

CHAPTER 2: THE PHENOMENON OF CORRUPTION

2.1 Definition of Corruption

It is obviously necessary at the outset to offer a clear and unambiguous definition of the word 'corruption' particularly in view of its variety of usages and meanings across the world. However, since elaborate essays have already been written on the question of defining corruption, and since this study does not aim at making a case for a new definition, it will suffice to mention the most salient definitions of corruption and other related patterns of behaviour.¹ One should note that there has never been anything like 'overall agreement on the very definition of the term' since no two authors share 'the same line-up for definitional criteria'.² When corruption is viewed as a violation of a norm or standard, the question that inevitably arises is whose standard of behaviour is being upheld as the morally correct one. Especially within the cultural milieu, what one may consider corrupt in one context will probably differ from another. Yet this should not prevent one from using a working definition that, though not valid for all conceivable situations, will be of help in determining the costs and impact of fighting corruption in South Africa.

¹ One of the more useful texts to cover the discussion on definitions is A Heidenheimer (ed) 1970, *Political Corruption: Readings in Comparative Analyses*, New Brunswick, New Jersey: Transaction Books, pp 3–64.

² M U Ekpo (ed) 1979, *Bureaucratic Corruption In Sub-Saharan Africa: Towards A Search For Causes And Consequences*, Washington DC: University Press of America, p 1.

Arnold Heidenheimer has provided a detailed discussion of the Oxford English Dictionary's list of nine possible meanings of corruption, but interestingly enough, most do not apply to the political context where the practice of corruption is often rife. These are categorized into the physical, moral and perverting usages. Corruption is therefore the physical 'destruction or spoiling of anything, especially by disintegration or by decomposition with its attendant unwholesomeness and loathsomeness'. But it is also 'a making or becoming morally corrupt, a fact or condition of being corrupt; moral deterioration or decay; depravity', and 'the perversion of an institution, custom, and so forth from its primitive purity'.³ A strictly legal definition would restrict one to studying only those cases of corruption that can be tried in a court of law and 'it would negate the possibility of investigating a change in the nature of corruption'.⁴ Formal norms of office differ and 'an identical action in two nations will be labelled differently because of differences in laws'.⁵ Everything legal is not necessarily ethical. Actions or inactions, which may yet need to be included in one's definition of corruption, will have to be excluded if one followed the legal route. It is also possible for some actions, like nepotism, to be considered corrupt but not usually be deemed illegal in modern democracies.

³ A J Heidenheimer (ed), *Political Corruption: Readings in Comparative Analysis*, New Brunswick, New Jersey: Transaction

⁴ P Hodginson 1997, 'The Sociology Of Corruption – Some Themes And Issues', *Sociology* 31(1):19.

⁵ J Gardiner 1993, Defining Corruption, Coping with Corruption in a Borderless World, in M Punch, E Kolthoff, K van der Vijer & B van Vliet (eds), *Proceedings of the Fifth International Anti-Corruption Conference*, Deventer, Netherlands: Kluwer, p 26.

In this study we shall use a definition that is quite common among economists, civil society activists and social scientists, namely that corruption is the *misuse of public office for private gain*. This definition owes its origins to the *Encyclopaedia of the Social Sciences*, where it is observed by Joseph Senturia as ‘the misuse of public power for private profit’.⁶ Yet, even as he recognized, such a definition was not without its limitations. ‘Patriotic corruption’, such as taxation by a dictator to bring benefits to himself, for example, or benefits to the public that he may procure through personal vices, is not included in the preferred definition. This usually involves the *use* of public office for private gain in situations of personal rule, kleptocracy, and prebendalism where the distinction between public and private is weak, and where personal relationships are the basis of political system. Countries like Haiti and Indonesia have had a history of such types of patriotic corruption. Most instances of corruption, however, as defined by the Prevention and Combating of Corrupt Activities Act No of 2004 and the United Nations Convention Against Corruption (2003) can be subsumed under the operational definition of corruption as the misuse of public office (public power, public interest, public authority) for private gain (private benefit, private profit, personal gain, family or group benefit). If and when the term ‘graft’ (illicit gain in politics or business) is used in this study, it shall also be understood to imply inclusion in the above definition of corruption.

⁶ *Encyclopaedia of Social Sciences*, volume IV, 1930–1935, New York: Cromwell-Collier-Macmillan, p 449.

Some related forms of behaviour are also frequently mentioned as constituting corruption and these are worth noting. *Bribery* is one such form, where a public official is 'induced' improperly (usually through kickback, speed money, sweeteners) to perform a certain function by a citizen to gain some kind of advantage. In the case of *extortion* the same public official can use his power to force the citizen to pay for the same service that he would normally be able to obtain without such payment. *Embezzlement* is illegal self-enrichment or simple theft by the public official without involvement of another party. When the official conceals or provides misleading information on facts and figures through deceit, manipulation or distortion, fraud is usually the term used to denote such conduct. In this study use of the term 'corruption' shall cover these related forms of behaviour provided that in every case the misuse of office is involved. It is also important, as Johann Lambsdorff says, to distinguish corruption from other forms of criminal conduct that do not involve the misuse of public office.⁷ These would include cases of tax evasion, insider dealings on the stock market, production of counterfeit money, subsidy fraud, and contraband, all of which are excluded from this study. Rents, which are earnings in excess of all relevant costs, arise when someone with a monopoly on the supply of certain goods and services charges a higher price than that which would prevail in a competitive environment. Government officials who enjoy such monopoly power may be tempted to charge 'monopoly rents' or 'speed money' as a result. The attempts to acquire them (rent-seeking) are not normally regarded as illegal or immoral if the structure of

⁷ J G Lambsdorff , Corruption and the Underground Economy, draft copy of paper prepared for publication in forthcoming *Encyclopedia of Globalization* and distributed at seminar on economics

the economy or government allows for such monopolies to exist, but they often lead to corruption, if not waste and inefficiency. Thus payment of such rents may or may not be viewed as constituting corruption therefore depending on the context.

If one were to put aside the legal norms, since these change over time and vary across countries, and since what constitutes 'illegal' is decided by someone in a public position of power, corruption can also be defined as 'behaviour which deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power or status'.⁸ With this approach no attempt to model the goals of power and status is made, but instead 'the economic effects of private wealth-seeking behaviour on the part of officials' become the focus for the economic analysis of corruption.⁹ The main effect of corruption is understood to be 'an allocative one if as a result the final user of a resource other than the one who would have had access to the resource otherwise' benefits, whilst in addition, the secondary effect is that 'resources are lost in the process of corruption resulting in a decline in social output overall'.¹⁰ Economic analyses of corruption have often been used, as we shall see later, to determine the benefits that corruption can bring to a developing society. This is not a question that will be critically discussed in this study, as the assumption is made throughout that 'cases in which corruption

of corruption held in Passua, Germany, in October 2003.

⁸ M K Khan 1996, A Typology of Corrupt Transactions in Developing Countries, *IDS Bulletin* 27(2):12.

⁹ *Ibid*

enhances the efficiency of agents and improves the allocation of public services are limited', as Susan Rose-Ackerman has made clear, and that '[t]he theoretical and empirical evidence does not support widespread tolerance of corruption'.¹¹ The use of economic models for the purposes of this study will therefore be restricted to their use in calculating costs to fight corruption with no regard to possible arguments about the benefit value of corruption.

2.2 Terminology

Further clarification seems necessary for other terms used in the course of this study apart from corruption, especially those that enjoy frequent usage. Clear and unambiguous meaning of terms is not offered according to any strict dictionary definitions, however, but rather by way of consistency of usage in terms of this prior elaboration. This study is primarily concerned with the costs and *impact of fighting* corruption. Those who write about corruption show a strong bent toward establishing the costs of corruption, usually negative, to a country and its peoples. Our concern, on the other hand, is with costs that arise in the effort to overcome corruption, those that can be measured in monetary terms and that usually have implications for the national budget. If a country's national treasury keeps public money in trust, on behalf of the citizens, and uses such money to procure public benefits, by obtaining goods and services, costs will arise. Citizens will receive and experience value for the money spent on their

¹⁰ Ibid, p 14.

behalf that can be viewed as benefits, that is, if what is done on their behalf is effective. Costs in the public sphere can include opportunity costs, actual costs, maintenance costs, and social costs. In this study though, the emphasis is on the monetary costs (in rand terms) insofar as an appropriation is made or not made from the budget to fight corruption. An increase in costs on a certain budget item is usually justified in terms of the added benefits that are supposed to accrue from the increased investment cost. We shall therefore be concerned to understand what the nature, quality and quantity of benefits (and their resultant impact) will be if the costs of fighting corruption are increased.

The origin of the term 'fighting' corruption is obscure. It has come into common usage from the 1990s onwards with the rise of civil society movements against corruption, more particularly, the formation of Transparency International. Its origin may possibly be linked to the fight against corruption in Hong Kong in the 1970s. It has come to signify the attempt to eradicate corruption (as far as this is possible) from a society by the joint efforts of government, civil society, the private sector, the media, and the international community. In this study, as elsewhere, fighting corruption is used interchangeably with combating or curbing corruption, while preventing corruption has a more longer-term connotation. One can act to prevent corruption from occurring at all, and one can act after corruption has already taken place (combat). Controlling corruption is a preferred term for some, rather than fighting, though it would denote the same act or

¹¹ S Rose-Ackerman 1999. *Corruption and Government: Causes, Consequences and Reform*, Cambridge: Cambridge University Press, p 226.

actions to bring about a reduction in corruption. The terms 'controlling' corruption seems to assume that while governments may take action against corruption, it will not be eradicated. 'Fighting corruption' is increasingly being used as the preferred term by governments around the world (as we shall see) presumably because of the stronger intent which it may convey about the political will to be intolerant of any form of corruption and to communicate such intolerance accordingly.

Whenever the term 'government' is used, it shall refer to the executive arm of government, supported by its parliamentary majority (at national and provincial levels) and the provincial executives, which are all led by premiers of the ruling African National Congress (ANC) party. The public service component of the public sector is its largest, employing over a million people, and is mostly involved in the delivery of public services. Throughout this study, the term 'public service' when used shall refer to national departments, provincial administrations and other organs of state where individuals are employed in terms of the Public Service Act No 104 of 1994, which was promulgated to 'provide for the organization and administration of the public service of the Republic of South Africa.'¹²

¹² Proclamation published in Government Gazette No 15791 of 3 June 1994.

2.3 Forms and Effect

Scholars usually distinguish between three main categories of corruption: incidental, institutional and systemic.¹³ Incidental corruption would cover individual acts of malfeasance such as petty (regular small payments) or grand corruption (normally involving one large payment). It could take a 'clientelist' form where a person offering a bribe obtains a higher benefit, or a 'patrimonial' one where the person receiving the bribe obtains the higher benefit. Such corruption can also be political or administrative (bureaucratic), depending on whether the corrupt person is a politician or public servant.¹⁴ If a government department, such as the police services, were to be riddled with corruption from top to bottom, and corruption was a feature of most of its interactions with the public, such a situation would qualify as a case of institutional corruption. When a society is infected with corruption to the point that it becomes a fact of everyday life, is so entrenched that it is difficult to avoid, and overlooked by almost every legal authority, it can be classified as being systemically corrupt. Gift-giving is potentially the most widely abused form of corruption but this will be discussed below in the context of lobbying, again in the cultural approach to explaining corruption, and much later in the case study itself.

Lobbying is mentioned, since it involves decisions in the public sector that may

¹³ M Robinson 1998. *Corruption and Development: An Introduction*, in M Robinson (ed), *Corruption and Development*, London: Frank Cass, p 3.

¹⁴ Lambsdorff, *Corruption and the Underground Economy*.

be up for sale. Lambsdorff avers that since such activity is usually legal and 'carried out in a transparent and competitive manner, and involving not the narrow interests of individual but that of larger business sectors', it should not be regarded as corruption.¹⁵ Similarly, Ackerman believes that a political system with multiple sources of authority is an effective check on corruption as nothing can be approved unless all the bodies agree.¹⁶ Obtaining benefits in the American political system, for instance, will be quite costly and complex, while using corrupt means to get a law passed would be equally expensive and risky. Campaign contributions are therefore acceptable as lobbying is acceptable if citizens in a democracy are to be allowed to express their political interests by supporting political parties or electoral candidates through gifts. The issue may not be that simple, though. For as Robert Williams has indicated, American politicians are normally expected to raise their own election funds, which makes them dependent on wealthy donors, who in return expect privileged access and strategic information.¹⁷ Often this goes further to obligations being placed on public officials to intervene in administrative or legislative matters on behalf of the electoral campaign contributor. The question remains as to how one is supposed to believe that any donation made to a political party or politician is for purely altruistic or patriotic reasons and not to cement the bond of reciprocity.

¹⁵ Ibid

¹⁶ Rose-Ackerman, *Corruption and Government*, p 145.

¹⁷ R Williams 2003, *Political Corruption in the United States*, in M J Bull & J L Newell 2003, *Corruption in Contemporary Politics*, Houndmills, Hampshire: Palgrave Macmillan, p 68.

The forms of corruption are intrinsically related to their effects in multiple ways. Like an infectious disease, corruption can spread to all layers of a government serving bureaucracy, causing untold losses of revenue and stifling public confidence in a government's ability to serve the public interest. Syndicated corruption in a police department, for example, can be so widespread that it becomes difficult to perform one's duty with integrity without due consideration to a corrupt payment. A perfect case of the 'clustering effect' is when, according to Malaysian writer, Sayed Hussein Alatas, 'every move from getting a letter to a file, then the file to the signatory and back again to the file and finally to the post, has to be "oiled" by bribes'.¹⁸ Alatas also elaborates on the 'differential delivery effect' that may be observed in drug-trafficking where a dealer would pay thousands of dollars to an airport official to ignore the landing of a small plane carrying millions of dollars worth of cocaine. In this scenario, '[t]hough the person bribed does not deliver any material good himself, the effect of his corruption is the delivery of cocaine' while the 'delivery effect is the consequence of the bribe whether it is accomplished by the recipient or not'.¹⁹ If many similar cases of corruption were to be a feature of life in a given country, the consolidated effects

¹⁸ H Alatas 1991, *Corruption: Its Nature, Causes and Functions*, Kuala Lumpur: S Abdul Majeed & Co, p 141.

¹⁹ Ibid

would be devastating. If one's commitment to public duty is subverted in this way, corruption then becomes a way of life. But worse off are those who inhabit such a depressing world and cannot claim any benefits from the prevailing system, like a parent having his child refused university admission because he did not have the same 'connections' as others, or losing a court case because the judge was bribed. Resignation replaces outrage, and stagnation sets in as life itself becomes a victim of corruption.

2.4 Origin and Context of Corruption

Inasmuch as it proved difficult to provide a fully comprehensive definition of corruption, it is equally impossible to tabulate all probable factors that give rise to its practice. Nonetheless, it is worth looking at some attempts that have been made to help in understanding the contextual factors that cause corruption to flourish. According to John Mbatia, the African context provides one with a pattern of recurring circumstances that in one way or another seems to invite opportunistic and corrupt behaviour. The first structural factor is the presence of the 'soft state' across the continent where citizens have a low sense of national interest and a diffuse sense of commitment to public service.²⁰ Civil servants in many countries see public service 'as an opportunity to generate wealth for themselves, their families and their friends' and can themselves be extremely

²⁰ J M Mbatia 1998, Bureaucratic and Political Corruption in Africa, in *Corruption And The Crisis Of Institutional Reforms In Africa*, Lewiston, New York: Edwin Mellen Press, p 53.

inefficient and incompetent.²¹ A country's economic growth and development prospects can be severely retarded by such incompetence, inefficiency and unprofessional behaviour. Increased levels of poverty and unequal distribution of income are further contributory factors that slow growth. The cultural 'ethic' often requires that civic virtue be set aside in favour of a higher obligation to one's family or friends. All these factors combine to make Africa a breeding ground for the proliferation of corrupt practices.²²

The African experience of corruption, however, cannot be explained without reference to the role of colonialism. According to Robert Williams, 'the kinds of bureaucracies which developed in most African states provided classic breeding grounds for what might be called the politics of envy'.²³ The life of the ordinary peasant offered a stark contrast to that of the civil servant bureaucrat, with the one enjoying access to education, recruitment and advancement within the colonial system and the other condemned to a life of poverty. These disparities in lifestyle incomes were merely confirmed after independence, when priority shifted to Africanisation of the civil service, which also meant expanding the bureaucracy. Colonialism served to profoundly alter 'the structure and scale of incentives, opportunities and rewards'.²⁴ Williams is also emphatic that, 'if corruption involves, in part, bribery and buying the co-operation of those in authority, it was employed from the earliest days of colonial expansion to secure

²¹ Ibid

²² Ibid

²³ Williams, R 2003. *Political Corruption in Africa*, Aldershot, Hampshire: Gower, p 42.

²⁴ Ibid, p 43.

the collaboration of traditional rulers'.²⁵ If public duty and personal service were denigrated during the colonial era, it was no different thereafter as new African leaders often saw the business of government as giving direction from the top rather than leading from below through citizen participation. Status, power and influence were enjoyed, where the local 'village' mattered more than the national interest. The new African states were after all colonial creations with artificial boundaries and it is difficult to imagine a shared sense of identity and belonging, and loyalty to the state. The public interest would have been an abstract and meaningless notion to people who experienced government as distance and impersonal. Their resolve to bring about change, often in the face of failure, would include attempts to use corrupt methods of holding government more responsible for attending to their needs. If the colonial factor in encouraging the spread of corruption is established, though, it is much less clear to find evidence that post-colonial Africa was any less corrupt.²⁶

In the Asian context, the cultural factor is again a key determinant in understanding the prevalence of corruption. In India, for example, a normative pattern may be observed where 'greater importance is given to duty than to law. Duty is interpreted as duty to family, oneself and one's own community. Law is then interpreted as subordinate to duty and relationships as more important than

²⁵ Ibid, p 47.

²⁶ Ibid

rules (which) may be bent to serve relationships.’²⁷ The legal system is thus undermined by a higher authority and is often therefore resisted. These cultural arguments should not detract from the basic premise that any human being is subject to temptation in any walk or station of life and corruption can arise as a defect of human nature. There are also those in developing countries who believe that it has less to do with their behaviour than those of the developed world who initiate and export production of goods, services and bad practices.²⁸ Hence the notion that the major part of the problem of corruption sits in the Third World is one that is highly contested. The cause of corruption has also been ascribed to the fact that people are often placed in compromising situations of having to choose the lesser of two evils (for example, self-enrichment over against adding to the coffers of a military dictator), or to use immoral means to justify moral ends.

The public sector has expanded enormously over the past century and has been largely penetrated by market values. Politicians are often required to decide on contracts for massive public works and welfare programmes involving large sums of money, while the same politicians belong to parties that must run costly campaigns to ensure their re-election. Corporate political funding then becomes competitive where ‘buying voters, legislators and state officials is “good business”

²⁷ V Samuel 1998, *Business and Corruption*, in B J van der Walt, W A S Cornelis & V Samuel (eds), *Corruption*, Potchefstroom University, p 10.

²⁸ S van der Merwe 2001, *Combat Corruption Collectively: Mobilising South African Civil Society On Corruption, Governance and Ethics*, Pretoria: Van Schaik, pp9-13.

if it produces cost-effective results'.²⁹ When the boundaries of capitalism and democracy can be merged to serve such self-serving ends, the reconfiguration of the public and private domains of power gives rise to its unchecked usage for corrupt purposes. The basic misfit between the two systems (political and economic) causes the majority will of citizens to come up against the narrow interests of economic power. Politicians would ordinarily be the mediators in cases of competing interests between the two in a democracy but, as Girling points out, 'prudent politicians cannot afford seriously to jeopardize business interests, because in the long term an effective economy is crucial to political survival'.³⁰ For this reason also, even politicians of high integrity are often tempted to compromise on justice and the rule of law for the private benefit of a few corporate elites. This collusion (the accommodation between politics and economics) is then the precondition for corruption to occur. Yet given that corruption can thus be attributed to a whole range of possibilities, as is mostly the case, it becomes very difficult to attempt more than a cursory discussion of the contextual factors that give rise to its origin at any given time.

2.5 Measuring Corruption

The extent of a problem such as corruption must first be known (usually through instruments of measurement) before one attempts to find its solution (usually involving an application of resources). Calculating the costs of ways to manage

²⁹ J Girling 1997, *Corruption, Capitalism and Democracy*, London: Routledge, p 4.

³⁰ *Ibid*, p 8.

the impact of corruption would require some prior knowledge of the nature and degree of such impact. In a twist of irony, one observer wrote that 'if corruption could be measured, it could probably be eliminated'.³¹ Counting the number of bribes paid only would ignore the number of corrupt acts that accompany such payments. To measure the occurrence of such acts would require that they be reported. Corruption by its very nature is not a transparent activity and so scientific information or simple data about its prevalence cannot be reliably procured. Statistics compiled on the basis of questionnaires may be viewed with suspicion if they are seen to be biased towards rumours instead of direct observation. Yet this has not dampened the spirits of some who have tried, at least indirectly, to obtain information about the extent of corruption in a country or institution. Paolo Mauro was probably the first to bring corruption into the field of economic growth studies when he measured the effects of corruption on a country's growth rate.³² The results showed a significant negative impact and there is now a strong consensus among many economists (as we shall see in the following chapter) that corruption retards economic growth.

One of the earliest tools to measure corruption was devised by Professor Johann Graf Lambsdorff of the University of Passau, Germany. Despite his acceptance that 'quantitative estimates of the extent of corruption are usually difficult to

³¹ V Tanzi 2002, *Corruption Around The World: Causes, Consequences, Scope, And Cures*, in G T Abed & S Gupta (eds), *Governance, Corruption and Economic Performance*, Washington DC: International Monetary Fund, p 38.

³² P Mauro 1995, 'Corruption and Growth', *Quarterly Journal of Economics* CX/3 (August):681–712.

provide,' and that objective data is probably irretrievable, Lambsdorff nevertheless negotiates what in his view is a 'plausible approach' out of this impasse.³³ He produces, annually for Transparency International, the Corruption Perceptions Index (CPI) by rating countries according to the subjective perceptions of informed observers. These are normally business people, political country analysts and foreign-aid workers. Perceptions of course do not equate to reality, but since the CPI is a composite index, relying on 15 data sources from institutions like the World Bank, it can be used as a useful measure of cross-country corruption, particularly as the perceptions tend to correlate among the various observers. South Africa's position on the CPI has been fairly constant since it was first listed and this is corroborated by the findings of most of the other indices used to compile the CPI. (See 2003 CPI at Appendix I.)

Because our knowledge of corruption is so 'incomplete and limited', a survey among 'experts in the field' was done by Dutch scholar Leo Huberts in 1996 to determine just how serious a problem corruption was. His method involved sending a questionnaire to participants from three international anti-corruption and ethics conferences and aggregating their responses with the views of another smaller panel of experts. Huberts concludes that corruption 'might have more in common in different geographical and cultural contexts' and suggested the need for comparative case studies to confirm whether the findings of his

³³ Lambsdorff, *Corruption and the Underground Economy*.

research would differ from ‘actual corruption and fraud practices’.³⁴ This method of soliciting views of ‘experts’ to determine the extent of corruption, in the absence of empirical data, was also applied in the South African context (see 5:2). One of the latest ways of providing a ‘quantitative scorecard of governance practices’ in 25 selected countries includes the attempt to measure not corruption but its opposite, namely ‘the extent of citizens’ ability to ensure their government is open and accountable’.³⁵ The existence of laws and institutions, their effectiveness and public access to information is the focus of this ‘Public Integrity Index’ that is compiled by the Centre for Public Integrity, an NGO based in Washington DC and whose mission is to put relevant information into the public domain so that public officials can be held to greater levels of accountability. South Africa gets a ‘strong’ ranking on this index, together with Germany, Australia and the United States, suggesting that it is globally competitive in having the requisite laws and institutions in place to deter corruption.³⁶

The CPI remains the most widely used measure of those mentioned above, but is not without its problems, though. It is unclear whether what is being measured involves the frequency of corrupt activities or the actual amounts of money being paid as bribes, or both. Countries of the South take exception to being placed at

³⁴ L W J C Huberts 1996, *Expert Views on Public Corruption Around the Globe: Research Report On The Views Of An International Expert Panel*, Amsterdam: PSPA Publications, p 36. A similar approach to measuring perceptions of corruption by expert group consultation was advocated by Richard Holloway for application in particular geographical settings. See ‘Scoring Perceptions in Other Fields: Analogies for Measuring Perceptions of Corruption’, Unpublished paper delivered at IPE Workshop on Measuring Corruption, 4–7 October, 2002, Brisbane, Australia.

³⁵ Center for Public Integrity, Press Release, 25 June 2004. See www.publicintegrity.org

³⁶ Ibid

the lower end of the CPI, thus indicating their high vulnerability to corruption, which in turn deters their investment potential. Partly in response to this complaint, a Bribe Payers Index (BPI) was also launched in 1999 by Transparency International to measure the tendency of exporting countries to win contracts by bribe paying. The country listed last on the CPI is inevitably perceived to be the most corrupt in the world, but since not all countries are listed, such a conclusion should not be drawn. Believing that a more explicit and comprehensive tool was needed, World Bank researchers have embarked on an ambitious project of estimating six dimensions of governance in 199 countries and territories from 1996 to 2002.³⁷ Several hundred individual indicators of governance perception are used from 25 different sources. Country coverage is obviously expanded but, as the researchers acknowledge, margins of error remain, and these must be considered when countries are compared with one another and over time.

2.6 Historical Background

The study of corruption in the scientific realm is something that will be considered in the next section. It may be helpful at this point, however, to offer an overview of how corruption manifested itself in the South African context before 1998 when there was no collective effort or governmental strategy to bring it under control. This would partly explain the background to the legislative deficit to fight

³⁷ D Kaufmann, A Kraay & M Mastruzzi 2003, Governance Matters III: Governance Indicators for 1996–2002, Draft World Bank paper.

corruption and how it has become a new problem for a new democratic government. The paucity of studies on this question must immediately be mentioned, though. One cannot advance to a deeper understanding of the issues involved if one is treated to reckless and unhelpful observations such as blaming South Africa's short history of democracy for the 'decline of morals and values to such a magnitude that corruption, maladministration, and financial mismanagement have become major issues tainting the public sector'.³⁸ A good starting point might rather be to note the observation of a woman who has given the issue of corruption close attention. Before 1994, when South Africa made its transition to a democratic government, the Speaker of the National Parliament, Frene Ginwala, observed in a keynote address to the Africa Leadership Forum that this apartheid legacy was characterized by:

a society that was organized to provide everything for a racial minority regardless of the consequences whoever was effective; it was managed by a secret society of brothers who furthered their objectives through strategies devised in secret; to achieve their objectives they placed their brother members in all positions of influence and power – civil servants, and in politics, in state institutions and parastatals, in the army, and the police; inside the country human rights were violated . . . wars and civil strife were fermented; the laws of many countries were violated by

³⁸ V G Hilliard & H F Wissink 2001, *Understanding Corruption In The South African Public Sector*, in G E Caiden, O P Dwivedi & J Jabbra 2001, *Where Corruption Lives*, Bloomfield, Conn: Kumarian Press.

breaking sanctions – and in the process enormous so-called commissions were paid to leaders or officials, to obtain the sanctioned good, especially oil and arms. But also in the course of trade in other goods – certificates of origin, and user certificates, ship manifests and custom declarations were falsified and public records were corrupted.³⁹

Ginwala's summary of the nature of the political corruption profile before 1994, though not based on factual evidence, would appear to dovetail with the commonly held perception that South Africa experienced corruption in various forms and sizes during the apartheid years. The real extent of such corruption would be extremely difficult to quantify, but its peculiar features and routine characteristics may nevertheless be observed. Corruption by definition bears no respect for the unique nature of any political system, but the forms it takes can certainly be influenced by the quality of democracy that a society's citizens are exposed to at any given time. Apartheid, understood as a policy of racial exclusion and economic oppression, seems to have carefully defined the peculiar shape and forms that corruption assumed in South Africa, as we shall see.

'Arguably,' says political scientist Tom Lodge, 'a bureaucracy which was deliberately used as an instrument to foster the social and economic fortunes of one ethnically defined group had at least a form of transactive corruption built into its functioning' from 1948 when the predominantly Afrikaner-supported

³⁹ Unpublished paper, Pretoria, August 1995.

National Party took political power.⁴⁰ This party was to dominate South African politics until 1994, forming in the process a series of repressive governments all upholding the supreme interests of Afrikaner nationalism, but where corruption as personal gain arising from individualised relationships was probably minimal.⁴¹ It has also been argued that by the 1970s civil servants had 'little opportunity to use patronage and the conferment of financial benefits for the achievement of improper objectives' in a climate of tight monetary controls and strict financial discipline.⁴² Lodge confirms this finding by indicating that the reports of the Auditor-General for the 1950s and 1960s show evidence of a relatively small number of misdemeanours, mostly confined to the post office, where minor sums of money would have been misused. During these years it might be safe to conclude that the most common form of overt corruption was nepotism, where administrative posts in government departments and credit allocations for agricultural farming would be reserved for National Party supporters.⁴³ But with the pressures of modernisation, and the need to justify apartheid, the situation was to change dramatically from the late 1970s onwards. According to Hyslop, as the economy stagnated, 'the country seems to have shifted dramatically from a low corruption–high growth to a high corruption–low growth scenario'.⁴⁴

⁴⁰ T Lodge 1997, *Political Corruption in South Africa*, University of the Witwatersrand: Institute for Advanced Social Research, Paper No 425, August 1997, p 6.

⁴¹ A Seegers 1993, 'Toward An Understanding Of The Afrikanerisation Of The South African State', *Africa* 63(4). Cited in Lodge, *Political Corruption*.

⁴² J N N Cloete 1978, The Bureaucracy, in A de Crispigny & R Schire 1978, *The Government and Politics of South Africa*, Cape Town: Juta & Co, p 74.

⁴³ Lodge, *Political Corruption*, p 6f.

⁴⁴ J Hyslop 2003, 'Political Corruption: Before and After Apartheid', Wits Institute for Social and Economic Research Annual Workshop, University of the Witwatersrand, Johannesburg, 14-18 July 2003.

One of the important reasons that the National Party governments were able to indulge in corrupt activities to an extraordinary extent was their development of a political strategy called 'total onslaught'. Apartheid in this scheme, as opposition politician Alex Boraine noted, was 'presented not an indefensible race policy but as engaged in a noble struggle against evil forces of international atheistic communism'.⁴⁵ This meant that all the draconian actions of government, including its infringement of civil liberties, regular abuse of state power, and corrupt practices were 'excusable' in pursuit of this strategy. Feeling the impact of diplomatic isolation, and the development of a security threat around its borders, the government began secretly investing millions of rand into buying political influence at home and abroad. The Department of Information was the designated agency that served to channel such funds into buying newspapers, bribing journalists, and engaging in covert operations, amongst other secret projects. R12 million, for example, was loaned to businessman Louis Luyt to start the *Citizen* newspaper, but most of this money ended up being invested in bank accounts of his private companies.⁴⁶ The private sector was mostly dominated by white-owned companies that enjoyed a fair measure of protection and secrecy from the state in penetrating international markets despite the sanctions against South Africa at the time. Thus though large business corporations might have

⁴⁵ A Boraine 1995, *Parliamentarians, Corruption and Human Rights Abuse*. Paper presented at the Africa Leadership Forum, Pretoria, August 1995, p 8.

⁴⁶ E Rhodie 1983, *The Real Information Scandal*, Pretoria: Orbis SA, p 320.

voiced their objections to apartheid, they benefited by and large by being ‘an accomplice of a corrupt system of governance’.⁴⁷

What became known as the ‘Information Scandal’ of 1978 related to the exposure of these corrupt practices and, more dramatically, the identification of individuals who had personally enriched themselves throughout this campaign, which cost over R75 million and was conducted in the absence of parliamentary oversight. The mastermind behind this whole undertaking, and one of its main benefactors, was a senior government official, Eschel Rhoodie, whose 927-page account of its strategic operations differed radically from the official Erasmus Commission that investigated the matter. Rhoodie expressed his disgust at the ‘cover-up’ that ensued as ‘the real Information Scandal’ must be laid at the feet those ‘Members of Parliament who have accepted, supported, and voted for the passage of legislation the past decade, notably the past few years, which provided the government with protective measures that exceeded the boundaries of natural justice, common sense, and the real requirements of the State’.⁴⁸ The biggest casualties in the whole debacle were Prime Minister John Vorster, who was forced to vacate office and Information Minister Connie Mulder who ended up losing the race to become the new prime minister to his defence counterpart , P W Botha. Certain sections of the media, the Auditor-General, and Mr Justice Anton Mostert had their watchdog role throughout the scandal severely tested.

⁴⁷ H Van Vuuren 2003, National Integrity Systems: TI Country Study Report: South Africa 2003 (Draft), unpublished, p 9.

⁴⁸ Rhoodie, *The Real Information Scandal*, p 893.

One report suggests that Mostert qualifies as South Africa's first 'whistle-blower' for having resisted political interference and upholding the independence of the judiciary. He ignored Botha's request to withhold release of information related to the scandal to the media.⁴⁹

Corruption was also clearly rampant in the Department of Development Aid, which channelled state funds into the creation and maintenance of the so-called homeland states (vast tracts of land being set aside for occupation by blacks under the administration of government-appointed leaders). The Commission led by Mr Justice Pickard that investigated this department concluded that 'theft, dishonesty, corruption, fraud, negligence, and unauthorized activities resulted in huge losses. It must certainly run into many millions, if not billions.'⁵⁰ The responsible Cabinet minister, Gerrit Viljoen, suffered no sanction for such mismanagement. The Department of Defence was equally notorious for engaging in clandestine activities at home and abroad with sections of its budget allocation beyond public scrutiny. Funds used for political propaganda were sometimes 'hidden' in its cost structure as it secretly also began producing sophisticated small arms for illegal sale on the open market. The role of South African soldiers in fuelling the war in Angola and their involvement in ivory smuggling and drug trafficking were further breeding grounds for corruption to flourish, as were the billions of rand spent by government to develop a strategic

⁴⁹ *Finance Week*, 24 September 1999, p 10.

⁵⁰ C Bauer 2000, Public Sector Corruption and its Control in South Africa, in K R (Sr) Hope & B C Chikulo 2000, *Corruption and Development in Africa: Lessons from Country Case-Studies*,

fuel reserve to offset the dwindling oil reserves.⁵¹ The Department of Education and Training was also the subject of an inquiry in 1988 after repeated reports of corruption had appeared in the print media. The Van den Heever Commission that was set up to investigate alleged irregularities produced three volumes of evidence of extensive fraud, kickbacks, bribery, nepotism and poor accountability to prove the corruption suspicions.

Of course it could be argued that much of the corruption during the apartheid years was in the 'public interest,' insofar the public that mattered was the white electorate. But as was reported in the media, much of the corrupt behaviour of the time brought immense personal benefits to those guilty, and those not found guilty.⁵² Homeland leaders were best off, as they received millions of rand to develop their 'independent' states and thus maintain the apartheid system. Much of these funds were, however, used to enrich themselves and their friends and families, but this mattered little to the government of the day.⁵³ Many forms of corruption was permitted to pass so long as the grand design of apartheid ideology remained intact. Against this background, it would be misleading to assume that the majority of the citizens, being excluded from the political franchise, would have chosen to be moral men and women in an immoral society. The opposite was true. The liberation movement that was preparing itself

Houndmills, Hampshire: Macmillan, p 222. Bauer offers a detailed discussion of the Pickard and Van den Heever Commissions' findings (see pp 220–227).

⁵¹ Van Vuuren, *National Integrity Systems*, p 8.

⁵² *The Star*, 16 April 1993; 29 September 1993; 1 October 1993; 19 November 1993

⁵³ *Ibid*

to rule in the foreseeable future had decided that South Africa should be turned into an ungovernable country to hasten its political demise. A culture militating against respect for the rule of law was encouraged therefore. But later, those who had suffered under a repressive political system and were forced into acts of civil disobedience, sometimes corruption, in order to survive and 'beat the system' were required to become overnight champions of democracy and respect the rule of law when that transition arrived. Apartheid may have constituted grand-scale corruption, but its effect of inviting a culture of lawlessness to evolve would potentially make the later task of confronting corruption by a democratic government much more complex, as we shall observe in this study.