

## CHAPTER 4: WAYS AND MEANS

### 4.1 Introduction

One assumes that the task of fighting corruption in the South African public sector, or elsewhere, would ordinarily require a particular strategy or approach (way) matched by a commitment of resources (means) to be successful. If corruption as a matter of scientific inquiry began to surface in the 1970s, so too did the debate about the most effective measures to contain its spread. This came about largely as a result of the establishment of an independent state agency to fight corruption in Hong Kong. This initiative is often upheld by scholars and practitioners alike as international best practice and will for this reason be carefully scrutinized in this chapter.<sup>1</sup> In addition, a range of ways to combat and prevent corruption had emerged thereafter that were being advocated for adoption in the developing world by foreign governments and their donor agencies. Most of these had evolved through the efforts of Transparency International, and later, the World Bank and the United Nations, in raising awareness about the need to fight corruption globally. It will be necessary to briefly examine the main elements of the 'national integrity systems' that had been devised by the time South Africa began to grapple with its own approach to fighting corruption. This will allow for a critical evaluation to be made much later about the strategic approach taken in South Africa to fight corruption.

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<sup>1</sup> Leo W J C Huberts 2000, *Anti-Corruption Strategies: The Hong Kong Model in International Context*, *Public Integrity* (Summer).

Yet before delving into a discussion of the possible ways to fight corruption, the matter of locating the topic, especially the costs and impact aspects, within the broad public administration sphere needs to be addressed. If human, and more importantly financial resources, are required to ensure efficacy in the fight against corruption, some form of calculation would be involved in determining its implications for the national fiscus. It is of course possible that measures against corruption get enacted without due consideration to their budgetary ramifications, and that costs may be unwittingly incurred, or wittingly avoided in the process of devising new legislation. Exactly where fighting corruption stands as a priority goal in the costs calculation of the national budget will be critical. As this study aims to show, the impact that arises from fighting corruption far outweighs the costs provided one accepts that the optimal level of corruption, from a tolerance level, is not zero. In the case of Hong Kong, however, we shall see a three-pronged approach at work where enormous outlay of resources was rewarded with a drastic reduction in corruption levels, and which subsequently produced economic benefits.

It seems logical, therefore, that the discussion on the ways to fight corruption be substantially informed by the available means at the disposal of the state as the one is contingent upon the other. Even if one invests unlimited resources in fighting corruption, a positive impact on society is not guaranteed unless one chooses the most appropriate strategy in a given context. Whether it is a case of

the ways or the means, or both, of fighting corruption, a public policy decision would be required to ensure implementation. Such decisions are never made in a vacuum and for this reason careful consideration will be given to some relevant international instruments and models for the formulation of public policy. In this regard the focus of attention will be on Herbert Simon's rational decision-making model, and the critique of its limitations by an alternative model known as incrementalism. With this latter model one will also observe its particular application in the process of budgeting and why it continues to be a challenge to move to a more values-based approach to budgeting. The ways and means of fighting corruption have to a considerable extent been tried and tested in other contexts, as we shall also see, but it requires a creative tension and balancing act on the part of a government to find the middle ground between strategic imperatives and budgetary constraints. The international policy context has to a greater degree created a framework for developing nations to respond to the challenges of globalisation, which among others, requires sovereign states to comply with generally accepted conventions and protocols. Such instruments, particularly those dealing with corruption, will also be briefly mentioned as they serve a useful policy purpose for developing nations that rush to keep in synch with their peers by signing such promissory declarations.

## 4.2 Means: Costs and Benefits

Choosing to fight corruption in any context would ordinarily involve a decision based on a public policy imperative. But what is public policy and how is it best devised? Since the 1960s, public policy as a specific area of analysis began to develop as a related field to and within public administration.<sup>2</sup> The definitions can be disparate, hence one approach is to distinguish between analysis *of* policy, which is academic and descriptive, looking at how policy is made, while analysis *for* policy is an applied and prescriptive activity that seeks to explain how a specific policy should be made.<sup>3</sup> What has become known as the 'rational' model of policy analysis was first advocated by renowned scholar Herbert Simon in 1945 already, and relates directly to this discussion of costs and impact. Simon developed a 'behaviour alternative model' which requires that in making a rational policy decision, an administrator should first examine all policy options available, establish the consequences of each policy alternative, identify the benefits and costs of each course of action, and then choose an option that would provide the greatest net satisfaction of benefits over costs.<sup>4</sup> Such an approach would ensure that policy considerations are framed according to a maximising norm of social gain, that is, 'governments should choose policies resulting in gains to society that exceed costs by the greatest amount, and

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<sup>2</sup> Robert Cameron 1991, *Public Policy, Politics: An Introduction for Southern African Students*, Cape Town: Oxford University Press, p 130.

<sup>3</sup> Ibid, p 131.

<sup>4</sup> Peter Self 1977, Second Edition, *Administrative Theories and Politics*, London: George Allen & Unwin, p 29f.

governments should refrain from policies if costs are not exceeded by gains'.<sup>5</sup> Also, importantly, this rational model involves 'the calculation of all social, political, and economic values sacrificed or achieved by a public policy' and not just those that can be measured in monetary terms.<sup>6</sup> Figure 1 shows a diagram of how such a model is intended to work.

In seeking 'optimal' courses of action to reconcile conflicting values or alternative points of view, Simon adopts a 'satisficing' position which requires that 'we look for *good enough* solutions rather than insisting that the best solutions will do'.<sup>7</sup> Members of an organization work for 'satisficing' (or satisfactory) solutions to problems faced in the workplace. It should be emphasised that Simon himself understood his behavioural model to be one that 'postulates that human rationality is very limited, very much bounded by the situation and by human computational powers'.<sup>8</sup> He complemented his model much later (after coming to terms with its limitations which we shall see later), with insights from psychology via 'intuitive theory' which recognises the role of emotion in decision making and underlies 'the skills humans can acquire by storing experience and by recognizing situations in which their experience is relevant and appropriate'.<sup>9</sup> Simon's rational model shows evidence therefore of development from a concern with pure rationality to the need for finding 'satisficing' solutions, to the 'melding

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<sup>5</sup> Thomas R Dye 1995, Eighth Edition, *Understanding Public Policy*, Englewood Cliffs, New Jersey: Prentice Hall, p 27.

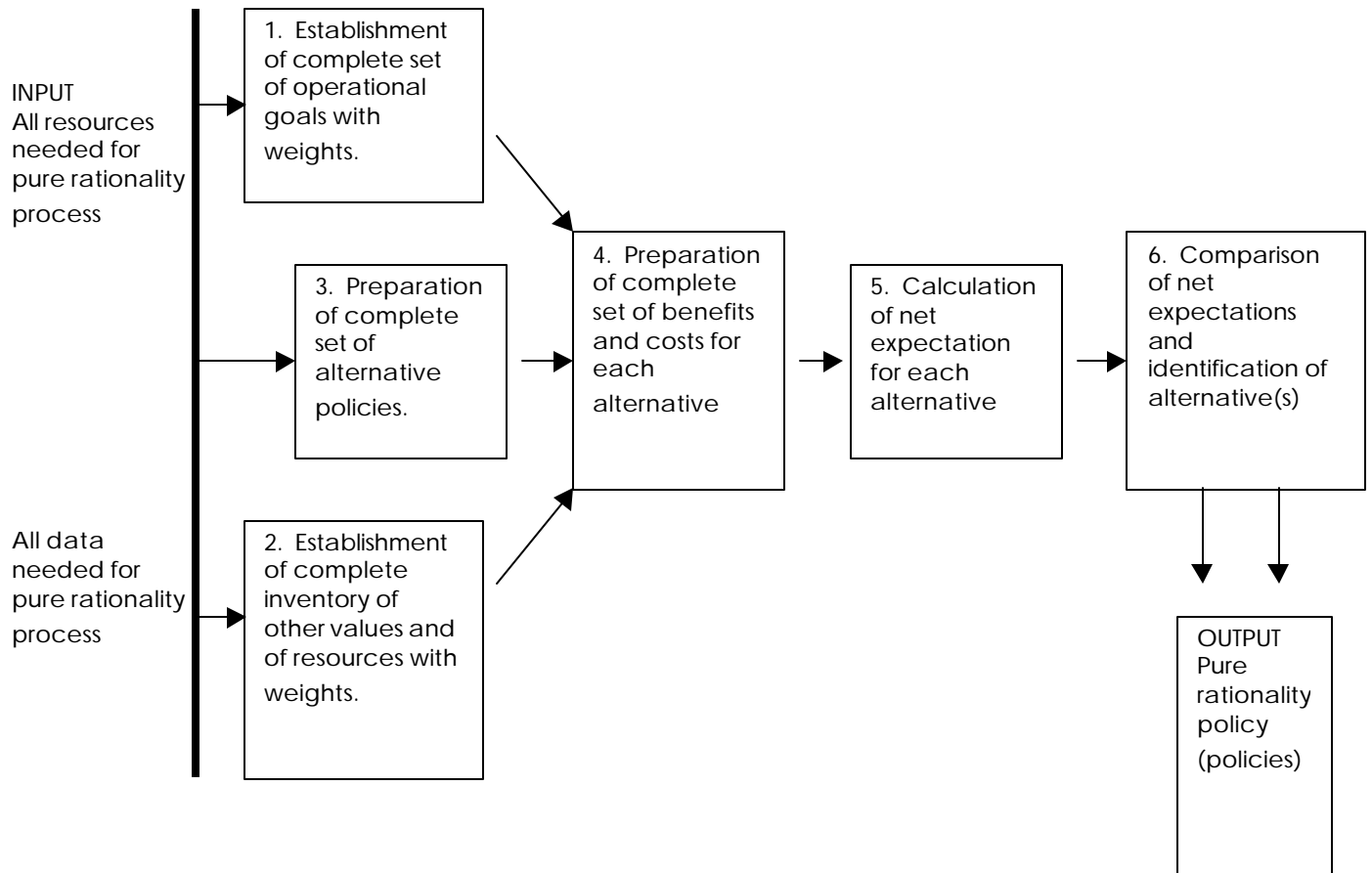
<sup>6</sup> Ibid, p 28.

<sup>7</sup> H A Simon 1983, *Reason in Human Affairs*, California: Stanford University Press, p 85.

<sup>8</sup> Ibid, p 34.

<sup>9</sup> Ibid, p 35.

**FIGURE 1: A Rational Model of A Decision System** (Reproduced from Thomas R. Dye, *Understanding Public Policy*, Eighth Edition, Prentice Hall, Englewood Cliffs, New Jersey, 1995, p29).



of psychological theories of motivation and economic modeling techniques' in order to advance the study of decision-making.<sup>10</sup>

One is tempted with the rational model as depicted above to immediately seek its application in formulating a policy decision to fight corruption. If corruption is usually harmful to society and creates social costs as we discovered earlier, the efforts to fight it or have it reduced will also involve costs. This leads Robert Klitgaard to conclude that 'in most cases, the minimum cost solution will not have corruption equal to zero or anti-corruption efforts equal to the maximum amount'.<sup>11</sup> As far as calculating the optimal amount of corruption, Klitgaard further explains as follows: 'Imagine a function that relates the marginal social cost of a unit of corrupt activity to the total amount of that corrupt activity present in the society or organization. The very first unit of corruption may carry little social cost. But as corruption gets worse and worse – as the total amount of the corrupt activity grows larger – each additional unit may have ever greater social costs.'<sup>12</sup> He uses as an example a case where 'the costs might grow in such terms as breaking down norms of behaviour, creating greater inefficiencies, worsening the distribution of incomes and power, and so forth'.<sup>13</sup> The upward sloping line (see Figure 2) captures this result. On the other hand, one can imagine with Klitgaard the marginal social cost

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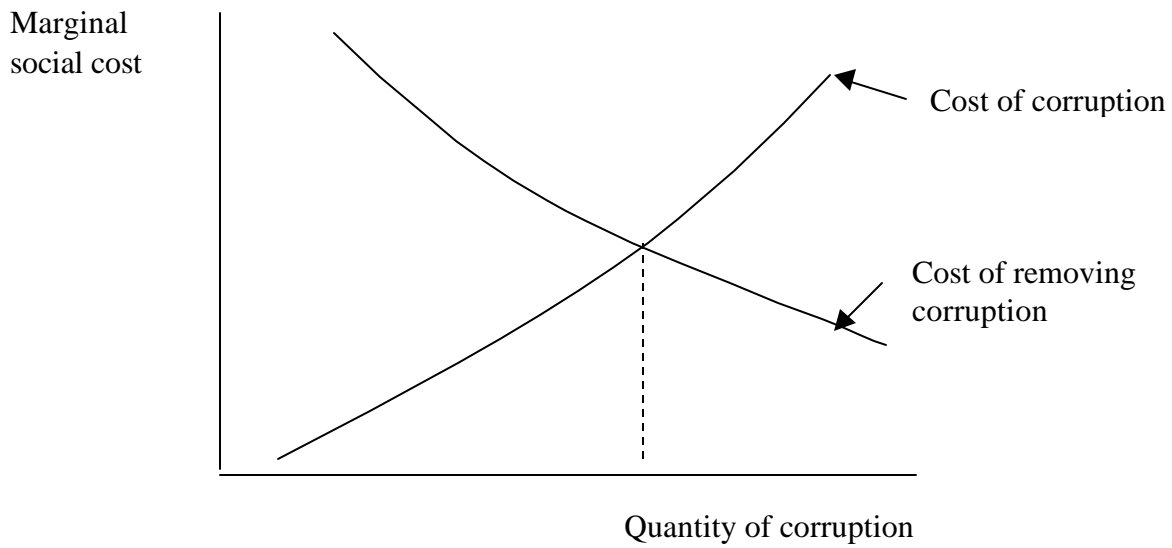
<sup>10</sup> Daniel W Martin 1989, *The Guide to the Foundations of Public Administration*, New York and Basel: Marcel and Dekker, p 360.

<sup>11</sup> Klitgaard, *Controlling Corruption*, p 25.

<sup>12</sup> *Ibid*, p 26.

<sup>13</sup> *Ibid*

## The Optimal Amount of Corruption



The intersection of these two curves indicates the least-cost combination of corrupt activities and efforts to reduce them.

**FIGURE 2:** Calculating Costs to Fight Corruption (Reproduced from Robert Klitgaard, *Controlling Corruption*, University of California Press, Berkeley, 1988, p26).



of reducing corruption as follows: 'If there were only a few instances of corrupt behaviour, they might be very costly to detect. On the other hand, if corruption were widespread, detection might be easier, and taking steps that reduced corruption by one unit might be relatively cheap. We might, then, hypothesize a declining marginal cost curve for reducing corruption.'<sup>14</sup> This can be illustrated with a downward sloping curve in Figure 2.

To reduce corruption one would therefore be required to choose an approach and undertake a balancing exercise that would result in 'the greatest net satisfaction of benefits over costs' as described above. Such a task will usually prove quite difficult, if not impossible, to accomplish though for a number of reasons. First, to effect a cost calculation where the optimal level of corruption is not zero would require that 'society's value preferences' and their corresponding weights are known.<sup>15</sup> Second, all the policy options would have to be known in advance of a strategic approach being adopted. Third, the consequences of each policy option would have to be clearly identified before, lastly, the most 'efficient' policy option is chosen. The need for comprehensive information, predictive capacity, administrative intelligence and the existence of a proper decision making system to achieve a rational decision makes the balancing exercise mentioned above quite complex. The American scholar Thomas Dye has

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<sup>14</sup> Ibid

<sup>15</sup> Dye, *Understanding Public Policy*, p 28. Kenneth Arrow, who won the Nobel prize in Economic Sciences in 1972, has shown that 'it was impossible to find a reasonable and consistent procedure for any society to choose among conflicting alternatives' (See *Social choice and public decision-making 1986*, Eds. Walter P Heller, Ross M Starr and David A Starrett, Cambridge University Press, p 1). The complex problem of establishing social choice in the midst of competing values is elaborated upon by Arrow in a collection of his papers. See his *Social Choice and Justice* (Basil Blackwell, Oxford, 1984).

observed that 'there are so many barriers to rational decision making that it rarely takes place in government'.<sup>16</sup> Among these, he mentions that social benefits cannot normally be agreed upon except those specific to individuals or groups, which of themselves can be conflicting. Benefits and costs defy weighting or comparison for the most part, and administrators are not motivated by social goals in making decisions but by personal interests of power, status, money, and re-election.<sup>17</sup> To show that progress is being made, they will not find the 'one best way', but will settle for an alternative that will work.

This was something that Simon himself realised when it became obvious that his 'maximising administrator' was utopian, and that organisations tended to become sluggish and rigid while remaining in a state of equilibrium and changing only under strong pressures but with little innovation.<sup>18</sup> Information gathering, which is vital for rational policymaking, is costly, not easily done and time consuming.<sup>19</sup> This factor is critical in the light that an organization's information flow does not generally relate to its information needs, that right information comes in unusable forms or too late to be useful, and that organizations tend to provide information which is not needed for policy-making.<sup>20</sup> Furthermore, modern organisations put much emphasis on division of labour and specialization of function, which gets in

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<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Self, *Administrative Theories*, p 36. By 1983, when Simon delivered the Harry Camp Lectures at Stanford University in California, he was speaking of 'the limits of institutional rationality' and how 'human reason is less a tool for modeling and predicting the general equilibrium of the whole world system, or creating a massive general model that considers all variables at all times', than 'a first approximation, that people will act from self-interest'. (Simon, *Reason in Human Affairs*, pp 79, 105)

<sup>19</sup> Self, *Administrative Theories*, p 30.

the way of a holistic approach towards management of a single problem.<sup>21</sup> If different aspects of a problem are handled by organisational sub-sections, co-ordination of their problem solving efforts is usually less than perfect. Instead of taking a comprehensive perspective, problems will be viewed with narrower departmental 'spectacles'.<sup>22</sup> This failure stems from the inability to look beyond one's immediate horizon to a more broader picture. For Simon therefore, the task of administrative science is to investigate the causes of 'bounded rationality', that is, the reasons why correct decisions are not taken.<sup>23</sup>

The classic administrator's dilemma is captured by Simon with his illustration of the fire chief who 'will attend primarily or perhaps exclusively to the problems of preventing and extinguishing fires, and will usually seek funds for improved equipment if such becomes available'.<sup>24</sup> But the 'rational' fire chief 'ought to consider whether his engines cause more harm through road accidents than they do good through getting to fires quickly; and he ought to ask himself whether the money he wants for new equipment would not be better spent upon hospitals or roads'.<sup>25</sup> Even in decisions about production and inventories, 'when practical decision makers are observed in action, the forecasting-planning approach is sometimes conspicuous by its absence' as they appear to be 'reacting to

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<sup>20</sup> B W Hogwood & L A Gunn 1984, *Policy Analysis for the Real World*, Oxford: Oxford University Press, p 51.

<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> Self, *Administrative Theories*, p 34.

<sup>24</sup> Simon's illustration is mentioned by Self, *Administrative Theories*, p 35.

<sup>25</sup> Ibid

situations as they develop'.<sup>26</sup> One will hesitate to disagree with Simon here about his emphasis that administrators should look beyond their territorial domains, but he offers no criterion to the administrator to help quantify costs and benefits in maximizing community values. His 'bounded rationality' stance, if adopted, would seem to require that 'all decisions be made centrally which are interrelated in respect of either their goals or their resources'.<sup>27</sup> This would be possible, since the total value of public expenditure decisions can only be optimized (within his 'satisficing' framework) through integrated planning. Thus a decision made by a central bureaucracy requiring a search for alternatives and values co-ordination would theoretically be the ideal. Yet Simon, the astute student of public administration, is keenly aware of the disadvantages of centralization as well.

In the realm of inter-agency relations, Simon (and other authors) are severe critics of 'overhead units' that are set up ostensibly to achieve technical rationality and policy co-ordination by assisting and controlling the activities of operating agencies.<sup>28</sup> Such units end up becoming 'vexatious and time-wasting' and actually reduce the 'goal effectiveness' of the agencies performing their line functions. The anti-corruption agencies in South Africa are fortuitously spared the burden of reporting to such a unit but this of itself is not a guarantee for the

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<sup>26</sup> C C Holt & H A Simon 1982, Optimal Decision Rules for Production and Inventory Control, in H A Simon 1982, *Models of Bounded Rationality: Economic Analysis and Public Policy*, volume 1, Cambridge, Massachusetts: Massachusetts Institute of Technology, p 143.

<sup>27</sup> Self, *Administrative Theories*, p 35.

<sup>28</sup> H A Simon, D W Smithburg, & V A Thompson 1950, *Public Administration*, New York: Alfred A Knopf. Cited in Self, *Administrative Theories*, p 36.

efficiency of their operations as we shall later see. A centralised approach militates against

the principle that where an agency performs a clearly defined social function, its operating efficiency is likely to be maximized if the agency is allowed a high degree of autonomy. The agency best understands its goals and problems, and is dedicated to their realization or solution.<sup>29</sup>

In addition, as Dye mentions, the fragmented nature of policy development in large bureaucracies 'makes it difficult to co-ordinate decision making so that the input of all the various specialists is brought to bear at the point of decision'.<sup>30</sup> In trying to bring 'greater rationality' to his model, Simon sought improvements in his later writings. But he still argued that 'modern management methods both demand and facilitate large-scale fields of operation', as he appeared to be pointing his readers towards 'a centralized, technocratic, planned form of government'.<sup>31</sup>

The limitations of the rational model of policymaking as discussed above prompted political scientist Charles Lindblom to devise an alternative model of 'incrementalism' in 1959.<sup>32</sup> Lindblom argued that 'the more incremental method of "successive limited comparisons" (or branch) method is superior to the "rational-comprehensive" (or root) method because of its ability to simplify

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<sup>29</sup> Ibid

<sup>30</sup> Dye, *Understanding Public Policy*, p 30.

<sup>31</sup> Hogwood & Gunn, *Policy Analysis*, p 55.

<sup>32</sup> C E Lindblom 1959, 'The Science of Muddling Through', *Public Administration Review* 19.

alternatives, to answer multiple and/or conflicting objectives, and to reflect decision-making in the real world'.<sup>33</sup> In essence, according to Cameron, incrementalism 'holds that policies are made within a narrow spectrum of possible alternatives as administrators usually 'do not have the time, intelligence and money to investigate all policy alternatives and their consequences'.<sup>34</sup> Instead of adopting the optimal policy, they will stop at one that appears to work which will effectively be a continuation of past government policy with incremental modifications. In a developing country lacking skilled personnel, accurate and reliable information, and sufficient financial resources, such a scenario can be quite severe. Again, in Dye's description of incrementalism (which Simon would agree with), 'constraints of time, information, and cost prevent policymakers from identifying the full range of policy alternatives and their consequences' while the constraints of politics 'prevent the establishment of clear-cut societal goals and the accurate calculation of costs and benefits'.<sup>35</sup> Incrementalism thus involves a conservative approach where 'policymakers generally accept the legitimacy of established programmes and tacitly agree to continue previous policies'.<sup>36</sup> It seeks to overcome the inefficiencies that result when the time and cost of developing policy might be excessive as is often the case. Incrementalism seems to hold particular application, however, for budget making, as we shall see, and it is to that subject that attention must now be given.

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<sup>33</sup> Martin, *Guide to the Foundations*, p 360.

<sup>34</sup> Cameron, *Public Policy*, p 139.

<sup>35</sup> Dye, *Understanding Public Policy*, p 31.

<sup>36</sup> *Ibid*

### 4.3 Budgetary Implications

Public institutions, like those engaged in fighting corruption, justify their existence according to Pauw and others,

... by the outputs that they produce to meet the benefits or outcomes that the people or their governments desire. One or more activity produces these outputs. The undertaking of all activities requires resources. Resources cost money.<sup>37</sup>

This gives rise to an expenditure budget ('a plan authorising the expenditure of money to achieve public goals for a specific fiscal year'), which is 'a result of the need for resources that will be used in producing outputs to satisfy prioritised needs'.<sup>38</sup> Incrementalism, as discussed above, has traditionally supplied the framework for budgeting because 'decision makers generally consider last year's expenditures as a base and limit active consideration of budget proposals to new items or requested increases over the base'.<sup>39</sup> However, Wildavsky cautions that 'the more that successive levels of the administration lean on incrementalism, the lower down in the hierarchy will the real decisions among alternative expenditures take place'.<sup>40</sup> If only 'the increment of the increment that differs from last year' are sent up for approval, 'uncertainty reduction' and uncertainty shifts

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<sup>37</sup> Pauw et al, *Managing Public Money*, p 59.

<sup>38</sup> Ibid

<sup>39</sup> Dye, *Understanding Public Policy*, p 231.

<sup>40</sup> A Wildavsky 1975, *Budgeting: A Comparative Theory of Budgetary Processes*, Boston, Mass: Little, Brown & Co, pp 223.

from one organization or level to another will result.<sup>41</sup> Not surprisingly then, with the introduction of the Public Finance Management Act in 1999, the emphasis in South Africa's budgeting process has shifted to the question of value, such that strategic and operational plans are now required to inform the budget process.<sup>42</sup> The strategic plan indicates the outputs that will lead to achieving a set of desired outcomes, while the operational plan provides the work flow details about the resources to be used and the anticipated expenditure. Because budgets can and are used to determine government priorities (and vice-versa), they serve as the means 'to give financial muscle to those priorities'.<sup>43</sup>

For the purposes of this study, the problem with budgeting, as stated by British scholar Peter Self, 'is to know how the benefits of public expenditure are to be defined, determined and quantified'.<sup>44</sup> If one followed the rational model strictly and adhered to a narrow economist's version of cost-benefit analysis, a budget would be produced by a central agency which will be qualified to determine all relevant costs and benefits in monetary terms. All economic, social and political values will have to be calculated, and in theory it will not be possible to increase benefits unless they are weighted against their potential costs. But the problem of attributing monetary value to saving the life of someone on a dialysis machine over against a tax increase, for example, can be highly subjective as 'there is no

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<sup>41</sup> Ibid

<sup>42</sup> Pauw et al, *Managing Public Money*, p 60.

<sup>43</sup> I Abedian, T Ajam & L Walker 1997 [Reprinted 1998], *Promises, Plans and Priorities: South Africa's Emerging Fiscal structures*, Cape Town: IDASA, p 14.

<sup>44</sup> Self, *Administrative Theories*, p 41.



yardstick which can comprehend all the values that are relevant to policy decisions'.<sup>45</sup> Two other complications arise according to Self. Politicians and other actors in the budgetary process

... are usually reluctant to make their values explicit, and prefer perhaps necessarily to work with conflicting or ambivalent goals. Additionally, the framework for ordering the values is itself a subject of dispute or uncertainty.<sup>46</sup>

For these reasons then, it seems obvious that budgeting is more about 'limits, choices and trade-offs' as the process of 'weighting up the relative importance of one programme against another' in terms the public agenda is played out.<sup>47</sup> The competing interests that constitute the public agenda, however, are so numerous and so wide ranging of governmental action that 'comprehensive policy analysis becomes truly impossible', yet a budget must be produced.<sup>48</sup> Unfortunately though, as Gildenhuis has noted, '[t]he comparison between cost and programme value, vital to intelligent resource allocation, is not a regular component of budget resource processes.'<sup>49</sup> It seems plausible to believe that

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<sup>45</sup> Ibid, p 43. Self mentions the example where 'one can analyse the probable effects of various subsidies upon the incomes of different groups of farmers, or the likely effects upon unemployment levels of alternative ways of allocating a given quantum of assistance. Since these factors can be measured according to a variety of methods and assumptions, full objectivity is impossible; but objectivity should at least increase as the view-point becomes more general and less influenced by special interests.'

<sup>46</sup> Ibid

<sup>47</sup> Abedian et al, *Promises, Plans and Priorities*, p 30.

<sup>48</sup> Self, *Administrative Theories*, p 43.

<sup>49</sup> J S H Gildenhuis 1993 [Reprinted 1997], *Public Financial Management*, Pretoria: J L Van Schaik, p 512.

‘the calculation of the exact amounts to be allocated when the money is divided between programmes in the light of the various general goals is very complicated indeed’.<sup>50</sup>

If the demand for prioritisation in South Africa requires that trade-offs be made, between and within government departments, ‘reprioritisation’ is necessary to change spending patterns so that they reflect those of the new government over against the imbalances inherited from the apartheid era.<sup>51</sup> In the attempt to do more with less, it is important that there is ‘accessible information about what trade-offs are being made, what everybody stands to gain or lose, what the future benefits would be and to whom they would accrue’.<sup>52</sup> It is equally important that the budget be comprehensive enough for if extra-budgetary funds are needed or certain expense items excluded (like when resources to fight corruption are considered), the task of making decisions about directing expenditures towards achieving strategic results becomes more difficult. The problem of unfunded mandates also arises here where directives from national government to provincial and local government are given without supporting funds. One way of dealing with this situation is ‘to enact legislation which compels costing (“fiscal noting”) to be made before mandates are implemented’, or for the lower-level tiers of government to claim reimbursement for costs incurred in implementing unfunded mandates.<sup>53</sup> The net benefit of each institutional activity can be used to

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<sup>50</sup> J C Pauw, Ethics and Budgets, in Wessels & Pauw, *Reflective Public Administration*, p 205.

<sup>51</sup> Abedian et al, *Promises, Plans and Priorities*, p 107.

<sup>52</sup> Ibid, p 108.

<sup>53</sup> Ibid, p 109.

determine priorities with the activity showing the highest net benefit receiving the highest priority and so forth.<sup>54</sup> The budget of the Department of Education, for example, shows a steady increase year on year as South Africa remains committed to producing a skilled workforce to meet its growing needs and over which there is little debate. Groups representing different stakeholders will still need to be consulted 'throughout the process of determining costs and benefits and for negotiations on the institution's final choice of priorities'.<sup>55</sup> This is critical, although an objective view of priorities among the various stakeholders will not be possible.

Public priorities for government spending in South Africa have certainly shifted and been reprioritised since 1994 as budgeting has become a (democratic) 'process' where consensus is sought over diverse interests which are then factored into the costs and benefits quantification exercise discussed above. The notion of a public agenda becomes pertinent if one is to unpack what the most pressing problems that government should address are, and whether such problems as articulated by the citizens generally have been prioritised previously. Public opinion obviously counts for a lot in a democracy as when a government finds itself on a collision course with such opinion, the likelihood of it being returned to office can be severely tested. Between 1994 and 1997 IDASA undertook surveys to ascertain what answer a representative sample of South

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<sup>54</sup> Pauw et al, *Managing Public Money*, p 112. This argument is based on the assumption that benefits can be measured in terms of their priority status in the budget.

<sup>55</sup> Ibid

Africans would give to the question: What are the most important problems facing this country that government should address? Interestingly, jobs, housing, security (or crime), and education featured consistently throughout.<sup>56</sup> The surveys found that 'though people tend to value what is in short supply', their 'priorities are not solely a function of their own narrow interests, privileges or deprivation', and importantly, that 'there are areas of general agreement on what the key issues are'.<sup>57</sup> The 'bad news' about budgeting, however, remains, as Pauw and others have noted, in that 'even if we know the things we are of necessity to finance, and even if we know which programmes are the most important for us, we cannot be sure of how to translate that into amounts of money'.<sup>58</sup> If the programme of fighting corruption is identified as a key government activity, in whatever order of priority, and is listed in strategic or operational plans, it will therefore require such 'amounts of money' if it is to be implemented despite the web of budgetary complexity surrounding it as discussed above.

#### **4.4 Ways: National Integrity Systems**

When Transparency International (TI) was formed in 1993 as a not-for-profit, non-governmental organisation to curb corruption, its intention was based on a

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<sup>56</sup> H Taylor & R Mattes 1998, *Public Demands on Government: The People's Agenda*, Cape Town: IDASA. POS Report 5: July 1998. Only 6% of respondents prioritized the issue of corruption in 1997 though despite the publicity which the issue generated since 1994.

<sup>57</sup> Ibid, p 15.

<sup>58</sup> Pauw et al, *Managing Public Money*, p 108.

general principle that it would not deal with single and specific cases of corruption, but attempt ‘to develop and strengthen the structural framework ‘ in countries across the world.<sup>59</sup> This initially involved holding national integrity workshops, especially in developing countries, stimulating integrity pledges from political leaders, formulating action plans, and promoting ethical integrity in procurement processes. From the outset TI sought to open up the discussion on corruption, which as we saw earlier, was rather closed until the time of TI’s formation. Potential players were to be brought together to initiate a ‘change of the rules of the game’ and it was this ‘concept of changing underlying structures, the legal and institutional framework instead of exposing single cases’ that remains TI’s pivotal strength.<sup>60</sup> It therefore quickly gained a reputation of being an ‘honest broker’ through its non-confrontational yet constructive approach in helping governments fight corruption. TI learnt from its experiences that there are no simple solutions to overcome corruption and saw how many efforts had failed because they were too narrowly focused, lacked political commitment, were overtly ambitious, relied too heavily on legal enforcement, or lacked sustainable institutional mechanisms. But if political commitment could be secured in a given context, institutions and sectors were not beyond the reach of reform and the creation of a good government to serve the public interest.

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<sup>59</sup> W van Ham 1998, *Transparency International (TI) – The International NGO Against Corruption: Strategic Positions Achieved and Challenges Ahead (A Case Study)*. Master of Business Administration dissertation submitted to Anglia Polytechnic University, p 22.

<sup>60</sup> *Ibid*, p 30.

From debate and discussions within the TI movement, there emerged during its early years the concept of a 'national integrity system' (NIS) to improve standards of governance.<sup>61</sup> This was in essence a holistic system designed to promote transparency and 'horizontal accountability' in all spheres of the public sector, but requiring the active participation of civil society and a decisive role to be played by the private sector. It was also meant to act 'as a practical way to avert the damage which corruption causes to the public interest and as a way of fostering an environment in which the quality of decision making is heightened'.<sup>62</sup> The NIS approach was framed within the mainstream development agenda of the time which prioritised the interests of the poor and marginalized in the context of an enabling state and which saw corruption as an obstacle to that goal. This made its usage among anti-corruption activists, governments, international institutions and aid donors quite common.<sup>63</sup> But it also required adaptation according to a country's socio-economic context and institutional arrangements as the process of reform was itself often subject to manipulation for corrupt purposes. It was therefore necessary to allow for considerable flexibility in seeking to implement the NIS within the unfolding development shifts of a given country so that it did not indirectly create more opportunities for new corrupt actors to stake their claim in the changing system.

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<sup>61</sup> J Pope (ed) 1996, *National Integrity Systems: The TI Source Book*, Berlin: Transparency International.

<sup>62</sup> Ibid, p 6.

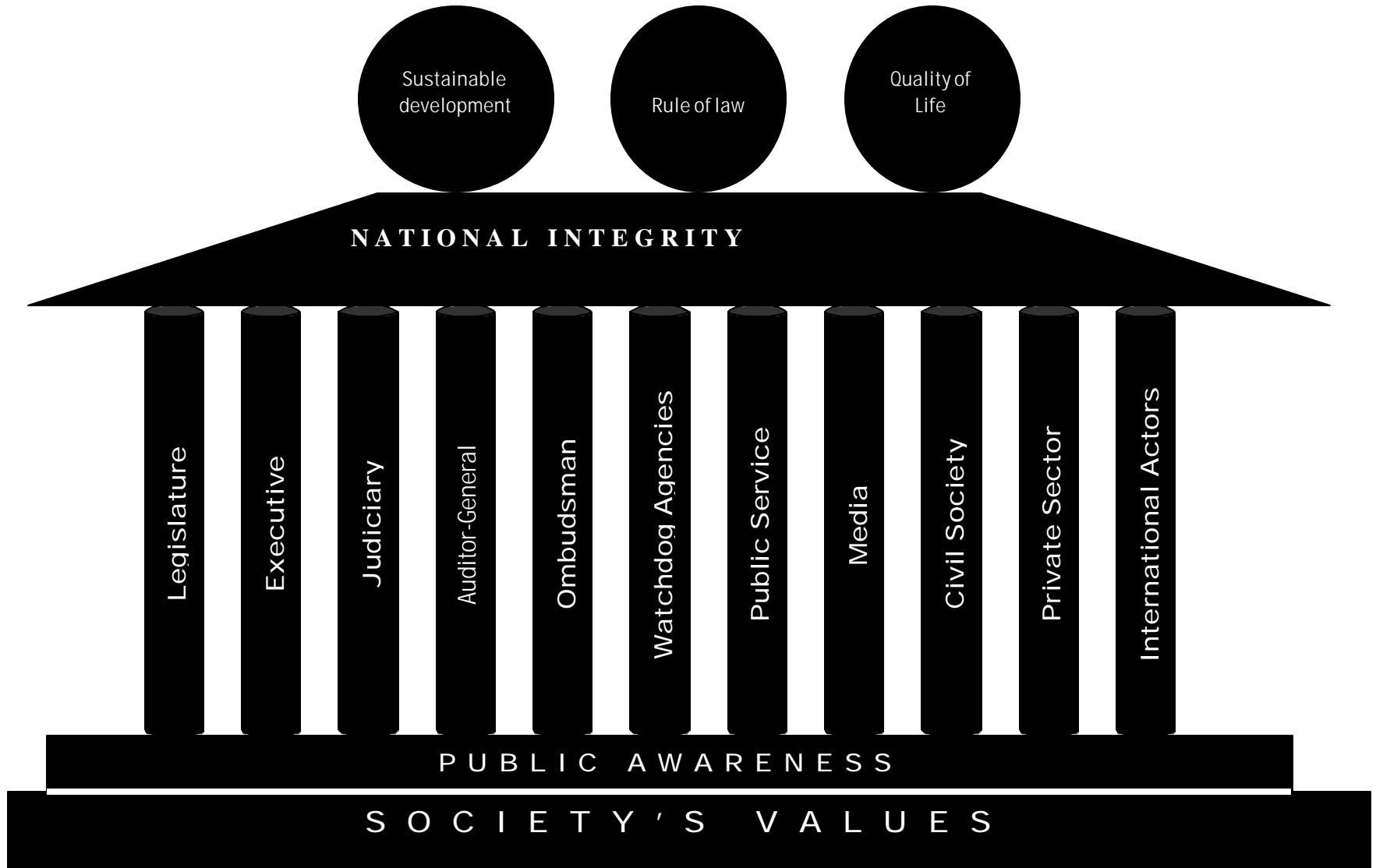
<sup>63</sup> See, for example, a publication of the Economic Development Institute of the World Bank written by K M Dye and R Stapenhurst 1998, *Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption*, Washington DC: World Bank. Note also the adaptation of the national integrity framework by the UN Global Programme Against Corruption (see 6:5).

Modern government operations are required to be transparent and accountable, but in many countries transiting to democracy, as well as those still developing, there existed a prevalence of autocratic rule. Elites with monopoly power would discharge orders and rules for implementation from a central point to those down the line. Over against such a system another was possible where power would be dispersed, no single person enjoying a monopoly position, lines of 'horizontal accountability' clearly drawn, and a culture of transparency being its defining character. Such a 'virtuous circle' is thus the ideal where 'each actor is both a watcher and is watched, is both a monitor and is monitored'.<sup>64</sup> From a system of only vertical responsibility (under tyrannical rule), one shifts to another where watchdog bodies and agencies of restraint exercise a careful check on the president and the executive, parliament, the courts, banks, the media, the public service and other institutions of government with an appropriate role identified for civil society and the international community. Each one of these entities, including the watchdog agencies, constitutes a 'pillar' holding up the 'roof' of national integrity (see illustration of such a system in figure 3). The period of transition from one system to the next can be quite slow and fraught with many obstacles, but the aim throughout must be to make corruption a 'high risk' and 'low return' activity than can be prevented, instead of relying on law enforcement after the fact.<sup>65</sup> Total dependence on a single pillar of integrity must be avoided, while gaps and weaknesses in the system must be addressed in an ongoing way to prevent a systems collapse. Corresponding rules and practices such as fair

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<sup>64</sup> Pope, *TI Source Book*, 2000 edition, p 33.

<sup>65</sup> *Ibid*



**FIGURE 3:** The National Integrity System (Reproduced from Jeremy Pope (Ed.), *Confronting Corruption: The Elements of a National Integrity System*, Transparency International, Berlin, 2000, p35).



elections, conflict of interest rules, public service ethics, access to information, whistle-blowing legislation, etc, to sustain the pillars both individually and collectively must be built into the system. The establishment and maintenance of any or all of the pillars will involve direct costs, a matter that is not addressed in any detail in the TI Source Book, except in the context of multilateral donor assistance, as we shall see shortly.

Since its formation, much of TI's work in the 1990s has been devoted to promoting the NIS as a effective way to combat corruption, but also as part of a larger struggle against misconduct and misappropriation, and to promote efficient and effective government that serves the public interest. This might involve 'seeking initiatives in individual countries to introduce pillars, to strengthen core pillars in an incremental approach to the development of an NIS or to work through one pillar to develop an agenda or national plan involving other pillars'.<sup>66</sup> Pillars were encouraged to work together as stakeholders in developing an NIS plan and achieving an overall effect of improved quality of life, rule of law and sustainable development. They were not expected to be equal in strength but interdependent with their collective efforts against corruption contributing towards a coherent approach. TI believed that with the NIS 'a new form of diagnosis and potential cure for corruption' had been unearthed.<sup>67</sup> In 2001 it was used as an 'audit tool' to assess the individual performances of 20 countries in terms of their

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<sup>66</sup> A Doig & S McIvor, *The National Integrity System Concept and Practice: A Report by Transparency International for the Global Forum II on Fighting Corruption and Safeguarding Integrity*, The Hague, Netherlands, 28-31 May, 2001, p 4.

<sup>67</sup> Pope, *TI Source Book*, p 37.

own unique integrity systems, with the audit findings presented to the Global Forum II.<sup>68</sup> With such use of the NIS, an evaluation of 'specific pillars in terms of their centrality to the working of an NIS' and 'the added value of pillar interaction both in terms of addressing corruption and the wider NIS goals' was made possible.<sup>69</sup> One of the best mechanisms by which the NIS of a given country can be systematically evaluated and overhauled, if necessary, was through the National Integrity Workshop, where all stakeholders including government, the private sector and civil society would meet and assume ownership of the process. It was important that this whole exercise be 'conceptualised, driven and owned by the local participants', though.<sup>70</sup>

The impact of the NIS approach to fighting corruption was soon widespread. By 1998 the United States Agency for International Development (USAID) had developed a framework to assist its missions around the world to help countries develop a strategy that would 'combine societal reforms to institutionalize political will with targeted institutional reforms'.<sup>71</sup> To address the unique forms of corruption in the former Soviet Union and Eastern Europe, the World Bank developed a multi-pronged strategy comprising five 'building blocks', namely, institutional restraints, political accountability, competitive private sector, public sector management and civil society participation.<sup>72</sup> For the strategy to be

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<sup>68</sup> See Doig and McIvor, *The National Integrity System*.

<sup>69</sup> Ibid, p 12.

<sup>70</sup> Pope, *TI Source Book*, p 38.

<sup>71</sup> *USAID Handbook for Fighting Corruption*, Centre for Democracy and Governance, USAID, Technical Publication Series, Washington DC, 1998

<sup>72</sup> World Bank 2000, *Anti-Corruption in Transition: A Contribution to a Policy Debate*, Washington DC: World Bank.

effective, 'some guidelines for the selection and sequencing of reform priorities tailored to the particular contours of the corruption problem in each country' had to be developed, feasible entry points identified, and coalitions of anti-corruption efforts assembled. In 2001 the Vienna-based United Nations Centre for Crime Prevention launched a Global Programme against Corruption with pilot projects in select countries. A modular approach was adopted here with a broad set of 'tools' being used to cover prevention, enforcement, institution building, awareness-raising, anti-corruption legislation and monitoring.<sup>73</sup> The tools themselves were flexible enough to 'be utilised at different stages and levels, and in a variety of combinations according to the needs and context of each country or sub-region'.<sup>74</sup>

The experiences of many transition and developing countries, where the NIS and such related approaches have been mostly implemented, however, suggest some serious shortcomings. While the NIS provides for a role to be played by international actors, these countries are often 'simply unable to deal with the problem of corruption without pressure and help' from this quarter; there is in fact 'a general absence of co-ordinated and sustained support by multilateral and bilateral donors for anti-corruption initiatives'.<sup>75</sup> While the NIS puts a high premium on home-grown initiatives, international pressure is a critical driver of

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<sup>73</sup> United Nations 2001, *Anti-Corruption Tool Kit, Global Programme Against Corruption*, Centre for Crime Prevention, Office of Drug Control and Crime Prevention, United Nations, Vienna, Version 2, September 2001.

<sup>74</sup> *Ibid*, p 9.

<sup>75</sup> Doig and McIvor, *The National Integrity System*, p 14.

anti-corruption programmes and plays an important role in providing civil society organizations with the means to fund their projects.<sup>76</sup> The dichotomy extends to these programmes themselves as well, which often use ‘technocratic, generic, and broad language which means little to people in the field and to the general public’ who are supposed to own the programmes.<sup>77</sup> Such language might act as cover, ‘giving the donors the right to engage in political activity under the guise of technocratic intervention’.<sup>78</sup> Some ‘best practices’, which have no practical success history, are advanced, but they can sometimes be so complicated that it is difficult to prove their usefulness. In search of new anti-corruption ‘markets’ donors have steered the agenda to be so broad that now ‘it encompasses all parts of social, political and economic life’.<sup>79</sup> An inordinate and unnecessary amount of resources have been directed towards the measurement or quantification of corruption, which as we have seen is a most dubious exercise (see 2:5), rather than efforts in strengthening the pillars of integrity. Future implementation of the NIS in the developing world will continue to be buttressed by the need for more adequate resources to sustain anti-corruption initiatives, more effective co-ordination among donors, greater international pressure where necessary, and a stronger civil society sector that will hold governments accountable. Yet, because of its multifaceted approach involving different pillars and a host of stakeholders, all not necessarily working towards the same goal at

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<sup>76</sup> Ibid

<sup>77</sup> M Bryane, *The Rise and Fall of the Anti-Corruption Industry: Toward Second Generation Anti-Corruption Reforms in Central and Eastern Europe*, Linacre College, unpublished paper, p5

<sup>78</sup> Ibid, p 6.

<sup>79</sup> Ibid, p5.

the same time, its use may be challenged by a narrower law enforcement option where a single institution takes centre stage for the sake of cost-effectiveness.

#### **4.5 International Instruments**

When the South African government began contemplating action against corruption for the first time in 1997, it was against a background of challenges posed by new international instruments that required consenting nations to agree to undertake a series of reforms to contain the spread of corruption. One of the first was a United Nations Code of Conduct for International Public Officials that was adopted in 1997 to provide member states with ‘a tool to guide their efforts against corruption through a set of basic recommendations that national public officials should follow in the performance of their duties’.<sup>80</sup> This was followed by the Declaration against Corruption and Bribery in International Commercial Transactions and, later, the adoption in 2000 of the United Nations Convention against Transnational Organised Crime, which included several provisions related to corruption. These initiatives paved the way for further discussions among member states, including South Africa, on the need for an effective international legal instrument against all aspects of corruption. After two years of negotiations, the United Nations Convention against Corruption was adopted in Mexico in December 2003, thus creating ‘the first global instrument embracing a comprehensive range of anti-corruption measures to be taken at the national

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<sup>80</sup> Country Corruption Assessment Report, p 11.

level'.<sup>81</sup> A wide range of measures to prevent and combat corruption are proposed, which leads TI to conclude that, 'many countries will require considerable help to take the necessary steps to implement it'.<sup>82</sup> Whether such help or 'technical assistance' is forthcoming remains to be seen, but apart from that, the UN Convention has set a global standard for developing countries to emulate if they are to compete with their developed counterparts, whose access to financial resources to fight corruption is much less constrained.

The Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted in May 1997 by 29 member countries, and came into force from February 1999. Though South Africa is not a member, by early 2004 it had already begun a process of accession to the OECD Convention, which is open to any country seeking to comply with its provisions.<sup>83</sup> This would ordinarily require that a ratifying country enact laws making foreign bribery a crime. By 2003 Transparency International found that '[e]ven though most laws have been in place for several years, most countries have taken little or no enforcement action' and warned that 'there is serious danger that the Convention will fail to become an effective weapon against international corruption'.<sup>84</sup> From information gathered from country reports and OECD experts, TI identified the

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<sup>81</sup> P Rooke 2004, *The UN Convention against Corruption*, Global Corruption Report 2004, Transparency International, London: Pluto, p 111.

<sup>82</sup> Ibid

<sup>83</sup> OPSC/CD:PEHRR.

<sup>84</sup> Transparency International: *Overcoming Obstacles to Enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials: Report on Paris Meeting of 2-3 October 2003*, Berlin, p 1.

following as one of the most common causes for the lack of enforcement of the OECD Convention:

Investigating and prosecuting foreign bribery cases requires extensive work by experienced professionals. Law enforcement officers in many Convention countries are not adequately staffed or trained to undertake foreign bribery cases. Because most prosecutors are already swamped by large case loads, they are reluctant to take on new cases that require large resources and will take years to complete.<sup>85</sup>

The efficacy potential of the OECD instrument against corruption was thus still being questioned five years after coming into force because of insufficient resources committed for its implementation.

In the case of the Southern African Development Community (SADC) Protocol against Corruption, the overall situation is much worse. The protocol was meant to be a significant instrument in the multilateral approach towards fighting corruption. The key challenge of reforming anti-corruption legislation across the SADC region to bring it line with the protocol, however, has floundered. The protocol was signed in August 2001, but has yet to be ratified by the requisite number of member countries (two thirds) to come into force. Roger Batty, who has worked for anti-corruption agencies in Hong Kong, Botswana and South Africa, believes the problem to be linked to a 'wide disparity throughout the region

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<sup>85</sup> Ibid

as to the volume of resources devoted to national anti-corruption campaigns'.<sup>86</sup> Also, he notes that 'in some nations there is no budget for such programmes and until this is addressed, little progress will be made'.<sup>87</sup> His solution is targeted at donor aid, which he says should be redirected towards supporting regional initiatives that encourage further self-development, cost effective solutions and lasting results such as the facilitation of skills training, for example.<sup>88</sup> Based largely on the SADC Protocol, the more recent African Union Convention on Preventing and Combating Corruption and Related Offences was adopted by African Heads of State in July 2003. No fewer than 15 states must ratify the process before the AU Convention can come into force. While Article 19 of the convention provides for consenting countries to '[w]ork closely with international, regional and sub-regional financial organisations to eradicate corruption in development aid and co-operation programmes', no further mention is made in the convention of resource imperatives for the fight against corruption to be effective.<sup>89</sup> This is ordinarily a matter for the consideration of member states individually, but if no budgets exist for such purposes as is often the case (which is what Batty would have us believe), there is little hope of the AU Convention being effectively implemented and corruption reduced as a result.

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<sup>86</sup> R Batty 2002, *Anti-Corruption Institutions and Practice in Southern Africa*, in Zvekis, U (ed) 2002. *Corruption and Anti-Corruption in Southern Africa*, Pretoria, UNODC: ROSA, p 57.

<sup>87</sup> Ibid

<sup>88</sup> Ibid

<sup>89</sup> See text in A T Muna 2003, *The African Union Convention on Preventing and Combating Corruption and Related Offences*, Berlin: Transparency International, pp 38-48.



The advent of a new world onslaught against corruption in the 1990s was accompanied by the creation of internationally accepted legal standards of conduct that would henceforth identify those countries that shared the political will to fight against corruption. Yet as we have seen, signing or even ratifying a legal instrument does not usually translate into an allocation of resources to offset the costs that arise from implementing it in many countries, not least South Africa. It would of course have been far more helpful, had it been possible, to use the method of cost-benefit analysis, for example, before consent is given by any country to adopting protocols like those mentioned above. One does not doubt that such 'compliance costs' will differ greatly from country to country, thus making the task of calculating costs against benefits all the more difficult. But warning of possible abuse of the method and the process is in order here as Wildavsky notes:

To expect, however, that the method itself (which indulges some and deprives others) would not be subject to manipulation in the political process is to say that we shall be governed by formula and not by men. Because the cost-benefit formula does not always jibe with political realities – that is, it omits political costs and benefits – we can expect it to be twisted out of shape from time to time.<sup>90</sup>

Wildavsky's comments would be equally relevant if we were to hypothesise that the matter of costs has certain critical political connotations, or ramifications,

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<sup>90</sup> Wildavsky, *Budgeting*, p 320.

depending on policy imperatives and political actors. This is something that will require further exploration in the course of this study, particularly when the rationalisation of resources to fight corruption is being considered.

#### **4.6 Three-Pronged Approach**

When the Independent Commission Against Corruption (ICAC) was formed in Hong Kong in 1974, corruption had become deeply rooted in what was then a British colony. After World War II, the influx of immigrants from China gave rise to an acute shortage of services.<sup>91</sup> This created a situation where deprived citizens recognised that using personal ties or gifts to obtain public services improperly was officially wrong but socially acceptable. The numerous regulations and restrictions placed upon them by an 'alien government' were resented as the British comprised only one per cent of the population.<sup>92</sup> Civil servants were themselves poorly paid, except those of British origin, who enjoyed special benefits and privileges. The payment of bribes and secret commissions soon became a common way of securing services and doing business.<sup>93</sup> Economic pressures mounted as getting a simple procedure approved by a government department ahead of ordinary time could mean savings of thousands of dollars. In such a climate, not only were the police potentially powerless but were

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<sup>91</sup> T Wing Lo 1993, *Corruption and politics in Hong Kong and China*, Milton Keynes, Bucks: Open University Press, p 80.

<sup>92</sup> B de Speville 1997, *Hong Kong: Policy Initiatives Against Corruption*, Development Centre Studies, : Paris: OECD, p 12.

<sup>93</sup> *Ibid*, p 11.

themselves often implicated in criminal activities involving drug trafficking, prostitution and gambling protection, and traffic violations. Together with gangsters and other Chinese triad leaders, the police shared protection money and seemed content to accept corruption as a way of life. An Anti-Corruption Branch (ACB) was formed in 1952 within the Criminal Investigation Department, but proved highly ineffective, as it was too closely allied to the police force and members could end up investigating allegations against colleagues.<sup>94</sup> Moreover, the public felt intimidated and were reluctant to complain to the police for fear of reprisals and as the police were themselves reputedly corrupt.<sup>95</sup> A 'divorce' of the ACB from the police force would have been in the best interest of the public, but the police were adamant about maintaining their empire and resisted any real reforms.

The 1960s, however, ushered in a tumultuous time of change for Hong Kong that saw the rise of social unrest and economic instability. The initial spark seems to have been caused by a fare increase for a ferry ride between Hong Kong Island and nearby Kowloon, which provoked public demonstrations that later turned into riots.<sup>96</sup> During the resultant hearings by government, allegations of police corruption often surfaced.<sup>97</sup> The cultural revolution had also broken out in China in 1966 and spread to Hong Kong. Workers and students took to the streets often

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<sup>94</sup> Lo, *Corruption and Politics*, p 80.

<sup>95</sup> Sixth Report, Advisory Committee on Corruption, Hong Kong, 1961, para.30. Cited in T.Wing Lo, p 81

<sup>96</sup> Ibid, p 82.

<sup>97</sup> Bertrand de Speville, *Hong Kong: Policy Initiatives Against Corruption*, Development Centre Studies, OECD, Paris, 1997, p 16.

in confrontation with the police who risked their lives to maintain law and order. The economy was shaken as some banks closed down leaving thousands deprived of their life savings. China was rising as a global power as many immigrant Chinese began to assert their origins and embrace the motherland with its communist doctrine of self-reliance, political impartiality and economic independence.<sup>98</sup> Corruption in these years proved a useful issue with which activists could attack the authorities. The colonial government, it seems, 'was compelled to act promptly, to make changes, to restore its dwindling reputation, and to demonstrate to its critics the supremacy of colonialism over socialism'.<sup>99</sup> Moves were afoot to recognise Chinese as the second official language of the 'territory', rather than the colony and government officials now sought to learn new ways of combating corruption from neighbouring states like Singapore. A new powerful ordinance was introduced in 1971 with the ACB becoming a semi-independent Anti-Corruption Office (ACO) reporting to the Assistant Commissioner of Police.<sup>100</sup> Corruption seemed to be under control for a while, until the sudden disappearance of police Chief Superintendent Peter Godber, who was being investigated by the ACO. He fled to England, leaving the authorities powerless under existing procedures, much to the outrage of the public. A commission of inquiry to be headed by Sir Alistair Blair-Kerr was subsequently appointed to look into the matter and suggest changes to the current anti-corruption measures.<sup>101</sup>

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<sup>98</sup> Lo, *Corruption and politics*, p 86.

<sup>99</sup> Ibid, p 87.

<sup>100</sup> Ibid, p 88.

<sup>101</sup> Ibid, p 91.

The decision to create ICAC was taken by the Hong Kong governor, Sir Murray MacLehose, soon after receiving the famous 'Blair-Kerr Report'. Lest people believe that his whole government was corrupt, he told the Legislative Council that 'the situation calls for an organisation, led by men of high rank and status, which can devote its whole time to the eradication of this evil' of corruption. Public confidence was a prerequisite in 'a unit that was entirely independent, and separate from any department of the government, including the police'.<sup>102</sup> The police of course believed that it was their specialised task to investigate all acts of corruption and cautioned that such a step would have a 'disastrous effect' on their morale, but the decision was well received by the citizenry generally.<sup>103</sup> ICAC was to be established by statute, not simply by administrative act, and headed by a Commissioner who would not be 'subject to the direction or control of any person other than the Governor'.<sup>104</sup> The expenses of the commission were to be provided for in the budget by a single expenditure vote. The three-pronged strategy against corruption was clearly outlined in the ICAC Ordinance requiring investigation, prevention and public education. The legal framework was also amended to allow the confiscation of 'unexplained wealth' with the accused being presumed guilty until proven innocent, and the Commissioner being allowed to seize the assets suspected of being proceeds from corrupt practices, among other amendments. The question of an amnesty for past corrupt activity was not considered at this time though and this led to much disquiet until a partial

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<sup>102</sup> de Speville, *Hong Kong: Policy Initiatives*, p 21.

<sup>103</sup> Ibid

<sup>104</sup> Ibid, p 22. See ICAC Ordinance, Section 5(2).

amnesty was proclaimed for offences committed before 1997.<sup>105</sup> To ensure that the ICAC would not abuse its sweeping powers, 'an elaborate system of checks and balances was created to maintain oversight'.<sup>106</sup>

In terms of its strategy the ICAC functioned with three departments, comprising operations, corruption prevention and community relations as the three prongs of the strategy. Operations involved the work of the old ACO, which included investigations, arresting suspects and prosecution of corrupt individuals. As a former commissioner noted, 'Every allegation of corruption capable of being investigated was to be investigated. There was to be no prioritisation of complaints, no picking and choosing.'<sup>107</sup> The object of every investigation was prosecution, with no need therefore being felt for alternative mechanisms or tribunals to probe allegations. Public complaints made either by personal reporting at the ICAC headquarters, or at one of its eight regional offices, or through the 24-hour telephone service, would receive a response within 48 hours, and complainants would be kept informed periodically about the progress and outcome of their complaints. The power to investigate included access to the bank records of any individual or any other information about one's assets and liabilities. Most of the early corruption complaints centred on police syndicates, but the number of investigations in the private sector and other government

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<sup>105</sup> Ibid, p 45.

<sup>106</sup> Richard C. LaMagna, *Changing a Culture of Corruption: How Hong Kong's Independent Commission Against Corruption Succeeded in Furthering a Culture of Lawfulness*, Working Group on Crime Monograph Series, June 1999, National Strategy Information Centre, Washington D.C.

<sup>107</sup> de Speville, *Hong Kong: Policy Initiatives*, p 27.

departments also increased. As Commissioner Alan Lai Nin boasted,

Within three years, we crushed all corruption syndicates in the civil service, prosecuted 247 government officers, 143 of them police officers. One police station was crippled in one operation with half of its officers arrested for alleged corruption. Such high profile raids stunned the city, and corrupt officials got the message. We in the ICAC mean business.<sup>108</sup>

Peter Godber was himself eventually extradited to face a 'show trial' in Hong Kong which served to demonstrate that no one was above the law and that corruption would not go unpunished.<sup>109</sup> The capture of this 'big fish' was a boost for public confidence as citizens tended to measure effectiveness of anti-corruption measures by the status of those prosecuted.

The Corruption Prevention Department of the ICAC was newly created 'to examine the practices and procedures in government departments and public bodies to secure improvements in methods of work or procedures that might be conducive to corrupt practices'.<sup>110</sup> To find ways of eliminating opportunities for corruption in organisational systems and business processes, consultancy studies were used as a diagnostic tool to make recommendations for implementation, which were then also monitored. Civil service reforms that were recommended included pay rises, better fringe benefits, better working

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<sup>108</sup> What ICAC has done for Hong Kong and How, Paper presented at International Anti-Corruption Roundtable, 31 May – 2 June 2000, Pretoria, p 3.

<sup>109</sup> Lo, *Corruption and politics*, p 95. Godber was found guilty and sentenced to four years' imprisonment.

<sup>110</sup> LaMagna, *Changing a Culture*, p16.

conditions, and better career prospects to avoid stagnation and fatigue among public officials.<sup>111</sup> Guidelines to government agencies on how to tighten security and accountability to avoid evidence tampering, how to avoid delays in provision of services, how to deal with matters of confidentiality, and how contract-tendering can avoid corruption were routinely offered. Confidential advice was also on offer without charge to the private sector on such matters as pilferage, payroll padding, kickback schemes, and how to avoid conflict of interest.<sup>112</sup> The ICAC found in this area of their work that their clients were generally reluctant to accept that a problem in one of their systems might exist or to call the ICAC for assistance; that some civil servants failed to exercise authority or discretion for fear of being falsely accused of favouritism; and that management often adopts a piecemeal approach to corruption prevention without paying much attention to the underlying causes.<sup>113</sup> Full disclosure by public officials of their financial and business interests was recommended as a way of preventing conflict of interest and giving the public a sense of trust in the impartiality of government's decisions.

The third prong, namely the Community Relations Department of the ICAC, was responsible for gathering support and information from local communities and for providing public education about the evils of corruption. Local offices were set up as attempts were made 'to promote greater civic awareness and faith in good

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<sup>111</sup> Ibid

<sup>112</sup> Ibid, p18.

<sup>113</sup> de Speville, *Hong Kong: Policy Initiatives*, p 51.



government, as well as to develop higher moral, social, and ethical standards in the society'.<sup>114</sup> A 'community-based strategy to foster social ethics and morality' was chosen, where at schools, for example, 'moral education packages are produced to help pupils develop proper attitudes towards money and fair play, and to acquire appropriate knowledge and values that contribute to good citizenship'.<sup>115</sup> Initiatives for the private sector led to the creation of the Hong Kong Ethics Development Centre in 1995 to promote business ethics on a continuous basis by providing a consultancy service to develop codes of conduct and offer ethics training. In the words of Commissioner Nin, 'we resort to extensive use of the mass media as well as face-to-face contacts to educate all strata of the community about the dire consequence of committing, or turning their backs on, corruption'.<sup>116</sup> Television programmes, seminars, campaigns, and a host of other activities were devised from time to time to engage the public in recognising the futility of corruption. The unit's target was to give 1 900 lectures to 70 000 students and 420 presentations to teachers each year.<sup>117</sup> When after some years it was established that the younger the respondents, the more tolerant they were towards corruption, it became necessary, as Lo mentions, to redesign the educational programmes to promote 'a counterculture that serves as a remedy to the declining moral standards'.<sup>118</sup>

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<sup>114</sup> Klitgaard, *Controlling Corruption*, p112.

<sup>115</sup> T. Wing Lo, Pioneer of Moral Education: Anti-Corruption Education in Hong Kong, Conference Report, *Furthering a Culture of Lawfulness: The role of primary and secondary education in countering crime and corruption*, 23-24 October, 1997, Mexico City, p7.

<sup>116</sup> Nin, *What ICAC has done for Hong Kong*, p 7.

<sup>117</sup> de Speville, *Hong Kong: Policy Initiatives*, p 52.

<sup>118</sup> *Ibid*

Bertrand de Speville, a former ICAC Commissioner, credits the unparalleled success of the organization to the political will to fight corruption, a strong legal framework, effective strategy, active community involvement, government's willingness to persevere in fighting corruption and, of course, what he terms 'adequate and sustained funding'.<sup>119</sup> In this latter case, it was more a case of ICAC's 'exceptional resources' outweighing anything of comparison elsewhere in the world. In 1974 it began with a budget of \$2 million, which increased to \$14 million by 1984, and by 1997 equated to about \$75 million, while it employed 1 225 officials.<sup>120</sup> From surveys conducted to measure public perceptions, one may conclude, as LaMagna does, that 'the ICAC has achieved a high degree of success in rooting out corruption and in changing the culture of corruption' to one of 'lawfulness and a relatively clean society'.<sup>121</sup> Outputs in terms of investigations, arrests, prosecutions, publications, and public awareness was undoubtedly high but, as Huberts observes, 'it is less clear what effect this output had on the actual level of corruption'.<sup>122</sup> More importantly, corruption was no longer accepted as a way of life or doing business in Hong Kong. In fact, the remarkable progress made in establishing Hong Kong as a leading financial and commercial centre in Asia is partly attributed to its success in fighting corruption.<sup>123</sup> Singapore remains the only other Asian country to score higher on Transparency International's Corruption Perceptions Index (see Appendix 1), which is testimony to Hong

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<sup>119</sup> Ibid, p 63.

<sup>120</sup> Leo W.J.C. Huberts, *Anti-Corruption Strategies: The Hong Kong Model in International Context*, *Public Integrity*, Summer 2000, p 216 and Klitgaard, *Controlling Corruption*, p115.

<sup>121</sup> LaMagna, *Changing a Culture*, p 23.

<sup>122</sup> Huberts, *Anti-Corruption Strategies*, p 217.

<sup>123</sup> ICAC Review Committee Report, 1994. Cited in de Speville, *Hong Kong: Policy Initiatives*, p 60.

Kong's strength as an environment in which to do 'clean business'. According to LaMagna, a law enforcement agent who worked for many years in Asia, 'The key to Hong Kong's success was the three-pronged approach, and the recognition that one element could not work without the others.'<sup>124</sup> For Commissioner Nin, the aspects of checks and balances, committed staff, and the independence of the ICAC were equally critical in his explanation of the organization's success.<sup>125</sup> It is not without reason therefore that this Hong Kong model of success in fighting corruption has been tried and tested in other parts of the world, as it is commonly regarded as international best practice. Its relevance for South Africa will be questioned towards the end of this study.

#### **4.7 Conclusion**

If public policy analysis is about 'who gets what' and 'why' and 'what difference it makes', as Thomas Dye suggests,<sup>126</sup> the foregoing discussion has in some way opened up space for one to ask why government in present-day South Africa chooses its particular strategy to confront corruption and what consequences such a policy stance has. Not every single initiative by every department or agency can be considered in isolation as having a direct or indirect impact on reducing corruption. Instead, a broader framework is preferred in this study, one involving multiple interactions among groups and individuals that eventually

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<sup>124</sup> LaMagna, *Changing a Culture*, p 24.

<sup>125</sup> Nin, *What ICAC has done for Hong Kong*, pp 5-7.

<sup>126</sup> Dye, *Understanding Public Policy*, ix.

produced a sequence of decisions (or resolutions) requiring action and implementation. The consequences of such action (or inaction, as policy can be about what is not being done) are quite significant if one is to judge whether a policy option is reaching its intended target. In this discussion the rational model of making policy decisions has proven to be quite useful to raise the critical questions about the logic that should inform political choices.<sup>127</sup> The insights of incrementalism were also found to be useful when the matter of budgetary scope and limits was considered. It was necessary by way of background for the forthcoming case study to unpack some of the conventional wisdom about how integrity systems and international instruments can be built and applied to contain corruption. In a context where budgets were anything but an afterthought, though, the ways chosen to fight it were shown to be highly effective, provided that political will and community support were secured. The current approach and policy framework in South Africa, as far as fighting corruption is concerned, therefore warrants close scrutiny if one is to compare and contrast situations where 'who gets what' and 'why' and 'what difference it makes' is contingent upon policy choice. Only after the debate about competing options measured against local innovations has been qualitatively explored then, may one be permitted to speculate (or prescribe).

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<sup>127</sup> See chapter 4 of Dye's *Understanding Public Policy* for a practical application of how rational policies can deter crime, for example. An application of the incrementalism model in government budgeting is also provided in his chapter 9.