, the better the items are measuring the same underlying construct."

Attitudes toward Rank-and-File Wrongdoings

The data on the 15 top management executives' attitudes toward rank-and-file wrongdoings were subjected to two factor analysis runs. This analysis was repeated to find out which particular set of factor analysis results were most "interpretable."

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The factor analysis run with a higher level of construct validity identified three attitude categories.* Each category is presented with its descriptive name and the percent of the variance in the data that it explains, plus its component attitude scales and each scale's "% always wrong" rating:

Summary Table 6 presents the details of these factor analysis results.

Attitude Category #1: "Misdemeanor, minor or petty misconducts"

Percentage of variance explained = 32%:

Q#	Item	% "Always wrong"
Q3	"Collectors of payments to the company placing their collections in their personal accounts for some span of time before surrendering them to the company":	89
Q4	"Bringing home the company's product samples without authorization"	69
Q10	"Secretaries and clerks filching office bond papers, pencils and other supplies"	77
Q11	"Cheating on time cards, like punching in for someone else"	82

Attitude Category #2: "Misconducts driven by the favor giving/receiving culture"

Percentage of variance explained = 26%:

Q#	Item	% "Always wrong"
Q12	"I wrote out the requirements for a bid so that my supplier friend can qualify"	69
Q13	"I leaked out our preferred prices so that we will get a low quotation from my supplier friends"	60
Q7	"I asked a client for a small gift (just a VCD) before I initialed a deal. The client gave me the gift"	80

*This factory analysis run yielded results that explained 77 percent of the variance in the data. The other run's results explained only 69 percent of the variance in the data.

Attitude Category #3: "Misconducts driven by the culture of awarding unfair advantage to oneself or to relatives and friends"

Percentage of variance explained = 19%:

Q#	Item	% "Always wrong"
Q2	"Employees printing a dozen or so copies of their CVs or bio-data using the company's printer or photocopier"	53
Q1	"I have a relative who's well placed in that office. So he got me into the front portion of the waiting line"	43

Conclusions:

1. When the attitude data are allowed to seek their own groupings, the results differ from our item-by-item, logical and face value analysis in this report's Section III. Recall, for example, that our Section III analysis categorized the attitude item "I have a relative who's well placed in that office. So he got me into the front portion of the waiting line" to belong to the giving/receiving-favors category of wrongdoings. The factor analysis separated this to belong to another category of misconduct, to "misconducts driven by the culture of awarding unfair advantage to oneself or to relatives and friends." The factor analysis gave richer, more insightful categories of rank-and-file wrongdoings.
2. The percent ratings of attitude items are not the reliable predictors of underlying attitude constructs, and are therefore not a good basis for categorizing them. For example, Attitude Category #1 contains attitude scales with "% always wrong" ratings ranging from a low of 69 percent to a high of 89 percent while Attitude Category #2 has an attitude scale with an 80% always wrong rating. Also, Attitude Category #2's leading attitude scale has

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only a 69 percent always wrong rating whereas its third and last component attitude scale has an 80% always wrong rating. So understanding the true categories and underlying categories of a set of attitude scales must rely on a factor analysis, more than a face-value relative frequency distribution analysis.

3. A final note: the factor analysis run with the higher level of construct validity discarded six of the 15 attitude items. These six were dropped because they were “participating” in more than one category. These are:
 - “Keeping to oneself knowledge of wrongdoings going on.” (Q5)
 - “Using company time to make their kids’ assignments, make personal calls or such other things for one’s own benefits.” (Q6)
 - “Entertaining co-workers and then declaring they entertained a client.” (Q8)
 - “Using the internet and downloading things for one’s own personal use or benefit.” (Q9)
 - “Sales reps padding hotel lodging and representation expenses.” (Q14)
 - “We padded our liquidation expenses by charging the company for ‘*pasalubong*’” (gifts for co-workers back in the office). (Q15)

Attitudes toward Middle and Senior Management Misconducts

The data on the 15 top management executives’ attitudes toward middle and senior management misconducts were similarly subjected to two factor analysis runs.

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Two attitude-categories emerge toward middle and senior management misconducts:

- Social inequity-driven misconducts; and
- Dishonesty-based misconducts.

The factor analysis run that contained a higher level of construct validity identified two categories of attitude constructs. The two factor

analysis runs yielded results that explained about the same 70 percent of the variance in the data.

The two attitude categories are as follows. For greater detail, please refer to **Summary Table 7**:

Attitude Category #1: "Social inequity-driven misconducts"

Percentage of variance explained = 47%:

Q#	Item	% "Always wrong"
Q23	"Tampering with the company's business records and financial results"	76
Q18	"Claiming credit for what another colleague had been able to accomplish"	75
Q26	"Fixing the winner of a promo and then getting something in return from the winner"	82
Q24	"Tampering with or sabotaging a competitor's product"	77
Q20	"We offer a minimum 20% discount to clients. But I have an agreement with some clients that 5% of the 20% goes to me"	79
Q17	"Spreading false information or badmouthing a competitor"	64
Q21	"If don't like the winning bidder, I search for a shortcoming that will allow me to give the contract to another one I favor"	60

Attitude Category #2: "Dishonesty-based misconducts"

Percentage of variance explained = 23%:

Q#	Item	% "Always wrong"
Q28	"Overstating one's assets in order to get a loan"	54
Q22	"Donating to foundations of well-known, powerful people with whom we will eventually have dealings"	26
Q27	"Making decisions based on the advice of a fortune teller or a feng shui expert"	50

Conclusions:

1. The preceding analysis uncovers a similar set of insights. First, when the attitude data are allowed to seek their own groupings, the results differ from the item-by-item, logical, face value analysis in this report's Section IV. Recall that our Section IV face value analysis revealed four categories of top management attitudes toward middle/senior management wrongdoings, as follows:

- Political capital investment-driven wrongdoings.
- Enron-Andersen type of wrongdoings.
- Misconducts involving underhanded activities regarding competitors
- Transparency-violating wrongdoings.

The factor analysis, in contrast, identified just two categories of middle/senior management misconducts: (1) social inequity-driven misconducts and (2) dishonesty-based misconducts. As in the preceding section, the factor analysis gave the richer, more insightful categories of middle/senior management wrongdoings.

2. As was true in the preceding, the percent ratings of attitude items are not a good basis for grouping them, as they remained a set of metrics that did not reliably predict underlying attitude categories. So, as before, understanding the true categories of a set of attitude

scales must continue to rely on a factor analysis more than a face-value relative frequency distribution analysis of those scales.

3. A similar final note: Here, the factor analysis run with the higher level of construct validity discarded five of the 15 attitude items because they were in more than one category and were therefore “contaminating” variables. These are:

- “Spying or giving orders for your managers to spy on a competitor, for example hiring a security and investigation agency to look into the personal and private life of a competitor.” (Q16)
- “Taking advantage of some suppliers by purposely not paying them on time.” (Q19)
- “Knowing there’s something wrong with your own product and not making a full disclosure of it.” (Q25)
- “Accepting to be a director or even owning some equity of a supplier’s business.” (Q29)
- “Condoning wrongdoings of people in the company because they are friends or in a higher position than me.” (Q30)

“If the data on *policy behavior and response* were allowed to group themselves, what data-driven *behavior/response categories* will emerge?”

In this portion of the study, we re-examine the 13 policy behavior and response statements that show how top management executives would deal with misconducts. Recall that these statements were rated along a 4-point scale from a “never happens” rating to an “always happens” rating.

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Four policy behavior categories emerge in analyzing management responses to misconducts:

- Ostrich-like policy behavior;
- Sanctioning misconducts by stages;
- Strict dismissal policy; and
- Conditional, either-or policy for misconducts.

As opposed to the other data in this survey, the data on the 13 policy behaviors and responses were subjected to a single run of the factor analysis. There was no need to repeat the procedure because its initial run already yielded interpretable behavior/response constructs (categories).

Four policy behavior categories emerged in the analysis of how top management executives manage wrongdoings. It yielded a set of factor analysis results that explained 68 percent of the variance in the data.

Summary Table 8 presents the details of these factor analysis results.

Policy Behavior Category #1: "Ostrich-like policy behavior toward misconducts"

Percentage of variance explained = 26%:

Q#	Item	% "Always happens" + "happens most of the time"
Q39	"I don't want to tolerate it but I just have to close my eyes because there's nothing I can do"	29
Q43	"In most cases, I turn a blind eye"	18
Q42	"If the person is high in the organization, we don't do anything about it especially if he has to close a deal"	26
Q31	"If it has the blessing of the owner or the board, we don't do anything"	39
Q36	"When the executive is valuable, he gets a mild reprimand from the owner. If it persists, it's all up to the owner"	57
Q38	"If the company doesn't suffer much or it's a tolerable level, I let it be"	37

Policy Behavior Category #2: "Sanctioning misconducts by stages"

Percentage of variance explained = 16%

Q#	Item	% "Always happens" + "happens most of the time"
Q32	"We follow a company policy of re-assignment first and if the wrongdoing is repeated, then we terminate the person. If the person refuses, we go as far as filing a criminal case"	49
Q34	"For minor offenses, we reprimand; for serious offenses, we suspend; for repeated offenses, we ask the person to resign"	76
Q37	"We give a warning to the person involved. If it becomes a trend, that's the time we arrange for a graceful exit"	71

Policy Behavior Category #3: "Strict dismissal policy for any misconduct"

Percentage % of variance explained = 14%

Q#	Item	% "Always happens" + "happens most of the time"
Q40	"We don't distinguish about a wrongdoing's level or size. If someone did wrong, then that person must be terminated"	25
Q41	"I don't tolerate it. I see to it that the person gets fired"	29

Policy Behavior Category #4: "Conditional, either-or policy for misconducts"

Percentage of variance explained = 13%

Q#	Item	% "Always happens" + "happens most of the time"
Q33	"In most cases, we take them out of their position or rotate"	53
Q35	"If the guy is new and the amount is small, we talk to the guilty person. But if it's big, we terminate employment"	59

Conclusions:

As in the factor analysis runs presented in the preceding two sections, when the policy behavior and response data were allowed to seek their own groupings, the results differed from the item-by-item, logical, face value analysis in this report's Section V. The factor analysis again gave the richer and more insightful categories of policy behavior and responses to wrongdoings.

Also, the present set of results again showed that marginal ratings of items are not a good basis for categorizing them. As in the preceding sections, understanding the true categories and underlying constructs of a set of policy behavior scales must also rely on a factor analysis more than a face-value relative frequency distribution analysis of those scales.

“Does attitude determine policy behavior toward misconduct or is it policy behavior that determines attitude toward misconduct?”

For a program aiming to control corporate misconduct to be effective, it must be based on a clear understanding of the corporate corruption problem. More specifically, it must be based on the correct definition of the problem.

- Are inappropriate company policies a direct result of company executives' wrong attitudes toward misconducts?

OR

- Are these wrong attitudes toward misconducts caused by companies' flawed policy behaviors?

This is the classic debate, the chicken-or-egg question that asks if attitude determines behavior (from the social psychological school of thought), or

if behavior determines attitude (from the behavior modification school). For a readable summary, see Graeff, Elder, and Booth (1993).

If it is true that attitude determines behavior, then a company's anti-corruption program must work on **attitude change**. For some companies, this is what their "Code of Ethics" or "Ethics Program" is for.

However, if it is behavior that determines attitude, then a company's anti-corruption program must focus on **changing policy behaviors and responses towards misconducts**, knowing that the correct attitudes will follow. The "Compliance Programs" of some companies are based on this model.

The Ethics Program approach seeks to preempt misconduct through value and attitude formation. The ABB Group's "Business Ethics" booklet illustrates the approach with this foreword from its then-CEO, Jorgen Centerman (Arvis and Berenbeim: 2003, p. 179):

"ABB's reputation is our most valuable asset, and it is determined by how we act. Our customers and other stakeholders expect us to maintain the highest ethical standards, to fulfill our commitment and to act with complete integrity. ... Every ABB company and all ABB employees must conform to our business ethics standards. ... We should be honest in every situation and ethical in all our business practices. Our reputation is determined by the smallest infraction."

On the other hand, the Compliance Program approach expects to control corporate corruption primarily through behavior control. By "institutionalizing a culture of compliance ... backed by systems designed to reduce the prospect of criminal activity within the company and detect such activity where it exists", companies can effectively curb corruption within their ranks. (Arvis and Berenbeim: 2003, p. 47).

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In practice, curbing corporate corruption is not an either-or choice. The two approaches co-exist, but each one's priority over the other just varies from case to case. According to the Sumitomo president, with compliance systems and procedures, it is just as important—if not more important—that that “employees’ attitude and their loyalty to company values ... be shared and implemented ... with confidence and pride” in compliance systems and procedures (Arvis and Berenbein: 2003, p. 47).

So our analysis sought to answer the question: “From one situation to the next, which approach takes priority over the other?” We used nine situations or cases in our analysis.

Analysis Scheme

The first specific hypothesis that we tested and analyzed stated that:

“The four policy behavior constructs are a function of the three constructs of attitudes toward rank-and-file wrongdoings and the two constructs of attitude toward middle/senior management wrongdoings.”

The Ethics Program works on the assumption that attitude determines behavior, while the Compliance Program works on the premise that policy behavior shapes attitude. Curbing corporate corruption requires a balance of both programs, with one taking precedence over the other on a case-to-case basis.

The second specific hypothesis that we tested and analyzed, which had two parts, stated that:

“The three rank-and-file attitude constructs are a function of the four policy behavior constructs.”

“Likewise, the two middle/senior executive attitude constructs are a function of the four policy behavior constructs.”

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We noted that the anti-corruption programs drawn from these two hypotheses co-exist in practice. The “Ethics Program” is an anti-corruption approach based on the hypothesis that anti-corruption policy behavior is a function of attitudes toward corrupt practices. The “Compliance Program”, on the other hand, draws from the other hypothesis that it’s attitudes toward corrupt practices that drive anti-corruption policy behavior.

In analyzing our data, we wanted to answer these questions:

“From one situation to the next, which approach takes priority over the other? Which hypothesis is stronger—the one positing that attitude drives behavior, or the other saying that behavior drives attitude?”

To answer these questions, we had to test the **first set** of 20 hypothesis pairs of construct versus construct using pair-wise testing.

Next, we tested the **second set** of 20 hypothesis pairs of dependent variable construct versus all or the complete set of independent variables.

These two sets of hypothesis pairs were tested and analyzed using the **multiple regression technique**. In regression terms, the two hypotheses were specified into 26 test regression functions: 16 for the first hypothesis, and 10 for the second hypothesis.

To answer the question: “Which is truer? Attitude determining behavior or behavior shaping attitude?” we used the construct that had the larger regression coefficient as the stronger determinant.

We drew the logic behind this rule quasi-experimental design literature (e.g., Cook and Campbell: 1979; and Campbell, Shadish and Cook: 2001; and Trochim: 1986), which has established that a “cause” must have a

higher correlation with its “effect.” Applying this to our present discussion, we can then judge the stronger causal direction by this simple rule:

Attitude is the stronger “cause” of behavior if the size of its regression coefficient is larger than that of behavior. If the opposite is true, then behavior is the stronger “cause” of attitude.

For the second set of 20 hypothesis pairs of dependent variable construct versus all the independent variables, we decided that whichever of the two had the larger coefficient of determination was the priority hypothesis.

Results of the Multiple Regression Runs

For the second set of 20 hypothesis pairs of dependent variable construct versus all the independent variables, we obtained coefficients of determination (R-Squares) from the relevant stepwise multiple regression runs. We used the stepwise regression model because it included into the equation only those independent variables that are, at most, only *minimally* correlated with each other. It yields an estimated equation whose independent variables do not exhibit any “multi-collinearity” problem, thus making it comparable to the estimated equations in the first set of 20 hypothesis pairs.

The variable-excluding property of the stepwise regression model resulted in the exclusion of many independent variables that were analyzed in the first set of 20 hypothesis pairs. So we discovered that the estimated equations for the second set of 20 hypothesis pairs of dependent variable construct versus all independent variables were *not comparable* to the results of the first set. For this reason, the analysis and drawing of policy implications concentrated on the results of the first set.

Policy Implications

Before examining the policy implications of the regression coefficients, it's important to note what meaning the survey questionnaire assigned to each point in the four-point scale of attitude and policy behavior statements. The following rating instruction was given for the 15 attitude items:

"Based on your own knowledge of company practices, do you believe that a typical Philippine company CEO/COO would consider the items below as ...

- 1 = always wrong,
- 2 = wrong in most cases,
- 3 = wrong only sometimes, or
- 4 = not at all wrong

... when done by rank and file employees?"

A similar rating instruction applied for another set of 15 items relating to middle and senior management misconduct:

"Based on your own knowledge of company practices, do you think the following reactions by a typical Philippine company CEO/COO would ...

- 1 = never happen,
- 2 = sometimes happen,
- 3 = happen most of the time, or
- 4 = always happen?"

Next, relate the ordinal meanings of these numbers to our statistical definition of regression coefficient: "In a multiple regression equation, the regression coefficient measures the extent by which the dependent (or

criterion) variable is influenced by an independent (or predictor) variable of interest with all the other independent variables remain unchanged.”

In running the regression on the data for this equation, a **regression coefficient of +0.347** emerged. Using the meanings of the scales for Q39 and Q3, this result will literally read as such:

“For every unit change in Q3—that is, a change of belief about item Q3 from ‘wrong only sometimes’ to ‘wrong in most cases,’ there will be a positive unit change of 0.347 in Q39. This means that the reaction about Q39 ‘happening most of the time’ to ‘happening only sometimes’ moves up by about a third.”

This literal interpretation is difficult to comprehend because it reads the data as if they were ratio scale data. But they are not ratio scales—they are ordinal scale data. Interpretation of ordinal scale data must therefore follow the character of the ordinal number system, explained by such authorities as Torgerson (1958), Coombs (1964), and Churchill (1988).

The limitation of ordinal scales is that they tell us if one variable is more or less than another. However, they cannot say *by how much* one variable exceeds the other. And when ordinal data are subjected to a regression analysis, the generated regression coefficient retains the character of its original parent ordinal scale data. Therefore, one regression coefficient that is higher than another must be interpreted as *just that*: it is higher. How much higher, the ordinal scaled coefficient cannot say.

Thus, all that we can validly conclude from our regression runs are the following:

1. **There are many more occasions where it is attitude that determines behavior.** In these cases, therefore, it is companies’ ethics programs that should lead corporate anti-corruption efforts.

The survey data shows that, in most cases, it is attitude that shapes policy behavior. Therefore, companies must work to strengthen their Ethics Programs and work on attitudinal change among their employees.

- **The case of ostrich-like policy behavior toward misconducts was in four out of five cases a function of attitude.** The exception here is in the case of the attitude toward misconducts driven by a favor-giving/receiving culture, where it was the ostrich-like policy behavior that drove this attitude.
 - **The case of sanctioning misconduct by stages was in three out of five cases a function of attitude.** The exception here is in the two cases of: the attitude toward misconducts driven by the favor-giving/receiving culture, and the attitude toward dishonesty-based misconducts, where it was the sanctioning-by-stages policy that drove these attitudes.
 - **The case of strict dismissal policy for any misconduct was in four out of five cases a function of attitude.** The exception here is again in the case of the attitude toward misconducts driven by the favor-giving/receiving culture, which it was the strict dismissal policy behavior that drove this attitude.
 - **The conditional, either-or policy for misconduct was in all of the five cases a function of attitude.**
2. There were *a number of occasions* where it was behavior that shaped attitude. Here, it is obviously companies' compliance programs that should be prioritized in their anti-corruption

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efforts. These occasions were the exceptions identified in the preceding conclusion.

Overall, 16 of the equation pairs showed that attitude determined policy behavior. In these 16 cases, the Ethics Program must take precedence over the Compliance Program. The rest of the four cases should prioritize the Compliance Program when curbing corporate corruption.

Summary Table 1: Respondents' Profile
(Base = Total 96 Senior Executives)

CHARACTERISTIC	% OF BASE
Age Group	
Less than 30 years	5
31-39 years	25
40-49 years	33
50-59 years	23
60 years of more	14
Gender	
Male	66
Female	34
Civil Status	
Married	76
Single (never married)	18
Separated	4
Widower	2
Highest Educational Attainment	
Completed College	49
Post College	51
Official Designation in Primary Company	
General Manager	29
Vice President	13
President	11
Department Head	7
CEO	5
Officer	5
Director	4
Owner/Proprietor	3
Supervisor	3
Partner	2
President and CEO	2
CFO	2
COO	2
Chairman	2
Executive Managing Director	2

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Assistant Manager	2
Regent Officer	1
Corporate Secretary	1
Vice Chairman	1
Administrator	1
Total Work Years in the Government	
0 year	22
1-10 years	11
11-20 years	8
21-30 years	8
31 and above	1
None	20
Not Applicable	17
No Answer	13
Total Work Years in the Private Sector	
0-10 years	19
11-20 years	33
21-30 years	27
31-40 years	15
41 and above	3
None	3

Source: Drawn from *PROJECT AIM-CC Primary Data Tables*,
Section V, pp. 110, 112, 114, 116, 122-125, 128-129, 133-
135

Summary Table 1: Respondents' Profile (continuation)

(Base = Total 8 Foreigner Senior Executives)

CHARACTERISTIC	ACTUAL COUNT
Total Number of Years Living in the Philippines	
0-5 years	4
6-10 years	2
11 years and above	2

Source: Drawn from *PROJECT AIM-CC Primary Data Tables*, Section V,
p. 137

**Summary Table 2: Attitudes toward Wrongness of Rank-and-File
Employees' Dealings**

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(Base = Total 96 Senior Executives)

DEALING, TRANSACTION, OR ACT	% OF BASE			
	Not At All Wrong	Wrong Only Sometimes	Wrong in Most Cases	Always Wrong
1. "I have a relative who's well placed in that office. So he got me into the front portion of the waiting line."	7	18	32	43
2. "Employees printing a dozen or so copies of their CVs or bio-data using the company's printer or photocopier."	2	14	31	53
3. "Collectors of payments to the company placing their collections in their personal accounts for some span of time before surrendering them to the company."	1	4	5	89
4. "Bringing home the company's product samples without authorization."	2	8	21	69
5. "Keeping to oneself knowledge of wrong doings going on."	2	11	43	43
6. "Using company time to make their kids' assignments, make personal calls or such other things for one's own benefits."	3	17	33	46
7. "I asked a client for a small gift (just a VCD) before I initialed a deal. The client gave me the gift."	3	6	10	80
8. "Entertaining co-workers and then declaring they entertained a client."	4	5	14	76
9. "Using the internet and downloading things for one's own personal use or benefit."	6	13	39	43
10. "Secretaries and clerks filching office bond papers, pens, pencils and other supplies."	2	6	15	77
11. "Cheating on time cards like punching in for someone else."	1	4	13	82
12. "I wrote out the requirements for a bid so that my supplier friend can qualify."	6	5	19	69
13. "I leaked out our preferred prices so that we will get a low quotation from my supplier friends."	6	6	27	60
14. "Sales reps padding hotel lodging and representation expenses."	2	4	11	82
15. "We padded our liquidation expenses by charging the company for "pasalubong" (gifts for co-workers back in the office)."	3	6	11	79

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Source: Drawn from *PROJECT AIM-CC Primary Data Tables*, Section I, pp. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30

Summary Table 3:

Company Department Regarded as Most Open to Wrongdoings

(Base = Total 96 Senior Executives)

DEPARTMENT	% OF BASE*
Purchasing	75
Accounting	13
Sales	8
Engineering	5
Marketing	5
Warehousing	5
Finance	4
Corporate Planning	1
Human Resource Development	1
Manufacturing	1
No/refuse to answer	4

*Will sum up to more than 100% because of multiple answers from some respondents.

Source: Drawn from *PROJECT AIM-CC Primary Data Tables*, Section IV, p. 88

Summary Table 4: Attitudes toward Wrongness of Middle/Senior Management's Dealings

(Base = Total 96 Senior Executives)

DEALING, TRANSACTION, OR ACT	% OF BASE			
	Not At All Wrong	Wrong Only Sometimes	Wrong in Most Cases	Always Wrong
1. "Spying or giving orders for your managers to spy on a competitor, for example hiring a security and investigation agency to look into the personal and private life of a competitor."	6	16	29	47
2. "Spreading false information or badmouthing a competitor."	3	10	21	64
3. "Claiming credit for what another colleague had been able to accomplish."	2	6	15	75
4. "Taking advantage of some suppliers by purposely not paying them on time."	7	15	22	53
5. "We offer a minimum 20% discount to clients. But I have an agreement with some clients that 5% of the 20% goes to me."	1	8	8	79
6. "If I don't like the winning bidder, I search for a shortcoming that will allow me to give the contract to another one I favor."	3	13	22	60
7. "Donating to foundations of well-known, powerful people with whom we will eventually have dealings."	15	26	31	26
8. "Tampering with the company's business records and financial results."	2	3	16	76
9. "Tampering with or sabotaging a competitor's product."	3	4	13	77
10. "Knowing there's something wrong with your own company's product and not making a full disclosure of it."	5	14	36	42
11. "Fixing the winner of a promo and then getting something in return from the winner."	3	4	7	82
12. "Making decisions based on the advice of a fortune teller or a feng shui expert."	6	14	27	50

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13. "Overstating one's assets in order to get a loan."	6	13	24	54
14. "Accepting to be a director or even owning some equity of a supplier's business."	4	7	27	58
15. "Condoning wrong doings of people in the company because they are friends or in a higher position than me."	5	8	27	56

Source: Drawn from *PROJECT AIM-CC Primary Data Tables*, Section II, pp. 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60

Summary Table 5: Company Policy Behavior and Responses to Wrongdoings

(Base = Total 96 Senior Executives)

REACTION	% OF BASE			
	Always Happen	Happen Most of the Time	Sometimes Happen	Never Happen
1. "If it has the blessing of the owner or the board, we don't do anything."	10	29	43	13
2. "We follow company policy or re-assignment first and if the wrong doing is repeated, then we terminate the person. If the person refuses, we go as far as filing a criminal case."	14	35	42	7
3. "In most cases, we take them out of their position or rotate."	13	40	41	5
4. "For minor offenses, we reprimand; for serious offenses, we suspend; for repeated offenses, we ask the person to resign."	40	36	18	3
5. "If the guy is new and the amount is small, we talk to the guilty person. But if it's big, we terminate employment."	24	35	27	11
6. "When the executive is valuable, he gets a mild reprimand from the owner. If it persists, it's all up to the owner."	18	39	32	9

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7. "We give a warning to the person involved. If it becomes a trend, that's the time we arrange for a graceful exit."	26	45	24	3
8. "If the company doesn't suffer much or it's at a tolerable level, I let it be."	10	27	46	15
9. "I don't want to tolerate it but I just have to close my eyes because there's nothing I can do."	6	18	44	31
10. "We don't distinguish about a wrong doing's level or size. If someone did wrong, then that person must be terminated."	6	19	54	20
11. "I don't tolerate it. I see to it that the person gets fired."	9	20	48	22
12. "If the person is high in the organization, we don't do anything about it especially if he has to close a deal."	9	17	46	27
13. "In most cases, I turn a blind eye."	3	15	40	42

Source: Drawn from *PROJECT AIM-CC Primary Data Tables*, Section III, pp. 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82, 84, 86

Part II. Perceptions and Attitudes of Middle Management, and Rank-And-File Employees

Survey Research Objectives and Methodology

The Survey Research Objectives

Following the identified survey research need, this second wave survey aimed at the following specific research objectives:

- First, to find out and measure middle managers' as well as rank & file employees attitudes toward, and perceptions of what their company is doing about, common corrupt practices and wrongdoings.

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- Second, to compare these attitudes and perceptions with those that the first wave survey found among corporate top management executives.
- Third, to determine and measure which offices or units in the corporate organization middle managers, and rank and file employees regard as most open to corrupt practices, and to compare these ratings with those of top management as found in the first wave survey.
- *And lastly, to find out what middle managers and rank and file employees regard as specific examples of corrupt practices in each of the company offices or organizational units.*

The Survey Research Methodology

The survey research design was guided by what the specific survey research objectives required for a cost-effective survey.

Survey Respondents

There were two sets of respondents: (1) corporate middle managers, and (2) corporate rank-and-file employees.

Survey Location

To respect what the available survey funds would allow, as well as to be able to compare the results of this survey with those of the first-wave survey, the second-wave survey was conducted in Metro Manila.

Survey Sampling and Sample Size

Two basic considerations determined the sampling and sample size. The first was the timeline allowed for the completion of the survey: 12 weeks. The second was the need for the survey to be cost-effective, given a limited available budget.

Based on these, the decision for sampling went in favor of quota, purposive, and intercept sampling in central locations (malls and shopping centers). To pay approximating respect to the “representativeness” criterion (as suggested in some Philosophy of Science literature), the central locations were specified to cross-section the following:

- Manila: Robinson’s Place Ermita, SM Manila, and Harrison Plaza
- Quezon City: SM Fairview, Ever Gotesco, and Araneta Center
- Makati: Greenbelt, Landmark, and Power Plant
- Ortigas: Greenhills, Robinson’s Galleria, and The Podium
- Mandaluyong-Pasig: SM Megamall, EDSA-Central, and Rustan’s Shangri-la
- Alabang: Festival Mall and Alabang Town Center.

The central-location intercept timing was during noontime and in the early evenings after office hours, when there was the highest likelihood of catching the survey’s target respondents.

Because the sampling methodology used in this survey was more cost-effective than the random representative procedure that was used for the first-wave survey, the available budget for the second-wave survey allowed these sample sizes:

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- 200 survey respondents among rank-and-file employees
- 200 survey respondents among middle managers

Survey Data Collection and Analysis.

Data was gathered through personal, face-to-face interviews. Professional interviewers from the Q&A Survey Research Field Specialists, Inc. conducted the interview with the use of a pre-tested structured questionnaire

To allow for a comparison of results between the first- and second-wave surveys, the second-wave survey questionnaire was formulated such that it contained items drawn from the first-wave survey questionnaire. The only item that was added to it was that which survey objective #4 required: “*What middle managers and rank-and-file employees regard as specific examples of corrupt practices in each of the company offices or organizational units.*”

The data analysis process for this survey consisted of the following ...

- Combining data tables of marginals (or frequency distribution) of responses to several logically combinable questionnaire items;
- Cross-tabulating responses to logically related pairs of items where the sub-sample sizes of respondents in the cross-tabulation cells allowed statistically readable data, namely, sub-sample sizes of 50 or more.
- Comparing the results from each of the preceding two analysis procedures among the top management respondent sample (from the first-wave sample), the middle management respondent sample, and the rank-and-file respondent sample.

Perceptions of and Attitudes Towards Common Corporate Wrongdoings

This portion of the study deals with the respondents' answers when they were asked to express their attitude toward 15 common corrupt practices and misconducts.

They did this by rating 15 wrongdoings along a 4-point scale:

- 1 = this misconduct is not at all wrong
- 2 = it's wrong only sometimes
- 3 = it's wrong in most cases
- 4 = it's always wrong

These items contained the same descriptions of wrongdoings that were rated by top management respondents in the first-wave survey. To recall, these items were generated to represent the categories of corruption in Rose-Ackerman's study (1996). These "by nature and by level" categories are the following:

Corrupt practices by nature:

- Paying for benefits, such as to influence bidding results
- Paying to avoid costs, such as to ensure that something that is due is done on time

Corrupt practices by level:

- Petty corruption, which in its mildest form is similar to the giving of tips
- Grand corruption, as in public works or in procurement in government

The 15 misconduct items that the respondents rated were as follows:

Q1: "I have a relative who's well placed in that office. So he got me into the front portion of the waiting line."

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- Q2: "Employees printing a dozen or so copies of their CVs or bio-data using the company's printer or photocopier."
- Q3: "Collectors of payments to the company placing their collections in their personal accounts for some span of time before surrendering them to the company."
- Q4: "Bringing home the company's product samples without authorization."
- Q5: "Keeping to oneself knowledge of wrongdoings going on."
- Q6: "Using company time to make their kids' assignments, make personal calls or such other things for one's own benefits."
- Q7: "I asked a client for a small gift (just a VCD) before I initialed a deal. The client gave me the gift."
- Q8: "Entertaining co-workers and then declaring they entertained a client."
- Q9: "Using the internet and downloading things for one's own personal use or benefit."
- Q10: "Secretaries and clerks filching office bond papers, pencils and other supplies."
- Q11: "Cheating on time cards like punching in for someone else."
- Q12: "I wrote out the requirements for a bid so that my supplier friend can qualify."
- Q13: "I leaked out our preferred prices so that we will get a low quotation from my supplier friends."
- Q14: "Sales reps padding hotel lodging and representation expenses."
- Q15: "We padded our liquidation expenses by charging the company for '*pasalubong*'" (gifts for co-workers back in the office).

When its results are compared with those of the first-wave survey, this second-wave survey presents a set of propositions, shown below:

Proposition #1: The three levels of management (i.e., top management, middle management, and rank-and-file) have differing perceptions regarding acts of corporate misconduct that are “always wrong.” This suggests that corporations should promote a common understanding of corporate wrongdoings and develop specific standards that will dictate how these wrongdoings are to be controlled and penalized, or both, as an integral part of good corporate governance practice.

Among the 15 misconduct items, the item which had the highest “always wrong” rating among top management is item Q3, or: “Temporarily placing company money in one’s personal account for some span of time before surrendering them.” To the rank-and-file, it was item Q11, or “Cheating on time cards, like punching in for someone else.”

Among middle managers, two items had the highest “always wrong” rating:

- Q11: “Cheating on time cards, like punching in for someone else.”
- Q3: “Temporarily placing company money in one’s personal account for some span of time before surrendering them.”

The first item corresponds with the answers of the rank-and-file; the second, with those of top management. This shows a typical characteristic of “the man in the middle”—that it, to agree with one’s superior (in this case, top management) as well as with one’s subordinates (here, the rank-and-file).

Among the top three “always wrong” misconduct items across the three management levels, the item that is particular to top management and absent among both middle managers and the rank-and-file is item Q7: “Asking a client for a small gift (just a VCD) before initializing a deal.” Top-

level managers look at this wrongdoing as their third highest “always wrong” misconduct. Middle managers, however, feel that it is not that serious, ranking this item as seventh. The rank-and-file respondents rank it sixth.

Proposition # 2: Most respondents from the top management and the rank-and-file levels do not believe in “whistle-blowing” as a means for controlling common corrupt practices. However, more than a majority of middle managers believe that whistle-blowing on corporate wrongdoings is acceptable.

Of the 15 attitude items, “Keeping to oneself knowledge of wrongdoings going on” (Q5) had the lowest “always wrong” rating, with less than a majority of top management executives (43 percent) regarding it as wrong. Among the rank-and-file, this percentage is slightly higher at 48 percent.

Therefore, the effective majority opinion (of 57 percent of top management respondents, and of 52 percent of rank-and-file respondents) says that keeping quiet as not always wrong. It is a directionally significant rejection of whistle-blowing.

However, more than a majority of middle managers (exactly 61 percent) seems to regard whistle-blowing as acceptable because this group considers “keeping to oneself knowledge of wrongdoings going on” as always wrong. There is only 39 percent for whom this act is not always wrong.

It has been argued in several quarters that a strong whistle-blowing system could be an immediate effective control of corruption. The preceding data suggest that recruiting for candidate whistle-blowers would be best done among middle managers.

Proposition # 3: About 20 percent of respondents from each level believe that an inherently wrong act, when done for a friend, for an immediate family member, or for a close relative, is “not that wrong.” In light of this, it has been suggested that this segment of respondents be targeted for value reformation as part of a company’s Ethics Program. They should be the priority candidates to undertake a course on “good manners and right conduct.”

The results show that the two items with the highest “wrong only sometimes” ratings among the top management respondents are the following:

- Q1: “I have a relative who’s well placed in that office. So he got me into the front portion of the waiting line.” (18 percent regarded it as “wrong only sometimes”)
- Q6: “Using company time to make their kids’ assignments.” (17 percent regarded it as “wrong only sometimes”)

Among both the middle managers and the rank-and-file, the corresponding top two are the following:

- Q13: “I leaked out our preferred prices so that we will get a low quotation from my supplier friends.” (22 percent regarded it as “wrong only sometimes”)
- Q6: “Using company time to make their kids’ assignments.” (14 percent regarded it as “wrong only sometimes”)

This segment, of about 20 percent of each of the three management levels, is the priority segment for value reformation in a company’s Ethics Program. Respondents from this group should take a basic course in “good manners and right conduct.”

Proposition #4: Top-level managers regard a company's purchasing departments as most guilty of corporate misconduct. Middle managers, on the other hand, regard both the purchasing and the accounting and finance departments as most guilty. To the rank-and-file, the most corrupt department in a company is accounting and finance. Based on these findings, it may be said that perceptions regarding a department's level of corruption depends on who in the corporate organization is talking, and with which department the respondent is more professionally and personally proximate.

Following shows the ranking of company departments according to their perceived corruptness, as ranked by the top management respondents in the first-wave survey:

1. Purchasing department (75 percent mention)
 2. Accounting and finance (17 percent mention)
 3. Sales and marketing (13 percent mention)
- All the other departments: less than 10 percent mention each.

In this second-wave survey, the ranking according to middle managers is as follows:

1. Purchasing department (36 percent mention)
 2. Accounting and finance (31 percent mention, which is not statistically significantly less than 36 percent)
 3. Sales and marketing (15 percent mention)
- All the other departments: less than 10 percent mention each.

For the rank-and-file employees, the ranking is as follows:

1. Accounting and finance (42 percent mention)
 2. Purchasing (23 percent mention)
 3. Sales and marketing (19 percent mention)
- All the other departments: less than 10 percent mention each.

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Respondents from the rank-and-file are probably correct in saying that the accounting and finance departments are most corrupt in regard to “small-ticket” corruption. For “large-ticket” corrupt practices, however, middle-level and top-level managers may be correct in saying that the purchasing department is most corrupt.

For instance, when asked to cite examples of misconduct among Purchasing employees of which they knew, middle managers mentioned “Favoring supplier friends” and “Overpricing,” which the rank-and-file missed mentioning. All the other examples, such as asking for and accepting bribes or kickbacks, padding or altering receipts, and so on, were mentioned by both.

For the examples of wrongdoings committed by Accounting and Finance personnel, the rank-and-file mentioned “under-the-table transactions” that this time, the middle managers missed mentioning. All the other examples, such as padding or altering receipts, pocketing money, padding liquidation expenses, and the like, were mentioned by both.

It is possible that the professional and personal proximity of top management to the Accounting and Finance employees blinds them to the corruption seen by the rank-and-file.

Perceptions of Company Policy Behavior and Responses to Common Corporate Wrongdoings

This portion of the survey asked respondents to indicate what they perceived to be the behavioral responses that companies applied to wrongdoings and wrongdoers. Respondents did this by rating each of 11 company policy behavior and response statements along a 4-point scale:

1 = this company policy behavior/response “never happens”

2 = “sometimes happens”

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3 = "happens most of the time"

4 = "always happens"

The 11 policy behavior and response statements are as follows:

Q1: "If it has the blessing of the owner or the board, nothing is done about it."

Q2: "First, the company policy of re-assignment is followed and if the wrong doing is repeated, the guilty person is terminated. If the person refuses, the company goes as far as filing a criminal case."

Q3: "In most cases, the wrongdoers are taken out of their position or rotated."

Q4: "For minor offenses, reprimand; for serious offenses, suspension; for repeated offenses, the wrongdoer is asked to resign."

Q5: "If the wrongdoer is new and the amount is small, the company will just talk to him/her. But if the amount involved is big, he/she is terminated."

Q6: "The person involved is given a warning. If it becomes a trend, that's the time the company arranges for a graceful exit."

Q7: "If the company doesn't suffer much or it's a tolerable level, the company just let it be."

Q8: "The company doesn't want to tolerate these but because there is nothing it can do in most cases, it just closes its eyes."

Q9: "The company doesn't distinguish about a wrong doing's level or size. If someone did wrong, then that person must be terminated."

Q10: "The company doesn't tolerate these wrongdoings. It sees to it that the guilty person gets fired."

Q11: "In most cases, the company turns a blind eye."

Some logical groupings that emerge from the statistics, as well as their policy change implications, are presented in the following propositions below:

***Proposition #1:* When responding to an act of misconduct by a corporate officer or staff, many respondents from all three management levels believe that it is appropriate to proceed by stages. This is true for as low as 59 percent of top managers, and for as high as 76 percent of middle managers. This suggests that corporations have subconsciously adopted a “leniency rule” that will ultimately be ineffective in combating and eliminating corporate corruption.**

In each policy response’s “two combined top-box scores” (i.e., % always happen + % happen most of the time = a prevalence ratio), the top three most perceived policy responses to a wrongdoing define a “stages policy approach”:

- “For minor offenses, reprimand; for serious offenses, suspension; for repeated offenses, the wrongdoer is asked to resign.” (Q4)

With 2 top-box scores:

- 76 percent prevalence among top management and middle managers
- 68 percent prevalence among the rank-and-file

- “The person involved is given a warning. If it becomes a trend, that’s the time the company arranges for a graceful exit.” (Q6)

With 2 top-box scores:

- 71 percent prevalence among top management
- 65 percent prevalence among middle managers
- 68 percent among the rank-and-file

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- “If the wrongdoer is new and the amount is small, the company will just talk to him/her. But if the amount involved is big, he/she is terminated.” (Q5) With 2 top-box scores:
 - 59 percent prevalence among top management
 - 64 percent prevalence among middle managers
 - 66 percent prevalence among the rank-and-file

This approach to managing corrupt corporate practices (whether large or small) uses a “leniency rule.” If corporate corruption is likened to a cancer that quickly spreads throughout an organization, it may be said that such a leniency rule will not be able to affect, much less cure, even just a small part of the organism that is already afflicted with the virus.

Proposition #2: The company response to corporate misconduct that was rated the next highest is to first consider the guilty person’s position in the organization, and then to consider the amount involved in the misconduct, if any. This perception was true for as low as 16 percent of middle managers, and for as high as 39 percent of top managers.

The following policy responses fall under this category of managing corporate wrongdoers:

- “If it has the blessing of the owner or the board, nothing is done about it.” (Q1) With 2 top-box scores:
 - 39 percent prevalence among top management
 - 16 percent prevalence among middle managers
 - 22 percent prevalence among the rank-and-file
- “If the company doesn’t suffer much or (if) it’s (at) a tolerable level, the company just (lets) it be.” (Q7) With 2 top-box scores:
 - 37 percent prevalence among top management
 - 27 percent prevalence among middle managers
 - 32 percent prevalence among the rank-and-file

In terms of how it impacts people's sense of fairness, this policy is worse than the "leniency rule" because it erroneously, though unintentionally, supports the poisonous concept of *palakasan* ("it is whom you know that matters"). It also allows for demoralizing exemptions to rules based on how "small" the amount involved is—which is often arbitrarily and subjectively defined.

***Proposition #3:* Another way to deal with employee misconduct is to follow a strict rule of termination without regard for the employee's position or the amount involved in the misdemeanor. As low as 25 percent of top managers and as high as 51 percent of the rank-and-file believe in this approach. Based on their responses, it seems that the rank-and-file are best fit for a Compliance Program, while the top managers are best fit for an Ethics Program. The rationale and dynamics of these programs will be discussed in later sections of this report.**

These policy behavior and response statements define this category:

- "The company does not tolerate these wrongdoings. It sees to it that the guilty person gets fired." (Q10) With 2 top-box scores:
 - 26 percent prevalence among top management
 - 47 percent prevalence among middle managers
 - 51 percent prevalence among the rank-and-file
- "Management does not distinguish between a wrongdoing's level or size. If someone did wrong, then that person must be terminated." (Q9) With 2 top-box scores:
 - 25 percent prevalence among top management
 - 37 percent prevalence among middle managers
 - 40 percent prevalence among the rank-and-file

These policy responses correspond to the rules of a Compliance Program for controlling corporate misconducts.

Most of the believers of these rules are among the rank-and-file, suggesting that *they are best fit to participate in a company's Compliance Program*. However, these same policy response statements are not as well received by top-level managers, suggesting that the Compliance Program may not be well-suited to an organization's top management. *For them, what may work best would be an Ethics Program*.

Proposition #4: The last category of company policy responses to corporate misconduct is to not do anything at all—for one reason or another. As low as 16% of middle managers and as high as 24 percent of top executives believe in this, the worse policy response of all.

The supporting policy behavior and response statements for this proposition are:

- “The company doesn’t want to tolerate it but because there’s nothing it can do in most cases, it just closes its eyes.” (Q8) With 2 top-box scores:
 - 24 percent prevalence among top management
 - 16 percent prevalence among middle managers
 - 23 percent prevalence among the rank-and-file
- “In most cases, the company turns a blind eye.” (Q11) With 2 top-box scores:
 - 18 percent prevalence among top management
 - 16 percent prevalence among middle managers
 - 23 percent prevalence among the rank-and-file

These prevalence ratios suggest that this category of company policy response is the least popular among all the policy response statements, and that it has the lowest number of believers.

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These policy response statements are clearly the worst responses that any company can adopt in responding to corporate corruption. Recalling the cancer metaphor that was used in the previous section of this report, this is similar to a cancer patient ignoring the disease in hopes that it will go away. By the time the cancer reaches its terminal phase, there is nothing that anyone can do about it anymore.

Indeed, only a strictly implemented and relentlessly executed Compliance Program can cure this segment of believers of their denial.

Reactions of Two Sectors of the Business Community to the First-Wave Survey

Two professional associations of businessmen and executives invited the principal investigator to make a presentation of the first-wave results during each association's conference in 2004. Because this second-wave survey is an extension of the survey conducted among top-level executives, the reactions and practical suggestions made by businessmen and executives during each of these conferences should be part of this report.

The other reason for including their feedback here is that the "what-now" suggestions made by these groups are provocatively creative, and many—if not most—of them are immediately actionable. They are powerful suggestions that can and will help to significantly reverse the current cancerous culture of corporate corruption that is engulfing the private sector across its top, middle, and lower management levels.

The key, then, to making these suggestions work is to implement them flawlessly and to complement them with sustained efforts.

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The two professional associations being referred to here are the Association of Accredited Advertising Agencies (4As) and the Marketing and Opinion Research Society (MORES).

Action Recommendations from the 4As Conference

During the open forum of the conference, there was, at first, the usual discussion of how everyone already knew about corporate corruption. However, the participants agreed that it was only then when they realized how extensive and serious the problem really was. Several prominent names in the industry even figured into each of the contributors' horror stories.

Then someone shifted the discussion to the more practical question:

"What can we in the Advertising industry do (to eliminate) or at least (to minimize) private sector corruption?"

Following are the group's more insightful suggestions:

- Produce a movie—or, better yet, a TV serial—regarding the "corporate ombudsman."
- Set up an internal affairs unit within companies, similar to what exist in police and military establishments, and make a TV serial on those who are knowledgeable about ongoing corrupt corporate practices. This internal affairs unit may be composed of such "corporate corruption experts" as company accountants, auditors, lawyers, human resource managers, or information technology executives.
- Highlight "work crimes" or corrupt work practices in regular television programs (such as *Imbestigador*) as a way of raising the "moral and social costs", as well as public awareness, of corporate corrupt practices.

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- Implement a campaign to promote whistle-blowing as part of responsible corporate citizenship, and as instrumental in eliminating corruption in the private sector.
- Regularly publicize models of company code of ethics and model compliance programs to serve as industry benchmarks for addressing corporate corruption.
- Support a sustained campaign promoting honesty, transparency, and accountability in the private sector.
- Support a sustained campaign to reverse the “burden of proof” mindset for corporate corruption cases, which essentially assumes that one is corrupt until proven innocent.

Action Recommendations from the MORES Conference

- Expand the first-wave corporate corruption research to cover the following:
 - Corruption as perceived or as practiced, or both, by middle managers
 - Corruption as perceived or as practiced, or both, by the rank-and-file
 - Corruption as perceived or as practiced, or both, by suppliers
- Conduct corruption research on other critical segments of the private sector, such as the following:
 - Agriculture and farmers
 - Education, schools and teachers
 - Banking and finance
 - Trading and retailing services
 - Professional services and professionals
 - Religious services and the Church
- Conduct research to better understand some of the important and critical concepts uncovered in the first study, such as the following:

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- The attitude of executives and the public toward whistle-blowing
- The hierarchy of ethical business values and priority-setting of business values among executives and staff
- The role of ethics programs and compliance programs in business value formation
- The mainstreaming of business values into the workplace

3

Focus Group Discussions on Procurement

GROUP 1: SUPPLIERS OF TEXTBOOKS

Fraudulent and Irregular Practices Encountered

Unfair competition among domestic suppliers

There is an uneven playing field among domestic textbook suppliers. To obtain a contract, the financial requirement is very strict as this serves as a guarantee that the contractor will be able to furnish a substantial volume of good-quality books. Besides the bidders' finances, their sales and track records are also considered. The bidding requirements give big publishers the edge to win the bid as they have the finances and capacity. Hence, small publishers concerned are unable to compete, allowing bigger publishers to monopolize the bidding.

To illustrate the scenario, the price of the contract to be procured usually is in the sums of millions of pesos. As a means of assuring that the publishers are capable to execute the contract, the Bids and Awards Committee requires that the companies who will join the bidding is eligible to bid. The eligibility to bid is composed of several requirements: (1) financial capability and (2) technical capability. To explain further, financial capability refers to the monetary capacity of the company to use its assets in producing the textbook. Also, it looks into the companies profile in determining its experience in printing. On the other hand, technical capability refers to the company's capability to print. It seeks to determine the number and quality of machines that the companies.

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Because of the huge financial and strict technical requirements needed by publishing companies to join the bidding, the opportunities for small companies to participate in the bidding process becomes limited since they do not have enough financial resources to back their publishing capability. Despite the option to have a financial counter-part, it is still difficult to raise enough funds because of the delayed payment by the DBM. As a result, the bidding of textbooks is usually dominated by large publishing companies—both foreign and local.

Lack of transparency

There is also a lack of information dissemination regarding the funds available as well as the guidelines for the procurement of textbooks. The funds available for the supply of textbooks can be categorized into two: foreign assisted projects and congressional allocations. However, the measures by which these two funds are used in the buying of textbooks widely differ.

First, foreign assisted projects come in the form of loans from the World Bank (WB), Asian Development Bank (ADB), and Japan. Because of the loan requirement, the DepEd uses the International Competitive Bidding guidelines (ICB) guidelines to bid textbooks. In the guidelines, advertisement of textbooks to be procured ensures that the suppliers are notified regarding the agencies demand for textbooks. Despite the tedious process by which interested bidders must follow due to the strict requirements needed, the guidelines are specifically enumerated and explained in the bidding documents. However, because of the technicality it may be difficult for beginners to join the bidding.

Furthermore, the adoption of the Government Procurement Reform Act (RA 9184) in the procurement of textbooks (note that both ICB and GPRA are used in the procurement of books in DepEd which are foreign

assisted), did not provide specific guidelines for bidders to follow. As a result, bidders are confused on how to join the biddings for foreign assisted projects.

Second, congressional allotments refer to the funds that members of congress receive for the benefit of their constituents—School Building Fund, Countrywide Development Fund, Public Works Fund, and Congressional Initiative Allocations. According to the documentation of Earl Parreño of the congressional allotments, every congressman would receive an estimate of about 40 million pesos every year— of these about 4.5 million pesos are allotted for School Building Fund. To some extent, certain percentage of the fund would be used for the textbooks of the congressman's school districts. Furthermore, the disbursement of funds for these projects is based on the judgment of the congressman. Because of the power that the congressman hold over the funds, they would instinctively call upon publishers so that they may buy books from them at a special “discount price.” At times, a “middleman” is used to match a congressman textbook project to a publisher. These inside dealings closely protect the information on to whether who among the congressman need textbooks to be supplied, as well as how to contact these congressmen. Thus, it could be said that a “negotiated” process of buying textbooks arise. Because of the secrecy involved on which congressman holds a textbook project, the publishers are at a disadvantage in finding demand for their products.

Thus, it was suggested in the FGD that the DepEd should improve information symmetry by conducting more dialogues with suppliers and procurement officers. It was also recommended that the DepEd should set guidelines on the procurement procedures as there are varying guidelines for every source of funds, e.g. foreign assisted projects and congressional allotment fund.

Irregular enforcement of rules in the procurement process

The FGD participants claim that the Bids and Awards Committee (BAC) award contract to bidders arbitrarily. It was pointed out in the discussion that there is a lack of objectivity in evaluating the qualifications and requirements of bidders. The participants assert that there is room for subjectivity in the deliberations of the bids. This could be furthermore explained by the provision in the GPRA on the capacity of the BAC to dismiss a bid due to non-compliance. This power holds powerful hold on the part of the BAC since they can now disqualify certain bidders.

Also, bidders are not entitled to an explanation on why they lost the bid. It poses difficulty to determine the integrity of the decision-making capability of the BAC. Hence, the participants recommend a post-bid conference where DepEd and bidders can meet so that the BAC can announce the reasons why the bidder lost.

It was also noted in the discussion that DepEd evaluates the content of textbooks for one month only. It was argued that a month's time is not enough to validate the facts or properly deliberate on who should receive the contract. DepEd, as it was mentioned, merely relies on the integrity of the publisher. It was then proposed that DepEd must lengthen the timeframe of its in-house checking or evaluation of the textbook content, and conduct a content evaluation before and after the bidding.

Lack of experts in DepEd

DepEd lacks experts on paper and printing. Because of this, there is a difficulty in reconciling the interest of the Department and the publishers. In the interest of the Department to secure high quality of textbooks, they strictly require the GSM of the paper at 70. However, the production of paper, according to several publishing houses, does not manufacture

paper strictly at 70 gsm. at times, it may vary. Thus, it was suggested that a level of tolerance be established, as a precautionary strategy. Also, it was suggested that DepEd seek the assistance of the Department of Trade and Industry (DTI) where experts set standards on paper.

Lack of institutional coordination

The lack of institutional coordination between the Department of Education (DepEd) and Department of Budget and Management contributes to the lengthy payment of textbook contracts. This problem emanates from the fact that the Department of Education and the DBM are having difficulty reconciling and harmonizing their policies and requirements that the suppliers must submit to collect their payment. Because of this, suppliers are confused to which department to follow and thus, are having difficulty in processing their papers.

To illustrate, two of the respondents are raising the issue that they are having difficulty in collecting payments from the DBM their payments. The delayed payment, according to the publishers, usually last for several years. They argue that the requirements announced by the DepEd in collecting the payment differs from the ones needed by the DBM. Because of this, publishers are at times confused on which department to follow.

On a specific scenario, an official of the Department of Education wanted to hasten the delivery process because he wanted that the civil society organizations are present to monitor the delivery of textbooks in the delivery sites. Despite the increasing costs of such initiative on the part of the publishers because they need to rush all their printing and delivery, they promptly agreed to the request since the said official promised that the publishers could collect their pay within six months after they had submitted their requirements. However, this did not happen because of

the different requirements needed to collect payment requested by DepEd and DBM.

Unfair advantage of foreign suppliers as compared to domestic suppliers

The unfair advantage of foreign suppliers over the domestic suppliers can be classified under two stages (1) the processing of payments and (2) the monitoring of textbook production.

First, in the processing of payments, foreign suppliers (companies that print and bind textbooks abroad and deliver it to the Philippines) can easily process their papers for payment once they were able to ship the textbooks here in the Philippines. However, local suppliers need to deliver their textbook into the respected district offices and schools. And only after they were able to deliver that they can process their papers for payment. This poses an advantage for the foreign companies because they have a shorter period for turnover expenses. Furthermore, foreign suppliers can easily process their payments through the "Letter of Credit". But the local suppliers do not have this option thus; their payment is always delayed.

The unfair advantage in the payment schedule poses difficulty for local suppliers to join biddings because their financial revenue are insufficient since they are still processing the delayed payment for their contract.

And second, the Department as compared to foreign companies tightly monitors the local publishers. DepEd officials visit local publishing houses to check the production of textbooks. On the other hand, they only visit warehouses of the foreign companies here in the Philippines. Because of this, foreign suppliers are holds the benefit of having been less scrutinized.

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In addressing these issues, it was advocated that the local publishing houses are given the "Letter of Credit" as compared to foreign bidders. Also, it was advocated that the same level of monitoring and scrutiny be applied to foreign companies as that of local ones.

Ineffective association

The ineffective book associations hinder the development of the industry. One of the probable cause for such predicament lies in the divided interests of the book publishing industry. Rather than advocating the interests of the whole industry, these associations used to pursue business and financial interests. Thus, there is a need for a leader that would protect the interests of the industry and guide it towards development.

As the participants would assert, their association has been ineffective in pursuing the interest of the industry because of conflicting issues. One book association, has advocated that there need to be a certain level for discounts to be given to clients. However, not all publishing houses follow such initiative. As a result, profit-driven publishing houses tend to increase the discounts given to clients and thus earning more, as compared to publishing houses that follow the quota who lose clients because they abide by the discount rate. As a result, it is proposed that the association must establish and implement standardized discount rates to level the playing field among publishing houses.

Bureaucratic inefficiency

The numerous bureaucratic processes and procedures has become an area for inefficiency. The adoption of a guided and stringent process has significantly minimized the extent of corruption in the Department of Education, however it has created other predicaments. As safeguards were instituted to guard the disbursement of payment, it has created

difficulty in processing papers. Because of this, processing payment becomes more tedious and complicated. To hasten the waiting process, some suppliers bribe public officials in order to process their papers more quickly.

Other Issues Raised in the Discussion

- In the Implementing Rules and Regulation (IRR) of the GPRA, section 50 refers to Direct Contracting which specifies that if a supplier is the sole distributor of such good, they can be bought to from the said supplier if they have sufficient documents to back their copy rights and International Standard Book Numbers (ISBN). However, government agencies still demand for the copyright. But, one respondent argued that the ISBN is enough since the copyright can be bought.
- The delayed in payments resulting from the lack of coordination from the DBM and DepEd largely affects the profit collected by the publishing houses. Since most of the finances that they acquire are loaned, as their payments are delayed on a yearly basis, their profits get eaten up by the interest. Because of this, the publishers would result to corruption (bribe) to hasten the processing of their payments.
- One respondent argued that the deadlines of the submission of bids were altered because DepEd officials are still waiting for another bidder. He said that in one of the biddings the deadline for the submission of bids were due at around 5 pm. But since he was scared to be late in submitting their bid, he submitted it at 9 am. As he rechecks the content of his bid, he was unable to prepare a significant section. Thus, he revised their bid, and re-submitted it at around 430pm. Waiting for the deadline, he observed that they

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(BAC officers) extended the deadline as they wait for a few more bidders that has been late because of certain revisions. As the late parties arrive, he said that they did not enter the front doors of the receiving section for the bids, but rather entered the back door of one of the offices of the department.

- Furthermore, transactions with local government offices (mayors and governors) were said to be easy since they are only haggling over how much the commission and where will the commission go.
- Regional offices, as asserted by the publishers, tend to be more corrupt than the head office. They explained that although it is easy to transact with them since they pay when the textbooks are delivered, problem lies because at times they ask for big “discounts”. Also, every stage in the processing of the papers, the publishers are expected to bribe the employees.
- Splitting of Purchase Order implies that a certain company would represent a certain group of publishers as a winning bidder, but he will share the contract with other publishers. For example, the contract is 5 million pesos and it is awarded to a publisher. As a group of 10, he would split the contract price between them and give each member 500,000 pesos worth of contract. Although this practice is not allowed, publishing houses can manipulate the process. Also, they view it as beneficial to the industry since publishing houses can get away and get a piece of the contract even if they did not have sufficient requirements.
- In the prospect of publishing houses to get contracts for textbooks, they need to pay commissions or “bonds” to get information on the projects to be procured.

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- With regard to the congressional allotments, the respondents agreed that the congressman would call upon a publisher and ask their commission if a certain project is given to them. On other occasions, publishers would pay in advance for projects so that it would be awarded to them. But sometimes, rather than awarding to the said publisher, the project would be given to another that had offered more (kickback for the public official). In addition, due of the varying discounts demanded, publishers are tempted to use substandard ink, paper, binding materials in order to meet the demand of the public official.
- In the procurement of textbooks, one consultant argued that it would be difficult for bidders to collude since that are numerous instances for checking—the submission of technical and financial specifications and the evaluation of books. He said that, if two bidders collude and one bidder would bid poorly as compared to his associate, the results would still be uncertain because they may be other interest publishing houses that may bid and give the best bid. It is in the unknown possibility that another bidder may participate that the strategy would fail. However, he said that collusion among bidders might arise in the procurement of materials to be printed. Because in this scenario, bidders will only fight for the lowest price. Thus, bidders can talk among each other the “price floor” for their bids. This is further elaborated by a supplier saying that, a representative from a cartel contacted him and asked if they can meet at a certain place. He then said that let the “price floor” of our bids be at 7 pesos. Thus, even if the price per piece of printing the magazine is only 6 pesos, they would bid at 7.05, 7.10, etc.
- Looking back at the previous scams that has been reported, the respondents are still questioning the evaluation of textbooks in

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DepEd. They argued that how come they still bought the book with errors even if they were evaluating it. One respondent said that, the book with errors has been ordered 2-3 times, and yet hasn't the evaluators seen the mistakes of the book. A consultant respondent saying that, the evaluation of the textbook content is not sufficient since it only lasts for 1 month, when before it took the IMC/IMDC 2 years to create a book. He said that in 1 month the evaluator could only look at the grammar and check the contents and its compliance to the learning competency of students. However, it is not thoroughly done due to the short period of time.

- The Privatization of the publishing industry in the 1990's increased corruption because the prices of books increased for 20 to 30 percent because they are giving commissions to public officials for them to be favored. This issue was addressed partially by bidding since the prices now decreased by 40 to 50 percent. (note: this decrease was significantly felt when the department adopted ICB guidelines)

Suggestions to Combat Corruption

They suggested that there should be a pre-qualification for bidders before they will submit their bids so that they would know if they are qualified to bid or not (based on the specification: content of the book, and the financial and technical requirements)

They also suggested that the National Book Development Board (NBDB) be changed to National Book Development and Regulatory Board to administratively monitor the behavior and actions of publishing houses. Their aim was to ensure that the board would not be used as an instrument to pursue one's interest. In addition, they advocated that the

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Board should not be under the DepEd and should be an entirely independent body. In order to limit the influence of public officials on the dealings of the board, as well as to focus on the interest of the industry.

It was also recommended that there should be an improvement in the governance of the industry association, which would focus on the needs of the industry and not advocate personal interests.

Additionally, it was noted that both the government and the industry association should act like NGOs, advocating the virtue of social responsibility.

GROUP 2: MEDICAL SUPPLIERS

Fraudulent and Irregular Practices Encountered

Pharmaceutical industry

In the pharmaceutical industry, corruption may not be that huge. However, to participate in the bidding, the supplier must apply for eligibility in the hospital, and fulfill the necessary documents on technical requirements, product registration, and financial requirements. The eligibility and technical requirements need two types of documents: 1) monitored release for testing new drugs that are yet to be introduced in the market; and 2) regular release for generic drugs. The Bureau of Food and Drugs (BFAD) is the regulatory agency tasked to furnish both monitored release and regular release documents. It was brought up in the discussion that the processing of the release documents takes 12-18 months for generic drugs and a longer time for new drugs. The delay in the processing of these documents is due to the lack of personnel in BFAD. At least 1200 requests are made every week, but only 1-2 personnel process these for monitored release and 8-12 personnel for regular

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release. For the suppliers, there cannot be a full blast operation because their products are not registered as BFAD lacks the personnel. Hence, the lengthy processing of documents, as pointed out, prompts suppliers to engage in corrupt practices to hasten the process.

Labor industry

It was noted that the Bidding Committee provides advance information to favored bidders, like the security program. Also, bribery or petty corruption is rampant, like bringing government officials to night clubs.

There are two relevant laws that are both applied in the procurement of security guards. These are Republic Act No. 5487 or the *Private Security Act of 1969* and Republic Act No. 9184 or *Government Procurement Reform Act of 2003*. The two laws, however, are conflicting and being debated.

R.A. No. 5487 established the Philippine Association of Detective and Protective Agency (PADPA). The security agencies are mandated to follow the PADPA rate of at least 200 guards. There is no bidding lower than the PADPA rate. Hence, there is a cut-throat competition to maintain 200 guards. A committee changes the rate every time there is a promulgated wage law.

R.A. No. 9184, however, has a different guideline. This law does not have a mandated rate, and the winner of the bid is the one with the lowest calculated rate.

Medical and scientific suppliers

There is a delay in the processing of documents and in reaching decisions. Ghost deliveries take place as one participant witnessed his fellow salesman deliver ink in Marawi three or four times.

In the awarding of bids, doctors favor companies with the highest bid for the former to obtain large discounts.

Managers of suppliers do not want to get involved in the dealings or biddings because of corruption. Instead they resort to middlemen or local dealers who have connections and can sell their products. They do not know the dealings of the middlemen. The suppliers just produce.

There are also cases of indirect transfer in the procurement of medical supplies. To do business with doctors or the hospital, suppliers send doctors to conferences, renovate clinics, and give donations like medical instruments. Bribery in this case is done indirectly.

A participant shared his experience on selling orthopedic replacement parts to a well-known hospital. He was informed that to get in the bidding, the supplier must provide the orthopedic department P50,000-80,000 worth of office supplies per month for one year. The supplier did this for two months. After a while, there was another contract for bone cement. In exchange for the new contract, the supplier agreed to sponsor doctors to the U.S. for a conference. Since all negotiations were made verbally, the doctors did not honor their part of the agreement and the supplier had no case in hand. Hence, he made a written agreement to get the contract in exchange for something else. The doctors signed the written agreement, but the contract to do business with the hospital was still not

given to him. As a result, he complained and brought the case to court. He soon found out that the reason why he cannot do business with the hospital is because one of the hospital's board members awards the contract to contractors related to him.

As narrated by a participant, the Department of Environment and Natural Resources (DENR) conducted a public bidding for a piece of equipment to measure air quality. It was noted that the government officials were conniving for one supplier, even if the product was inferior to the other. The participant, who also joined the bidding for the equipment, felt cheated and decided to go straight to the Ombudsman but nothing happened to the case. When the participant decided to question the awarding of the bid, he found out that the one evaluating the bid was also the one hearing the protest; therefore, there was a question of impartiality.

In another case, a supplier delivered a piece of equipment to a remote area in southern Philippines. Upon reaching the site, the supplier found out that there was no existing site and no people to receive the equipment. Since the site did not have electricity, there was no means of testing the equipment. The project, according to the supplier, was sponsored by a multilateral organization but a local government agency was responsible for the bidding of the equipment. It was mentioned that the multilateral agency had no say, or was simply just ignorant about the developments.

Other corrupt practices shared among industries

There are also problems encountered in the collection of payment. The checks are transferred from one department to another, causing a lot of delays. When the checks are ready, the suppliers are told that the checks will only be released if they give something.

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Similarly, the contracting agency asks for performance bonds from the suppliers. This serves as a warranty on the equipment delivered. Aside from this, 10% of the contract price is also withheld. However, suppliers experience much delay in retrieving their bonds and the 10% of the contract price.

For a company to do business with a hospital, you have to sponsor conferences, and give medical equipment.

In both the public and private sectors, there is no pre-qualification of suppliers. They neither check nor consider how suppliers obtained their products; therefore, there are cases when smugglers can be awarded the bid. In the case of one hospital, it does not pre-qualify suppliers of drugs because it has its own in-house quality control; hence, suppliers with substandard drugs can still join the bidding. The only concern of the public and private sectors is that the suppliers deliver their products on time.

It is also noted that certifications, such as ISO 9000, assuring the public that the certified company complies with international standards in production and product quality can be bought at a minimum of P200,000 depending on business size. Such certifications can also be notarized anywhere. Furthermore, companies that legitimately secured their certifications do not continue to comply with the requirements after a while.

A privileged group gets accurate information on bidding details, like changes in schedule. A bid bulletin comes out 2-3 days before the bidding proper announcing a change from bidding to consignment of the product without any explanation why. Besides the inconvenience of receiving the bulletin at a short notice, the bidders had already paid their fees, documents, and bonds.

According to the provisions of the law, the technical committee reserves the right to waive a bid. However, the conditions on waiving a bid are not specified. This poses a problem given to the technical working group because it gives them the capability to favor a supplier by waiving out the bids of others.

Giving specifications that are not generic, i.e. only one supplier can provide the product, is also another practice of favoring a supplier.

Perceptions on Corruption

A significant point in the discussion is the legal loophole in the system. It was pointed out in the discussion that the Philippines has good laws, but their implementation is faulty. The legal system is a culprit. The judicial system disrupts transactions and fails to enforce contracts. The Ombudsman does not care. Fiscals and judges are corrupt. Court decisions are arbitrary. There are delays in hearing cases and reaching a decision.

Justice is not delivered as exemplified by the experience of one FGD participant. According to him, he formed a company in 1983 with a partner. He invested in it and the company flourished. His partner claimed that there was a stockholder meeting every year. However, based on the testimonies he gathered, no stockholder meeting actually took place. When the case was brought to court, the judge, who received a bribe from his partner, ruled that it is a no merit case.

Another point raised in the discussion is the lack of a check and balance mechanism. Those who are questioned are also the ones who decide on the complaint. Those you expect to fight corruption are part of it.

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There was also the issue on whether gift-giving is a form of corruption. According to the participants, suppliers are also part of the problem why corruption persists. The participants, however, justified this act. They said that gifts are forms of bribery, but of a lesser evil. Gift-giving is embedded in the Philippine culture, and it is done to reciprocate a favor given. They mentioned that they give small tokens only during Christmas. It is a habit of Filipinos to express appreciation and gratitude for a good job or service. A person indirectly becomes the favored one for doing a good job or because the management knows him/her. However, favoring someone is not an excuse to break the rules.

Gift-giving, however, has also a pragmatic aspect. It was pointed out in the discussion that competition is tough and if companies want to survive, they must give gifts.

Suggestions to Combat Corruption

All of the respondents believe that there is a need for: (1) moral reformation in industry and country; (2) leaders should lead by example; (3) strengthen values and integrity of persons; (4) consistent and strict implementation of the laws; and (5) values formation inculcated on the minds of the family (discipline, honesty, stewardship) and character building. They believe that material enrichment should only be secondary to moral and spiritual formation. Furthermore, they know that this process of moral transformation is a long process, but it is something that they are willing to participate in.

Another area that they see should be significantly instilled in the values of public officials (even Filipinos) is discipline. They advocate that citizens should strictly follow what is mandated by the law. Also the law together with the legal system must be objective, credible, and consistent in its implementation. They are not apprehensive to refer to the Japanese

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system, as a model. Because they see that in having sanctions and implementing it, people will follow.

Legislature must be able to draft laws that are consistent with previous laws. And if ever there are conflicting provisions (or inconsistency), then it is advised that it is resolved in Congress because the end users are the ones having difficulty following it. One such example is the RA 5487 and the RA 9184.

They also admit that the Filipino culture should be reformed. One supplier said that it is important that public officials should "say what you mean, mean what you say". This implies that as public officials make laws, they should follow and implement them. To explain further, a supplier said that the DOH put up rules and violate them. According to her, the DOH established a rule that they will not accept suppliers without a certification and track record in the department for 2 years. However, an MNC is currently supplying the department with its products, even without a track record for the DOH.

In addition, the issue of leadership was also raised. They said that there is a need for a strong leader to initiate change in the country. Because as citizens lose hope, they migrate to other nations.(note: their success in other nations does not question the ability and skills of Filipinos but in the quality of the system as well as its leadership)

One supplier acknowledged the opportunity that new technologies can provide in curbing corruption. She suggested that computerization of the bidding process (E-procurement), as what is instituted in the US. It would limit the possibility that the bidders would collude because it is on-line.

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Also, they advocated that the regulatory and monitoring arm of BFAD be strengthened so that they can perform random testing of drugs in order to ensure and control the quality.

The challenge is to create an association or committee that would be able to create policy statements regarding issues. Also, they would be the instigator of reform in all aspects of the society. The objective is to get key people to create a forum from: the Church, professionals, judges, law enforcers, media, legislators, academe. As a requirement, they should have integrity and is able to influence citizens. Furthermore, the coalition must be non-political.

They also believe in the merit system wherein credit would be given to people that have performed well against corruption.

Mismanagement in corporations and government agencies poses problems of corruption. Thus, strengthening governance practices, and instilling virtues to the management was advocated.

They propose that a background check on companies should be established in order to limit unfair competition (note: suppliers may be smugglers). As well as to improve the quality of the products that will be supplied.

Furthermore, it is advocated that substandard products should not be accepted in the bidding.

Strengthening the Industry Association

As stated by the FGD participants, nothing happens in their associations. An industry association is a social club. There is discrimination against small companies, and they just want to collect fees. There are only one or two

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people talking. The newsletters are only to please everyone. There is no heart and soul in the association because there is no unity within the organization, and the problems of the members are not represented.

To improve the industry association, it was suggested that the members sign a manifesto declaring that they do not tolerate corruption. The association can start a campaign against corruption. It can also begin inviting new members, but persons can join the association based on pre-qualification standards and not on connections.

Preventing Bad Governance in the Private Sector

There should be strict implementation of the code of ethics in management, e.g. no giving of gifts.

The monitoring system on the quality of drugs must be improved. Quality control based on a physical examination of the drugs (by looking at the boxes) is incomplete. There should be random examination and chemical analysis in the field.

A certification that a company is not blacklisted is not enough and not credible. The document can be notarized anywhere.

PART THREE

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