

PUBLIC-INTEREST PERSPECTIVE: A NEGLECTED DIMENSION IN THE STUDY OF CORRUPTION

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A public-interest definition of corruption emphasizes behavior which gives priority to private interests than public concern; in turn, a public-office definition stresses the deviation of officials from the norms of public duty through private-regarding activities that lead to pecuniary and status gains. This paper calls attention to the public-interest perspective, and illustrates its application in the Philippine setting. It finds instances of this form of corruption in such programs and policies as land reform, Masagana 99, and the rise of transnational corporations.

There are two broad perspectives by which corruption can be defined (de Guzman 1981). The most common is the *public-office* perspective which essentially defines corruption by the deviation of officials from the norms of public duty through private-regarding activities that lead to pecuniary or status gains. This includes such forms of behavior as bribery (use of reward to prevent the unfavorable judgment of a person in a position of trust), nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit) and misappropriations (illegal appropriation of public resource for private regarding uses). Some scholars who define corruption in this manner include Karl Friedrich (1970), J.S. Nye (1970) and W.F. Wertheim (1970).

A smaller sector considers a *public-interest* definition where corrupt behavior is indicated by giving priority to private interest than public concerns. One such proponent is Alatas (1968:12) who considers corruption as a form of "subordination of public interests to private aims involving a violation of the norms of duty and welfare, accompanied by secrecy, betrayal, deception and callous disregard for any consequence suffered by the public."

The dominant practice, however, is for the

public-office definition to be given more emphasis than the *public-interest* definition in most of the legal and academic literature on corruption. This is because the question that is often left unanswered in the public-interest definition is: whose evaluation of the public interest is to be considered (Heidenheimer 1970: 6). What constitutes "public interest" is more difficult to assess methodologically because this is often left explicitly unspelled in a nation's political philosophy, or even if defined, are not woven into the norms of bureaucratic behavior.

The Philippines: Emphasis on the Public-Office Definition

In the case of the Philippines, the provisions embodied in the legal literature concerning negative bureaucratic behavior is for the most part inclined towards the public-office definition. As R.A. 3019 (Anti-Graft Law) reveals, corruption behavior is committed when a public officer engages in an act that is preferential to himself and others close to him or appearing to be such (Cariño 1979: 226). R.A. 3019, 3b, for example, states that deviant behavior is manifested when a civil servant "directly or indirectly" requests or receives "any fees, present, share, percentage or benefit for himself or for any other person in connection

with any contract or transaction between the government and any other party, wherein the public officer in his official capacity has to intercede under the law.”

Hence, the accounts of corruptive behavior fail to analyze the negative impact of these acts on the “public interest.” Philippine regulatory institutions such as the Sandiganbayan, Tanodbayan and the Commission on Audit record the number of civil servants involved in various types of corruptive behavior, including amounts paid over and above what is legal in the transactions. Little or no mention is made of the effects that accrue to “public interest.” The provisions of the Anti-Graft Law are too far removed from the sector which the National Economic and Development Authority’s Five-Year Development Plan envisions to address its concerns. No less than President Marcos says that the sector that should be improved ought to be “the poorest segments of our population including the unemployed, the underemployed, the homeless dweller, the out-of-school youth, the landless and upland worker, the *sacada* and the sustenance fisherman (NEDA 1982: vii).

Furthermore, since the public-office perspective emphasizes deviations from the norms of public duty, key executives and political officials who seemingly engage in legitimate behaviors but hurt the so-called primary sector are not accosted. The usual persons sanctioned are middle-level and lower-level civil servants at the boundary exchange level who are visible to the public as they commit private-regarding activities. For example, out of the total number of 441 cases decided by the Sandiganbayan for the period 1979-1982, 51 percent have low-level positions,¹ 46 percent are in middle-level positions,² and only 3 percent are in key level positions³ (Alarilla and others 1983: 10). However, if we examine the extent of corruption committed by these implicated government employees based on the amount of money that accrued to them, a direct

relationship is noted between position level and the magnitude of corruption involved. That is, the higher the position level, the greater the amount of money involved in corruption. More specifically, 62.5 percent of sampled data for 1979-1982 were involved in corruption entailing P50,000 or more vis-a-vis only 27 percent in middle level positions and only 16 percent in low level positions (Alarilla and others, 1983: 23).

The Public-Interest Perspective

No systematic studies on the nature, causes and extent of corruption have as yet been undertaken using the public-interest perspective. If one is committed in employing this perspective in an analysis, it becomes salient to determine the sector to which public servants must direct their efforts — who the underdeveloped sector are according to a development philosophy. If we are to redefine studies of corruption assuming a public-interest perspective, we need not only examine how bureaucrats behave to respond to this sector. More importantly, *we should also be able to examine how policies are formulated and what the implications of these policies are on this sector.* Policies determine how a bureaucrat should behave. A policy that is unresponsive to the needs of the depressed sector should not expect a responsive behavior from implementors. Policy-makers who formulate rules contradictory to the interests of this sector are essentially corrupt.

There are two possible ways by which policy makers may manifest behavior that contradicts the interests of the depressed sector. One is by acceding to the demands of a pressure group that uses legitimate channels to have certain policies passed to protect their interests. In this case, policy-makers need not be charged as corruptive but rather, are grossly negligent of their duties in protecting the depressed sector’s interests. A pure form of corruption may be manifested in the second place when policies pertinent to

limited sectoral interests are formulated through illegitimate means that may involve pecuniary profits on the part of the politician. We suspect, however, that seasoned entrepreneurs employ more legitimate channels and adopt more complex strategies to avoid being incriminated and to safeguard the passage of a policy. It is more difficult to uncover this kind of corruption than one that involves extra-legal monetary transactions.

According to some scholars (Baran and Sweezy, 1966; Edwards and McEwan, 1973), how the state emerges as a system that perpetuates inequality results from the mobilization by the capitalist elites of certain sections in officialdom to protect their interests. The elites are the main source of "political power" expressed in the money spent in the choice of public officials who serve as spokesmen of the interests of the capitalist class (Baran and Sweezy, 1966: 155). Capitalists spend for indoctrinating the voting public, organizing and maintaining political parties, and running electoral campaigns. They take an active role in influencing the passage of public policies that will benefit their interests (e.g., the construction of massive highways to complement the growth of industrial sector, opposing aid to education to limit the channel for upward mobility, supporting the bills to strengthen military force to assure peace and stability, and the like.

The state mobilization forged by the capitalist elites is further enhanced by the sophisticated union of state and corporate sectors when a frequent interchange of personnel occurs between government and business. Each industry in a sense, "captures a section of government and uses it to give government legitimacy to privately formulated policy (Greenberg, 1974: 81)." Both *the governmental and policy-making bodies in effect become vanguards in the protection of the monopolists' interest*. As Greenberg (1974: 80-81) claims:

The public policy making structure is literally laced with business representatives whose desires, definitions of reality, and interests become an integral part of the decisional process . . . Government agencies (in turn) directly consult with business groups on business-related government activity as part of the general practice of consulting with and even handing over decision-making power to groups most affected by particular policies.

In subsequent sections, we hope to review some selected cases depicting how public policies are formulated or implemented to protect the basic concerns of limited sectoral interests. Public officials engage in corruptive behavior by acceding to the demands of some segments of the public that are not representative of the many who are depressed.

Illustrative Cases

Land reform. Among the agrarian-related programs of the government, land reform is the most publicized program as it is hailed to be the "cornerstone" of the New Society (Ofreneo, 1980: 62). Its official intention is to redress inequality in land ownership by land redistribution in favor of those who directly till the land. Under the program, there are four criteria before a piece of land is subjected to land reform or technically, Operation Land Transfer (OLT): (a) the land is private agricultural land, (b) the land is tenanted, (c) the land is primarily devoted to rice and/or corn, and (d) the area of the tenanted land is more than seven hectares (Ofreneo 1980: 63).

An OLT policy that may water down the possible effect of the program on redistribution is levelled against its land pricing policy (Valencia 1982: 64-67, Ofreneo 1980: 66-67). The initial scheme for land valuation embodied in P.D. No. 2, issued in 1972, was vehemently opposed by landowners. Most of the affected landlords in Central Luzon banded together to form the Association of Landowners for Agrarian Re-

form Movement (ALARM), based in Nueva Ecija, and staged various obstacles to delay its implementation. P.D. No. 27 sets the price of land transferred as 2.5 times the average harvest of "three normal crop years." ALARM wanted a higher valuation of the land to obtain better compensation. They objected to the composition of the Barrio Committee on Land Production (BCLP) composed of two landlords and eight tenant representatives. The BCLP was envisioned to determine the relevant production data for use in land valuation for each affected barrio. The ALARM wanted the BCLP to be composed only of a representative each from the tenants, landlords, and the Department of Agrarian Reform.

At the end of 1975, the P.D. 27 provision on land valuation was relaxed with the creation of the Landowner-Tenant Production Agreement (LTPA) which legitimized negotiation between landowners and tenants in face-to-face bargaining. Considering the prevailing feudal culture in the countryside and with the objective advantage landowners usually have over tenants in terms of education, information and articulateness, landowners would have the comparative advantage in bargaining (Valencia 1982: 65). Overpricing of land was a rampant practice among the landowners engaged in the negotiation (Valencia 1982: 66). In areas where peasant organizations were strong, the price of a piece of irrigated land went as low as P6,000 per hectare, but in areas where tenants were poorly organized, the price soared as high as P14,000 per hectare.

This policy also provided opportunity for bureaucratic corruption. There were alleged instances of collusion when MAR representatives sided with landowners to delay the valuation process and to increase the selling price (Valencia 1982: 65).

Masagana 99. Another major government program to improve rice productivity, achieve

national sufficiency in rice and ultimately, improve the farmers' income is the Masagana 99 (M99). The objective of M99 is to produce 99 sacks or 4.4 tons of unmilled rice per hectare. This can only be accomplished through the adoption of high-yielding varieties (HYVs) of rice and the application of appropriate amount of farm inputs (i.e., fertilizers, pesticides). It also requires storage, transport, distribution and marketing facilities. This complex of requirements can only be met by access to credit facilities and technical information.

A case against top level officials involved in the implementation of the Masagana 99 has been reported by one Filipino pesticide inventor and formulator, Gonzalo Gatan, Jr., of the Manila Pest Control Company. Gatan allegedly tried to penetrate the market for agricultural pesticides but became unsuccessful because of the "connivance" between transnational corporations (TNCs) that dominated the production and distribution of chemicals and the FPA or the Fertilizer and Pesticide Authority (Ofreneo 1982: 109). The farm plan of the Masagana 99, drawn with the participation of the FPA, specified only imported pesticides, usually German and American products. For a product to be included in the Masagana 99 program, the FPA required testing at the National Crop Protection Center and at the Bureau of Plant Industry, whose laboratories, Gatan charges were manned by German and American technicians or their Filipino trainees. These laboratories were set up through the RP-German Crop Protection Agreement and with the assistance of the United States Agency for International Development. Thus, Gatan's formulations, which had passed the tests conducted by the Philippine Patents Office, never made it at the FPA-recommended laboratories (Ofreneo 1982: 109-110).

Attracting Foreign Investors. One of the major policies of the government is to attract more foreign investments into the country as

an avenue to correct the unemployment problem. In the recent state visit of the President to the United States, an RP-US Treaty was signed and included among other things, provisions to boost the inflow of American investment into the country. Among other things, the liberal provisions included (Ibon 1982: 3): lower taxes on incomes to be earned by US residents from the Philippines; payment of taxes either in the U.S. or the Philippines, thus removing double taxation; lower rates of withholding tax on dividends paid to U.S. residents and corporations; exempting from Philippine taxes and payment of taxes amounting to a maximum of 25 percent of the gross amount of royalties paid by local corporations to U.S. patent holders. The Philippine government also announced, more recently, that it would grant "special investor's resident visas to aliens willing to invest at least \$200,000 in business in the Philippines (Ibid.)."

Several criticisms have been raised against attracting transnational corporations (TNCs) into the country (Espiritu 1978, Lichauco 1972, Magallona 1978 and 1980). Among the cited negative contributions of TNC's are the manipulations they undertake to mobilize the government to protect their interests. One such instance is the case of transnational corporations engaged in the banana industry, and based in Mindanao, such as the American-owned United Fruit Company (UFC), now United Brands, which has a joint venture with TADECO (Tagum Agricultural Development Corporation), formerly a local abaca-growing corporation. It was alleged that the Philippine government through a number of its officials and agencies were instrumental in securing very fertile grounds for UFC (David 1981: 10). It all started in 1964 when UFC attempted to acquire lands in the Davao Penal Colony (DAPECOL) that would be leased from the government as a plantation for bananas. The total area involved would have been some 8,000 hectares to be rented at the rate of P1.70 per ton of exported bananas annually. The plan was presented to the

Program Implementation Agency, although the public was not informed of it and very few government officials were aware that such a deal was being set up (David 1981: 11). This deal was aborted when former Senator Lorenzo Tañada exposed the deal primarily because it violated Republic Act No. 3034 which disallowed private corporations from acquiring more than 1,024 hectares of public agricultural land either by lease or by sale.

In 1969, UFC renewed its interest in gaining access to local agricultural lands under a new scheme. UFC invited TADECO to grow bananas which UFC assured to purchase for 20 years. TADECO, then an abaca-grower, was the ideal corporation since it was situated adjacent to DAPECOL and had already developed previous business relations with the penal colony as stripper of abaca fibers produced in DAPECOL farms (David 1981: 16). On 11 July 1969, TADECO entered into a "plantation development agreement" with the Bureau of Prisons, the government agency in charge of DAPECOL. This agreement allows TADECO-United Brands (formerly UFC) to make use of DAPECOL lands on condition that the company employs prison labor in connection with the penal colony's rehabilitation program. In addition, TADECO-United Brands would pay as rent to DAPECOL P250,000 per hectare per year plus P.10 for every box of bananas produced by the company. Yearly rental has reached P1,105,000 which at P250 per hectare means that TADECO occupies at least 4,420 hectares of DAPECOL lands, apart from 1,024 hectares directly owned by the company (David 1981: 16).

The government became involved in facilitating the business activities of the company by providing support in the establishment of local infrastructures. For example, government funds were used to build the concrete "TADECO Road" that runs from TADECO Plantation to the wharf some 2.2 kilometers away. This road offers quick transport of boxed bananas and also prevents

heavy damage and bruises to the sensitive fruit (David 1981: 17).

Another involvement of government men was witnessed in the ejection of some 700 families in Barrio Tibungcol adjacent to the TADECO plantation as the company expanded its area in late 1977. Residents reported the participation of Task Force Pagkakaisa, Civilian Home Defense Forces and PANAMIN's army in the ejection of occupants.

Some policies had been passed through the intercession of policy makers who were also company executives. A case in point is an assemblyman, a former vice-president and general manager of TADECO, who submitted a petition for a reduction of the export tax from four to two percent. The reduction was granted for a period of one year.

TADECO also earned the reputation of using cheap labor which is condoned by the government (David 1981: 17). About 800 inmates farm on TADECO lands but are paid a measly sum of P10 each per day, a rate way below the minimum wage. The justification given for the non-payment of minimum wage is that prisoners are not entitled to the benefits of real workers.

Another transnational corporation: Del Monte. Another TNC which has worked its way by having some government men relax official policies in Del Monte (Doherty 1979: 35-36). Del Monte is the largest food company in the Philippines that produces and cans tropical fruits and vegetables. It has also branched out to producing livestock feed from pineapple wastes, growing rice, manufacturing cans, operating a trucking fleet, and purchasing tuna from local fisherman. Del Monte is noted as the leading exporter of two of the country's top ten foreign exchange earners — bananas and pineapples.

Although its ownership of the Mindanao plantation went against Philippine law which limited corporate ownership of lands to 1,024

hectares, Del Monte has always found "good friends" in high places within the Philippine government (Doherty 1979: 35). When the 1,024 hectare limit on land ownership was written into the 1935 Constitution, the colonial government conveniently intervened on Del Monte's behalf to get around the law. A special body was created in 1937, the National Development Corporation (NDC) which was empowered to hold public lands in excess of the established limit. Through the NDC, Del Monte was able to lease 7,922.3 hectares of public land in Mindanao even though NDC was not empowered to sublease lands, much less those in excess of the constitutional limit.

In the 1950's, despite the upsurge of protectionist measures to foster national development, Del Monte proved to have a privileged status when its land leasing contract with NDC was renewed for another twenty five years. In 1962, President Macapagal scrapped the protectionist policies and adopted a free trade and pro-foreign investment stand. Del Monte had a special friend in Macapagal who as a young lawyer was an attorney for Del Monte's law firm, Ross, Seph and Carrasco (Doherty 1979: 35).

Besides the land question, the financial arrangement of the agreement proved profitable only for Del Monte (IDOC 1973: 37). For years covering Del Monte's first contract with NDC (1937-56), the Company paid a ridiculously low annual rental of \$4,007 for nearly 8,000 hectares of land. It was also able to escape its obligation to pay the government a share of its profit since the contract was written to apply only in profits made on raw pineapple rather than canned products, which are more profitable.

Under the present contract, the land rental is still a small fraction of its market value and since it is set in pesos rather than in dollars, the government's real income has decreased each time the peso had devalued. Furthermore, the new contract still sets the

value of raw pineapple (the tax basis) at the 1983 level which is about 95 percent less than the value of pineapple Del Monte produces in Hawaii. Del Monte, and not the Philippine government, is the main beneficiary of its earnings since the profits generated in the Philippine operations are either repatriated and plowed back into the company to finance expansion (Doherty 1979: 36).

Summary and Conclusion

The cases cited above indicate that determining the magnitude of corruption may not be sufficiently captured if one relies solely on bureaucratic deviations. Negative behavior committed in the political arena may be far more damaging because when policies are formally legislated, they are expected to be systematically implemented. Hence, a policy that can, at the outset, be questioned for its deficiency in responding to the needs of a target sector, need not expect a responsive behavior from bureaucrats. Bureaucrats only implement policies. If policies are at the outset defective, no amount of control measures on bureaucratic behavior can be instituted because what is being implemented is faulty at the outset.

Furthermore, political corruption may be assessed in only a limited manner if the basic indicator for corruption is primarily that of gaining pecuniary profit in a transaction. Political corruption may be manifested in various ways involving more effective, legitimate strategies. Some mechanisms we

have noted for example are: (a) a businessman sits as a legislator and promotes a policy to protect his private enterprise, (b) an institution is created to circumvent a policy (such as the case of NDC which was established and through which Del Monte was able to sublease public lands), (c) government men are mobilized to protect the concerns of a limited sector (i.e., the case of the 700 families ejected from TADECO), and (d) policies are formulated in response to the concerns of a legitimate pressure group originating from the elite rather than the depressed sector.

A more comprehensive study of negative behavior committed by public officials should not only encompass deviations from the norms of public duty but the implications of one's behavior on public concerns. This study should take both bureaucratic and political officials as the unit of analysis. The study should logically begin with an assessment of how policies are formulated, who inspired their formulation, what sectors would be particularly benefitted by them, and what channels of communication are opened to make the public aware of, and express interests in, these policies. These issues should be pursued in addition to an assessment of how bureaucrats implement these policies and whether deviations from the norms of public office and public interest occur in the process. Program strategies should thereafter, be implemented to prevent and control political and bureaucratic corruption.

Notes

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¹Low level positions refer to a) clerical, trade, craft and custodial service positions which involve non-professional or sub-professional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies; b) elected officials or similar level as "a" above, as officials in barangay units; c) appointees of the President in non-supervisory positions or supervisory positions requiring less than four years of collegiate studies.

²Middle level positions refer to a) public officials and employees in the career service who occupy professional technical or scientific work in supervisory or non-supervisory capacity requiring at least four years of college up to Division Chief levels, b) elected officials of similar level as "a," c) Presidential appointees in managerial and supervisory positions as "a" above.

³Key level positions refer to a) public officials and employees in the career executive service at the time of supposed commission of corruption, b) elected officials (national/regional/provincial) with rank similar or higher than career positions in "a"; c) appointed officials in similar or higher than career positions in "a".

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