

# **Bureaucratic Corruption in Malaysia: The Incongruence Between Social and Legal Norms**

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*The process of bureaucratic corruption is described. Corruption takes place because it is morally sanctioned and social norms are in direct conflict with legal definitions of corruption. Evidence is drawn from five key variables: (1) the need for high social status among bureaucrats; (2) the tradition of gift-giving; (3) the pattern of race relations; (4) the social basis of authority in the bureaucracy; and (5) government restrictions in the economy. The possibilities of reducing bureaucratic corruption in the face of conflicting social and legal definitions of corruption are quite dim.*

## **Introduction**

The laws of Malaysia prohibit government officials from accepting or attempting to solicit any gratification other than the legal remuneration for performing any official act. The Civil Service Regulations clearly state that:

. . . any officer shall not subordinate his public duty to his private private interests.<sup>1</sup>

The laws, however, have not been effective in reducing the incidence of bureaucratic corruption. The Prime Minister in discussing the seriousness of the problem commented: "We may have the legal powers but even these have limitations." The problem is "to arouse the people, to make them aware that corruption is not a light thing."<sup>2</sup> Legally corrupt behavior may not arouse any normative reprobation.<sup>3</sup> Alternatively, "a person judged corrupt may be legally clean."<sup>4</sup> Wertheim<sup>5</sup> and Waterbury<sup>6</sup> have drawn attention to this lack of coincidence between the legal and normative definition of corruption as being a course of endemic corruption in developing countries. The normative definition is rooted in Malay, Chinese and Indian moral

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systems whereas the legal definition originates from English common law. The Westminster type bureaucracy has not taken roots in Malaysia because Weberian bureaucratic norms do not reflect Malaysian cultural expectations.

Weberian bureaucratic values cannot fully permeate the society because the Constitution provides special privileges to the Bumiputras (sons of the soil).<sup>7</sup> Article 153(2) of the Malaysian Constitution provides the King of Malaysia with the powers to "ensure the reservation for Malays and natives of any of the States of Sabah and Sarawak of such proportion as he may deem reasonable of positions in the public service." This clause may create opportunities for patronage and corrupt behavior. However, the necessity for this clause has been justified in terms of the need to increase the social mobility of the poor Malays. This is one instance where the cultural norm of the majority in society clearly rejects the Weberian merit norm. Tension between Weberian bureaucratic norms and cultural expectations are normal in post-colonial societies.<sup>8</sup> Behavior resulting from divergent cultural expectations is normally interpreted as corrupt in a strictly Weberian sense.

Constitutional Clause 153(2) also places restriction in the competitive market place. The demand for the abundant supply of non-Malay graduates falls and the demand for the more scarce Malay graduate becomes more inelastic. The King is also empowered to reserve for the Bumiputras "any permit or license for the operation of any trade or business" as required by Federal Law. This automatically reduces the supply of such permits and licenses to Chinese businessmen. The institution of import licenses tend to increase the propensity for corrupt behavior.<sup>9</sup>

The Chinese in Malaysia do perceive themselves as second-class citizens.<sup>10</sup> The Malays resent them because of their economic superiority and higher consumption levels. Equality, in inter-ethnic income distribution rather than inter-class equality, dominates Malaysian politics. To the corrupt, bribes may be seen as a method of redistributing incomes from the economically advantaged Chinese to the politically powerful Malay bureaucrat. Pressures for corrupt behavior among the bureaucrats may also come from societal expectations that bureaucrats maintain an elitist lifestyle.

The norm of mutual reciprocity<sup>11</sup> is embedded in the three major cultures of Malaysia. Gifts and favors are often exchanged between friends, relatives and associates. These reciprocal relations clearly violate the bureaucratic norm of objectivity and impersonality. However, authority relations are not entirely based on technical competence but also social acceptability.

The aim of this paper is to explain corrupt bureaucratic behavior. The endogenous variables that explain corrupt bureaucratic behavior are (1) a

bureaucrat's need to maintain his elite status, (2) the social bases of authority in the bureaucracy, (3) tradition of gift-giving, (4) government restrictions in the economy and (5) the pattern of race-relations in Malaysia.

### *The Social Status of the Bureaucrat*

The Civil Service is the oldest and most prestigious bureaucratic institution in Malaysia. The higher civil servants see themselves as a paternal ruling group and seek to dominate society. The lowest ranking bureaucrat is paid more than four times the per capita income. This high wage above the marginal revenue product of labor or market clearing rate tends to create unemployment in society. However, the high wage is justified in terms of maintaining the prestige of government employment. Civil service unions have pressured the Royal Salaries Commission to include an element in their salaries to enable them to maintain their special position in the community.<sup>12</sup>

The salary of a higher civil servant is often not sufficient to maintain the life style expected of him by both society and bureaucracy. For example a new recruit to the prestigious Home and Foreign Service is expected to (1) acquire a new car; (2) live in a good neighborhood if he is not already living in a heavily subsidized government house; and (3) dress expensively. An expensive life style is regarded as essential to maintain the elitism of the high civil service. Moral sanctions operate against a civil servant who does not maintain this "elite" status. His relations with his colleagues, superiors and subordinates tend to deteriorate towards his disadvantage. He is ostracized. It is extremely difficult for a graduate civil servant to live expensively with his M\$1125 initial salary. His average monthly expenses can be estimated as follows:

Car loan (monthly progress payment) .....	M\$330.00
Monthly house rent .....	500.00
Clothing (conservative estimate) .....	200.00
Food .....	500.00
Family commitments .....	300.00
TOTAL .....	M\$1,830.00

Clearly, the initial salary is inadequate to meet the monthly expenses. The frugal civil servant can economize on rent, clothing and food. However, this implies a certain lowering of his status. It also leaves him in a precarious and vulnerable position when it is time to pay his taxes, car insurance and gas and utility bills. It is not uncommon for the civil servant to go into debt to meet these extraordinary payments. A Senior Administrative Officer is

paid M\$2100 but by now he is expected to lead a proportionally more expensive life style. Societal expectations of the bureaucrat increases as his "grading" and "salary" in the elite service increases. For some bureaucrats the increase in their consumption is more than the increase in their income. This leaves them in a position where their expenditures exceed their income.<sup>13</sup> The civil service regulations explicitly prohibit an officer from "(1) maintaining a standard of living which is not commensurate with the official emoluments . . . ." <sup>14</sup>

In a random sample survey<sup>15</sup> of civil servants, 59.4 percent of the respondents reported that they were dissatisfied with their salary; 56.09 percent of them reported that their present salary does not enable them to maintain their status as the elite service in the country.

The lack of financial resources to maintain their status and the inability to resist bureaucratic pressures to conform have driven bureaucrats to be corrupt, to "moonlight", to be heavily in debt or go into business.<sup>16</sup> The pressure to seek extra-legal forms of gratification may also be due to salary differentials between civil servants and others comparable to them in age, seniority and qualification.<sup>17</sup> A civil servant may not get promoted not because he does not have the "qualification", experience and is not a high achiever but because of the relatively inelastic supply of posts. Affirmative action also reduces the supply of posts available. Further, when the right racial candidate is not available, the posts are frozen. The adverse consequences of this promotion policy on morale and loyalty to the organization are only too obvious. Bureaucrats become dissatisfied on the job and attempt to subvert the organization. A substantial number of civil servants feel that the probability they will be promoted is low.<sup>18</sup> Civil servants have often been advised by ministers to wait patiently for their turn to be promoted. The civil servant, however, is not certain when his turn is due. During the wait they are acutely aware of the earnings foregone and the time value of money. Those who cannot accept this loss of earnings resort to bribe taking as a means of "catching-up" with their comparable others, who have been more fortunate in being promoted earlier.

Bribe-taking seems to be both a risk-free and rational course of action for a frustrated bureaucrat to enrich himself as long as the expected total income with corruption exceeds the sum of the expected penalty paid if caught and the expected total income without corruption. This rational expectations model may be restated as follows:

$$(1 - \lambda) [Y(S, C)] - (D) - [Y(S, NC)] > 0$$

where  $Y$  = total income

$\lambda$  = probability of being caught

$S$  = income from salary

$C$  = income from corruption

$(D)$  = penalty for being corrupt if caught

$NC$  = state of no-corruption

The key variables in this formula are  $\lambda$  and  $(D)$ . If  $\lambda$  is high and  $(D)$  is high the expected total income from corruption is low and the equation solves as a negative. In Malaysia both  $\lambda$  and  $(D)$  are both small. The probability of being caught is low because  $\lambda$  is a function of the ratio of the number of anti-corruption officers to the number of government servants in the country. At present  $\lambda = 0.0007$  and there are plans to increase this to 0.00120. This means that for every 10,000 government servants, there are at present seven anti-corruption officers. Between 1973 and 1975, out of 11,334 complaints received from the public, only 71 government servants were disciplined.<sup>19</sup> This is a probability of 0.006 or for every 1,000 complaints received, only six convictions take place.  $\lambda$  is also influenced by one's position in the Civil Service hierarchy. There have been accusations that the "big fish" (higher level civil servants) are seldom arrested on charges of corruption. The Prime Minister explains this selective discrimination as being due to the fact that "the big fish are like Jaws II, very difficult to catch. You need great cables to kill them."<sup>20</sup> It is impossible to get proof and "the shipshod laws of evidence" also make  $\lambda$  very small for the higher civil servants.  $\lambda$  is also a function of the amount of bribe- $X$ . The larger  $X$  the higher  $\lambda$  ought to be. However, in Malaysia the government has been selective in prosecuting the corrupt. Civil servants have been unofficially pardoned or been asked to resign in return for charges being dropped. This informal practice considerably reduces  $(D)$ . If a civil servant is reasonably certain that there is a great likelihood that the option of resigning is open to him, then the expected utility of bribe-taking for him may be rewritten as follows:

$$(\lambda) [Y(S, C)] - S \left[ \frac{1 - (1+r)^{-n}}{r} \right] > 0$$

The inequality says the following: If the expected total income from being corrupt and being caught and asked to resign is greater than the expected present value of the future earnings stream from the job, then bribe-taking is considered rational wealth-maximizing behavior. If  $C$  is very high then it

may be worth indulging in bribe-taking. Maximum (D) for a corrupt offense is three years imprisonment or a fine or both. The prison term is not a very high penalty. The fine may match the bribe. However, since  $\lambda$  is small, the expected penalty (D) is low.<sup>21</sup> Therefore, the expected gains from being corrupt outweigh the expected costs of being corrupt.

A rational, risk-averse bureaucrat may find it attractive to accept bribes to keep his elite status and meet kinship demands. The bureaucrat is expected to financially support his aging parents, school age and unemployed brothers and sisters. The bureaucrats are often the only earning members in their family. Friends, relatives and family members depend on the bureaucrat to sponsor their upward social mobility in a rigidly stratified society. "Progress up the social ladder is made . . . not only for oneself but also for one's family."<sup>22</sup> As Werthiem has noted "to refuse a request from a member of one's family whether for financial aid or a job," is contrary to the moral code, which still holds good in society.<sup>23</sup> For most Malays "fulfilment of the conditions of kin obligations takes first place in relation to fulfilment of the conditions of an impersonal contract between employer and employee."<sup>24</sup> The pressures on the bureaucrat do not increase linearly with the size of their family or extended family. However, bureaucrats who have more than one family may face greater financial pressures to be corrupt. They may be unable to maintain more than one family in a two-digit inflationary environment and to them corruption is a way of life.

Claims to authority in the Malaysian bureaucracy are based on grounds of both technical competence and "social acceptability". A senior bureaucrat must have the necessary academic qualifications, that is, a university degree. All senior civil servants satisfy these merit conditions. Other discriminating criteria are, therefore, necessary to allocate power and authority among the bureaucrats. Other criteria that may be used are (1) job performance, (2) race and (3) social acceptability. Job performance is difficult to evaluate and measure and this is an important reason for rejecting it. Race is an important factor in promotions because of the expressed goal of the Malay ruling elite to maintain Malay hegemony in the bureaucracy. If two persons are eligible to be promoted and only one post is available then the criteria of "social acceptability" is important. The Malay, who has an aristocratic background and is loyal to the Minister or Prime Minister is considered more acceptable than one who does not have these links. In its broadest sense, "social acceptability" may be defined as one belonging to the Malay coming from the royal family and has proven his loyalty to the system. It is not essential to be from the royal family but it is an asset. "Ascriptive" factors are important in recruitment and promotions in the civil service.<sup>25</sup> This has frequently been justified in terms of the politically stabilizing effect of representative bureaucracies in plural societies. Solidarity and cohesion among

the Malay bureaucrats are also assured because of the emphasis given to the social acceptability criteria.

“Social acceptability” of the superior increases his legitimacy. An effective superior is more an expressive leader than an instrumental leader. It is not an exaggeration to generalize that interpersonal relations and links with the politically relevant are more important than performance on the job. It is not surprising, therefore, that resources are expanded to satisfy superiors and peers. This resource expansion is a social investment. The returns to this investment are the stream of earnings resulting from being promoted. Civil servants cultivate close relations with politicians so as to ensure their rapid promotions and to protect themselves from any criticism.<sup>26</sup> Politicians have tended to shield bureaucrats from charges of corruption.<sup>27</sup> This norm of protecting one’s superiors, peers and subordinates is well entrenched in the Malaysian bureaucratic culture. In fact, subordinate-superior and peer group relations in the Malaysian bureaucracy may be described as an unending reciprocity of favors. A bureaucrat in authority is locked into a network of obligations where he uses his office to do reciprocal favors for other bureaucrats. A refusal to engage in favor trading or mutual reciprocity results in a bureaucrat’s being ostracized. One who depends on rules and regulations and the merits of the case may not achieve his goals in the bureaucracy. He may be considered naive. These exchanges of favors are not precisely negotiated. However, the granting of a favor creates an obligation in the person seeking and accepting the favor. The character and size of the reciprocal favor is left uncertain and is highly situational and contextual.

The more a bureaucrat in authority is willing to do favors the more he is acceptable to his fellow bureaucrats. However, if the clientele of the bureaucrat increases to a point where he is a threat or an embarrassment to his superiors then he becomes a target of bureaucratic criticism. A superior has wide discretionary powers to select his own subordinates. This ensures that bureaucrats with similar values are selected. A subordinate who questions the basic value premise of the agency and is uncooperative or whose loyalty is open to question can often be transferred immediately. The subordinate may be excellent on job performance but what is more important is his interpersonal skills. If the superior is unable to reprimand socially deviant subordinates then his authority is brought into question by other subordinates. To avoid problems, superiors often prefer to work with friends and relatives. Nepotism is popular to an authority figure because it “reduces the . . . leakage of his authority” and “insures the key posts will be manned by persons whose modes of perceiving and interpreting reality are very much like the appointing officials . . . their interests will be closely identified with his own” and nepotism fosters a situation whereby superiors and subordinates “are typically loyal to each other for non-rational reasons. This further increases the goal consensus among them.”<sup>28</sup> This can be vital in societies

containing diverse cultural and racial groups. Nepotism helps bureaucrats of the same race build cohesion and solidarity.

Within the context of a nepotistic bureaucracy it is easy to see why there is considerable pressure to '*Belok undang-undang*' (break the rules) for friends, relatives and politically relevant individuals and to provide them easy access to the office. In fact, there is widespread belief in the private sector that it is easy to influence civil servants to break rules and regulations. In a survey of businessmen, hereinafter referred to as the 1977 Survey,<sup>29</sup> the majority of the respondents found the civil servants uncooperative and causing unnecessary delays in processing forms. Eighteen percent of the respondents find from experience that the most effective method of eliminating delays or the queue is to bribe or offer "tea," "coffee," or "football" money.

The bureaucrat is unable to resist pressures to bend the rules because there is no clear separation between a bureaucrat's public and private role. Extended family relations are allowed to influence bureaucratic decisions. Superiors are unwilling to enforce sanctions on inefficient or unresponsive subordinates because of the possible adverse consequences of such action from the extended family. The well-connected subordinate may bring to bear informal sanctions on his superior. "The network of vertical and horizontal connections and personal loyalties within the bureaucracy is so pervasive that office heads can never be certain that their own position will not be jeopardized if they levy sanctions against their subordinates."<sup>30</sup> The Civil Service Regulations require that superiors report inefficient and corrupt subordinates to their next senior officer. "Failure to do so shall deem the first mentioned officer himself guilty of inefficiency and renders him liable to disciplinary action".<sup>31</sup> The bureaucrat is, therefore, caught between conflicting moral and legal norms. However, the fear of social sanctions and the fear of bureaucratic retribution and the erosion of legitimate power keeps the number of such reports to a minimum. The bureaucratic culture does not encourage the use of sanctions. "By their very nature, sanctions engender or exacerbate interpersonal conflict, a condition abhorrent to most Malaysians."<sup>32</sup> There is "the desire not to offend anyone".<sup>33</sup> However, this desire not to offend anyone has its exceptions. Bureaucrats, who are not well-connected run a heavy risk of being reported if they are inefficient or corrupt. The superior's prestige and status are enhanced when he reports this type of bureaucrats. He is considered efficient, diligent and morally sound because the not well-connected subordinate's inefficient or corrupt behavior causes embarrassment to the agency. The superior may also feel pressured by his other well-connected subordinates to report the erring subordinate. The support of these subordinates may be instrumental in forcing the superior to report because failure to do so may implicate the



superior both legally and morally. The politically well-connected bureaucrats can only be disciplined if extra-bureaucratic pressures are brought to bear upon them. In the past, opposition political parties have exposed them but at present these parties are weak. The ruling party may sanction them but selectively. Otherwise, the well-connected bureaucrats are given a great deal of latitude to operate extra-bureaucratically.

The web of relations between superiors, peers and subordinates is facilitated by parties and the exchange of gifts. The law does not prohibit these activities and, in fact, explicitly states that "permission may be granted by the Head of Department to enable the collection of spontaneous subscriptions by officers under him, or private uncanvassed collections from amongst the said officers, for the purpose of making a presentation to a member of the staff of his department on the occasion of the said member's retirement or marriage of the said member's child or other appropriate occasions."<sup>3 4</sup> These occasions enhance the family spirit in the organization or agency.

Subordinates desiring to gain favor with their superiors often organize dinners in honor of their superiors. The occasions may be as diverse as the superior's recent promotion, commendation from the King or the superior's marriage or birthday. Any occasion may be seized upon by subordinates to demonstrate their "loyalty" to their superiors. Anti-social but competent bureaucrats often lose out in this social engineering and are often considered social deviants. They stop benefitting from the spoils of the organization.

Some superiors are also directly involved in the extra-bureaucratic activities of their subordinates. The subordinate acts with the blessing of this superior. The superior places the subordinate in positions where they can indulge in corrupt practices. In exchange for being placed in that position, the subordinate is expected to share his corrupt earnings with his superior.<sup>3 5</sup> Failure to share may result in a transfer to a desk job or to a training institute, where the subordinate is no longer able to collect bribe money. Superiors by a process of trial and error find appropriate subordinates to man the key posts, where bribe money is collected. The sharing of the bribe creates unity and increases the social acceptability of the superior.

### *The Tradition of Gift Giving*

The habit or practice of gift-giving is well entrenched in all the three major cultures (Chinese, Malay and Indian) of Malaysia.<sup>36</sup> The pre-capitalist economic system of the Malays, for instance, was not based on the sale and purchase of goods and services, but gifts and return gifts.<sup>37</sup> Malay, Chinese and Indian "social life is a constant give-and-take; gifts are rendered, received and repaid both obligatorily and in one's own interest, in magnanimity, for

repayment of services . . . .”<sup>38</sup> An unwillingness to indulge in this cultural practice means a “loss of respect” or a “loss of face”. Different types of gifts may be exchanged. There is the simple gift, which is given with the expectation of the return of a similar gift. More complex gifts involve the exchange of goods and cash for intangible bureaucratic favors and services. There is no fixed exchange rate set for the exchange of goods for services. The types of goods exchanged for bureaucratic services, however, differ as we move from the rural to the urban areas. In the rural areas it is common for district officers and clerks to be approached by peasants with a bundle of their produce. “In theory, such gifts are voluntary but in fact they are given and repaid under obligation.”<sup>39</sup> It is extremely difficult to refuse this “gesture” because it is a social norm to accept these gifts graciously. The gift also symbolizes a tribute to or respect for the civil servant’s office. Refusal to accept the gift may also indicate a refusal of friendship. “To receive one of these gifts means that one is desirous of entering into and remaining in partnership.”<sup>40</sup>

The gift is not always initiated by the peasant but by the bureaucrat, who gives the impression that he will be favorably disposed towards the peasant if he (the bureaucrat) is extra-legally rewarded. Whoever the initiator, one principle remains clear in these transactions, that is, “in general not only those who have been corrupted, but also those who do the corrupting have little cause for revealing their practices.”<sup>41</sup>

The peasant approaches the bureaucrat because of the wide discretionary powers the bureaucrat has in the allocation of land and the distribution of government agricultural subsidies. The bureaucrat may also be one of the few literate individuals, whom the peasant can approach to fill government application forms, write letters and petitions. In fact, the Civil Service regulations stipulate that no government officer is permitted to receive payment for writing petitions because of its widespread occurrence. Bureaucrats also interpret government official documents relating to litigation or other official business for a fee or gift. The peasants may perceive their payment to the bureaucrat as legitimate because “even to this day the rural public frequently draws no distinction between payments to government officers which go into the Treasury and those which do not . . . .” No distinction is also made between the public and private interest<sup>42</sup> and “the relation between client and professional is based on a contract defined by custom”<sup>43</sup> and not English Common Law.

As we move from the rural to the urban areas the scale, the form and cultural context of gift giving changes. Bureaucrats, who are less involved in “adat” (custom) in urban than rural areas, receive gifts in both cash and kind in the monetized economy. If in kind, gifts are not limited to the

produce of the land but take the form of houses, house extensions or furnishings, and capital goods. The gift establishes reciprocal relationships between the bureaucrat and the client. The gift-giver tries "by a series of favors to put the public official under such feelings of personal obligation that the latter gradually loses his sense of mission to the public and comes to feel that his first loyalties are to his private benefactors and patrons. What happens is a gradual shifting of a man's loyalties from the community to those who have been doing him favors."<sup>44</sup> To the client the gift symbolizes payment for scarce resources and services. The bureaucrat accepts the gift in exchange for providing scarce services and allocating public resources, which are in inelastic supply, for private utilization. This is like a "contractual gift". However, there is often no fixed price for these goods and services or the prices are not competitively set in the market place. The scale of the bribe or gift is higher if the demand function for the goods and services is inelastic. The scale of the goods and services varies not only with the scale of gifts received but also on the length of time that elapses between the receiving of the gift and the provision of the goods and services. The longer the time the more the goods and service provided. "A gift necessarily implies the notion of credit."<sup>45</sup> The time value of money is implicitly recognized by the bureaucrat who increases the scale of goods and services proportionally to the lapse of time after the receipt of the gift. It is as though he is making return of the loan with interest. The longer the time the higher is the interest rate. The client's gift is, therefore, an interest-bearing investment.

There is evidence that the exchange of gifts and services between bureaucrats and clients is a normal practice. More than 61 percent of the respondents in the 1977 survey of businessmen perceived civil servants as being unfriendly, unapproachable, corrupt and inefficient. Only one percent thought the civil servant was moral and honest. Forty-one percent reported that civil servants approached them for "speed" money to hasten the processing of their applications for business licenses and permits. Though the respondents considered this unethical, they had no choice because to the businessman "time is money." These 41 percent of the respondents were then asked how often they were approached by civil servants for "speed money." Seventeen percent responded "very often" and "often". More than 51 percent responded "sometimes." Thirty-two percent responded "seldom" and "very seldom." Seventy-three percent of all respondents reported that the integrity of the civil servant was not highly respected by the Malaysian public. The government itself recognizes this erosion in the integrity of the public services. However, the government's response has been mainly symbolic as embodied in the "code of ethics, designed to upgrade the much maligned Civil Service."<sup>46</sup> Three of the seven tenets of the code deal with the integrity of the public services. The code calls on civil servants to (1) strive for higher standards in service, (2) be fully responsible and (3) eliminate self-interest.

*Government Restrictions In The Economy*

Functionalists and economists would argue that government intervention and restrictions in the economy would create opportunities for bureaucratic corruption.<sup>47</sup> In the case of Malaysia, the restrictions imposed by the New Economic Policy (NEP) to create a Malay capitalist class has generated endemic corruption. To achieve the goals of NEP, a system of preferences for the Malays, regardless of their initial wealth position, has been instituted. One of these preferences is the request made to public companies to issue a large proportion of their new shares to the Malays. The companies have found it difficult to comply with this request because of the shortage of Malay capital. To accommodate the government's demands, public companies are forced to issue shares at below par value. Only the rich Malays have been able to purchase these heavily subsidized shares. The individuals who have benefitted from these spoils "include one former Yang di Pertuan Agong (King), a Sultan, a government minister and at least seven individuals holding shares in trust for local . . ." <sup>48</sup> branches of the ruling party. These individuals were allotted up to 50,000 shares without a ballot whereas members of the public were subjected to balloting and a 1,000 share limit. Shares opened to the public (essentially immigrant non-Malays) were oversubscribed and sold above par value. The NEP does not only create monopoly elements in the shares market but also skews the pattern of income distribution in favor of the feudal and rich Malays. On both equity and efficiency grounds the NEP fares very badly. The only point in its favor is it creates political stability but at a huge cost. The companies consider this cost a gesture of goodwill towards the Bumiputra people. Others think "major public issues of shares are being used as vehicles for offering financial advantages to influential Malays . . . ." <sup>49</sup>

The bureaucracy has set up a machinery for allocating public shares to Bumiputras. The Ministry of Trade's Bumiputra Participation Unit approves who shall be eligible among leaders of Bumiputra organizations for the subsidized shares. However, in the process of granting these approvals, several government regulations are contravened. The Ministry officials have approved shares beyond the official 2,000 shares limit for individuals. The bureaucrat has wide discretionary powers to issue the shares to whom he wishes. He is accountable only to the Minister alone, not to the Parliament. Criteria for selecting between competing Malay interests or individuals is not clearly spelled out. Given the aristocratic origins of the Civil Service, bureaucratic decisions are biased towards the aristocracy.

Bureaucrats have allotted shares to Malay individuals, who they knew would sell them to non-Malays at a profit. In exchange for allotting the shares the bureaucrat receives a percentage of the unearned rent. It is government policy to "black list" Bumiputra shareholders who sell their allotment

to non-Malay interests. However, "black listing" is not an effective deterrent in a society where even written rules can be easily bent. Further, it is not respectful to blacklist the feudal class or the influentials. The blacklist must be very short or completely ignored by the ruling elite because a widespread black market exists for Bumiputra shares among non-Malays.

There is considerable speculation that the ruling Malay Party (UMNO) is perverting the NEP to enrich itself. UMNO is not able to purchase shares because it is not an incorporated business. To circumvent this legal stricture, the Ministry of Trade is empowered to approve shares to "other approved Bumiputra interests" which can include individuals. Individuals approved by the Ministry under the *Kementerian* (ministerial) category include leaders of UMNO branches.<sup>50</sup> Unlimited shares have been approved for these leaders in the hope that profits from dividends and the sale of shares would enrich UMNO.

### *The Pattern of Race Relations*

The Malays, who constitute 50 percent of the population, dominate politics and administration. The Chinese are perceived by the Malays as controlling the economic and commercial activities of the society. The Chinese being an immigrant pariah entrepreneurial class find it difficult to gain access to the bureaucratic-political elite. One form of access is for the businessman to join prestigious Royal Clubs, which senior bureaucrats and politicians fraternize. Interracial harmony is facilitated by these clubs, where Chinese businessmen grease the palms of Malay bureaucrats. Top business houses normally underwrite the membership fee and other club expenses of their top managers. The rate of return on such investments far exceeds their costs regardless of the method of evaluating (pay back period, net present value, internal rate of return) its profitability. Businesses have ingenious methods of incorporating the bribe in their cost structure.

The 1977 Survey revealed that more than 92 percent of the businessmen felt that the civil servant discriminated between different social classes and racial groups. From the moral standpoint the Chinese businessman does not find bribe-giving irrational, irregular or immoral. This is because there is a Chinese belief that "the door to the yaman (court) is widely open; one should not go in if he has reason but no money", and "money can make do things for you".<sup>51</sup> The enterprising immigrant businessman believes that money can buy him political and bureaucratic access.

The Malay elite, who resent Chinese economic dominance, perceive the bribe or kickback as a method of redistributing wealth and income to the Malays. In this context, bribe-giving and taking is a zero sum game to the

Malays. A Malay sees the bribe as a loss to the Chinese and a gain to the Malays. However, to the Chinese it is an investment and the bribe is a payment for political protection and security. It is a form of negative reciprocity,<sup>52</sup> where there is haggling between the Chinese and Malay over the scale and form of the bribe and bureaucratic favor.

To the Chinese, Malaysia is a politically insecure environment. The businessman "adapts himself to this situation by maintaining high liquidity and investing largely in commercial transactions with a rapid turnover. He may even protect himself against the uncertainty of the environment by bribing key government officials"<sup>53</sup> or marrying into influential Malay families. The bribe, therefore, functions to stabilize the political environment. The bribe creates dependence among the Malays and helps the Chinese identify with the system. As Huntington has observed, "He who corrupts a system's police is more likely to identify with the system than he who storms the system's police station".<sup>54</sup> To the Malay bureaucrat, the bribe supplements his "insufficient" income and provides an opportunity to "catch up" not only with his more affluent colleagues but also the Chinese businessman. To the Chinese the bribe serves an instrumental function (i.e., it facilitates his business operations) and is not contrary to his Confucian moral beliefs or primary socialization which encourages him to use personal contacts for personal gain. In accepting the bribe and providing favors the bureaucrat is not unlike the typical bureaucrat in formalistic countries, where the system encourages the bureaucrat "to facilitate interpretations which permit them to do what they wish or what their clients and protégés find profitable."<sup>55</sup>

### Conclusion

The Malaysian government has made persistent attempts to combat corruption since the setting up of the Committee to investigate the integrity of the public services in 1955. In the late 1960's and early 1970's it has set up the Anti-Corruption Agency and the National Bureau of Investigation respectively and placed them under the direct supervision of the Prime Minister. However, the Prime Minister have been realistic in admitting that there are limits to which they can go to reduce corrupt activities because it is equivalent to eliminating the political power brokers in society. While the power brokers may be legally corrupt, the strong power base they command legitimize their activities as being morally right. This dilemma is typical of developing societies where primordial ties and patron-client relationships tend to dominate day to day interactions. It is also threatening to Prime Ministers to eliminate the power brokers because the latter may in fact be able to bring the downfall of the Prime Minister. However, the rhetoric to combat corruption is important at least to demonstrate some symbolic purity and capability.

At another level it is also difficult to discourage corrupt activities because it is part of the culture of the three main races to exchange gifts and engage in mutual reciprocity. If a gift is exchanged for bureaucratic services it is legally corrupt but morally the right thing to do.

The exchange of gifts and favors between Chinese businessmen and Malay bureaucrats may also be a politically sensitive issue to expose because the exchange is seen not as corruption but as a mechanism to redistribute income.

Another major obstacle to the elimination of bureaucratic corruption is the closed nature of the bureaucratic structure and personality and its reluctance to release information on corrupt activities. A rational risk taking bureaucrat in these circumstances will, therefore, find it profitable to engage in corrupt activities.

For these reasons, the prospects for successfully combating corruption therefore, appear very dim.

#### Endnotes

<sup>1</sup> Public Officers (Conduct and Discipline) Regulations 1969, Chapter D, (Kuala Lumpur, Government Printer, 1969), p. 36.

<sup>2</sup> *Far Eastern Economic Review*, January 26, 1979, p. 22.

<sup>3</sup> This was clearly seen in the case of the conviction of the former Menteri Besar of Selangor in 1978. Even after the Courts had convicted him his supporters were not convinced that he was guilty and wanted him to be given the Royal Pardon. To the Chinese "an act may not be permitted by the law, but it may be pardoned on the basis of moral considerations". R.P.L. Lee, "Corruption in Hong Kong," unpublished manuscript, November 1977, p. 10.

<sup>4</sup> J. Waterbury, "Endemic and planned corruption in a monarchical regime," *World Politics* (July 1973), p. 535-555.

<sup>5</sup> Wertheim, *East-west Parallels* (Chicago, Quadrangle Books, 1964).

<sup>6</sup> Waterbury, *op. cit.*

<sup>7</sup> It is not the intention of this study to question the philosophy of granting privileges but its mode of implementation. The term Bumiputra refers to Malays and natives of any of the States of Malaysia. In this paper the term Bumiputra will unless otherwise stated refer only to the Malays.

<sup>8</sup> Wertheim noticed a similar conflict between the colonial legal system and the indigenous moral systems. He spoke of "the tension between a still predominantly patrimonial-bureaucratic indigenous substructure and a modern-bureaucratic European superstructure imbued with a new sense of values which was only slowly beginning to permeate that substructure," Wertheim, *op. cit.*, p. 116.

<sup>9</sup>A.O. Krueger, "The Political Economy of the Rent-seeking Society," *American Economic Review* (June 1974), p. 292-303.

<sup>10</sup>*Far Eastern Economic Review* (January 26, 1969), p. 22.

<sup>11</sup>For a detailed discussion of this concept see A. Gouldner, "The Norm of Reciprocity: A Preliminary Statement," *American Sociological Review*, Vol. 25, No. 2, (April 1960).

<sup>12</sup>*Report of the Royal Commission on the Revision of Salaries in the Public Services* (Kuala Lumpur: Government Printer, 1967), p. 9.

<sup>13</sup>In fact, the bureaucrats have an acronym to describe their position, Pegawai Tiada Duit (PTD) or "officers without money." PTD stands for Pegawai Tadbir dan Diplomatik or Malaysian Home and Foreign Service Officers.

<sup>14</sup>Public Officers Regulations, *op. cit.*, 8(1).

<sup>15</sup>The Malaysian Centre for Development Studies (MCDS), Prime Ministers Department, Malaysia, conducted a 10 percent random sample survey of Division 1, PTD Officers. Questionnaires were mailed to 600 officers. The response rate was 48.3 percent. Hereinafter, this survey will be referred to as the MCDS survey.

<sup>16</sup>The Anti-Corruption Agency revealed that "a number of government officers, some of whom hold senior positions, are engaging in business by using the names of their wives or children." These business involvements are "deemed offenses under section 168 of the Penal Code . . . and may render an officer liable to disciplinary action such as dismissal from service . . ." *Malaysia Bulletin*, Embassy of Malaysia, Washington, USA, (March 1979), p. 3. The bureaucrat who does not take the bribe-taking option may "moonlight." Civil servants get tenure easily and this gives them the security to "moonlight." In the MCDS Survey 34.71 percent of the respondents reported that "Security of Tenure allows one to partake in other rewarding activities." In January 1979 the Malaysian Parliament passed legislation empowering the Executive Branch to arbitrarily sack civil servants in the national interest. There is, however, considerable skepticism as to whether this new power would be used to reduce bureaucratic corruption or to get rid of anti-national elements. Fears have been expressed that they may be used to discriminate against the minority races in the Civil Service.

<sup>17</sup>Fifty-six percent of the respondents perceived a very high degree of difference in terms of salary between them and comparable others.

<sup>18</sup>Only 37 percent of the respondents reported that they thought their chances of promotion were bright or very bright.

<sup>19</sup>*Malaysia Official Yearbook*, 1976.

<sup>20</sup>*Far Eastern Economic Review* (January 26, 1979), p. 22.

<sup>21</sup>Wertheim also found the probability of being caught as being low in Indonesia because "the . . . government often had to overlook financial irregularities in its efforts to maintain its aristocratic props in their posts." Wertheim, *op. cit.*, p. 21. In Malaysia the Government often overlooks financial irregularities brought to its attention by the Auditor General. For details see G. Sivalingam, "Deviant Bureaucratic Behavior and National Development — A Case Study of Land Administration," paper presented at IDRC Conference on Deviant Bureaucratic Behavior and National Development, Singapore, November, 1977.

<sup>22</sup>M. Mauss, *The Gift* (New York: W.W. Norton, 1967), p. 35-36.



<sup>23</sup> Wertheim, *op. cit.*, p. 121.

<sup>24</sup> P. Wilson, *A Malay Village in Malaysia: Social Values and Rural Development* (New Haven: Human Relations Area Files, Inc., 1967), p. 47-48.

<sup>25</sup> R.O. Tilman, *Bureaucratic Transition in Malaya* (Durham, NC: Duke University Press, 1964), p. 103.

<sup>26</sup> Nearly 60 percent of the respondents in a Department of National Unity, Government of Malaysia Survey conducted in 1970, agreed with the statement "It is not enough to be efficient: you must also have political backing to get what you deserve." This was reported in M.C. Puthuchery, *The Politics of Administration: the Malaysian Experience* (Kuala Lumpur: Oxford University Press, 1978), p. 47.

<sup>27</sup> The first Prime Minister of Malaysia, Tengku Abdul Rahman sent the top civil servant, Tan Sri Jamil Rais, as High Commissioner to Britain when it was reported that the Government Housing Cooperative, of which the top civil servant was chairman, was involved in corrupt practices.

<sup>28</sup> A. Downs, *Inside Bureaucracy* (Boston: Little Brown, 1967).

<sup>29</sup> A survey of 108 Senior Executives of 137 randomly sampled industrial companies listed in the Annual Companies Handbook of the Kuala Lumpur Stock Exchange 1976 were interviewed; 29 companies refused to be interviewed. The Chief Executive of each of the companies was asked to identify the officer who was designated to deal with the Government. These officers were then interviewed. The survey was carried out in 1977.

<sup>30</sup> T.M. Smith. "Simulating Performance in the Indonesian Bureaucracy: Gaps in the Administrator's Tool Kit," *Economic Development and Cultural Change*, Vol. 23, No. 4 (July 1975), p. 772.

<sup>31</sup> Public Officers Regulations, *op. cit.*, Chapter D, 23(1).

<sup>32</sup> Smith, *op. cit.*, p. 722.

<sup>33</sup> *Ibid.*

<sup>34</sup> Public Officers Regulations, *op. cit.*, Chapter D, 5(3).

<sup>35</sup> A similar type of cooperative sharing of bribes is reported by C.D. Neher in Thailand. See C.D. Neher, "Political Corruption in a Thai Province," *Journal of Developing Areas*, (July 1977), p. 479-492.

<sup>36</sup> Mauss, *op. cit.*, p. 35, p. 88, p. 58, p. 54, p. 85. See S.J. Heginbotham, *Cultures in Conflict the Four Faces of Indian Bureaucracy* (New York: Columbia University Press, 1975); for a perceptive discussion of Indian cultures and bureaucratic corruption in immigrant Chinese culture, see F.W. Riggs, *Thailand, The Modernization of a Bureaucratic Policy* (Honolulu, East-West Centre, 1966).

<sup>37</sup> Mauss, *op. cit.*, p. 30-31.

<sup>38</sup> *Ibid.*, p. 1.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*, p. 25-26.

<sup>41</sup> Wertheim, *op. cit.*, p. 120.

<sup>42</sup>Malaysia is not unique in this respect because as Wertheim reports "the traditional Javanese custom of presenting those in high office with small gifts — a basket of fruit, a few chickens — also made it difficult to draw any sharp dividing lines between public and private interests," Wertheim, *op. cit.*, p. 121.

<sup>43</sup>Malinowski, *Crime and Punishment in Savage Society* (New Jersey: Littlefield, Adams and Co., 1972), p. 43.

<sup>44</sup>Senator Paul Douglas, quoted in C.E. Lindblom, *Politics and Markets* (New York: Basic Books, Inc., 1977), p. 31.

<sup>45</sup>Mauss, *op. cit.*, p. 35.

<sup>46</sup>*Star*, December 26, 1978. p. 1.

<sup>47</sup>See E.V. Roy, "On the Theory of Corruption", *Economic Development and Cultural Change*, Vol. 19, No. 1 (October 1970), p. 86-110 and Krueger, *op. cit.*

<sup>48</sup>*Far Eastern Economic Review* (October 6, 1978), p. 73.

<sup>49</sup>*Ibid.*

<sup>50</sup>*Ibid.*

<sup>51</sup>R.P.L. Lee, *op. cit.*, p. 11.

<sup>52</sup>See M.D. Sahlins, "On the Sociology of Primitive Exchange", in M. Banton (ed.), *The Relevance of Models for Social Anthropology*, ASA Monographs 1, London, Tavistock, p. 139-236.

<sup>53</sup>J.C. Scott, *Political Ideology in Malaysia* (New Haven: Yale University Press, 1968), p. 248.

<sup>54</sup>Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), p. 64.

<sup>55</sup>Fred W. Riggs, *Administration in Developing Countries — the Theory of Prismatic Society* (Boston: Houghton Mifflin, 1964), p. 183.