

BACHELOR THESIS

CURTAILING CORRUPTION IN THE EUROPEAN UNION

An Asian Approach to Combat Corruption in the European Union



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List of Abbreviations

ADB	Asian Development Bank
APEC	Asia-Pacific Economic Co-operation
APJR	Action Program for Judicial Reform
CESB	Career Executive Service Board
CFG	Centre for Governance
COA	Court of Auditors
COMELEC	Commission on Elections
CPI	Corruption Perceptions Index
CRR	Corruption Resistance Review
CSC	Civil Service Commission
CVA	Corruption Vulnerability Assessment
DAP	Development Academy of the Philippines
DOF	Department of Finance
DOJ	Department of Justice
EU	European Union
EUMAP	EU Monitoring and Advocacy Program
GPPB	Government Procurement Policy Board
GRECO	Group of States against Corruption
IAS	Internal Audit Service
ICAC	Independent Commission Against Corruption
IDOC	Investigation and Disciplinary Office
IDR	Integrity Development Review
IMF	International Monetary Fund
LCC	Lifestyle Check Coalition
LGU	Lower Government Unit
MTPDP	Medium-Term Philippine Development Plan
NACC	National Anti-Corruption Commission
NACP	National Anti Corruption Plan
NACPA	National Anti Corruption Plan of Action
NGAS	New Government Accounting System
NGO	Non Governmental Organisation
OECD	Organisation for Economic
OLAF	European Anti-Fraud Office
OMB	Office of the Ombudsman
PAGC	Presidential Anti-Graft Commission
PCGG	Presidential Commission on Good Government
PCIJ	Philippine Centre for Investigative Journalism
PRIDE	Pursuing Reforms through Integrity Development
RA	Republican Act
RATE	Run After Tax Evaders Program
RIPS	Revenue Integrity Protection Service
SALN	Statement of Assets and Liabilities Network
TAN	Transparency and Accountability Network
TI	Transparency International
UN	United Nations
UNDP	United Nations Development Program
UT	University of Twente
WB	World Bank
WTO	World Trade Organisation

Executive Summary

The European Union (EU) is currently working to put together a comprehensive EU anti-corruption policy. The aim of this policy is to tackle corruption and suggest improvements to give a fresh impetus to all anti-corruption efforts. Furthermore, it aims to reduce all forms of corruption, at every level, in all EU countries, institutions and even outside the EU. This thesis is concerned with the question to what extent the comprehensive EU anti-corruption policy can profit from insights in the Asian approach. This due to the fact that many of the anti-corruption initiatives, institutional structures and frameworks in the Philippines are the result of a very long and incremental learning process in the Asia and Pacific Region. The existing anti-corruption policies in the Philippines and EU are analysed to see if all the different control mechanisms, according to the analytical model, necessary to curtail corruption are in place. This is done through an more in-depth analysis of the existing anti-corruption initiatives in the Philippines and its implementation which is placed in context with the recent developments in the country. This case study carried out in the Philippines is also used to see to what extent the Asia-Pacific approach is used to curtail corruption in the Philippines and what the country has learned implementing its plans. Finally, the current status of the comprehensive EU anti-corruption policy framework is analysed and the lessons learned in the Asia-Pacific Region and the Philippines are used to give recommendations for further improvement of this framework.

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“We are all part of the cycle of corruption and despair and we must join hands to root out this evil that is strangling our nation.”

PRESIDENT GLORIA MACAPAGAL-ARROYO OF THE REPUBLIC OF THE PHILIPPINES¹

¹ As quoted on the 30th of October 2004 by President Arroyo during a turnover of command by retiring military chief of staff General Narciso Abaya to Lt. Gen. Efren Abu, erstwhile army chief.
<http://www.arabnews.com/?page=4§ion=0&article=53688&d=30&m=10&y=2004>

Chapter 1: Introduction

One of the most corrupt countries in the Asia-Pacific Region according to the Transparency International's annual global corruption perception index is the Philippines. Ranking as number 126 at the bottom of the list with a total of 163 countries where number one is the least corrupt and number 163 the most.² Just recently the current President Mrs. Gloria Macapagal-Arroyo has survived a second attempt to impeach her over allegations of corruption, human rights abuses and election fraud. After a long session, the Philippine House of Representatives voted 173 in favour and 32 against to dismiss the opposition's complaint against her. This decision blocked a potentially damaging trial in the Senate, which is currently dominated by the opposition. However, there was little surprise that the vote went in favour of Mrs. Arroyo, because the House of Representatives is dominated by her allies. This is not the case in the Senate, and if the motion had been endorsed by one-third of the lower house it would have gone to trial there, and Mrs. Arroyo would have faced a much harder battle. Nonetheless, even before the votes were cast, there were signs that the opposition had already given up the fight. This was noticeable because nine opposition members did not show up for the ballot, and two others defected to vote with the government. This recent impeachment procedure is the second attempt to unseat Mrs. Arroyo in two years. Last year, the Philippine parliament also rejected an earlier attempt to impeach Mrs. Arroyo on similar charges. She was accused of vote-rigging, and it was also believed that members of her family accepted bribes. In relation to these allegations she has denied any wrongdoing, however she admitted to a "lapse in judgement" when phoning an election officer during the 2004 presidential poll. During her time as President there have been continuing protests against her, where she even declared a week-long state of emergency in February last year after the military quashed an alleged coup. At this moment Mrs. Arroyo's position is relatively secure according to analysts where she is helped with an optimistic economy and a divided opposition. However, once again there are also a few signs visible of the mass gathering that chased away the last two Presidents during the former EDSA revolutions.³

When looking at the European Union, Transparency International's annual global corruption perception index shows that Finland is the least and Poland the most corrupt country among the EU-25. The index furthermore shows once again that businesses and analysts consider the Nordic countries as the world's least corrupt. When ranking the 163 countries on a scale from 0-to-10, where ten is the best score, this has as its outcome that Finland is the least corrupt country in the world, alongside Iceland and New Zealand, with 9.6 points each. According to the report of 2006, published on the 6th of November, the 25 EU member states obtain an average score of 6.74 points but seven countries (Italy, the Czech Republic, Lithuania, Latvia, Slovakia, Greece and Poland) still have scores below five which indicates that they have a 'perceived serious corruption problem'. More recently in the news is the question whether or not corruption in Bulgaria and Romania is a reason to defer entry. Analysis of the European Commission's recent reports on both countries shows that corruption is seen as the primary cause for concern about their readiness to join the EU. This is also expressed in the Commission's Comprehensive Monitoring Report of October 2005 which stated that: "Corruption remains a serious problem in Romania and Bulgaria. If it remains at current levels, corruption threatens the internal market, the proper functioning of EU policies and EU-funded programmes. Urgent and forceful action is needed to demonstrate the ability of Romania and Bulgaria to combat corruption effectively..." When once again looking at TI's Corruption Perceptions Index, one can conclude that corruption is worse in Romania and Bulgaria than in the Central and Eastern European countries which have joined the EU. The data shows that the situation is perceived to be better in Bulgaria

² Website Transparency International, visited on the 20th of December 2006, http://www.transparency.org/content/download/10825/92857/version/1/file/CPI_2006_presskit_eng.pdf

³ Website BBC news, visited on the 20th of December 2006, <http://news.bbc.co.uk/2/hi/asia-pacific/5280686.stm>

than in Romania, where it is perceived similar or even worse than in the newer candidate countries such as Turkey, Croatia and Macedonia. Besides data from TI, these facts are also supported by other research such as that from Freedom House's Nations in Transit and the World Bank Business Environment and Enterprise Performance.⁴

When looking at the EU as a whole the EU-15 in general are performing better than the 10 new member states, with the notable exceptions of Greece – the EU's worst performer after Poland – and Italy. However in general the report shows that "EU membership has had a positive effect on new member countries", with seven of the eight former communist countries that joined the EU scoring higher in 2006.⁵

In recent decades, and especially in the 1990's, the phenomenon of corruption has attracted a great deal of attention globally. In developed and developing countries, large or small, market-oriented or not, governments have fallen because of being accused of corruption and prominent politicians (including presidents and prime ministers) have lost their official positions. In some countries it even caused for a complete replacement of political classes. (Tanzi, 1998, pp.559)

This thesis is concerned with anti-corruption approaches in the European Union (EU) and the Philippines. While doing field-research for this thesis in the Philippines I noticed that the National Anti Corruption Plan (NACP) of the Philippines, and of other countries in the Asia and Pacific region, is mainly based upon initiatives from the Independent Commission Against Corruption (ICAC) located in Hong Kong and from the Anti-Corruption Action Plan for Asia and the Pacific (Gonzalez et al, 2006, pp.15). Furthermore, one can distinguish many similarities when it comes to strategies, plans and approaches used within the Asia Pacific region. When looking at the European Union there is an ongoing development with regards to anti-corruption initiatives. Currently, the European Union (EU) is working on a 'comprehensive EU anti-corruption policy'.⁶ The aim of this policy is to tackle corruption and suggest improvements to give a fresh impetus to all anti-corruption efforts. Furthermore, it aims to reduce all forms of corruption, at every level, in all EU countries and institutions and even outside the EU.

Also, it is interesting to notice that many of the new anti-corruption initiatives, institutional structures and frameworks in the Philippines are the result of a very long and incremental learning process in the Asia and Pacific Region. In the light of the new developments within the EU, this thesis tries to give a clear and well formulated answer to the following central research question:

- *To what extent can the new comprehensive EU anti-corruption policy profit from insights in the Asian approach?*

In order to give an answer to the central research question, several sub-questions will be answered in the following chapters. Consequently, each of these chapters ends with a sub-conclusion which summarises the findings and provides information that is needed to answer the central research question.

⁴ Website Transparency International, visited on the 10th of March 2007, www.transparency.org/content/download/6337/37673/file/Corruption_and_the_EU_accession_process_TI2006.pdf

⁵ Website Euractiv.com, visited on the 20th of December 2006, <http://www.euractiv.com/en/governance/serious-corruption-problem-states/article-159492>

⁶ Website European Union, SCADPlus, visited on the 1st of January 2006, <http://europa.eu/scadplus/leg/en/lvb/l33301.htm>

After the introduction in this first chapter, the second chapter focuses on curtailing corruption in general; several definitions, models, practices and approaches will be thoroughly explained in order to construct a decent conceptual and analytical framework which can be used in the following chapters. This Chapter is of importance to understand why different definitions of corruption exist and which mechanisms are available that can be used in anti-corruption policy to curtail corruption in general. Therefore, attention will be paid to the different anti-corruption policies existent, in order to determine the criteria of anti-corruption policies. These different criteria are finally used to construct variables as part of a clear schematic and analytical framework necessary to analyse the existing anti-corruption policies in the Philippines and European Union throughout this thesis. The following sub-question is answered in this chapter:

- *How should corruption be defined and which mechanism should anti-corruption policy use to curtail corruption in general?*

The third chapter is more of an empirical nature. The emphasis is on curtailing corruption in the Asia-Pacific region. An analysis of the different policies, strategies and plans will be made in order to see if the criteria previously described are met. Of course, the approaches itself as well as the way they are applied will be clarified. When it comes to the empirical research, the focus is mainly on the Philippines and the recent developments within the country undertaken to curtail corruption. This chapter is also related to an in-depth field study carried out at the Development Academy of the Philippines (DAP). The field study is used to see to what extent the Asia-Pacific approach is used to curtail corruption in the Philippines and what the country has learned implementing its plans. Of course this can only be done if the characteristics of the Asia-Pacific Approach to Curtail Corruption are first elaborated. Therefore, the following two sub-questions are answered in this chapter:

- *What are the characteristics of the Asia-Pacific Approach to Curtail Corruption?*
- *To what extent is the Asia-Pacific approach used to curtail corruption in the Philippines and what has the country learned implementing its plans?*

The fourth chapter is to a certain extent similar in comparison to the third, only this time one of the questions is answered in relation to the European Union (EU). As mentioned earlier, the EU is currently developing a comprehensive EU anti-corruption policy framework. An analysis of this framework is made using the analytical model constructed in chapter two to see what the approach behind it is and what its current status is. Therefore, the following sub-question is answered in this chapter:

- *What is the current status of the comprehensive EU anti-corruption policy framework and what is the approach behind it?*

Finally, an answer to the central research question, whether or not the EU can learn from the Asian approach to combat corruption, is given in the last chapter. This answer is formulated with the help of the different sub-conclusions stated in the different chapters and with some insights gained while working and doing field research in the Philippines.

1.1 Methodology

This paper is based on the concept of corruption as described by several well known researchers within this field. First of all, the academic definitions of corruption are thoroughly described and elaborated. Within these academic definitions a distinction can be made between widely used definitions and concepts of corruption which are primarily based upon the role of the state and

its politics. There are many different definitions and concepts and some have specific well-known names within academic literature. For example, political corruption and bureaucratic corruption are normally referred to as “*grand*” and “*petty*” corruption within articles of many academic researchers. Due to the fact that there is not yet academic consensus about how to define and conceptualise corruption, I chose within this thesis to focus on the economic and political issues. The theoretical framework described in the first chapter will furthermore contain the causes and consequences of corruption. The causes and consequences explained are also mostly of a political and economic nature. Within these paragraphs the relation between the causes and the previously described conceptual models is clarified. Furthermore, the consequences of corruption are summarised and illustrated. Finally, ways of curtailing corruption in theory is researched and several criteria are constructed that should be met in anti-corruption policies.

Besides the theoretical framework that I have just mentioned, the analysis will be mostly of a theoretical nature. The analysis will rely on the argumentation of several authors who have written about corruption from a different level of analysis in state-society relations. By describing the different perspectives on corruption I hope to be able to give a comparative analysis of the concept. In Chapters three and four the research is more of an empirical nature because it describes how corruption is curtailed in practise in the EU and Philippines. It is researched to what extent the different criteria’s needed to curtail corruption are present and met in existing anti-corruption policies, programmes and projects. Furthermore, the different policy approaches and strategies within the EU and Philippines are mapped in order to see how they are applied. In the end, all this information is used to answer the central research question. So it can be argued that this thesis is both based on academic literature and empirical evidence. The different variables and indicators used for analysing the existing anti-corruption efforts can be found at the end of the first Chapter. The literature used by writing this thesis is mostly of a secondary source, such as research articles and policy documents. However some primary literature is also used in the form of statistical data to strengthen the argumentation used within this thesis.

Finally, it is worth mentioning that this thesis is a combination of both a Bachelor’s thesis and a field study report related to the minor Sustainable Development of the Technology and Development Group at the University of Twente located in the Netherlands. Due to this combination, the last section of Chapter 3 will also express the personal experiences of the author gained while doing an internship at the Development Academy of the Philippines (DAP). This internship was done at one of the departments of the Academy, the Centre for Governance (CFG), which was heavily involved with many anti-corruption reforms in the Philippines in close cooperation with the Office of the Ombudsman (OMB).

Chapter 2: Curtailing Corruption in General

This chapter is concerned with analysing policies to curtail corruption in general. First of all, a theoretical framework with definitions of corruption is formulated. Subsequently, different models, causes, consequences, practices and approaches are described. Finally, the emphasis is on the criteria that anti-corruption policies should have.

2.1 Theoretical framework

Various definitions of corruption as formulated by academic literature are described in this section. If relevant, definitions used by the European Union, the Philippine government and other international organisations are discussed in chapters 3 and 4.

Assumptions behind frequently used definitions of corruption

As one can expect from a topic that is so topical and widely discussed, there are many academic theories, concepts, models and definitions concerning corruption. This is due to the fact that corruption is in itself a multi-faceted phenomenon which contains too many connotations to be analytically functional without a closer definition. There are many definitions of corruption based on the different actors, initiators and profiteers, in the way it takes place and to the extent it is practised (Amundsen, 1999, pp.1). Besides the definition itself, the causes and consequences of corruption are also very complex and diverse, and causes have been sought in both individual ethics and civic cultures as well as in history and tradition of societies. The causes that are given the most attention within this thesis are concerned with the economic system, institutional arrangements and the political system. Unfortunately, due to the extensive amount of available definitions a selection has been made. The focus is on definitions that are used in academic literature as well as on some very new concepts that are recently developed.

Many frequently used definitions of corruption are based on two assumptions. First of all, there is the assumption that the state is an indispensable instrument for economic development. There is much consensus on the relevance of an efficient medium-sized state for economic development. This view is also expressed in the World Development Report written by the World Bank. According to many of its reports an effective state is vital for the provision of the goods and services, and the rules and institutions, which allow markets to flourish and people to lead healthier, happier lives. Without a state, sustainable development, both economic and social is impossible (Amundsen, 1999, pp.1-2; Tanzi, 1998, pp.565-566). This can also be formulated in a way that development necessitates economic reform, which is dependent on political and administrative reforms like forms of good governance, civil service reforms, accountability, human rights, multipartyism and democratisation. The role of the state and of its politics is essential to understand corruption, because very high levels of corruption have been observed where the government is regarded as illegitimate in the eyes of the people. Recent data about how the population perceives the government behaviour is mentioned in Chapters 3 and 4. High levels of corruption can furthermore be found in countries where the state has an interventionist role in the economy (Amundsen, 1999, pp.7).

Overview of widely used definitions of corruption based upon the role of the state and politics

Before getting deeper involved with the academic concepts of corruption there are some classical academic definitions that are commonly used in academic literature. To begin with, there is the definition of Nye's: 'Corruption is behaviour which deviates from the formal duties of a public

role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence' (Nye, 1967, pp.419).

A more recent version with the same elements is found in the definition by Mushtaq Khan, who defines corruption as 'behaviour that 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' (Khan, 1996, pp.12).

When we look at these definitions in an analytical sense, and distinguish the different elements they are composed of, we see many similarities. Corruption is a disturbed state-society relation. One could argue that on the one side is the state, represented by a wide variety of civil servants, functionaries, bureaucrats and politicians, i.e. anyone who holds a position of authority which gives them the power to allocate rights over public resources in the name of the state or the government (Amundsen, 1999, pp.2). If these officials misuse their public power for private benefit you can entitle this as corruption. The important role that state officials play in corruption also comes forward in a definition quoted by Méry, where corruption is 'a form of secret social exchange through which those in power (political or administrative) take personal advantage, of one type or another, of the influence they exercise in virtue of their mandate or their function'. (Olivier, 1999, pp.49)

On the other side is the so called supply side of corruption. Theories that have their focus on this side are concerned with corruptors, those who offer the bribes and the advantages they gain. In many cases are these so called 'suppliers' the general public, also referred to as the non-state society. These are the counterparts to the corrupt officials and they can be non-governmental and non-public individuals, corporate and organisational, domestic and external. (Amundsen, 1999, pp.2-3) Finally, corruption also exists within and between private businesses, within non-governmental organisations and between individuals in private transactions, without any state agency or state official being involved in the process. However, due to the fact that these forms of corruption are usually dealt with internally, this kind of corruption does not necessarily has to consider the broader political and economic issues.

Another way of looking at corruption is through relatively new insights found in the principal-agent-client (PAC) definition and other 'neo-classical' definitions. According to Klitgaard, quoted by Kurer: 'this approach defines corruption in terms of the divergence between the principals' or public's interests and those of the agent or civil servant: corruption occurs when an agent betrays the principal's interest in pursuit of her own' (Kurer, 2005, pp. 226; Jain, 2001, pp.73-75). The PAC approach can be seen as a method of analysis that deals with the interaction between a public official (the agent), the supervisor of the agent or 'the public' (the principal), and a private individual with whom the agent interacts (the client).

Johnston formulated the so called 'neo-classical' approach. This approach characterises corruption as 'the abuse, according to the legal or social standards constituting a society's system of public order, of a public role or resource for private benefit (Johnston, 1996, pp. 331). According to Kurer, this definition can be seen as a combination of some of the previously described definitions.

Furthermore, Kurer himself believes it is time for a new definition because to his opinion all the existing definitions have major disadvantages. He believes that beneath the traditional concepts of corruption is a much older one based on distributive justice, namely the 'impartiality principle'. This principle is based on the thought that a state ought to treat equally those who deserve

equally. According to Kurer, this definition gives a much more plausible reason why corruption is being condemned by the public in comparison to the other definitions. Besides that, it is recognized fairly universally, what cannot be said about the definitions that distinguish between 'public' and 'private' forms of corruption. The universality of the principle of impartiality does not imply universality of its content. To be more specific, who deserves equally, or alternatively, on which grounds discrimination is ruled out. These questions will be answered differently at different periods in time and they will be different from society to society. The impartiality principle can be used as a starting point for a new discussion concerning corruption both in traditional societies and societies where there is contemporary political corruption. (Kurer, 2005, pp. 222-239)

Finally, there are also many international organisations such as aid agencies, countries, EU institutions like the European Ombudsman and the United Nations who use their own definition of corruption. These definitions are usually part of a much larger discussion and framework within the organisation itself and towards the external environment of the organisation. It is very common that the specific definitions are used in (internal) reports and that it is the point of departure if you look at (field) manuals for professional employees within the organisation itself. A well heard definition is the definition used by the World Bank: 'Corruption is the abuse of public power for private benefit'. From this definition it should not be concluded that corruption cannot exist within the private sector. Especially within large private enterprises there is a lot of corruption taking place. Finally, it also exists within private activities regulated by the government (Tanzi, 1998, pp.564).

As a consequence to the large amount of definitions used, one can conclude that it is important to define corruption in relation to the specific context where it is used and propagated. Therefore, it is important that agreements are made about the specific definition used within the institutional framework of a government or within cooperation agreements between international organisations. Therefore, the definition used for looking at the empirical data further on in this paper is the one of the World Bank because this institution has done a lot of research, funding and coalition building within the field of corruption prevention. Especially in development countries, the World Bank is seen as the most important institution setting standards and supporting initiatives to tackle corruption. Furthermore, the definition itself is widely accepted among governments, politicians, NGOs, foreign donor organisations, institutions and international organisations. This will be described in greater detail in the Chapter concerned with tackling corruption in the Philippines.

Overview of commonly used concepts of corruption based upon the role of the state and politics

After describing the most widely used academic definitions of corruption this section will focus on the different theoretical concepts and models of corruption based upon the role of the state and politics. Once again Amundsen and other authors such as Tanzi describe several theoretical concepts or models to interpret the phenomenon of corruption (Amundsen, 1999; Tanzi, 1998, pp.565).

- Political corruption and bureaucratic corruption ("grand" vs. "petty")

First of all, a clear distinction can be made between political and bureaucratic corruption. Taken into account the role of the state and its politics again, one can argue that political corruption involves political decision-makers. Political corruption is also called "*grand*" corruption which primarily takes place at the higher echelons of the political system (relationship 1 in figure 1). Political decision-makers who are entitled to make and enforce laws in the name of the people

are themselves corrupt. They exploit their power to make economic policies. As elected officials, or as a benevolent social guardian in the role of the government, politicians are supposed to make resources allocations decisions based on the interests of their so-called principals, the population. This is in contrast to bureaucratic or “petty” corruption which can be seen as corruption within the public administration which is the so called implementation end of the political system (relationship 2 in figure 1). This distinction is unfortunately not always very clear because it is based on the assumption that there is a separation of politics from administration. This separation is not always easy to find in many political systems and rather ambiguous. Nonetheless, the distinction is important in analytical and practical terms. Political corruption does not only lead to the misallocation of scarce resources but it also has an influence in the way political decisions are made. Political institutions and the rules of procedure are manipulated and therefore it influences the institutions of government and the political system and it often leads to institutional decay. When there is political corruption, laws and regulations are abused, ignored, side-stepped and even tailored to fit the interest of their abusers. The main problem with political corruption is the weak accountability between the governors and the governed. In many development countries, mostly authoritarian, the legal basis against which corrupt acts are evaluated and judged are weak and violated by the rulers.

Political corruption is usually accompanied by widespread bureaucratic corruption and is an important part of authoritarian systems. It is a wanted, deliberate and applied practise for the rulers to enrich themselves and to use if for economic control. However, despite the fact that political corruption is not restricted to authoritarian systems, the essence of the problem of corruption differs a lot between democratic and authoritarian regimes. In democratic countries the problem of corruption is more of an incidental and occasional nature this in contrast to authoritarian regimes (Amundsen, 1999, pp. 3-4; (Jain, 2001, pp.73-75).

Besides the distinction between “grand” and “petty” corruption, Jain also distinguishes “legislative corruption”. This refers to the manner and the extent to which the voting behaviour of legislators can be influenced (relationship 3 in figure 1). Legislators can be bribed by many different groups within society to enact legislation that benefits these groups. However, this also includes corrupt behaviour of legislators themselves as they can bribe others in their attempt to be re-elected or if they are bribed by officials in the executive branch in their efforts to have certain legislation enacted. (Jain, 2001, pp.75)

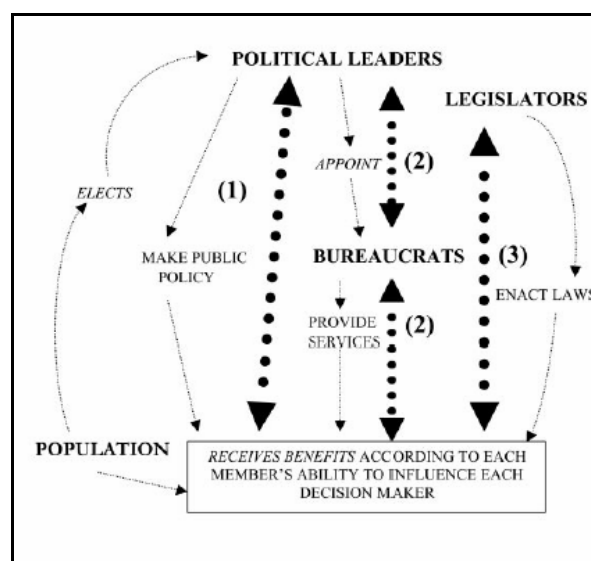


Figure 1: Corrupt relationships in a democratic society (Jain, 2001, pp.74)

- Private corruption and collective corruption (“individual” vs. “aggregated”)

The second theoretical concept that can be distinguished is concerned with the classification of corruption. Corruption can be classified between “*individual*” (*private*) and “*aggregated*” (*collective*) forms of corruption. The money or benefits gained by the corrupt act differs in the way it is privatized. Extraction of the money may be for the benefit of an individual, who is not going to share it with others, or the money can be divided between a particular group where there is some form of coherence and unity. Many academics are aware of the private nature of corruption because of the illegal and surreptitious nature of corrupt transactions. The illegal and immoral nature of corruption necessitates a collusion or conspiracy between individuals. Corruption is regarded to be “*private*” or individual also because private benefits are sought and collected. Nevertheless, corruption can also be “*collective*”. Besides the fact that the effects are noticeable in aggregate terms, it can also be a conscious way of resource extraction for the benefit of a larger group. It can also be the case that the resources are extracted by a group of rulers, class, institution or organization for the benefit of their own group. An example of this form of corruption involves (ruling) political parties, entire administrative bureaux, and national governments. In general it can be said that corruption is very susceptible to collectivization which usually starts small but rapidly extends to larger practices involving many different colleagues, partners, assistants, patrons and superiors. This is due to the fact that it is less costly to keep quiet than to confront and report corruption (Amundsen, 1999, pp. 4-5).

- Redistributive and extractive corruption (“from below” vs. “from above”)

The third and also last theoretical model that comes to mind when thinking about corruption is redistributive (“*from below*”) corruption versus extractive corruption (“*from above*”). These theories are based on some previously discussed assumptions and they acknowledge that the state is always involved, that corruption is basically a particular state-society relationship. It is consequently maintained that this relationship is based on a mutual exchange of benefits. This exchange is one that both the state as well as society draws some immediate and private benefit. However, this relationship is not one of balance. If you look at the balance in terms of aggregate flows, corrupt practices will generate a flow of resources either from the society to the state (*extractive corruption, or corruption from above*), or from the state to the society (*redistribute corruption, or corruption from below*). Amundsen uses the theory of Heidenheimer et. al. to explain that many researchers make a distinction between corruption initiated by the office-holder and corruption initiated by the favour-seeker. However, if one argues that the initiator takes the initiative to corrupt the relationship presumably because he believes corruption is more to his benefit than to his disadvantage; this distinction overlaps with the distinction between corruption in the interest of the state agents and corruption in the interest of non-state actors (Amundsen, 1999, pp. 5-10).

It also has to be mentioned that upward and downward flows can take place simultaneously in different sectors and at different levels. Furthermore, the flow may also differ in quality and quantity. The resources exchanged can be money, or other valuables, and privileges. It is for instance possible that a small elite extracts a large quantity of resources in the form of wealth and power and that the nation or society at large will only get symbolic resources like protection in return (Amundsen, 1999, pp. 5-10).

The theory of redistributive corruption

In the theory of redistribute corruption the state is the weaker part in the previously described state-society relationship. Organised groups (social, economic) or individuals within society are powerful enough to draw more benefit from the corrupt practices they engage in with the state. The main beneficiaries are the different social and economic groups within society and resources are usually distributed according to the different power configurations that exist within each country. Please keep in mind that it is unlikely that there is an equal or fair distribution of resources (Amundsen, 1999, pp. 5-7).

The theory of extractive corruption

In the opposite view, in the theory of extractive corruption, the state is the stronger part in the state-society relationship. The state, in the form of a state agent, benefits the most from corruption and the corrupter can be considered more or less a passive player. In essence, the ruling elite is the strongest player in society, this elite uses the state apparatus as its instrument to extract resources from society for the benefit of the rulers. This theory applies in general where the state is not only the strongest force within society, but to states where also a ruling elite has developed into a dominant and ruling class in control of the powers of the state. (Amundsen, 1999, pp. 7-10)

The definition of corruption used in this paper is that of the World Bank due to its leading role in the global fight against corruption. When it comes to elaborating the causes of corruption in practice in the next section, the choice has been made to focus on economic and political explanations because later on the different strategies and national anti-corruption plans for the Asia-Pacific Region, including the Philippines and the EU are elaborated in this context.

Furthermore, the World Bank has described the profiles of corruption in the Philippines and the perceptions and attitudes towards corruption. These country or continent specific attitudes and perceptions are described in the different Chapter further on in this thesis. Here, attention is also paid to cultural differences and the question whether or not corruption is a universal problem in every society.

2.2 The causes of corruption (practices)

After defining corruption in a very theoretical manner the causes of corruption in practise will now be elaborated. Specific attention will be paid to the economic and political explanations for corruption to occur. These explanations are finally related to the various models mentioned in the previous paragraph. The diverse incentives as well as the disincentives are hereby taken into account.

Besides the economic and political explanations many plausible theories on corruption have been derived from moral and cultural characteristics of individual societies. It has been argued that the salience of corruption can be seen as the carry-over into present-day political behaviour values inherited from a patrimonial past, for example receiving and giving gifts, negotiations and unconditional solidarity with extended families and other groups. According to many researchers this is a possible explanation for the differences between Africa and Europe, and the differences between the catholic Western European countries with a Latin culture and the Nordic protestant countries. Another important issue concerning the level of corruption is the fact that in some countries so called private-regarding behaviour is not banned by law and is considered a moral duty by many. People are considered to help family and friends and to act in such a way as a state agent. From a culturally relativist viewpoint some say that corruption is not a crime when it is a part of the local culture. So, it may be possible that a corrupt act is condemned by law and

culturally accepted. The level of corruption varies across countries according to the national legislation and custom. As the phenomenon of corruption calls for more general explanations, the structural and institutional (economic and political) causes will be clarified in the next paragraphs (Amundsen, 1999, pp. 15).

Economic Explanations

There are economical criteria represented through statistical presentations that demonstrate that the level of corruption varies negatively with the level of economic prosperity. Described in another way, one could say that if a country becomes richer the level of corruption decreases. This is a strong relationship if you compare the data from the last Corruption Perceptions Index (CPI) of Transparency International with the income from the GNP per capita basic indicators of the last World Development Report by the World Bank. However, the causality between the two variables cannot be explained by the combination of the data. It is not clear whether the income increases because the level of corruption goes down, or whether corruption goes down because the income increases. Academic literature shows that there are indications of both. On the one hand, an increased income may create more opportunities and temptations for corruption. Besides that, increased income can also reduce the level of corruption because economic development usually comes together with political development, democratisation and accountability. On the other hand, economic growth also generates certain types of corruption that are related to certain stages of growth. In comparison, increased levels of corruption can also help the economy to create more competition and market structures for private sectors. It also helps to develop the mostly inflexible and dishonest bureaucracies.

The specific economic variables that have an impact on corruption are very diverse and much debated. In the so-called dependency theories, corruption in Third World countries is caused by the underdevelopment that is caused by capitalist exploitation. Besides corruption, exploitation also causes political authoritarianism and economic underdevelopment in those countries. Also liberal economic theory will explain the existence of corruption in terms of economic underdevelopment and see economic decline and economic crises as common explanations to increases in corruption. As to the negative relationship between economic growth and corruption is strongly supported by various data sources the discussion remains on how economic growth can reduce corruption. More specifically, which intermediary variables should be examined to fully explain this relationship? Many more of these variables and criteria will be discussed in the paragraph about the approaches to curtail corruption (Amundsen, 1999, pp. 16-17).

Political Explanations

The level of corruption is also being influenced by the political system it is dealing with. Among these different political systems there is a general assumption that the level of corruption corresponds negatively with democratisation. In other words, if the level of democratisation improves, the level of corruption decreases. Friedrich describes this in the form of a law of regularity that says that the degree of corruption varies inversely to the degree that power is consensual. (Friedrich 1993:16) To put it in other words again, the more the power in society is to be considered legitimate, the less corruption occurs. When comparing the Freedom House's Country Index which includes a number of indicators on democracy, and corruption, measured according to Transparency International Corruption Perception Index it shows that corruption is by far the highest in the least democratic countries. However, if you look at statistical data, if one moves from extreme levels of authoritarianism towards more democratisation, there is not much decrease in the level of corruption until the most developed democratic systems are reached. Due to a lack of reliable statistical data and the insecure character of states it is hard to draw

conclusions. This is based on the hypothesis that corruption varies with the strength and legitimacy of the state. More detailed data about the legitimacy of the state is provided in the Chapters containing empirical research data. Political democratisation is very difficult to achieve, that's why it also implies several sets of institutions, such as procedures, norms and values that could reduce the level of corruption when maintained (Amundsen, 1999, pp. 17-19).

The causes of corruption in relation with the models of corruption

Finally, this last section will describe the causes of corruption in relation with the models and the accompanying characteristics.

According to Jain there are two predominant approaches to modelling “*grand*”, “*petty*” and “*legislative*” corruption. An principal-agent-client (agency) model, can be used best to explain “*grand*” and “*legislative*” corruption and a resource allocation model, that sees corruption as a cost within a supply-demand framework, to explain “*petty*” corruption (Jain, 2001, pp.85).

An *agency* model views corruption in the way decisions are taken by the elite or legislators and the way incentives and constraints have an effect on these decisions. Normally, when decisions are taken, there is information asymmetry, which means that the principal lacks full information about the actions of its agent. The principal must think of ways to motivate the agent to behave in the desired manner and also have means to enforce this behaviour. This situation can occur if the principle is not able to fully hold the agent accountable for its actions. In *resource allocation* models, corruption has an effect on the relative costs of inputs and outputs. This also affects the penalties faced by decision-makers as well as the behaviour of the players who influence the output of an economy. These models all have to take into account uncertainties involved in enforcement of corrupt acts as well as risk (Jain, 2001, pp.86).

The agency model of corruption

The agency model of corruption originates from economics and political science to question the motives of legislators. There is a balance between these models on how the elected agents balance their own interest of being re-elected and the interests of the various interest group that wish to influence the legislation against the welfare of the voters. Jain describes the behaviour of leaders in a democratic system using the agency model. *Grand corruption* depends upon the strength of political parties and institutions and the methods of campaign financing. The three important determinants of corruption within this model are ‘the existence of narrowly focused favours available for distribution’, ‘the ability of wealthy groups to obtain these benefits legally’ and ‘the temporal stability of political alliances’. The level of corruption that exists in a society is a result from the interaction between the economical and political pressures within the society. There has to be a balance between wealth and power and secondly between the accessibility and autonomy of the political elite. When there are serious imbalances, this tends to foster corruption. Johnston describes in his model four types of corruption that can be created by imbalances between political and economic opportunities (Jain, 2001, pp.87).

The resource allocation model of corruption

The idea behind the resource allocation model of corruption is based upon the rent-seeking behaviour. This is based on the premise that entrepreneurs attempt to redirect policy proposals for their own advantage. These activities differ from corruption because unlike corruption, rent-seeking activities do not need to involve illegal payments to the legislators or policy-makers. As explained by Jain, Schleifer and Vishny developed a model of *petty* bureaucratic corruption that

was first proposed by Rose-Ackerman. This model takes into account the cost, demand, and supply functions faced by the bureaucrats. The costs faced by the bureaucrats include costs that are related to providing the (government) services and the risk whether or not the revenues from bribes have to be shared with others. The demand is based upon the competition between the bribers. On the supply side, it is either possible that the bureaucrats and government officials have a monopoly over the service or that they may have to compete with other bureaux or services. The difficulty in building a model at this level of government is to incorporate uncertainties of information and enforcement. Due to the nature of the deal, it is difficult for officials to negotiate levels of bribes openly with their clients. If bribes are discussed, the next problem arises when it comes to enforcing them. It is not guaranteed that services are delivered after the bribes have been paid. It has to be mentioned that Jain describes many more models based upon resource allocation that either ignore the costs associated with the detection of bribery or take them into account as a probability function (Jain, 2001, pp.87-89).

2.3 The consequences of corruption

Now that some of the causes of corruption are described, one should also take a look at the consequences it has for society. Besides creating a lot of social problems within society it is important to specifically describe the economic and political consequences of corruption as argued in the previous paragraphs.

Economic Consequences

As previously described there is an ambiguous relationship between corruption and economic development. Both are interrelated and are probably also mutually explicatory. (Amundsen, 1999, pp. 19) (Jain, 2001, pp.91) On the one hand, some researchers and practitioners argue that corruption can be a positive thing because it can smooth rigid bureaucratic systems and help to get things done. Corruption may improve the functioning of the state bureaucracy by enabling private entrepreneurship and promoting businesses. When looking at raw data, corruption is not always bad when it comes to economics. The level of growth and the level of direct foreign investment (FDI) can also be good in highly corrupt nations. However, the opposite is also possible; there are countries in Africa that have seen foreign direct investment decline because of the high levels of corruption. The general notion is that the economic effects of corruption are dependent on the type of corruption in each country, more specifically on the way corruption is organised. The difference can be seen between *controlled* and *uncontrolled* corruption which can be explained as calculable and unforeseeable corruption. The reason that there can be made such a distinction is based on the notion that if businesses are able to forecast and estimate the level of corruption, it does not need to have a negative impact on investments and trade. If this is unclear, than corruption can be considered as damaging because investors do not want to take the risk. Next to the effects on FDI, the way the resources gained by corruption are used will have repercussions on both the economy and the political system. The money can benefit the country and its local economy if it is used centrally and controlled. However, if the money is moved outside the country or used to buy foreign luxury goods and make the wrong public investments it will lead to underground black (not-state-controlled) markets and increase insider trading. (Jain, 2001, pp. 96) Finally the impact on the government is also very large. Corruption will increase the operating costs of government, revenues will disappear and the resources available for public services are decreased. Governments will fail to deliver the public services which are needed. In non-democratic or semi-democratic (neo-patrimonial) systems it is also very hard to measure as a more efficient government may also imply a more efficient extraction of resources by the ruling elite (Amundsen, 1999, pp. 19-20).

Political Consequences

The consequences for political corruption mainly affect the way a country is ruled. In correspondence with the economic consequences, the political consequences of corruption are also very much dependent on the type of corruption that occurs, and the ways in which the extracted resources are used. In weak states where the ruling elite has little control over who benefits from corruption, the legitimacy of the state as such will disappear with the lack of service. Any forms of uncontrolled and unrestricted corruption will have the general effect of undermining state institutions and political legitimacy. States who are considered to be much stronger can have exclusive and undeniable control of the economic policies, the formal as the informal ways of accumulation, redistribution and consumption. Within these states, any extractive corruption will be an integrated part of the overall control over the state apparatus and its operations which include the authoritative allocation of resources. The strong leaders have the ability to decide who gains what from the different kinds of corruption. Due to this fact the level of corruption can be stable, predictable and acceptable to businesses and the general public. This way the institutions do not necessarily have to suffer from corruption. Besides that, the general attitude towards corruption is dependent on the overall esteem of the rule systems in the eyes of the people. This attitude is based upon the legitimacy and efficiency of the state (Amundsen, 1999, pp. 20-21). Furthermore, this relationship also becomes apparent when addressing the attitude towards the legitimacy of the states in the eyes of the population of the Philippines and EU in the upcoming Chapters.

The consequences of corruption in relation with the models of corruption

Before describing the consequences of corruption in relation with the models discussed a few paragraphs earlier, it once again is important to realise that corruption affects both resource allocation as well as the distribution of income within a society. Research which entails both models is just in a beginning phase but it can already be said that each of the models gives rise to the other. It can be argued that in reality, allocation and distribution effects overlap (Jain, 2001, pp.91).

Positive effects of corruption

Although many people think of corruption as a phenomenon which can only have negative consequences there are also some theories about positive effects that may occur. One of the positive effects, some argue, is that it helps to overcome bureaucratic rigidities and helps to maintain allocation efficiency if there is some form of competition going on between bribers. Small payments can be a motivation for officials to speed up the bureaucratic process which promotes economic growth. Unfortunately, research fails to support the assumption that it speeds up the process for *petty* corruption. Corruption still can be considered slowing down the apparatus of the state; however it still can have a positive effect because some incidences of bribery have a positive influence on the time that managers of international firms have to spend with bureaucrats. It is argued that once bureaucrats realise the potential for increasing their income through petty corruption they create more rules that require increased interaction between the managers and the bureaucracy. Another possibility is that the bureaucrats refuse to provide 'free' government services for free. So there are many reasons why the efficiency of the bureaucratic process does not improve even if the speed of the transaction increases. The number of required transactions in the presence of bribery may increase sufficiently to offset the efficiency by which each transaction in general is carried out. It also has to be noticed that petty corruption normally does not exist solely but that it is part of a much larger network of payments. These larger networks can lead to many other distortions of the economy caused by

the safeguarding of the positions of those officials and bureaucrats who benefit from petty corruption. One can conclude that most academic researcher believe that corruption does not aid development in certain instances because of a lack of evidence that localised petty corruption can survive without serious effects on the rest of the economy or that it has some other positive impact on the economy in a general equilibrium framework (Jain, 2001, pp. 92-93).

Negative effects of corruption

There are many well researched negative effects of corruption. Due to the large variety of negative effects only those related most to the political and economic dimension of corruption are mentioned.

Bureaucratic efficiency

Corruption seems to influence bureaucratic efficiency in two ways. First of all, service and purchase contract will not be undertaken with the most efficient producer. It will be offered to the producer who offers the largest bribe, mostly at the expense of the service that is being offered. Secondly, corrupt producers have the ability to prevent the entry of new producers by exploiting their existing (corrupt) relationships within the bureaucracy. Many studies have been conducted on the effects of the process of privatisation. Some academics argue that privatisation reduces administrative discretion and therefore reduces opportunities for corruption. This can be the case when the privatisation is successful. However, in reality the process itself can also give rise to opportunities for corruption. If there is information asymmetry, those with control over the process of privatisation can use the process for their own benefits and for example capture large rents (Jain, 2001, pp. 93).

Resource Allocation

Corruption also affects resource allocation in two different ways. First of all, it influences the assessments of private investors concerning the relative merits an investment will have. This due to the fact that corruption can influence the relative prices of goods and services, resources, factors of production and entrepreneurial talent. More importantly, corruption can result in resource misallocation if the decisions on how the public funds are invested, or which private investments are permitted, are made by corrupt decision-makers. Misallocation is caused by the fact that the decision-maker makes a choice for a certain investment project also on the basis on potential corruption payments. Of course, the decision that takes these payments into account can differ from the decision solely based on the social value of a project. Corruption could also affect investments because it alters the incentives for entrepreneurs because it creates uncertainties in the way that they can expect to receive less for their efforts (Jain, 2001, pp.94, 97).

Cost-enhancing consequences

Of course corruption can also be a cause of increased costs analogous to a tax because it raises the costs of a transaction. When there is a competition between officials, and not a monopoly over government services, bribes seem to have the effect of transferring revenues from government to corrupt officials. The competition between the officials there is a possibility that an internal labour market develops which leads to resource expenditures that are wasteful. The authors of these theories argue that competition is the best, a joint monopoly comes second and an independent monopoly is the worst for efficiency (Jain, 2001, pp.94).

Project selection by corrupt agents

The costs and the nature of the public investment expenditures in countries with a strong government role in economics normally does not make sense. Investments are made by decision-makers to direct public expenditure through channels that make it easier to collect bribes. Those channels are high-value and large-scale construction projects instead of value-enhancing maintenance expenditures or decentralized smaller projects. There is a strong relation between the level of corruption and how well the maintenance is of past projects. It is argued that corruption reduces growth by increasing public investment while reducing its productivity by increasing government consumption, reducing the quality of existing infrastructure and by lowering government revenue. Finally, the distribution of income and wealth is also influenced. Research has shown that corruption is the cause of both poverty and increased income inequality (Jain, 2001, pp.95-96).

2.4 Approaches to curtail corruption (control mechanisms)

This last section of this Chapter will describe the different Approaches to Curtail Corruption according to Amundsen (1999). The different types of corruption seen from different levels in society as described earlier on in this Chapter, and visible in figure one, are related to the different control mechanism which should be in place to curtail corruption. It is important to mention that different 'ideal' policies to curtail corruption are not described in this section, in other words how the approaches can best be implemented, because this is elaborated in the Chapter about Curtailing Corruption in the Philippines. This due to the extensive amount of empirical sources gathered through a period of field research and an internship at the DAP. That Chapter also describes the personal experiences of the author and the most recent update about anti-corruption initiatives in the country.

Curtailling Corruption

As earlier explained there seems to be an indication that the level of corruption decreases with increasing levels of economic prosperity and democratic rule. One can argue for the interdependence or mutual causality between corruption and economic growth, and also between corruption and democratisation. Consequently, this means that in some cases democratisation is necessary to make economic growth and that economic growth is large supportive of democratic governments, in this light the fight against corruption is placed within a broader agenda. This does not only suggest that it is possible to successfully curtail corruption, but also that the fight against corruption in most developing countries will have to be part of the broader struggle for economic growth and democratisation (Amundsen, 1999, pp.21).

However, democratisation will need to be supported by a strengthening of the democratic institutions in order to work against corruption. In other words this implies efficient mechanisms of control, detection and punishment, what later will be described as watchdog bodies. Except for the cases in which efficient control is based on authoritarian (totalitarian) rule, these bodies will have to be independent institutions that have the ability to survey, report, arbitrate, judge and enforce. Besides, democratisation will be necessary in addition to the establishment and independence of these institutions and practices, which implies a prior democratic institutionalisation of a larger set of relatively balanced social forces and of politically countervailing powers (Amundsen, 1999, pp. 21-22).

Research has shown that corruption can be challenged from four main sources: from the outside (from the external world), from above (from the rulers themselves), from the inside

(from administrative and bureaucratic institutions), and from below (from the civil society, the business community and each citizen alone). The difficulty however is, that each of these sources of anti-corruption pressure are also sources of corruption. Opportunities, possibilities, openings, pressure, demands, attitudes, and temptations for corruption are present and created out of all of these sources. The idea that each and one of these sources alone can be reformed and engaged to tackle corruption is senseless. This is only possible in a concerted and collaborative manner, only than some of these sources add up to a decisive inception against corruption (Amundsen, 1999, pp.22).

External or international control (“control from the outside”)

The IMF, the World Bank and the donor community have initiated substantial pressure on Third World governments to fight corruption. Political conditionalities include the well used concept of ‘good governance’ which can be summarised as honesty, efficiency and accountability of the bureaucratic departments and more directly political issues like multiparty elections, civil society enforcement and the protection of human rights. In general terms, these political conditionalities need an ambitious project of external influence, where some elements have been incorporated into the structural adjustment programmes of the World Bank and negotiated together with the economic conditionalities. In this sense, good governance also includes tackling corruption, but usually as an integrated part of the more technical and bureaucratic reform efforts (Amundsen, 1999, pp.22-23).

Attempts are under way in international legislation for example in the UN, the OECD, the WTO and the joint Council of Europe/European Union efforts. Nonetheless these are very far in stating principles, recommendations and making investigations. The actual enforcement is far to be find in the absence of any broad international agreement and international forums of justice, and in the presence of ever-increasing internationalisation of transactions. Only few countries have move in the recommendations of the OECD in the late 90s of revising existing tax rules and to impose stricter national legislation on international corruption. Fighting corruption with control from the outside raises another dilemma. External interest are neither consorted nor necessarily interested in reducing levels of corruption in countries. Due to the globalisation of markets and all kinds of transactions this has expanded the opportunity of collusive and concealed transactions between the ‘host’ or home government and various other players active in the global game. Therefore, an often heard complain is that bribery by foreign firms is the most significant contributing factor to corruption in their countries (Amundsen, 1999, pp.23-24).

Also, it is important to take into account that some national and transnational companies are getting easy access to resources, markets, and labour committing corrupt acts. This leads to the fact that international aid and donor agencies have their particular concerns, agendas and timetables, and are willing to pay for their (swift) implementation. Another important player are international banks and finance institutions who profit from the laundering and recirculation of money gained through the different forms of corruption. Other brokers are active between the foreign interests and local governments are able to establish deals in ways that they are able to hide their own profits as well as the illegality or immorality of the deal itself (Amundsen, 1999, pp.23-24).

Executive control (“control from above”)

The second control mechanism characterises itself with ‘control from above’. In order to control corruption from above, this can be done through several rather efficient mechanisms. One can think of speeches, various campaigns and other sensitising and morality enhancing mechanism

which may be useful in addition to executive reporting systems, institutional reforms, and a restriction in the size and administrative discretion of various ministries, departments, agencies and offices. This is all done with the aim to have strict control on the administration from above. Most important in this respect is probably the executive right of appointment and consequently dismissals. The ability to replace or fire corrupt officials, or the threat of doing so, is proven to be a very efficient when made credible through just actions. However, if corruption is to be curtailed from above, in other words from the governors, president or other political leaders, there is one very important factor that needs to be present, the political will of leaders. Many times the rulers and leaders might be corrupt and abusive, and consequently rarely instigate corruption-curtailing mechanisms by themselves when this runs counter to their private interests. The difficulty with political corruption and power-abuse lies in the challenge that accountability will have to be instituted by sufficiently strong countervailing powers (Amundsen, 1999, pp.24).

Unfortunately, history tells us that the list of honest leaders who have been able to reform a system of institutionalised political and bureaucratic corruption from above, through moral authority and sheer political will, is disappointingly short. As an additional factor, however, it is essential that political leaders have integrity (Amundsen, 1999, pp.24).

In practice, “the war against corruption” is often half-hearted or even directly counter-acted by ruling elites whose existence depends upon corruption as a mechanism of resource extraction and upon corrupt officials as the basis for political support. Even worse, in a neo-patrimonial system, the rulers make their followers subservient through a personal relationship of dependence. The power that the elite has to let someone get rich through corruption combined with the power to remove the same individual because of corruption, is an efficient and effective way of securing personal loyalty and subservience. Concluding it can be said that therefore the many corruption campaigns are rarely meant to change the structural setting of extractive corruption. The elite uses these campaigns as disciplinary mechanism in the struggle against rivals, as a pretext to dispense with embarrassing individuals or cliques. In addition, many times it is instigated to accommodate to the “international agenda”, and to comply with the demands of international donors and lenders (Amundsen, 1999, pp.24-25).

Internal or institutional control (“control from within”)

Bureaucratic professionalism and the defence of the public over the private are to a large extent dependent on the internal and institutional controls of the administrative and executive system. These are mainly administrative controls and include the various controlling and auditing bodies within the state administration in the form of specially assigned institutions and principles, like for instance the Auditor-General’s office, Anti-Corruption Commissions, Public Account Committees and Ombudsman Offices. However, in addition to financial auditing, it also includes human resource audits, organisational audits and physical performance audits. The efficacy of audit reports is dependent on the fact if they are submitted not only to the executive and legislative branches of government, but also to the broader public via the media (Amundsen, 1999, pp.25).

Other instruments of control are the separation between the realm of civil service and partisan politics, the professionalisation of the bureaucracy through competitive entry, the accountable use of public resources (audited accounts), the competitive compensation and merit systems based on performance. To summarise it the public sector ethics and performance can also be refined through ministerial reorganisations leading to smaller ministries, the creating or strengthening of central coordinating organs, simplification, standardisation, and flexibility for example cutting red tape. Furthermore, non essential functions should be eliminated redundant civil servants should be dismissed, recruitment procedures, inspection, capacity building in

training, eliminate ghost workers, salary increases and the monetarisation of benefits. One of the important aspects is the declaration of assets for all officials, and provisions regarding the transparency in bidding for and granting of public sector contracts. It should be prevented that officials have discretion through abundant, complex and non-transparent regulations, because the increases the possibilities for corrupt behaviour (Amundsen, 1999, pp.25).

Since bureaucratic corruption in most instances is based on a particular agreement or understanding between two individuals, one of the institutional arrangements that can be set up to reduce corruption is to impersonalise the relationship between state officials and the public. This can be done through many mechanisms of the Weberian ideal bureaucracy such as specialisation, hierarchical lines of authority, recruitment, promotion and pay according to seniority and merit. Nonetheless, the dilemma with the internal and institutional steps to reduce corruption remains because the state bureaucrats are usually among those who benefit the most from corruption. In many cases in addition to the individual gains, the bureaucracy may have vested group interests in keeping up corrupt practices (Amundsen, 1999, pp.25).

Democratic control (“control from below”)

Finally, the democratic control or control from below consists out of all the known checks and balances, the separation of powers, rule of law, and legislative and judicial independence which are the fundamentals of democratic systems. These institutions are necessary to ensure the political responsiveness and accountability of politicians and civil servants. However, also a number of organisations of the civil and political society, and the public itself, are needed to control and restrict corruption in the various state institutions. Just as strong states are necessary to control and restrict the corrupt and monopolising tendencies of the private sector, the state itself will have to be controlled from below (Amundsen, 1999, pp.25-26).

A competent independent judiciary should be in place to provide checks of executive and legislative power. There are certain things which are necessary in order to fulfil this role of checks in general and controlling corruption in particular. First of all, the courts will need independence from executive interference, they will need appropriate financial, institutional and professional resources (investigators, prosecutors and judges), they will need a due legislation and specialised provisions to work with, and finally a relevant authority to execute its rulings (credible and timely punishment) (Amundsen, 1999, pp.26).

Parliaments have also an important role to play because they can reduce corruption through their power of legislation and resource allocation. As we all know is the role of parliament members in general and opposition party members in particular to monitor and control the workings of the government and of the administration, to criticise and make suggestions and to inform the general public. Furthermore, the parliament has other instruments such as a right to know, and it can make inquiries, set up oversight committees, make investigations and pose questions to any governmental and administrative act. Within this control mechanism the political parties have another role, both those represented in parliament and those in extra-parliamentary opposition (Amundsen, 1999, pp.26).

Other necessities are a free press and an active civil society with for example non-governmental watchdog organisations and monitoring associations which are seen as highly relevant counter powers to restrict corruption and executive abuse. Nonetheless, free and fair elections remain the ultimate accountability, restriction and control mechanism. If it lives up to the condition of multipartyism, real differences between parties and real party and policy alternatives, and that

elections have decisive outcome for the composition of the executive, elections can sensitise, restrict and make accountable the individuals up for election (Amundsen, 1999, pp.26).

As with many control mechanisms this also causes a dilemma, that political parties and civil society organisations are no more democratic and no less corrupt or less inclined towards corruption than those officials in office. Within political parties, there might be hegemony-seeking and unrestricted rule that is related to inclination of many ethnic, religious and regional groups and more certain in some ideologies and individual ambitions (Amundsen, 1999, pp.26).

As mentioned earlier, the definition of corruption from the World Bank is chosen to be used in this thesis due to the leading role that the World Bank has in fighting corruption globally. However, country specific differences about definitions and policies used are also mentioned in the specific Chapters about corruption in the Philippines and European Union. The focus, in relation to the theoretical framework, is based on the state-society relationship model and the mechanisms present to curtail corruption which is just extensively described. This model will be used to analyse the situation in the Philippines and EU. The current problems are described and the focus within the different anti-corruption policies and plans is elaborated (Amundsen, 1999, pp.26).

2.5 Analytical Model Used Within This Thesis

On the basis of the theoretical aspects discussed within this chapter the following analytical model is constructed which is used throughout this thesis to analyse the current status of the anti-corruption policies and / or plans in the Asia Pacific region, the Philippines in greater detail and the European Union on the supranational level.

While keeping in mind that ‘prevention is better than cure’ the focus within this thesis is mainly on prevention initiatives. The analytical model itself is based on the control mechanisms as elaborated by Amundsen (1999) and described in the previous section. I have chosen several variables related to these mechanisms which should be in place in countries and its related government policies and should function in an efficient and effective manner. Finally, the model also classifies these variables to be either mostly related to prosecution, prevention or promotion initiatives which is explained in greater detail in the next chapter about the field study experience in the Philippines. Finally, a summarised conclusion will be given about the different control mechanisms existent on a scale from excellent to inadequate (‘Excellent’, ‘Good’, ‘Adequate’, ‘Poor’, and ‘Inadequate’) with regard to initiatives carried out in the Philippines.

Due to the aforementioned fact that tackling corruption is a multi faceted problem I have made a choice regarding the variables on which I will focus in my comparative research. It has to be taken into account that there will be an analysis on primarily the country-specific (national) level with regards to the Philippines and on the supranational level regarding the EU. Therefore, not all variables can be used when looking at the EU anti-corruption program because this would entail a large in-depth research regarding implementation of the initiatives in the different EU Member States which would go beyond the scope of this thesis. The choice of using a qualitative measuring scale within the model is also related to the complexity of measuring corruption especially when it comes to comparing data across countries. My choice is in correspondence with Transparency International (TI) who also argues that it is difficult to base comparative statements on the levels of corruption in different countries on hard empirical data, e.g. by comparing the number of prosecutions or court cases pending. The organisation argues that cross-country data does not reflect actual levels of corruption but that it for example highlights the quality of prosecutors, courts and/or the media in exposing corruption. Consequently, the only method of compiling comparative data is therefore to use the experience and perceptions of

those who are most directly confronted with the realities of corruption in a country. TI makes use of surveys carried out among businesspeople and country analysts including surveys of residents of countries. Hereby, one should notice that residents' viewpoints tend to correlate well with those of experts from abroad. In the past the viewpoint of less developed countries was underrepresented due to expert opinions from northern more industrialised countries. Nowadays, after extensive research the outcomes of the surveys, the perceptions, are broadly based and not biased by cultural preconditions and not only generated by US and European experts. Public assessments on the level of corruption, particularly as a way to benchmark progress in the fight against graft, are carried out by TI using another tool, the Global Corruption Barometer to evaluate public sentiment on, and their experience with, corruption.⁷

As mentioned earlier, I have chosen to combine this thesis with a field study and internship at the Development Academy of the Philippines (DAP) in order to place myself in the position to experience first hand the sentiment of state officials of all levels and of the public, regarding corruption, by living and working for four months in the country. Due to the central role that DAP played as a think-tank and project based government research institute I was able to go to all different state departments and also to participate in meetings, workshops and presentations with leading state officials on the fight against corruption and the way forward. Therefore, to my opinion, I gained a lot of insights how corruption is dealt with inside developing countries such as the Philippines. I kindly ask you to see the appendix about my field experiences and also to read the evaluation form filled in by my supervisor at DAP stating my activities. The knowledge gained while working and talking to the different people inside the country is used in this thesis to place the different initiatives on the measuring scale just described.

Analytical model

The following analytical model is constructed with the help of the different control mechanisms described by Amundsen and its related variables that are of great importance. His research and that of others has shown that that corruption can be challenged from four main sources: from the outside (from the external world), from above (from the rulers themselves), from the inside (from administrative and bureaucratic institutions), and from below (from the civil society, the business community and each citizen alone).

It is important to once more realise that each of these sources of anti-corruption pressure are also sources of corruption. Opportunities, possibilities, openings, pressure, demands, attitudes, and temptations for corruption are present and created out of all of these sources. Therefore the idea that each and one of these sources alone can be reformed and engaged to tackle corruption is senseless. Concluding, this is only possible in a concerted and collaborative manner, only than some of these sources add up to a decisive fight against corruption.

The model itself should be interpreted and used as follows:

- 1) According to the different control mechanisms there are different variables of importance to make sure that this part of the collaborative effort in the fight against corruption is met.

⁷ Website Transparency International, <http://www.transparency.org/> as visited in December 2006

- 2) Due to the large number of variables which could (and should) be present, the used variables are chosen on the basis of importance and are mostly focused on curtailing corruption in the public sector because of the focus on this sector in the thesis.
- 3) In order to make it possible to see if there is a certain emphasis within each control mechanism in the policies of the Asia-Pacific Region, the Philippines or more in general, the different variables present according to their content can either be characterised as mainly focused on prosecution, prevention or promotion. This division is extracted from my field study experiences in the Philippines. For further information about the characterisation please see chapter three.
- 4) Finally, a conclusion can be drawn when looking at each control mechanism to see whether or not its current status is excellent or inadequate (using the 5-point measuring scale). The end conclusion will focus on the status in general because each control mechanism is of importance to effectively fight corruption. Therefore, with help from sub-conclusions an end conclusion can be formulated in chapter five that also gives recommendations which type of control mechanisms should receive more attention within government policies, plans and implementation.

Also, it is important to mention that the research is focused on whether or not the control mechanisms are in place in government policies and plans and not if they are effectively implemented. This is, to a certain extent, done in chapter three as part of the field study research and internship in the Philippines but this would not contribute to a comparative analysis on a cross-country basis.

Theoretical model to control corruption

Control mechanism	Related variables	Prosecution /Prevention /Promotion	Summarised status on a scale from excellent-inadequate
“Control from the outside” / External or International control	<ul style="list-style-type: none"> • existence of international or regional agreements (i.e. OECD) • rules or conditionalities from international organisations (i.e. the World Bank or other donors) 	(according to the content of the related initiatives)	(according to the outcome of the initiatives and perceived experiences by the author)
“Control from above” / Executive control	<ul style="list-style-type: none"> • morality enhancing mechanisms (i.e. awareness campaigns) • executive reporting systems • institutional reforms • restriction in size and administrative discretion of institutions • executive right of appointment and dismissal 	(according to the content of the related initiatives)	(according to the outcome of the initiatives and perceived experiences by the author)

	<ul style="list-style-type: none"> • the political will of state leaders 		
“Control from within” / Internal or institutional control	<ul style="list-style-type: none"> • internal and institutional controls of the administrative and executive system • administrative (and financial) controls (i.e. controlling and auditing bodies such as Anti-corruption commission and Ombudsman Offices) • separation between civil service and politics • the professionalisation of the bureaucracy • the accountable use of public resources (i.e. audited accounts) • the competitive compensation and merit systems based on performance • transparency in bidding for and granting of public sector contracts 	(according to the content of the related initiatives)	(according to the outcome of the initiatives and perceived experiences by the author)
“Control from below” / Democratic control	<ul style="list-style-type: none"> • checks and balances • separation of powers • rule of law • legislative and judicial independence • control organisations of the civil and political society and the public • empowered parliaments which have the ability to use their instruments • free press • active civil society • free and fair elections 	(according to the content of the related initiatives)	(according to the outcome of the initiatives and perceived experiences by the author)

Chapter 3: Curtailing Corruption in the Asia-Pacific Region

After describing the different definitions, theories, available instruments, approaches and defining different 'ideal' policies to meet the criteria related to curtailing corruption in general this chapter has its focus on curtailing corruption in the Philippines. The different criteria that good anti-corruption policies should comply with are used to analyse the situation in Asia Pacific region, more specifically in the Philippines. Due to high level of corruption in this country, described in greater detail in this chapter, the Philippines can be used as an important case-study to see how to tackle corruption in practice. Furthermore, as mentioned in the introduction, the Philippines have learned a lot from the Asian approach to fight corruption.

This chapter first of all describes the different legal and institutional frameworks in the Asia Pacific region, with as its main element the Anti-Corruption Action Plan for Asia and the Pacific. After describing the three pillars of action of the framework and the implementation the focus will be on the Philippines where a very recent in-depth study has been conducted by me on anti-corruption initiatives. The history of the different anti-corruption initiatives is described with a focus on the different strategies and plans that exist within the Philippines. Subsequently, the attention shifts to the current situation of anti-corruption efforts in the country. These efforts are divided into the so-called 3-P's structure: Prevention-, Prosecution- and Promotion-initiatives which can be explained in the light of the history of the National Anti-Corruption Plan of the Philippines. Furthermore, some of the best practices and worst cases in anti-corruption initiatives are also described and analysed. Finally, the field research experiences of the author are summarised and put into perspective to the recent developments in the country itself.

3.1 Legal and institutional frameworks in the Asia Pacific Region

Governments in the Asia-Pacific region have endorsed the Anti-Corruption Action Plan for Asia and the Pacific in the years from 2001 until 2004. The Action Plan, together with its implementation plan, can be seen as a legally non-binding document which contains a number of principles and standards towards policy reform that interested governments of the regions politically commit to and implement on a voluntary basis. The objectives of this plan are identified at the Manila Conference in October 1999 and subsequently at the Seoul Conference in December 2000 (ADB and OECD staff report, 2004, pp.65-66)

The large majority of governments in the Asia and the Pacific region acknowledge that corruption is a widespread phenomenon which undermines good governance, erodes the rule of law, effects the economic growth and further efforts for poverty reduction and also distorts competitive conditions in business transactions. Furthermore, they are also convinced of the fact that corruption raises serious moral and political concerns and that fighting corruption is a complex undertaking which requires the involvement of all elements of society. Also important in this respect is that regional cooperation is seen as critical to the fight against corruption. Besides this, it is also recognised that national anti-corruption measures can benefit from existing relevant regional and international instruments and good practices such as those developed by the different countries in the region and institutions like the Asian Development Bank (ADB), the Asia-Pacific Economic Co-operation (APEC), the Organisation for Economic Co-operation and Development (OECD), the UN and World Trade Organisation (WTO). The governments of the region agree in taking concrete and meaningful priority steps to deter, prevent and combat corruption at all levels, without any prejudice to existing international commitments and in accordance with our jurisdictional and other basic legal principles. Initiatives undertaken by representatives of the civil society and the business sector to promote integrity in business and in civil society activities to support the governments in the region in their anti-corruption efforts are

also very much welcomed. Finally, the support made possible through donor countries and international organizations from outside and within the region to support the countries of the region in their fight against corruption through technical cooperation programmes is also very much appreciated (ADB and OECD staff report, 2004, pp.65-66).

Three Pillars of Action

In order to meet the general objectives that are just described above, participating governments in the Asia and Pacific region have agreed to take concrete steps under a three pillar structure of action with the support from the ADB, OECD, other countries and donor organizations. Concrete steps under the different pillars are related to the following goals; the *first pillar* is concerned with developing effective and transparent systems for public service, the *second pillar* has its focus on strengthening anti-bribery action and promoting integrity in business operations and steps in the area of the *third pillar* try to support active public involvement. The three different pillars are now described in greater detail in a successive order (ADB and OECD staff report, 2004, pp.67).

First Pillar

As earlier mentioned, the first pillar has as its main focus developing effective and transparent systems for public service. One of the key elements to achieve this objective is integrity in public service. The establishment of systems of government hiring of public officials who pursue and assure openness, equity and efficiency and promote hiring of individuals of the highest levels of competence and integrity. This can be done through the development of systems for compensation which are adequate to sustain appropriate livelihood and according to the level of the economy of the country in question. To avoid abuses of patronage, nepotism and favouritism, systems for transparent hiring and promoting to help promote a proper balance between political and career appointments. Systems which provide appropriate oversight of discretionary decision and of personnel with authority to make discretionary decisions should also be developed. Finally, attention should also be paid to the development of personnel systems that include regular and timely rotation of assignments to reduce insularity that would foster corruption.

The second key element is the establishing ethical and administrative codes of conduct that proscribe conflicts of interest, ensure the proper use of public resources and promote the highest levels of professionalism and integrity through prohibitions or restrictions governing conflicts of interest. These are systems that promote transparency through disclosure and monitoring of personal assets and liabilities. Administration systems in sectors that are corruption-prone such as taxation and customs should prevent that contacts between government officials and business service users are free from any form of undue and improper influence. Active promotion of codes of conduct and regular education, training and supervision of officials to ensure proper understanding of their responsibility should also be pursued. Hereby, the existing relevant international standards as well as the traditional cultural standards of each country are taken into account. In relation to codes of good conduct, measures which ensure that officials report acts of corruption and which protect the safety and professional status of those persons who have the courage should be constructed (ADB and OECD staff report, 2004, pp.67-68).

Besides integrity in public service, accountability and transparency should also be safeguarded through effective legal frameworks, management practices and auditing procedures. This can be achieved through measures and systems which promote fiscal transparency and the adoption of existing relevant international standards and practices for regulation and supervision of financial institutions. Other examples are appropriate auditing procedures applicable to public

administration and the public sector which include timely public reporting on performance and decision making. In the field of public procurement, appropriate transparent procedures that promote fair competition and deter corrupt activity and adequate simplified administration procedures should be enforced. Institutions for public research and oversight in this area should be supported. Systems for information availability including on issues such as application processing procedures, funding of political parties and electoral campaigns and expenditure in different sectors should be combined by a simplification of the regulations through getting rid of overlapping, ambiguous or excessive regulation that interfere with conducting business (ADB and OECD staff report, 2004, pp.68).

Second Pillar

The second pillar gives concrete steps to strengthen anti-bribery actions and to promote integrity in business operations. The first key element has its focus on effective prevention, investigation and prosecution. In order to combat bribery in an effective way, it is important to make sure that legislation exists with dissuasive sanctions which combat the offence of bribery of public officials. Anti-money legislation should also exist and effectively be enforced and the legislation itself should provide for substantial criminal penalties that are in line and consistent with the law of each individual country. It should also be ensured that rules are followed that ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities. These authorities should have access to financial and commercial records. Also, to strengthen the investigative and prosecutorial capacities, interagency cooperation is important, by ensuring that investigation and prosecution are free from improper influence and that the effective means for gathering evidence are available. Persons who are helping the authorities in combating corruption should be well protected and appropriate training of investigators and financial resources should be made available. Finally, the strengthening of bi- and multilateral cooperation in investigations and other legal proceedings should be realised. This should be done in accordance with domestic legislation and it should enhance effective exchange of information and evidence, extradition where expedient and cooperation in searching and discovering of forfeitable assets as well as prompt international seizure and repatriation of these forfeitable assets (ADB and OECD staff report, 2004, pp.68-69).

Also in the business sector there should be more corporate responsibility and accountability on the basis of existing relevant international standards. In this sector the promotion of good governance which would lead to internal company controls such as the earlier mentioned codes of conduct, the establishment of channels for communication, staff training and protection mechanisms for employees reporting corruption. Legislation should prevent any indirect support of bribery such as tax deductibility of bribes. Furthermore, legislation should require transparent company accounts and dissuasive penalties should exist for omissions and falsification for the purpose of bribing a public official or for hiding such bribery in the books, records, accounts and financial statements of companies. Laws and regulations governing public licenses, government procurement contracts or other public undertakings should be reviewed. This in order to deny access to public sector contracts as a sanction for bribery of public officials (ADB and OECD staff report, 2004, pp.69).

Third Pillar

The third and also last pillar supports active public involvement. The first key element is the public discussion of corruption. Public awareness campaigns at different levels should be initiated and support of NGOs that promote the integrity and combat corruption should be embraced. Examples of such initiatives are raising awareness of corruption and its costs, mobilizing citizen support for an honest government, and documenting and reporting cases of corruption. The

element of education in the form of preparation and implementation of programs aimed at creating an anti-corruption culture are also of great importance. The second key element is to ensure access to information. It has to be ensured that the general public and the media have freedom to receive and impart public information. More specifically, information on corruption matters, of course in accordance with domestic law, and in a way that would not compromise the effectiveness in an operational sense of the administration or which would be harmful to the interest of governmental agencies and individuals. A way to achieve this is through the establishment of public reporting requirements for justice and other governmental agencies that include revelation about efforts to promote integrity and accountability and combat corruption. Consequently, this also includes the implementation of measures providing for a meaningful public right of access to appropriate information. The last element under this pillar is to encourage public participation in anti-corruption activities through building cooperative relationships with civil society groups such as chambers of commerce, professional associations, NGOs, labour unions, housing associations, the media and other civil society organisations. Protecting whistleblowers and the involvement of NGOs in monitoring of public sector programmes and activities should be mandatory (ADB and OECD staff report, 2004, pp.70).

Correspondence with the Analytical Model

When looking at these three pillars in relation to the analytical model constructed and explained in chapter two, it becomes clear that the initiatives described in the first pillar are most closely related to the control mechanism 'control from within'. The first pillar describes systems related to internal and institutional controls of the administrative and executive system, administrative and financial controls, separation between civil service and politics, the professionalisation of the bureaucracy, the accountable use of public resources, the competitive compensation and merit systems based on performance and transparency in bidding for and granting of public sector contracts. Therefore a lot of emphasis is placed on internal and institutional control of corruption within the first pillar. The second pillar is more focused on the private sector and steps to promote integrity in business operations. Control in this sector is according to the analytical model seen as 'control from below'. This control can only take place with a decent rule of law, the necessary legislative and judicial independence, control organisations of the civil and political society and the public. The last pillar has its focus on active public involvement which is based on both initiatives from the executive as well as the public itself. When looking at the analytical model, examples are morality enhancing mechanisms, control organisations of the civil and political society and the public, a free press and freedom of information and the accountable use of public resources. Therefore, these initiatives are seen as 'control from above' and 'control from below'. However, concluding one could argue that the pillars are merely a different division of the different steps or activities that need to be taken to fight corruption. However, it also becomes clear that many of the initiatives under the control mechanism 'control from the executive' are not mentioned under the pillar structure and most emphasis is placed on initiatives related to 'control from within'. The mechanism 'control from the outside' is of no interest because the pillar is part of an international agreement. Nonetheless, it is of great concern that executive control is not mentioned to great extent in the pillars because as described earlier by Amundsen, the political will of state leaders is of great importance with regards to implementation of anti-corruption initiatives. Apparently it seems that the governments in the Asia-Pacific region who have endorsed the Anti-Corruption Action Plan for Asia and the Pacific are afraid to get themselves involved with the national political affairs of the countries participating. In addition, it seems that there is a lot of attention for private sector initiatives besides those of the public sector which can be related to the fact that the plan is a joint effort from both the ADB and OECD. At the end of the next section I will give a more detailed overview of the different initiatives in the Philippines and their current status to see whether or not their implementation is 'state of the art'. Also, this overview will categorise the different

initiatives according to the 3-P structure and the earlier mentioned measuring scale which I chose not to use at this point due to the more general points of attention of the plan that are based on a supranational effort.

Implementation

Implementing the three pillars of action is done through the different governments in the Asia Pacific Region with the help of the attached implementation plan. In addition to following the plan, the governments will also publicize the Action Plan throughout government agencies and the media and in the framework of the Steering Group Meetings, which meet to assess the progress in the implementation of the actions contained in the Action Plan. The implementation takes into account national conditions and it will draw upon existing instruments and good practices developed by countries of the region and international organisations (ADB and OECD staff report, 2004, pp.71).

The core principles of implantation of the Action Plan are to establish a mechanism by which overall reform progress can be promoted and assessed and to provide specific and practical assistance to governments of participating countries on key reform issues in the field of tackling corruption. Therefore, the implementation aims at offering participating countries regional and country-specific policy and institution-building support. The countries will further specify policy priorities and provide means by which the countries and partners can assess programs and measure the achieved results. Due to the fact that the situation in each country of the region may be specific the countries need to address these differences and target country-specific technical assistance. In consultation with the Secretariat of the Initiative each country, including the Philippines, has identified priority areas which would fall under any of the three pillars and aim to implement these in a workable timeframe (ADB and OECD staff report, 2004, pp.71-73).

Consultation on these priorities has already taken place in the framework of the Tokyo Conference immediately after the formal endorsement of the Action Plan. Subsequent consultation is done in the framework of the periodical meetings of the Steering Group that reviews progress in the implementation of the Action Plan's three pillars. Reviewing within this reform process will focus on the priority areas that are selected by the participating countries. In addition to this, there are thematic discussions which deal with issues of specific, cross-regional importance as identified by the Steering Group. The progress itself is based on self-assessment reports that are written by the participating countries that are review in plenary meetings by the Steering Group to get a good notion of each country's implantation progress (ADB and OECD staff report, 2004, pp.73).

Furthermore, the implementation plan gives guidelines about providing assistance to the reform process in the form of giving advice to regional, international community, civil society and business sector and donor organisation initiatives besides those of the governments of participating countries. Also, to facilitate the implementation each participating government in the region will designate a contact person. This person is a government representative with sufficient authority as well as sufficient means to oversee the fulfilment of the policy objectives of the Action Plan on behalf of his/her government. Another mechanism is the Secretariat which consists out of the ADM and the OECD and who carries out day-to-day management. One of the roles of the Secretariat is also to assist participating government in preparing their self-review reports. If necessary, the Secretariat has the ability organise in-country missions to help with these plans. The Action plan and Secretariat are assisted by and informal Advisory Group whose responsibility it is to help mobilise resources for technical assistance programmes and advise on priorities for the implementation. The Group will be composed of representatives of organisations earlier mentioned which also includes Transparency International that is actively

involved in the implementation of the Action Plan. Finally, initiatives in all sectors of society are financially supported by international organisations, governments and other parties from inside and outside the region (ADB and OECD staff report, 2004, pp.74-76).

3.2 Anti-corruption Strategies and Plans in the Philippines

After describing the Anti-Corruption Action Plan for Asia and the Pacific the focus in this section of the chapter is on the different anti-corruption initiatives in the Philippines. Before describing the current situation of anti-corruption efforts in the country it is important to understand the history of the anti-corruption strategy and other plans in the Philippines. The initial start of the most important plans was in the timeframe of 1999 until 2001. Before this time, of course there were already other initiatives to tackle corruption. However, a rare policy window opened to address the problem when the new President Gloria Macapagal-Arroyo promised to do a better job than her predecessors and to deal with the problem of corruption in society but especially among the political elite. The main approach, strategies and plans are visible in this section in a summarised way in the different figures. After describing the management of the National Anti-Corruption Plan in the initial years (1999-2001) and the effect of leadership on the plan, the current situation of Anti-Corruption efforts in the Philippines is described (2001-2006). The different initiatives are described and divided as to the 3-P structure described earlier. Finally, conclusions are drawn whether or not the Philippine approach meets the criteria of good anti-corruption policy. Many sources are gathered by the World Bank which plays a very important bridge building role in streamlining the countries anti-corruption efforts. Together with the Asian Development Bank (ADB) this authority is widely respected among government officials, the private sector, NGOs and the media. Therefore this international organisation plays a very important leading role together with some other important institutions described later on. The documents of the World Bank concerned the current status of anti-corruption in the Philippines are therefore used by many organisations as a starting point.

A Short Country History

The Philippines already started in 1999, two years before the Asia-Pacific Initiative, with building a comprehensive anti-corruption strategy. In the beginning of 1999 President Joseph Ejercito Estrada's administration asked the World Bank to make recommendations to help the government strengthen its fight against corruption in the Philippines. The World Bank agreed as the links between corruption and a country's development are becoming increasingly clear, and the World Bank is now actively helping an increasing number of countries to address corruption issues. It also has become clear that corruption reduces the effectiveness of poverty reduction strategies and that it negatively affects growth. Consequently, the poor suffer the most from corruption, because of their lack of resources and information to demand services that are their right or to hold officials accountable. Therefore, combating corruption is an important element in the World Bank's Country Assistance Strategy for the Philippines which calls for helping the Government to reduce poverty. The first report with its preliminary summary of findings and recommendations was submitted to President Estrada on November the 5th 1999. President Estrada announced to carry out the recommendation and requested the Development Academy of the Philippines (DAP) to produce a detailed national anticorruption program and strategy. With the governments consent the preliminary summary of findings and recommendations were published in December 1999 in the Philippine media, posted on the internet, and available to the public on request (Bhargava, V., et al. 2000, pp. iii).

Anti-Corruption Strategy and Plans

Due to the fact that each country, institution, and region has its own variety of corruption, specific tailor-made programs are necessary. Fighting corruption is a difficult process which will require a long and steady effort during many years to come. Nonetheless, the Philippines are in the position to learn from the growing amount of experience in the field of anti-corruption programs which shows that corruption can be addressed and that well-delivered anti-corruption programs can yield significant and rapid results. Successful anti-corruption programs and efforts share some key elements that are of great importance. The World Bank has learned from these experiences and has come up with a nine-point approach to fighting corruption in the Philippines (Bhargava, V., et al. 2000, pp. 22).

Having learned from global experiences and the Philippine-specific analysis, the World Bank recommends a national strategy for fighting corruption in the Philippines that should focus on reducing opportunities and motivation for corruption and should make corruption a high-risk low-reward activity. The program itself should focus on the root causes of corruption in the public sector, enhance the effectiveness of sanctions against corrupt behaviour, and also increase public oversight of government. Within this framework, there are nine key elements which are recommended that have been taken into account for the national anticorruption program (Bhargava, V., et al. 2000, pp.22).

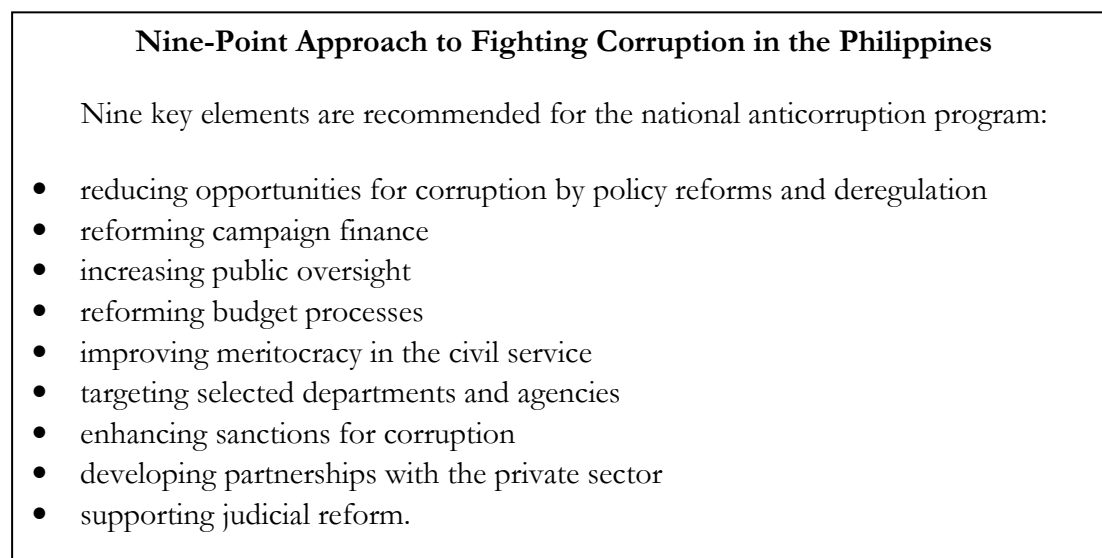


Figure 2: Proposed Nine-Point Approach to Fighting Corruption in the Philippines (source: World Bank, 2000, pp.22)

When looking at these nine points it becomes apparent that 'improving meritocracy in the civil service', 'targeting selected departments and agencies', 'reducing opportunities for corruption by policy reforms and deregulation', 'supporting judicial reform' can all be placed under the first pillar of the Asia-Pacific framework that has as its main focus to develop effective and transparent systems in public service. In relation to the second pillar which gives concrete steps to strengthen anti-bribery actions and to promote integrity in business operations, the following points are related to this pillar: 'reforming campaign finance', 'developing partnerships with the private sector', 'reform budget process' and 'enhancing sanctions for corruption'. Finally, the last pillar supports active public involvement, when looking once again at the nine point approach then one can argue that 'increasing public oversight' is related to this goal. Concluding one could argue that the initial focus of the Philippines, from the executive level, is on the first and second pillar and not on the third. This will be elaborated further on in this Chapter when recent

initiatives to Curtail Corruption are described. It is interesting to notice that the three Pillars of the Asia-Pacific Plan more or less resemble the 3-P structure. Furthermore, at the end of this Chapter the findings will also be placed in relation to the control mechanisms described in Chapter two. More detailed information on the nine key elements recommended by the World Bank to the Philippine government can be found in Appendix I.

In order to achieve success it is not only necessary to have a good anti-corruption strategy but to have an effective implementation. Effective and sustained implementation will in the end determine whether the fight against corruption can be won. Regarding this, the World Bank has also formulated seven implementation recommendations. A more detailed version can also be found under Appendix II.

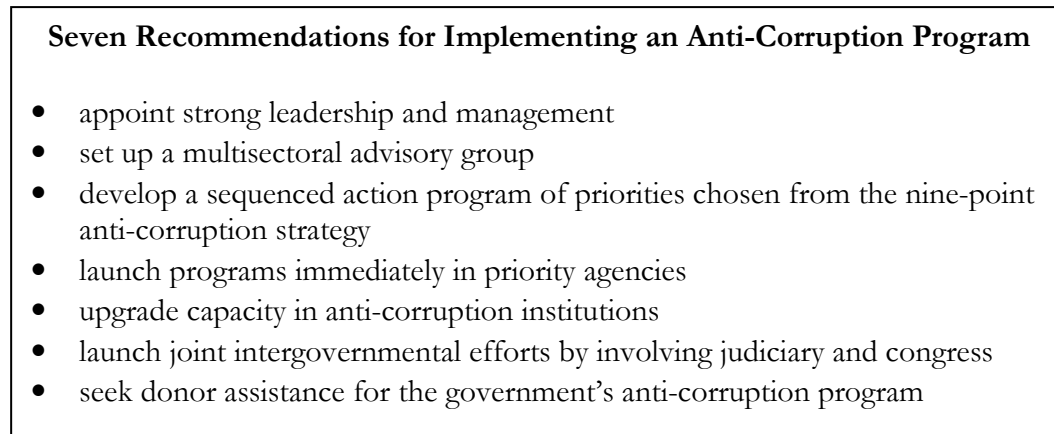


Figure 3: Seven Recommendations for Implementing an Anti-Corruption Program (source: World Bank, 2000, pp.27)

It can be concluded that the pillars and the strategies of the Anti-Corruption Action Plan for Asia and the Pacific are consistent with the nine-point approach proposed by the World Bank to the Philippine government in 2000. Furthermore, the National Anti-Corruption Plan prepared by the Development Academy of the Philippines (DAP) at the direction of the Philippine government is also consistent with the earlier mentioned approaches and strategies. The National Anti-Corruption Plan prepared by DAP adopted a three-pronged approach to fight corruption: prosecution, prevention, and promotion of intolerance on corruption (3-Ps structure). This plan features the Ten-Point Jump-start Program that is visible below. (Bhargava, V., Bolongaita, E., 2004, pp.95-96)

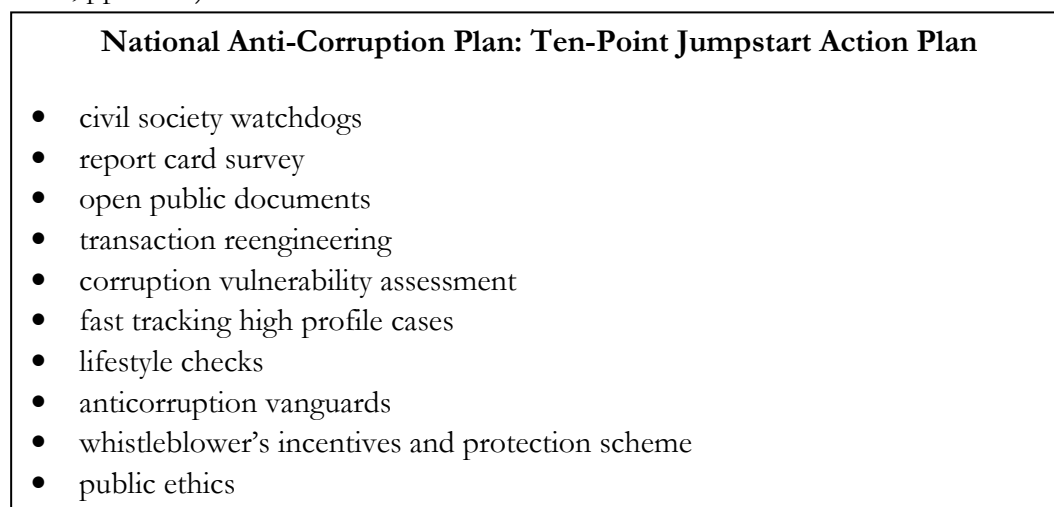


Figure 4: National Anti Corruption Plan: Ten-Point Jumpstart Action Plan (source: World Bank, 2000, pp.21)

This plan is constructed after the initial World Bank report on Combating Corruption, President Estrada asked the DAP to devise a National Anti-Corruption Framework and coordinate all the government's anti-graft activities. DAP came up with a blueprint in consultation with civil society organisations, the private sector, anti-corruption agencies, cabinet members, the media and other academe. The draft version of a National Anti-Corruption Plan was prepared and submitted to the donors' Consultative Group meeting in June 2000. Subsequently, it was revised when the new Government came to power in January 2001. The two key features of the national plan are to specifically focus on civil society engagement through a broad coalition of NGOs as partners in the fight against corruption and secondly to focus on the prevention of corrupt activities through aggressive prosecution. The plan itself is a set of comprehensive measures that consists out of five strategic objectives, 14 key result packages and at least 45 project concepts on anti-corruption promotion and prevention and prosecution of corruption. As its centrepiece is the earlier mentioned 10-point jumpstart program for immediate execution. In addition, it also lays out a sequence of anti-corruption activities with long term goals. Furthermore, the National Anti-Corruption Plan recognises that the fight against corruption is one that will take many years before successes may be achieved. To deal with this, the plan advocates a three-staged campaign (Bhargava, V., et al. 2000, pp.20-21).

The first part of the campaign is the jumpstart program that is mentioned in figure 4. The strong building blocks are needed in the short run to support the longer term programs. In order to accomplish the quick wins the 10-point jumpstart program with 10 key components is proposed. Besides this, it is very important that civil society is conspicuously involved in the prevention and monitoring of corrupt practices. During the initial stage, it is critical that full government commitment is achieved and that a clear demarcation of responsibilities is agreed among the different anti-corruption agencies. The success of the second phase of the campaign, the expansion and identification is determined during the jumpstart phase. If the building blocks are weak, the second phase will crumble which will jeopardise the entire anti-corruption campaign. Strengthening of the anti-corruption agencies and full implementation of programs in the five key areas is proposed under this stage. The five key results areas as outlined in the academy's plan are: streamlining government transactions; enforcing anticorruption policies and laws; promoting integrity in civil service; mobilizing citizens against corruption; and detecting corruption and prosecuting corrupt officials and employees. Finally, the last stage of the campaign, consolidation and institutionalisation, should show visible results in the areas that are outlined. With full devotion to the anti-corruption programs, the indicators should show a perception of reduced levels of corruption. In this stage, civil society and government need to continue to work as partners to maintain momentum throughout the final stage and beyond. (Bhargava, V., et al. 2000, pp.21).

Additionally, it is important to mention that the Office of the Ombudsman (OMB) is also implementing its own eight-point strategy, which is based on the twin approaches of prosecution and prevention. Due to the nature of the institution the punitive approach includes detection of wrongdoing, investigation and prosecution. This also includes imposition of administrative sanctions. Next to prosecution, there is the prevention component which encompasses a public assistance program, intensive graftwatch, people empowerment, education, coordination with other anti-graft agencies, and systems improvement (Bhargava, V., et al. 2000, pp.21).

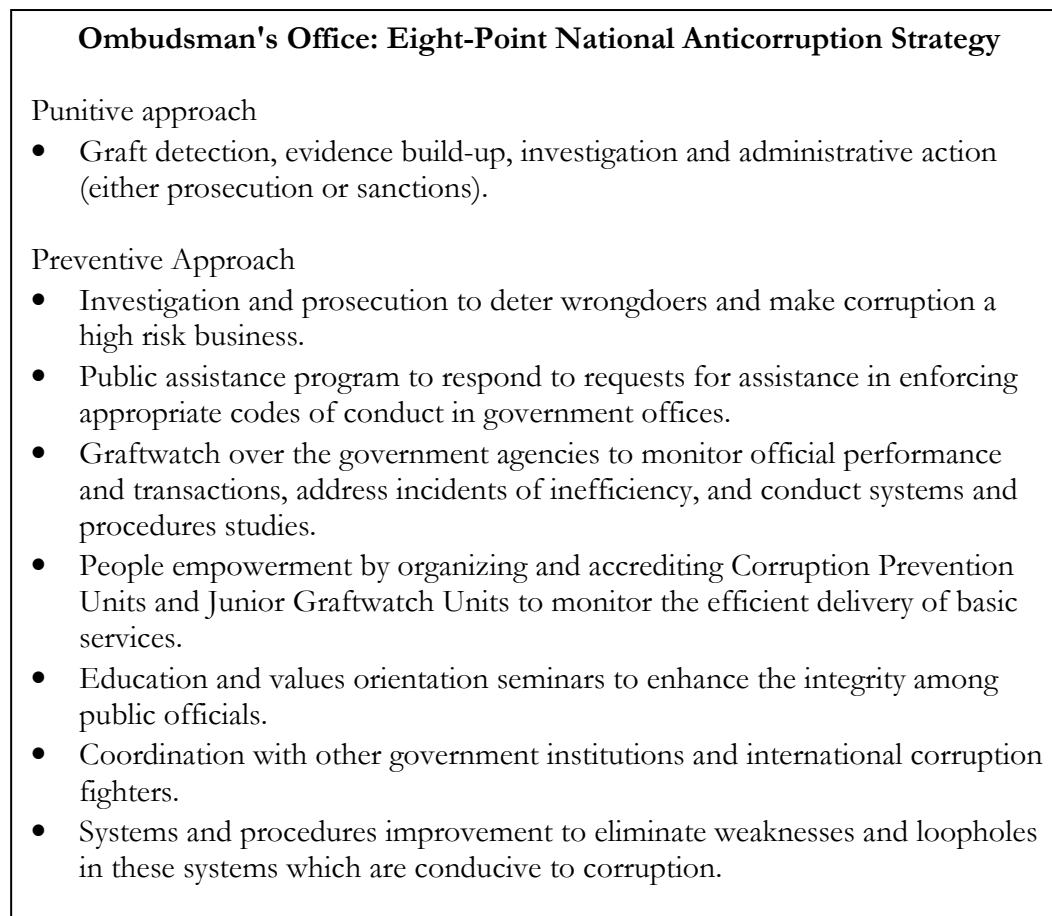


Figure 5: Office of the Ombudsman, "8-Point Comprehensive National Anticorruption Strategy" (Source: Website Office of the Ombudsman)

Improvements made after the initial years of the National Anti-Corruption Plan (1999-2001)

Before going into further detail and describing the most current level of corruption and the success of anti-corruption efforts in the Philippines from the year 2001 until 2006, it is important to understand the major problems of the initiatives which started in the beginning years of the National Anti-Corruption Plan (1999-2001).

The reforms undertaken in the early beginning of the major reform plan are scattered and clearly imply several major weaknesses. First of all, it has become clear that the early initiatives suffer from a lack of organisational coherence. Furthermore, there is no overarching anticorruption framework. The major challenge can be seen to address decisively the diffusion of efforts within the bureaucracy and to achieve focus through a sustained anticorruption campaign. Secondly, there are gaps in the wider executive action needed in order to complement initiatives specifically focused on combating corruption. These discontinuities include a lack of consistency in applying conflict of interest rules, inadequate audit procedures and inactive case referral systems, weak enforcement of some Acts and the lack of any regulatory framework for civil society organisations. Consequently, these organisations remain unaccountable for their actions. Third, parallel legislative remedies were not moving fast enough in certain cases. One can conclude that in order to fill out the gaps to combat corruption at this stage asks for significant change in the structure of political institutions in the context of relationships within government and among government, civil society, and the private sector, and changes in the existing policy and program

practices of the Philippine Government. However, it is argued that a determined leadership can overcome the difficulties and can create virtuous circles of reform (Bhargava, V., Bolongaita, E., 2004, pp.109-110).

Leadership and Management of the National Anti-Corruption Plan

In 2001, the anti-corruption effort of the government was diffused among several agencies which have major mandates and overlapping jurisdictions. The lack of coordination among those agencies is strengthened by the episodic nature of the government's anti-corruption efforts. History tells us that since the 1950s Philippine presidents, from Elpidio Quirino to Gloria Macapagal-Arroyo have created their own antigraft and corruption investigation units and agencies. Unfortunately, most of these efforts had a short life, and because they were executive creations, their powers often were not sufficient to deal with hard corruption cases. However, the creation of the Office of the Ombudsman in 1986 represented a clear departure from discontinuous anti-corruption initiatives. This constitutional body was designed to be an effective anti-corruption body independent of pressures from the executive branch. In the beginning it seemed that it had all the powers needed because it has the power to investigate and prosecute on its own initiative or on the basis of complaints of mismanagement and corruption in government. Nonetheless, after existing more than 10 years it seems that this institution has shown little in terms of reducing corruption in the country. Because of this poor conviction record the office is suffering from a credibility problem. In addition, the office was also criticised for putting too much emphasis on prosecution and lacking a proactive stance on corruption prevention. The formulation of the National Anti-Corruption Plan in 2000 underlined the weak spot of the Ombudsman. After many consultations with the various stakeholders involved, the DAP proposed an anti-corruption blueprint. The earlier described plan, based on a programmatic approach, looks at the entire cycle of investigation, prosecution and prevention. Its proposal for a broad civic coalition was especially favoured by civil society. In correspondence with Honk Kong, China's Independent Commission Against Corruption (ICAC), NACP had corruption prevention and community relation components. However, the NACP could distinguish itself through its emphasis on prevention and education which made it distinct from other anti-corruption plans. Unfortunately, NACP failed partially because it was housed under another presidential creation, the National Anti-Corruption Commission (NACC), and partially because of opposition from the judiciary. Due to this, Executive Order 268 creating NACC was frozen by President Estrada himself. In addition to the Office of the Ombudsman, there are a few other important anti-corruption bodies present in the Philippines which clearly shows the diffusion of effort in the nation's anti-corruption campaign. After the People Power revolution in 1986, then-President Aquino created the Presidential Commission on Good Government (PCGG) with as its main goal to recover the ill-gotten wealth of the Marcoses. Nonetheless, also the Commission proved to be unsuccessful in its tasks. Following these developments, in 2001 President Macapagal-Arroyo resurrected an old antigraft body, renaming it the Presidential Anti-Graft Commission (PAGC). Just like its precursor, PAGC has the ability to investigate corruption cases against presidential appointees. It inherited the weakness of the old commission because it does not enforce but only recommends action to the president. However, the improvement is that the new commission can conduct its own studies on new transparency and accountability measures at all levels of the bureaucracy. The third important body is the Presidential Committee on Effective Governance, created in October 1999 this is a cabinet-level body responsible for formulating an agenda to strengthen and streamline the public sector and is taking the lead in enacting legislative and administrative reforms. The Sandiganbayan, which is the main antigraft court, adjudicates criminal cases brought to it by the Office of the Ombudsman. Only government officials with high-level ranks (director level and above) are referred to this body. Because the role of the judiciary is to decide upon the evidence presented, this institution does not have a proactive role in anticorruption prevention (Bhargava, V., Bolongaita, E., 2004, pp.109-112).

In order to unite the different initiatives on combating corruption, the first step that has to be taken is to strengthen the Office of the Ombudsman. This institution is the only body capable of consolidating all anti-corruption reforms. Therefore, to secure its independence, competence, and integrity it must provide credible leadership. Besides this, efforts must be made to ensure that the work is grounded on corruption prevention, community relations, and international cooperation as much as on prosecution. Therefore, one could conclude that adopting the major elements of NACP could lead to significant improvements in the ombudsman's anti-corruption effort. An Ombudsman, who is credibly committed, together with the development of a broad anti-corruption coalition, will also ensure that the anti-corruption program is not at the mercy of the political process, including frequent changes in leadership. This risk is also seen by the World Bank who argues that any strategy that relies on high-level leadership will be vulnerable to the many uncertainties of the political process. Other recommendations are related to the PAGC which should be of a temporary nature. Once the Office of the Ombudsman is able to exercise its authority more fully, PAGC must stop to exist. The PCEG, on the other hand, should partner with the Office of the Ombudsman because this Commission has proven to be quite effective in enforcing discipline in the executive branch. Through building a broad coalition, the Office of the ombudsman could establish its own credibility in corruption prevention, especially with PCEG as part of the coalition. This could be achieved in the field of corruption prevention and on the investigation and prosecution side where interagency coordination will be helped by a stronger ombudsman. A logical next step is to strengthen the judiciary and to enhance its integrity, especially that of the lower courts. It would be pointless to increase the speed of the Ombudsman and not to adjust the judiciary to this pace. For both the Office of the Ombudsman and the Sandiganbayan it is necessary to fast-track the resolution of corruption cases. The fast-tracking of high profile cases also shows that anti-corruption laws can be enforced in equal ways to all citizens, government officials, and personnel, regardless of their position and stature. This also asks for the cooperation of investigative and prosecutorial bodies to intensify pursuing of corruption cases in the court. To speed up this process, statistics on backlogs can be published and inaction by the courts and other anti-corruption bodies can be highlighted in all the different media. Also, undertaking immediate studies to see how lengthy procedures can be simplified being practiced by anti-corruption bodies should be undertaken. Finally, enhancing the interagency cooperation to tighten cases and increase chances for successful prosecution is also important (Bhargava, V., Bolongaita, E., 2004, pp.112-113).

In order to work towards a Coherent Anti-Corruption strategy, besides better cooperation and the implementation of the diverse strategies and plans, interest should be generated among civil society groups, which will provide the key players in such projects as citizen watchdogs and report card surveys. The civil society groups must be encouraged to take an active role and eventually assume leadership in monitoring and evaluation. The accountability systems for civil society groups are also necessary because of their temporary nature of many NGOs in contrast to that of government agencies. This makes it difficult to hold NGOs accountable for their actions. This point is not only about the nature of NGOs but also about the ability of Philippine institutions to make them accountable. New performance indicators for anti-corruption efforts should be established and an annual anti-corruption report would be an important guide for decision makers in generating successive rounds of reforms. Also a monitoring and evaluation structure designed specifically for the anti-corruption program should be put into place. This program must be based on a framework which has consensus among all the different parties involved. The international community in the form of international monitoring bodies, such as the World Bank and Transparency International should have regular meetings with the national organisations. Finally, open access to information to enable media to continue the investigative reporting of corruption cases is crucial. The next section of this paper will go into further detail

with regards to the current initiatives in relation to the proposed improvements just discussed (Bhargava, V., Bolongaita, E., 2004, pp.114).

Correspondence with the Analytical Model

After looking at the plan for the Asia-Pacific Region it is also important to look at the different anti-corruption strategies and plans in the Philippines using once more the analytical model. First of all, the Nine-Point Approach to fight corruption in the Philippines, as mentioned earlier in this section of the thesis, is most closely related to the first pillar of the Asia-Pacific framework. Consequently, this means that most of the nine points can be placed under the control mechanism of 'Control from within' or internal or institutional control. The rest of the points is related to the private sector and can be related to the control mechanism 'Control from below' or democratic control because they include developing partnerships with the private sector, increasing public oversight, enhancing sanctions for corruption and reforming campaign finance. Concluding one could argue that there is little attention paid to the control mechanisms 'Control from the outside' and 'Control from above'. Also, the focus is mostly on the private sector within the control mechanism 'Control from below'.

However, when looking more closely at the seven recommendations for implementing the Nine-Point Approach using the model, it becomes clear that 'appoint strong leadership and management', 'develop a sequenced action program of priorities chosen from the nine-point anti-corruption strategy', 'launch programs immediately in priority agencies' and 'upgrade capacity in anti-corruption institutions' are related to the control mechanism 'Control from above' or executive control. The remaining points to 'set up a multisectoral advisory group', 'launch joint intergovernmental efforts by involving judiciary and congress' can be placed under the control mechanism 'control from below' because a joint effort from all different levels in society is necessary to achieve success. Finally, the last point to 'seek donor assistance for the government's anti-corruption program' makes it possible to place the governments' policies and plans under the first control mechanism 'Control from the outside' also described as external or international control. In addition, the National Anti-Corruption Plan prepared by DAP which followed the 3-Ps structure (Prosecution, Prevention and Promotion) of intolerance on corruption can be seen more as a method to characterise the different efforts and initiatives according to the content of a specific initiative which in its turn falls within one of the different types of control mechanisms. The related Ten-Point Jump-start Program can therefore best be seen as what it essentially is a program to achieve quick wins because it is important during the initial stage that full government participation is achieved and also the success of the second phase of the campaign is determined during this jumpstart phase. Therefore, it is not relevant to compare these points with the analytical model because it is really dependent upon the efforts most needed at a specific moment in time. Finally, the last strategy is that of the Office of the Ombudsman who has come up with its own Eight-Point National Anticorruption Strategy which is based on the double approach of prosecution and prevention. The first, and only, point under the punitive approach is related to the control mechanism 'Control from within' because it entails efforts which are internal and institutional controls of the administrative and executive system such as graft detection, evidence build-up, investigation and administrative action which can either be in the form of prosecution or sanctions. The other points of the strategy can be characterised as preventive but fall within different types of control mechanisms. The first, third, sixth and seventh can be placed under the control mechanism 'Control from within' because they focus on internal and institutional control. In addition, the second, fourth and fifth are more focused on getting the public involved and making them aware of the fight against corruption. Therefore, these points of the approach can be seen as most closely related to the control mechanism 'Control from above'. The lack of strategic goals focusing on the other control mechanisms is related to the nature of the institution of the Ombudsman and its specific task in the fight against

corruption. Concluding one could argue that the Nine-Point Approach to fight Corruption together with its seven points of recommendation for implementing them, correspond to a large extent with the different control mechanisms which should be in place in the different anti-corruption policies and plans. However, within these plans it becomes clear that they are many times based on the perspectives of the different donors which support the anti-corruption efforts. For examples the influence of the World Bank / OECD and UNDP on the direction and contents of the plans and strategies can clearly be seen when looking at the conditionalities related to financial support. Together with the important fact that there are a lot of problems implementing the plans, especially with regards to executive control, it becomes clear that in practice there is not one coherent plan or approach which is followed throughout the country. The plans are existent on paper, but when it comes to the political will from the highest levels of government there is clearly a lack of political leadership visible. Also due to the lack and the temporary basis of leadership many different initiatives have originated within society who will be addressed in the next section of this Chapter. Concluding, one could say that the design of the Nine-Point Approach to Fighting Corruption in the Philippines, as proposed by the World Bank, is decent and foresees in a coherent approach. Therefore, they were not bound to fail initially, but the political climate as well as other problems related to implementing the plans have resulted in the fact that many of the goals are very hard to achieve if not tackled in a coherent manner. In this sense, the 3 pillar approach of the Asia-Pacific framework can be a useful tool to monitor progress and help each other through peer-reviewing but should in this light not be seen as 'the' blueprint for success. In contrast, the Nine-Point Approach, as part of the country-specific plan of the World Bank embraces the coherent approach in a more thorough way and takes into account the different control mechanisms in its plan and strategy of implementation.

3.3 The Current Situation of Anti-Corruption efforts in the Philippines (2001-2006)

The current situation of anti-corruption initiatives in the Philippines in the time period from 2001 until now is described in this section of the chapter. Most of the recent data is earlier presented at the Validation Workshop of the World Bank on the 3rd of august 2006 in the Discovery Suites located in Manila, the Philippines. The paper discussed is concerned with the progress of anti-corruption efforts and is prepared by the Development Academy of the Philippines-Centre for Governance with funding from the World Bank. The project team is led by Dr. Eduardo T. Gonzalez. This section of paper will focus on the status of the governance milieu in the Philippines and the most recent initiatives undertaken to tackle corruption in the country. These initiatives are described according to the earlier mentioned 3-Ps structure of prosecution, prevention and promotion initiatives. Furthermore, this section also addresses the reforms that need to be put in place in order for anti-corruption to make a good deal of progress. Anti-corruption policies from 2001 to present are assessed and anti-corruption themes are discussed and lessons are distilled for targeting transparency and accountability reforms more effectively.

When looking at the Philippines conditions point to a somewhat vulnerable governance milieu, although it is at least above the level of developing countries which are poorly governed. This is due to the many flaws of the existing institutions such as an inconsistently functioning legal system, weak accountability structures, and inadequate financial transparency. With institutional safeguards working now and then, reforms may not last long, or worse, are vulnerable to political capture by predatory interests. However, a vulnerable governance milieu should not lead to a certain destiny. The challenge is to overcome the confines, to create synergies that can lead to a more creative destruction of governance vulnerabilities. Considering this in terms of game theory, when one agency breaks out of its own institutional boundaries, other ought to typically ask them how they must react to come up with a least bad outcome. This is the case, if they have an incentive to fear being left behind by successful moves. So the first agency must motivate at least a few others to carry out the same actions and hopefully create a virtuous circle of reform. Of

course, this is easier said than done in a country with a bureaucracy that is by force of habit routine-oriented. Therefore, to help start up this process other stakeholders, such as the private sector and civil society group, can show up as pressure point, or even as partners, in order to induce a shakeout and force implementers to do things right. Some kind of competition should emerge within the bureaucracy if enough groups in government and outside of it overcome their collective action hurdles to produce a counter wave of changes (Gonzalez et al., 2006, pp. 1-2).

The pressure to reform is urgent because corruption is seriously hurting the economy and continues to affect social society. There are some windows of opportunity for changes open for significant breakthroughs but only until a certain point. In this line of argumentation it is important to acknowledge that the institutional weaknesses of the state, the concentration of vested interests, and the extent of what the institutional economics literature describes as 'state capture', will work as powerful stopping mechanisms on anti-corruption initiatives, having a negative influence on the effectiveness and sustainability. Anti-corruption policies should be crafted taking into account the qualifying factors in such environments. This is done through the help of the World Bank's governance indicators which are used as a heuristic tool to examine the different circumstances underlying the persistence of problems in fighting corruption and to provide a basis for reform strategies that are aimed both to the specific contours of the difficulty and to the means to overcome it. The result will be a set of policy options which stress on how to target new reform efforts, how to implement them in a stepwise manner, and how to sustain them in a governance context which is susceptible to wrongdoing (Gonzalez et al., 2006, pp. 2).

The Governance Environment in the Philippines

The governance milieu of the Philippines can be considered a soft state because the country is a developing country with a lack of disciplined and capable bureaucratic culture, a cogent societal fabric and a strong political will to overcome such weakness. However the aspects of a soft state extend beyond that of a poorly or fairly governed state, In essence there is something wrong with the way social institutions, set of roles, rules decision-making procedures, and programs that serve to define social practices and guide the interactions of those participating in these practices, are established and operated. Institutions whether formal or informal are the means through which authority is exercised in the management of resources of the state where they make up in other words the enabling environment. According to Kaufmann as quoted in Gonzalez et al (2006) there are observable aspects of this environment that are important enough to consider: the process by which those in authority are selected and replaced represented through voice and external accountability and political stability; the capacity of government to formulate and implement policies represented by government effectiveness and regulatory quality and the respect of citizens and the state for institutions that govern interaction among them represented by the rule of law and control of corruption (Gonzalez et al., 2006, pp. 2-3). These aspects are now discussed in a successive order. First of all, voice and accountability measures government's preparedness to be externally accountable through citizen feedback and democratic institutions. There should also be an independent media which serves an important role in monitoring those in authority and holding them accountable for their actions. Political stability measures perceptions of the likelihood that the government in power will be destabilized or overthrown by possibly unconstitutional or violent means which has a direct effect on the continuity of policies and the ability of citizens to peacefully select and replace those in power. Regulatory quality is focused on the policies themselves i.e. on incidences of market-unfriendly policies as well as perceptions of the burdens imposed by excessive regulation, government effectiveness focuses on 'inputs' required for the government to be able to produce and implement sound policies and deliver public goods. This also includes the quality of the bureaucracy, the competence of civil servants, and the independence of the civil service from political pressures and the credibility of the government's commitment to policies. The rule of law measures the confidence and success

of a society in developing an environment in which fair and predictable rules form the basis for economic and social interactions. Consequently, this means the existence of checks and balances, regular and predictable regime succession, formally independent judiciary among others. It measures several things such as the effectiveness and predictability of the judiciary, the enforceability of contracts and even the perceptions of the incidence of crime. Finally, the presence of corruption is a lack of respect of both the corrupter and the corrupted for the rules, which govern their interactions. Control of corruption measures the effectiveness of restraints on the exercise of public power for public gain and other forms of corruption discussed in Chapter two (Gonzalez et al., 2006, pp. 3).

The Philippines are placed in this model of Kaufmann and Kraay by Gonzalez et al. the outcomes are that the country receives somewhat vulnerable marks suggesting that the country is at risk of being ineffectually managed in a context where serious challenges remain. The score points out that: “there is a tolerable level of government’s ability of government to produce and implement good policies and deliver public goods, a liveable regulatory structure and trade regime, perception of a relatively functioning democratic institutions, including free media a maintained level of corruption control (although very low) and less than satisfactory observance of the rule of law. However, taking also into account the political instability, as vividly also explained in the introduction of this thesis, the World Bank suggests that the score places the Philippines in a state of “governance crisis” (Gonzalez et al., 2006, pp. 4)

When looking at historical trends it is apparent from the figures that the overall quality of Philippine government has declined. The score shows a decline in political stability and the rule of law. This is mainly caused by contemporary corruption scandals in the private sector and the destabilisation due to threats of terrorism and military disturbances in 2003. Finally, the allegations mentioned against the current President Gloria Macapagal-Arroyo also continue to effect political stability and prevent the government to gain consensus on important social and economic decisions. Therefore it is not strange to see why the government scored ‘average’ on most indicators just discussed.

The Perception of Corruption over Time

The Philippines has carried out many initiatives in an effort to improve investor and citizen confidence by declaring anti-corruption as a priority agenda. However, looking at the time period from 2001 until 2006, data from the TI corruption perception index (CPI) shows little change in the perception of corruption incidence by foreign business and the international community. In 2005 the CPI stands at 2.5 only a little bit lower than the score of 2.9 in 2001 when President Arroyo assumed power after President Estrada was deposed due to allegations of corruption. During the early 2000s many anti-corruption reforms were introduced and it was expected to see significant improvements in the following years. However, the Philippine score stagnated across the years. When looking at the earlier years, in the late 1990s there was already a growing satisfaction on the decreasing level of corruption in the country which was caused by policy and regulatory reforms that led to greater economic freedom that is known to impede the occurrence of bribery and corruption. This decline in value was brought by the rising governance deficit as revealed by reduced investor confidence which in turn was caused by pervasive and deep-rooted corruption present in both public and private sectors. Despite vigorous efforts of anti-corruption bodies, the Philippines failed to change the perception of its stakeholders in the period from 2001 until now because of the unresolved high profile cases (Ombudsman Journal, pp.12) Besides this, the enforcement of anti-corruption policies appears to be erratic, because the rule of law itself is a concept that does not easily fit within the Philippine patron-client culture (Gonzalez et al., 2006, pp. 7-8)

The effects of existing institutions and the quality of governance on reform efforts

The existing institutions and governance quality have a large impact on reform efforts because they shape the way the interests of actors are aggregated and constructed. The context also determines the degree of complementarity between new and existing institutions, which determines how likely effective and sustainable the institutions will be. In the Philippine political economy, the factions, which are in conflict, have their origins in the political and economic power of the economic elite. Patron-client relations are consolidated in an upward direction and find their expression in political factions contending periodically for direct control of government. The aim of these elite struggles is to gain control over the state's machinery and resources and to use their position to favour specific interests. After power is gained powerful incentives work to retain this power indefinitely in order to protect the interests. A common phenomenon in this sense is that politicians themselves design and modify institutions to stay in power. Examples to do so can be voting arrangements, constitutional rules, financing of campaigns and political parties, and other institutions are maintained or revised to keep incumbents in office (Gonzalez et al., 2006, pp.8-9).

With this logic in mind, turnovers, whether electoral contests or more fundamental challenges to legitimacy, i.e. attempted coups, may be viewed as opportunities to attain or retain power. The larger the prizes or influence, the greater the likelihood of dissipation of resources through rent-seeking. Unfortunately, various interpretations of Philippine political economy frequently suggest the likelihood of the 'capture' of the state and its instrumentalities by vested interests based on political clans. (Gonzalez *et al.*, 2006, pp. 9). In the Philippines, many politicians invest their time and money to maintain a strong grip over the state institutions in order to strengthen their influence over state policies. The public agencies are both used to capture the policies and the public resources. The theory of state capture makes clear that corruption is not always a sideshow which leads to the benefit of a few, rather than for society as a whole. The vulnerability of the Philippines itself is determined by the choice of governance structure and the aversion against large gambles as exemplified by the 'Asian miracle' (Gonzalez *et al.*, 2006, pp.9). When speaking about Asian miracles the Philippines' neighbours have a better functioning authoritarian set-up, with no regime turnover, which has as positive consequence the ability of freedom of action that created the opportunities for large gambles. One can think of investments in strategic industries or discrimination in favour or against certain groups. Nonetheless, there is a paradox in this argumentation because at the time of the rapid growth of Asian countries such as Malaysia, Indonesia and Thailand they conformed least to the ideal of good governance. Corruption and high levels of arbitrariness did not affect the levels of investment. On the other hand, the Philippines during this time period, was in a reversal of this paradox with a long history of formal democratic institutions associated with mediocre economic and social performance. (Gonzalez et al., 2006, pp.9-10).

Due to developments related to the People Power Revolution in 1986 (also known as EDSA 1) and measures to prevent this from happening again the current status in the country is a halfway house which shows a regime that has neither centralisation, but with political interests still tightly aligned, nor indefinite tenure, and could neither experiment with huge risks freely nor could they secure long-term policy stability. The country has both a bit of luck and downfall with this situation because it escaped large mistakes made in the form of sectoral overinvestment or social and economic discrimination which laid the basis for social conflicts. On the other hand the same institutions that could prevent an unstable situation for the Philippines may have also prevented it from developing rapidly. As argued by Gonzalez, et al. (2006): "the price of a halfway house is a halfway performance, with no more possibility of spectacular growth". Looking at the future, no changes in governance in the Philippines has occurred that suggest it will now be able to grow at rates shown in the past by high-performing East Asian countries. The investment cost will

remain high and therefore foreign investment just as low which might again lead to corruption rents and inter- and intraregime uncertainty. The consequences might be a regime where interests are closely aligned, relative to a well run authoritarian government, that is more likely to extract more corruption rents and generate greater policy instability among investors. Owing to term limits which promote regular turnover which in turn threaten policy continuity, policy instability and investment costs are also likely to increase (Gonzalez et al., 2006, pp.10).

Nonetheless, despite all its weaknesses the Philippines is far from being a failed state. The mediocre score on all the levels is still a conditional passing mark. A lot should happen before the country would slip into a critical rating and institutions should collapse dramatically which is something unlikely to occur in the Philippines. The fact is that in order to overcome this disabling environment the country has to push reforms a little harder than usual. Concluding one could argue that it is difficult to overcome the challenges of a constraining environment. But in order to let anti-corruption policies become effective, the country has to overcome these constraints. With a vulnerable institutional and policy environment as a given fact, anti-corruption programs should be carefully selected and tested to see if they will survive and eventually surpass these limits. This process is based on the question how suitable the particular intervention is with regards to targeting and how important such anti-corruption initiative is compared to any other in the light of welfare gains (Gonzalez et al., 2006, pp.11).

3.4 Assessing current Anti-Corruption Initiatives

After assessing the anti-corruption plans, policies and strategies of the Philippines this section looks at the different initiatives which are currently being carried out to tackle corruption in the country. These initiatives are very diverse and fall under all the different control mechanisms and are classified using the 3P-structure which is also well-known and used within the Philippine government agencies. At the end of this section, there will be a thorough analysis using the complete analytical model explained in Chapter two. Finally, conclusions are drawn and some recommendations for the road ahead are given using research carried out in the Philippines.

After the downfall of President Estrada in the EDSA II revolution on charges of corruption, a rare policy window opened to put anti-corruption on top of the national agenda. The three elements identified by Kingdon (i.e. problem, policy and political streams) all necessary when moving a vital issue onto the formal agenda were present after Gloria Macapagal-Arroyo took over as president. All the streams were ripe, first of all the problem could not be better because the President vowed during her inauguration to promote good governance based on a sound moral foundation, a philosophy of transparency, and an ethic of effective implementation. Secondly, the policy stream was fairly developed, because at that time, a comprehensive set of policy solutions to reduce corruption in the country had been formulated and proposed by local think tanks like DAP and international government organisations like the World Bank and the ADB as described earlier in the short country history section (Gonzalez et al., 2006, pp.12).

The three branches of government, the executive, legislative and judicial branches took to a certain extent advantage of the unique policy window brought about by the convergence of the problem, political and policy stream during the change of power in 2001. Business groups, NGOs and the media have undertaken collective action not only to put pressure on the government to curb corruption but also to implement on their own projects that complemented the anti-corruption efforts of the government. Finally, the executive branch led by the President herself put anti-corruption back on the agenda. The government's plans, policies, and instruments to address corruption were explicitly written down in the Medium-Term Philippine Development Plan (MTPDP) with the three main areas of reform discussed earlier on in this Chapter (Gonzalez et al., 2006, pp.12).

Different Initiatives to Tackle Corruption in the Philippines (3-P Structure)

The different initiatives undertaken to minimise state capture are now described in relation to the earlier explained 3-Ps structure of Prevention, Prosecution and Promotion. Due to the very large amount of initiatives the most recent and most important ones are described.

Prosecution Initiatives

One of the biggest problems in the Philippines is money-laundering. This is a high-stakes operation that involves the collusion of factions of the elite, the banking sector, and international brokers as well as the submission of legislature through the lack of sanctions which stands at the heart of attempts to break the intra-elite alignment. In 2000 the Philippines was included on a list of 15 countries described as non-cooperative in worldwide efforts to counter money laundering because of its Deposit Secrecy Law and the absence of bank reporting systems. To deal with this response of the OECD Financial Action Task Force, the Philippine Congress passed Republic Act No. 9160 which is also known as the Anti-Money Laundering Act of 2001 in order to define and criminalize the act of money laundering, provide penalties for the crime, and establish the Anti-Money Laundering Council to enforce the regulation. This initial law did not live up to expectations which resulted in the fact that the law did not pass the benchmark requirements of the Task Force. Therefore, the Philippine government was forced to pass a remedial measure.

This turnaround happened in March 2003 when under pressure from the international community, Congress amended the Anti-Money Laundering Law to bring it up to international standards. If the Philippines had not succeeded to live up to these standards the Task Force had threatened to impose countermeasures against the Philippines. The new Council had the ability to scrutinise bank accounts without a court order and it became really effective when the number of independent agents that became involved in anti-money laundering policy-making and procedure-setting increased which also diminished the degree of power concentration among colluding factions in government. As a reaction the Supreme Court has also taken steps to strengthen its own rules on asset forfeiture in money laundering to guide courts in cases related to the freezing of assets and forfeiture (Gonzalez et al., 2006, pp.13-14).

The country has a historical low conviction record which contributes to the perception that corruption is a low-risk activity. The public is not pleased with the government's efforts to weed out corruption due to the slow progress in the prosecution of high profile cases. It is estimated that on average it takes a period of six-and-a-half years for corruption cases to be tried. This weakness is caused by the inadequate capacity and resources of anti-corruption agencies such as the Office of the Ombudsman and the Sandiganbayan to investigate and prosecute corruption cases. In 2002 there was a backlog of around 2000 cases swamping the Sandiganbayan, the country's anti-graft court, which were handled by only 32 prosecutors from the Office of the Ombudsman. It is important to notice that prosecution has high costs, and will not remain a credible threat to offenders if the enforcers are unlikely to see court proceedings through due to budget limitations. To improve this situation, the Arroyo government strengthened an under-resourced, poorly-equipped Office of the Ombudsman by providing it with new leadership and a larger budget. The appointment of Simeon Marcelo in October 2002 as the third Ombudsman reinvigorated the national campaign against corruption because he has played a significant role as a private prosecutor in the impeachment trial of President Estrada. The budget of the Office of the Ombudsman also steadily improved with the cooperation of Congress (Gonzalez et al., 2006, pp.14).

This larger budget allowed the Ombudsman to hire additional field investigators and prosecutors; the increase in personnel was also complemented with foreign funded capacity building programs

on trial advocacy, forensic accounting, financial and fraud audits, and field surveillance and investigation. The significant improvement in the quantity as well as the quality of field investigators and prosecutors resulted in astonishing results for the Ombudsman. The conviction rate improved from 13% in 2002 to 30% in 2005. Also, the Ombudsman raised the level of certainty of punishment by implementing a double-docketing system of both criminal and administrative cases. This means that apart from a criminal indictment being filed in court the guilty respondent will be either suspended or dismissed immediately. The decisions of the OMB are immediately executable even pending appeal. The result was a large increase in the number of public officials suspended or fired from their jobs which surpassed the total number in the Ombudsman's 16-year history. Furthermore, the Ombudsman also started to work together with the other anti-corruption agencies such as the Commission on Audit (COA) and the Civil Service Commission (CSC) where the Ombudsman (OMB) made effort to forge stronger cooperation between these oversight institutions. This resulted in the Solana Covenant where the heads of CSC, COA and the Ombudsman sealed a compact to embrace concrete and doable initiatives versus corruption. The three agencies joined efforts to prosecute, investigate and monitor high-profile and also lower-level corruption cases. Before doing so all the agencies were ready to undergo and share best practices of 'self-cleaning'. More concrete this meant that both the Ombudsman and the CSC subjected themselves to an Integrity Development Review (IDR) before institutionalising the program in national government agencies. An IDR is the systematic diagnosis of an agency's vulnerability to corruption and the corruption resistance mechanisms in place to prevent wrongdoings (Gonzalez et al., 2006, pp.15-16).

To help speed up the processing of cases of the OMB the CSC and the OMB signed a Memorandum of Agreement on jurisdiction over administrative cases which have become operational. Declogging has the advantage of relieving the Ombudsman of the pressure of handling cases that may be numerous but which have limited impact. These cases should be dealt with by the lower courts and not addressed by a central body. This in contrast with high profile cases whose consequences for deterrence would be great. These matters are likely to justify explicit involvement of the Ombudsman (Gonzalez et al., 2006, pp.16).

In order to speed up cases on erring personnel, COA has also issued new guidelines to strictly implement rules regarding the immediate liquidation of cash advances. COA also tightened rules by issuing a policy on irregular, unnecessary, excessive, extravagant and unconscionable expenditures. A Statement of Assets and Liabilities Network (SALN) of government officials is linked between the different agencies using their databases in order to enhance compliance and monitoring. These three agencies reinforced each other's capabilities and also helped with successful filing and conviction of graft and lifestyle check cases (Gonzalez et al., 2006, pp.16).

Another strong initiative are the lifestyle investigations which were initiated by the Arroyo government and entailed life style probes of government employees and officials. In 2003 with the help of several government agencies the government began the aggressive scrutiny of morality, lifestyle and nightlife of government officials to gather evidence on graft and corruption. The lifestyle check is an investigative instrument to check whether the lifestyle of certain government officials or employees is related to the income he or she is receiving as a government official or in some instances as a businessman particularly in revenue generating agencies. On March the 20th 2003 a Memorandum of Understanding was signed creating the Lifestyle Check Coalition (LCC) which includes 14 government agencies and NGOs. The public is encouraged to provide tips and information while the intelligence gathering units investigate suspected officials. The findings of these investigations are forwarded to other member units for evaluation and confirmation. Many departments have already undergone these checks and the Ombudsman deals with all other government officials with the highest salary grades (Director II) and higher (Gonzalez et al., 2006, pp.16-17).

A recently new initiative is the chase of high-profile tax evaders. The so-called Run After Tax Evaders Program (RATE) seeks to investigate criminal violations of the National Internal Revenue Code of 1997 and prosecute criminal cases that will generate the maximum deterrent effect, enhance voluntary compliance and promote public confidence in the tax system. RATE is a no holds barred effort, which at the onset targeted prominent individuals and corporations to send the message that the government is serious in reducing any tax leakages. (Gonzalez et al., 2006, pp.18).

Many problems are related to delays in the resolution of cases, perception of graft and corruption in courts, perception of politicisation of the judicial appoint process and limited access to judicial services particularly by marginalised people. To deal with these problems, the Supreme Court undertook a wide ranging set of reforms through the Action Program for Judicial Reform (APJR) to enhance judicial capacity and efficiency. This program covered four areas of concern: (1) judicial systems and procedures, (2) institutions development, (3) human resource development, and (4) reform support system. Hereby recognising that the Philippine judicial system and procedures are susceptible to externalities such as quasi-judicial bodies, law enforcement, investigative and prosecutorial systems of the Department of Justice and the Philippine National Police, the Supreme Court forged partnership with the various pillars of justice and sought active involvement with these agencies to improve the overall judicial system. The APJR enhanced court management procedures and speedy trials in order to improve judicial processes, decongest courts and minimize their vulnerability to corruption.

The Supreme Court itself believes that strengthening of her own capacity is crucial in the pursuance of reform. Needless to say, it is important to have an independent judiciary when maintaining the rule of law and tackling corruption. The prosecutors bring the cases to court but a competent and independent judge is needed to finally impose sanctions and render justice to victims. However, in the Philippines the Supreme Court does not have fiscal autonomy and reforms are challenged by this issue of autonomy since the courts continue to have 'mandatory subjugation' certain institutions such as Congress in the appropriation of funds. In contrast to the increase in budget in the case of the Office of the Ombudsman a sudden decline in funds for the judicial branch was noticed. This is related to decisions by congress which has deliberately lessened the funds for the judiciary relative to the earlier allocation. By doing so, Congress has overridden the provision in the constitution which claims that "appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and after approval, shall be automatically and regularly released (Philippine Constitution, Article III, Sec. 3). By doing so, Congress has opened the doors for corruption to enter and affect the functioning of the judicial chambers because it forces low salaries for judiciary practitioners. Concluding one could argue that the implementation of the APJR has been a strong force in maintaining rule of law and in deterring wrongdoing. In the light of the 3-P structure the entire program serves as both an *ex-ante* (preventive) and *ex-post* (curative) mechanism to tackle corruption. One of the best outcomes of the programmes is that the strengthened judicial branch of the Philippine government has slowly restored faith of the citizens on the rule of law (Gonzalez et al., 2006, pp.20-21).

To further aid investigation, President Arroyo revived the Presidential Anti-Graft Commission (PAGC) in April 2001 with as its mandate to investigate all political appointees and to recommend appropriate sanctions to be applied to political appointees who committed any form of irregular or corrupt practices. In the field of revenue generation sanctions were also strengthened through the creation of the Revenue Integrity Protection Service (RIPS) by President Arroyo by Executive Order 259. The RIPS is the anti-corruption arm of the Department of Finance (DOF) and the service is mandated to investigate allegations of corruption in the DOF and its attached agencies. If the evidence points out, the RIPS can (1) file

corruption charges against officials under its jurisdiction before an appropriate court of law or administrative body, and (2) assist the prosecuting agency towards the successful prosecution of these cases (Gonzalez et al., 2006, pp.26; Fernandez-Mendoza et al., 2005, pp.15-17). A compilation of laws and graft and corruption has been published with help of the United Nations Development Program (UNDP) which gives a very good overview of the different Acts Decrees and Administrative Orders (Marcelo, 2002)

Administrative remedies, where once can think of presidential punitive sanctions, are relatively easy to dispense and inexpensive to administer. Due to the fact that they are very convenient for fast action they create a credible deterrent. However, on the opposite side, they are also open to abuse by field officers and other officials in power to issue penalties, which may have a reducing effect on their shock value. Initiatives that are based on court actions, such as RIPS, are more protracted, and the delays and costs of court action need to be weighed against the benefits of punitive action. If the amount of time needed expressed in money does not justify court action, prosecutors have less incentive to pursue cases and the whole effort may fall apart (Gonzalez et al., 2006, pp.26).

Prevention Initiatives

After describing the main developments in relation to prosecution initiatives attention is now paid to prevention initiatives within the Philippine government. The Philippine public sector is seen as an institution that is poorly managed and where corruption has become part of the norm. In an attempt to clean out the bureaucracy, the government carried out several reforms to facilitate efficiency, effectiveness, accountability and transparency in its dealings. To deal with the 'agency problem' in relation to the principal-agent relations discussed in the theoretical framework, the government introduced different measures to alter incentives such as lateral attrition and procurement reform. With the passage of the Attrition Act of 2005 the government created new incentives for employees and officials of the Bureau of Customs and the Bureau of Internal Revenue. To deal with so-called 'sub-optimal deterrence' the government tried to raise sanctions through the Revenue Integrity Protection Service (RIPS), creation of the Internal Affairs Board and closer scrutiny of SALN. Secondly, to deal with 'regulatory inefficiency', the government adopted a New Government Accounting System (NGAS), an Internal Audit Unit, civil service reforms and corruption prevention programs in order to close the gaps and vulnerabilities of its systems.

One of the main sectors where there are rich opportunities for corruption is revenue collection. It is believed that good incentives and effective sanctions can alter the behaviour of corrupt agents. This done through the new Lateral Attrition Law which could alter the behaviour of the Bureau of Internal Revenue (BIR) and Bureau of Customs (BOC) officials and employees in collecting taxes, duties and other fees more efficiently. The law creates incentives, by entitling BIR and BOC employees to rewards and incentives up to 10 percent of the excess over its allocated target and provides for setting up an incentives fund from the excess of revenue targets. Sanctions are prescribed when the targets are not met. However in relation to the economic performance of the country it has to be mentioned that this has a critical impact on the performance of the BIR and BOC. Due to the country's level of economic development and economic growth rate the country's collection agencies cannot easily generate additional revenues from an economy that is not actually improving over time. Support for operations and proper facilities are needed in both bureaus for them to meet their targets (Gonzalez et al., 2006, pp.22-23).

Reform within the civil service is currently concentrated on salary decompression that will be based on performance rather than length of tenure. Currently there are many gaps and overlaps

which hopefully can be addressed by the proposed Wage Bill is anchored on four basic principles: (1) internal equity which means equal pay for work of equal value; (2) external equity which means that rates will be competitive with a medium sized firm; (3) performance-based policies and programs where salary increases will be based on meritocracy and performance and longevity is awarded as flat incentive bonus; and (4) pay systems that are efficient, effective and easy to administer (Gonzalez et al., 2006, pp.23).

On the expenditure side, the government has succeeded in changing incentives through procurement reform. The Ombudsman, the COA and the Philippine Centre for Investigative Journalism have estimated that large amounts of public are lost to procurement-related corruption. The now existing number of more than 60 laws, executive orders, presidential decrees and administrative orders that governed the public procurement resulted only in confusing and conflicting interpretation of some of the provisions increasing the likelihood of irregularities in the bidding process. To address these problems, Congress consolidated all existing procurement laws and came up with Republic Act No. 9184 or the Government Procurement Reform Act on January 10, 2003. RA 9184 requires all the different government agencies to post procurement opportunities in the government's electronic procurement system G-EPS hereby increasing transparency and creating a single source of public procurement opportunities (Boncodin, 2004, pp.1). It can be said that the new procurement law has simplified pre-qualification procedures and strengthened the post-qualification process which circumscribed the discretion of officials on bids and awards. Another good addition of RA 9184 is the protection for procurement officials from unjust legal suits arising from the performance of their duties. A strong deterrent is also provided by the imposition of criminal and liabilities for those found guilty of collusion and other irregularities mentioned in the Act. Directly after the law became into effect, the Government Procurement Policy Board (GPPB) rolled out capacity building on the new procurement procedures to ensure compliance. With the help of partner institutions, like DAP, the board trained procurement staff in all government agencies on the new procurement law, standard bidding procedures and related regulations. Since its implementation it is estimated that the new act has resulted in at least 30 percent savings in the cost of government procurement in the year 2005. The on-line procedure, through posting bid announcement and quotations, was successful to reduce opportunities for irregular behaviour by improving transparency in the bidding procedures and encouraging competition among suppliers or service providers (Gonzalez et al., 2006, pp.24-25) .

The World Bank hailed the procurement reform of the Philippines however still some challenges remain. To begin with, one of the salient provisions of the law has not been implemented satisfactorily. Section 13 of the Act prescribes that civil society should take part in all stages of the procurement process to enhance transparency but in practice it seems that participation of civil society observers is still token. There is a limited group active as observers however more civil society groups should be deployed to ensure that every bidding process in the government is properly monitored. Government efforts to encourage the participation of these groups should be sustained and strengthened. There are also still some provisions in the law that needs to be improved because they are flawed and allow for corruption (Gonzalez et al., 2006, pp.25).

As part of the prevention strategy the government implemented several measures to tighten safeguards, find loopholes, root out pathologies, and even attempted to deal with the culture of patronage and mediocrity which foster corruption within the bureaucracy.

Just like in procurement reform, the government has a good score when it comes to improving the monitoring and detection of fraud with the adoption of the New Government Accounting System (NGAS) introduced in January 2002. NGAS can be seen as a modified accrual-based system that follows internationally-accepted standards. The primary intention of NGAS is to

simplify government accounting procedures. In addition, it may be used as a tool to monitor financial performance. The objectives of the system are to raise financial integrity and accountability of the actual government spending. This can only be realised once all agencies are able to computerise and make the system open to the public for scrutiny. When it is possible to link the accounting system with that of the budget, this will enable real-time and whole of government financial reporting and auditing which is a crucial element in raising transparency and in making high officials more accountable for their financial decisions. Furthermore early detection can be improved by having internal audit control. This happened through administrative Order No. 70 on April 14, 2004 mandating all heads of government agencies to immediately organise the Internal Audit Service (IAS) in their respective offices (Gonzalez et al., 2006, pp.27).

The Office of the Ombudsman also initiated corruption prevention measures next to its prosecution strategy. Through Integrity Development Reviews (IDR), the Office of the Ombudsman, together with many other government and non-government agencies is assisting agencies to identify their vulnerabilities and incorporate corruption resistance strategies in their operations. The detailed review will enable the target agencies to check their levels of resistance and susceptibility to corruption and also to benchmark these over time. Eleven more agencies are next in line and the OMB is instituting the conduct of IDR as part of its three-year Corruption Prevention Project which is supported by the European Union. (Gonzalez et al., 2006, pp.28).

In its efforts to improve governance in the public sector, the leadership of the Department of Budget and Management and the Office of the Ombudsman initiated Integrity Development Review of Key Public Sector Agencies, which was also known as Pursuing Reforms through Integrity Development (PRIDE). DAP in cooperation with the United States Agency for International Development (USAID) developed and reviewed two very important agencies: the Office of the Ombudsman and the Department of Education with a view to a wider application of the IDR in other agencies in the future (DAP Intranet News Message).

The IDR aims to build institutional foundations to prevent corruption before it occurs. It entails a systematic diagnosis of the corruption resistance mechanisms in place in an agency and its vulnerabilities to corruption. The process is undertaken with the use of two major tools: corruption resistance review and corruption vulnerability assessment. The IDR builds on the Corruption Resistance Review (CRR) approach developed by the Independent Commission Against Corruption (ICAC) of New South Wales and the Corruption Vulnerability Assessment (CVA) tool developed by DAP. The CRR helps agencies assess their level of corruption resistance and progressively develop and implement corruption prevention measures to meet certain standards at every level for organizational integrity. It also helps assess deployment of integrity building measures and generate feedback from employees. Patterned after the vulnerability assessment guidelines of the US Office of Budget and Management, the CVA determines the susceptibility of agency systems to corruption and adequacy of safeguards to forestall wrongdoings. With the support of the World Bank, the CVA was pilot-tested in the DBM in 2002. The project proceeded in five stages from November 2003 to April 2004. The tools and methodologies were contained in an IDR Do-It-Yourself Handbook (DAP Intranet News Message).

The Department of Budget and Management furthermore believes that corruption can be addressed through budget and management improvement measures such as streamlining. On October 4, 2004 President Arroyo issued Executive Order No. 366 which is also known as Government Rationalisation which directs the strategic review of the functions and organisation of all government agencies. Given the scarce public resources and increasing public demand for

greater accountability, the rationalisation program has as its aim to achieve a more efficient, effective, and accountable bureaucracy. However, a recent ADB study of the Philippine civil service shows that the need for an effective bureaucratic streamlining is made more apparent by the government's inability to provide decent and competitive salaries. Consequently, the low pay is often blamed for the persistence of corruption in the public sector (Gonzalez et al., 2006, pp.28-30).

Promotion Initiatives

The last one of the 3-Ps is promotion which is very important because the eradication of corruption cannot only be attributed to the governments hard work. The very high incidences of corruption under the roof of the government, committed by government employees and officials generates a doubtful perception on the part government is able to counter criminal acts. Furthermore, the weak institutional restraints to discourage corruption only prove the government's limited capacity to reduce, or eliminate the problems. Government agencies many times have a hard time to see their internal destruction by themselves and to fight something that happened by the force of habit. During these situations often the only entities capable of finding truth and reality keeping an eye on government activities is civil society. Where there is a significant force resulting in pragmatic actions towards curbing corruption. Civil society in general and media in particular together with moral and religious leaders can help build coalitions and raise citizen consciousness about the effects of corruption. This can lead to an increased demand to strive for effective means to lessen the degree of corruption both within its group and the government with as end result a more honest government. Civil society organisations are often seen as primary stakeholders of good governance and ultimate victims; in this sense the organisations that comprise civil society can be essential in constraining corruption. It is often said that empowered civil society organisations, founded on the basis of public trust, can achieve more in increasing people's involvement to bring about positive change.

In the last few years there has been an emergence of civil society activism regarding corruption. The Philippines was a favourable country for civil society to aggregate and articulate their interests concerning the common good. With the ability of freedom of expression and association, like-minded individuals were and are able to form watchdog organisations with as primary aim to monitor government actions, publicise transgressions and press for reforms. The power of citizen involvement in the fight against corruption became prominent by people power over Ferdinand Marcos in 1986 and the impeachment of Joseph Estrada in January 2001 which were both triggered by a damning investigative report of the Philippine Centre for Investigative Journalism of his lifestyle and undeclared assets (Gonzalez et al., 2006, pp.35-36).

There are many different civil society organisations active in the Philippines from watchdog organisation such as monitoring of specific government activities by vigilant organisations such as Procurement Watch, *Bantay Katarungan* (judicial watch), G-Watch, Concerned Citizens of Abra for Good Government, Fellowship of Christians in Government and research organisations to draw attention and deepen understanding of the problem and its debilitating effect in society such as Social Weather Stations surveys and investigative reports of PCIJ. Other far reaching forms are civil society involvement organisations with the formulation of its own anti-corruption agenda such as the initiative of the Transparency and Accountability Network (TAN) and the formation of broad partnerships in the implementation of anti-corruption measures in example Lifestyle Check Coalition and the Coalition Against Corruption. The TAN is a civil society coalition formed primarily for the purpose of exchanging information on developments and initiatives in transparency and accountability. It has a membership of about 30 organisations composed of academe, private sector, and civil society groups with strong interest in anti-corruption and good governance (Gonzalez et al., 2006, pp.35-36).

According to the OECD civil society organisations that enjoy a relationship with their members or the group of individuals they represent which is based on trust will be able to channel information between these and public actors in both ways. For example, the business centre might have good ideas about reforms in public procurement or customs administration in order to reduce corruption practices. Conversely, business associations are able to inform their members of any changes in laws and measures and to encourage them to adapt their management and increase the transparency of their operations as a consequence. One of the well known examples is the Procurement Watch whose members consists out of experts in government procurement that have been active in providing technical assistance in the preparation of alternative versions of the procurement reform bill. The Makati Business Club is through its Transparent and Accountable Governance Project able to engage its members and the government in a continuous dialogue on how to address corruption more specifically in tax and customs administration (Gonzalez et al., 2006, pp.36).

Another type of civil society organisations which has successfully avoided questionable allegiances around the state sphere or political parties enjoys a position that allows them to act as watchdogs. They are free from any form of government obligation of balancing interest and therefore such independent civil society organisation can recall the need to fight corruption at any time. Monitoring politicians if they comply with their commitments in terms of fighting corruption, or through the media, can expose cases of corruption and by doings so put pressure for investigations and sanctions. In areas sensitive to corruption there are many civil society monitoring organisations active such as in government procurement. Other examples are the Textbook Count aimed to resolve the recurrent losses and diversion of books to unknown recipient by engaging civil society volunteers in monitoring and inspecting actual delivery of procured textbooks at the district level. Other civil society organisation have their focus on monitoring local public works, to check whether funds end up at right projects. This is also done at barangay level, where funds for local development projects are now watch by a Catholic organisation. More civil society observers must be trained in order to be able to comply with the new procurement law and have a firm grip on government procurement at all levels and sites. Civil society is also concerned with politicians if they can comply with their commitments to good governance and raise the bar in filling up critical positions. The TAN initiated the Appointments Watch which included the observers in the interview process and in gathering both positive and negative information about the candidates. By doing so, accountability is raised since more pressure is put on the appointing authority and the eventual office-holder (Gonzalez et al., 2006, pp.37-38).

One of the most recent initiatives is the Anti-Corruption Convergence Summit of last March 17, 2006 held at the Crowne Plaza Galleria Manila in Ortigas Center that was entitled "Towards an integrated and Concerted Approach to Anti-Corruption. The Office of the Ombudsman, in partnership with the Development Academy of the Philippines with funding support from the United Nations Development Programme, held an Anti-Corruption Convergence Summit last March 17, 2006 at the Crowne Plaza Galleria Manila in Ortigas Center (Website DAP, News).

The Summit was special because it brought together for the first time the three branches of government: executive, legislative and judiciary and the constitutional bodies, civil society, the business sector and the donor community, to achieve purposive coordination and convergence for collective strength. It introduced a more integrated approach towards battling corruption through the National Anti-Corruption Program of Action (NACPA) (Website DAP, News).

The highlights of the event included the call for unified action by Tanodbayan Ma. Merceditas N. Gutierrez; the declaration of commitments from the different sectors: Supreme Court, Senate, House of Representatives, Executive, Constitutional Bodies, Lower Government Units (LGUs),

Civil Society Organizations, and Business Sector; and the signing of the Covenant of Commitments (Website DAP, News).

Finally, one can conclude that a well-developed civil society can represent a wide variety of interests. The positive thing is that civil society organisations with different cultures see the problem of corruption from different perspectives which allow them to bring together diverse viewpoint to design a strategy and increase the chances of its success. In addition, a political will to fight corruption based on a broad support from the various sources in civil society ensures that the initiatives taken are not politically biased. The variety of interests ensures that the anti-corruption efforts respond, in the end, to the public interest (Gonzalez et al., 2006, pp.38).

Factors Slowing Down Anti-Corruption Efforts

The Philippines is also experiencing some policy choices or policy non-choices which put a damper on anti-corruption initiatives. This section briefly explains these choices and why they damper the initiatives undertaken. First of all there are the long overdue electoral reforms. As mentioned earlier, elections have an important role in the fight against corruption. Central to winning elections are campaign contributions from wealthy benefactors due to the high costs candidates need to make. These campaign financiers may be involved in local political clans, are businessmen or tycoons and are all often deeply involved in regulatory capture. In other words, the formulation and implementation of policy and regulation that offers them concentrated benefits as part of political paybacks by the winning candidate who they financially supported. Party financing in the Philippines is difficult since political parties have no stable membership, therefore resources are obtained from corporate or private donations instead of membership contributions. The funds collected should meet the presumed costs for elections as mandated in the Omnibus Election Code where a spending maximum is given. The given costs per voter seem modest, however in the aggregate; political aspirants are in need of millions or even billions of pesos to run a competitive race. Furthermore, the Commission of Elections (Comelec) is not successful in preventing any overspending. Loopholes in the election law and the poor capacity prevent the Comelec from tracing the contributions that reach political parties. Comelec also often looks in the other direction when it comes to party violations (Gonzalez et al., 2006, pp.31-32).

Other problems in the field of elections are cheating and automation of vote counting which has gone terrible wrong. The normal slow counting system of ballots makes attempts at cheating widespread during elections and it opens door for electoral corruption. Many things have gone wrong when buying voting machines for the 2004 elections. These clear violations of law and jurisprudence together with reckless disregard of its own bidding rules (buying voting machines) and procedure hurt the government's electoral reforms. Suggestions are currently being done to establish a committee on electoral reforms composed of representatives from the Office of the President, Senate, House of Representatives and the Comelec (Gonzalez et al., 2006, pp.31-32).

Other major problems are related to limiting monopoly and discretion to constrain executive power. As described in the theoretical framework a civil service based on patronage and political loyalty is susceptible to corruption. Some conditions to achieve a corruption-free bureaucracy are a professional civil service and an executive restrained in its exercise of appointing power. In the Philippines the open selection for career executive positions seems to be eroded by political influence. Compared to other Asian countries, the Philippine presidents have the greatest depth of political appointments, totalling to 11 000 positions going all the way from cabinet secretaries down to assistant bureau directors. The Arroyo administration, on its assumption to office, vowed to respect the career executive service. However, its track record says otherwise. Research by the PCIJ has shown that the administration placed officials on floating status, relieved them

from their positions and replaced them by non-eligible or demoted them to third level positions. Furthermore, there is an excess of undersecretary and assistant secretary positions, political appointees designated to career positions. According to the recent study 42 percent of the currently positions are filled by non-eligibles. In March 2006, Resolution No. 619 was issued by the Career Executive Service Board (CESB) about the grave concerns present on the obvious disregard of laws, rules and regulations and enjoining all departments and agencies in the interest of meritocracy and professionalism in the bureaucracy to comply with a set of renewed rules. This resolution can be seen as the constitutional body's response to put brakes on the propensity of the executive department to disregard rules on meritocracy but the observance of this resolution remains to be seen. Lately, transgressions in appointment by the Office of the President extended to agencies whose heads are supposedly to be selected by their respective Boards, such as government think tanks like DAP and state universities and colleges. The practice of patronage appointment also reached down to the lower level positions in government. A typical case is given by the Bureau of Customs where a vacancy for a mere clerk position would invite more than a thousand applicants with political backing. The reason is simple, politicians would eventually look forward to payback time when they can make use of these personnel owing them their jobs in exchange for favours which can be in the form of lower assessment or release of illegal goods (Gonzalez et al., 2006, pp.33-34).

One can conclude that the solution for this problem is simple but that it will take a lot of political will to implement it. The government should be provided with a pool of well-selected and development oriented career executives who can provide competent and faithful service.

Finally, another important policy reform that has been left without any action is the creation of a comprehensive and working Philippine Anti-Trust Law. The purpose of an anti-trust law is expected to enhance competition in the market so that the public may benefit from its inherent functions such a promoting technical efficiency and inducing better resource allocation. Through these functions some scientists argue that competition can prevent undue concentration of economic power and the consequent concentration of political power in the economic elite. These elite might use their economic and political powers to have their inefficiencies subsidized by the majority of consumers and taxpayers (Gonzalez et al., 2006, pp.34).

There are many existing laws that promote competition in the Philippines, however, the laws have proven to be inadequate or ineffective to prevent the effect of anti-competitive structures and behaviour in the market mainly due to lack of enforcement. A number of bills have been submitted in both Houses of the 13th Congress proposing a comprehensive anti-trust law but these were not handled due to low priority from both the side of the legislators and the executive department. There are several causes for the slow development. First of all, they new law may be difficult to understand because of its technical provisions. Due to this difficulty, potential supporters of the bill either from government, business or civil society may not be able to defend it against those who are against it. Another cause is the publicity that the law generates which may have resulted in a co-operation of groups opposing the law to ensure its non-passage or delay. They could also try to intervene to add exceptions or other provisions. Again, this might lead to even more endless public debates and media hype. Finally, the comprehensive approach to anti-trust and competition law enforcement, especially when talking about the creation of a new agency or institution, may run into significant implementation problems (Gonzalez et al., 2006, pp.34-35).

The end conclusion is that the absence of an effective anti-trust law leaves the market open to anti-competitive behaviour of firms. In addition to making the public suffer from high prices and low quality of goods, anti-competitive practices contribute to the deterioration of the quality of government institutions. The absence of a single anti-trust authority could lead to the "regulatory

capture” in the private sector. Specific agencies are now in power to regulate each industry which increases regulatory capture. Eventually, in time and with familiarity it will be the industry that needs to regulate the regulator. (Gonzalez et al., 2006, pp.34-35).

Correspondence with the Analytical Model

After looking more closely at the Philippines and its most recent anti-corruption initiatives it has become clear that there is an enormous amount of initiatives which can characterised according to the content of the initiative (Prosecution/Prevention/Promotion).

In order to see whether or not the initiatives in total live up to the requirements of a coherent approach to curtail corruption they will now be placed in the theoretical framework constructed in Chapter two. As described earlier, the related initiatives will individually be placed on a scale from excellent – inadequate on the basis of its outcomes (implementation) so far. Hereby, I will use the knowledge gained while doing the internship and field work at DAP. Finally, conclusions are drawn for each control mechanism separately which also summarised to construct an end-conclusion in more general terms. This also includes some remarks in relation to the proposals for improvement which are elaborated at the end of this Chapter.

Control mechanism	Related variables	Initiatives in the Philippines	Prosecution /Prevention /Promotion	Summarised status on a scale from excellent-inadequate
“Control from the outside” / External or International control	<ul style="list-style-type: none"> existence of international or regional agreements (i.e. OECD) 	<ul style="list-style-type: none"> Asia-Pacific Regional Framework (3-pillar structure) 	All	Good
	<ul style="list-style-type: none"> rules or conditionalities from international organisations (i.e. the World Bank or other donors) 	<ul style="list-style-type: none"> Visible within many of the different initiatives mentioned in this model 	All	Adequate
“Control from above” / Executive control	<ul style="list-style-type: none"> morality enhancing mechanisms (i.e. awareness campaigns) 	<ul style="list-style-type: none"> RATE program 	Prevention	Good
	<ul style="list-style-type: none"> executive reporting systems 	<ul style="list-style-type: none"> Lifestyle checks 	Prevention / Prosecution	Good
		<ul style="list-style-type: none"> RIPS 	Prosecution	Adequate
	<ul style="list-style-type: none"> institutional reforms 	<ul style="list-style-type: none"> APJR Program 	Prosecution / Prevention	Excellent
<ul style="list-style-type: none"> GPPB 		Prevention	Excellent	

		<ul style="list-style-type: none"> Government Rationalisation (Executive Order No. 366) 	Prevention	Adequate
	<ul style="list-style-type: none"> restriction in size and administrative discretion of institutions 	<ul style="list-style-type: none"> Anti-Corruption Convergence Summit /NACPA 	Prevention	Excellent
	<ul style="list-style-type: none"> executive right of appointment and dismissal 	<ul style="list-style-type: none"> PAGC 	Prosecution	Poor
		<ul style="list-style-type: none"> Open selection for career executive positions is eroded by political influence 	Prevention	Inadequate
	<ul style="list-style-type: none"> the political will of state leaders 	<ul style="list-style-type: none"> Only existent to some extent due a lack of initiatives undertaken by the President 	All	Poor
“Control from within” / Internal or institutional control	<ul style="list-style-type: none"> internal and institutional controls of the administrative and executive system 	<ul style="list-style-type: none"> COA (Solana Covenant) / new guidelines regarding liquidation of cash advances 	Prosecution	Adequate
		<ul style="list-style-type: none"> IDR / PRIDE 	Prevention	Excellent
		<ul style="list-style-type: none"> SALN network 	Prevention	Adequate
		<ul style="list-style-type: none"> Internal Affairs Board 	Prevention	Adequate
		<ul style="list-style-type: none"> NGAS 	Prevention	Good
		<ul style="list-style-type: none"> Internal Audit Unit (Administrative Order No. 70) 	Prevention	Adequate
	<ul style="list-style-type: none"> administrative (and financial) controls (i.e. controlling and auditing bodies such as Anti-corruption commission and Ombudsman Offices) 	<ul style="list-style-type: none"> Office of the Ombudsman (larger budget, new leadership, part of the Solana Covenant) 	Prosecution	Adequate / Good
		<ul style="list-style-type: none"> Sandiganbayan (countries anti-graft court, backlog of cases but improving) 	Prosecution	Adequate
	<ul style="list-style-type: none"> separation between civil service and 	<ul style="list-style-type: none"> No separation, political appointees designated to career positions / 42% 	Prevention	Inadequate

	politics	of the positions filled by non-eligibles (Resolution No. 619 issues by the CESB)		
	<ul style="list-style-type: none"> the professionalisation of the bureaucracy 	<ul style="list-style-type: none"> CSC (Solana Covenant) 	Prevention	Adequate
		<ul style="list-style-type: none"> Not respected Career Executive Service 	Prevention	Inadequate
	<ul style="list-style-type: none"> the accountable use of public resources (i.e. audited accounts) 	<ul style="list-style-type: none"> Anti-money Laundering Act / Council 2003 	Prosecution	Good
		<ul style="list-style-type: none"> NGAS 	Prevention	Good
	<ul style="list-style-type: none"> the competitive compensation and merit systems based on performance 	<ul style="list-style-type: none"> Lateral Attrition Law Attrition Act for BIR and BOC 	Prevention	Good
		<ul style="list-style-type: none"> Proposed Wage Bill 	Prevention	Adequate
	<ul style="list-style-type: none"> transparency in bidding for and granting of public sector contracts 	<ul style="list-style-type: none"> Government Procurement Act (RA 9184) / G-EPS 	Prevention	Excellent
“Control from below” / Democratic control	<ul style="list-style-type: none"> checks and balances 	<ul style="list-style-type: none"> Lack of a Philippines Anti-Trust Law 	Prevention	Inadequate
	<ul style="list-style-type: none"> separation of powers 	<ul style="list-style-type: none"> Memorandum of Agreement between OMB and CSC (jurisdiction administrative cases) 	Prosecution	Adequate
	<ul style="list-style-type: none"> rule of law 	<ul style="list-style-type: none"> Strengthening of rules on asset forfeiture in money laundering 	Prosecution	Good
		<ul style="list-style-type: none"> Strengthened judicial branch because of APJR 	Prosecution	Excellent
	<ul style="list-style-type: none"> legislative and judicial independence 	<ul style="list-style-type: none"> Slow progress in prosecution of high profile cases 	Prosecution	Poor

		<ul style="list-style-type: none"> Lack of fiscal autonomy and reforms of the Supreme Court 	Prosecution	Poor
		<ul style="list-style-type: none"> Decrease in budget for the judicial branch 	Prosecution	Poor
	<ul style="list-style-type: none"> control organisations of the civil and political society and the public 	<ul style="list-style-type: none"> LCC Memorandum of Understanding 	Prevention / Prosecution	Good
		<ul style="list-style-type: none"> Lack of implementation of Sect. 13 of the Procurement Act 	Prevention	Poor
		<ul style="list-style-type: none"> TAN / Lifestyle Check Coalition / Coalition Against Corruption / Appointments Watch 	Prevention	Good
		<ul style="list-style-type: none"> Textbook Count 	Prevention	Good
	<ul style="list-style-type: none"> empowered parliaments which have the ability to use their instruments 	<ul style="list-style-type: none"> Only the case to a certain extent, not a very large amount of power 	Prevention	Poor
	<ul style="list-style-type: none"> free press 	<ul style="list-style-type: none"> Possible, i.e. the Philippine Centre for Investigative Journalism 	Prevention	Good
	<ul style="list-style-type: none"> active civil society 	<ul style="list-style-type: none"> Procurement Watch 	Prevention	Good
		<ul style="list-style-type: none"> Bantay Katarungan 	Prevention	Good
		<ul style="list-style-type: none"> G-Watch 	Prevention	Good
		<ul style="list-style-type: none"> Concerned Citizens of Abra for Good Government 	Prevention	Good
		<ul style="list-style-type: none"> Fellowships of Christians in Government 	Prevention	Good
		<ul style="list-style-type: none"> Social Weather Stations Surveys 	Prevention	Good
		<ul style="list-style-type: none"> TAG-Project (Makati Business Club) 	Prevention	Good

	<ul style="list-style-type: none"> • free and fair elections 	<ul style="list-style-type: none"> • Bad performing COMELEC / cheating and automation of vote counting problems 	Promotion	Inadequate
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The article of Gonzalez et al. from the World Bank also discussed proposals for improvement but before it does, it elaborates upon the different prerequisites for success. There are two things which make change a more likely outcome than stasis. First of all, the many pressures to deliver have given the government a constant motive for reform while in the mean time persuading most other stakeholders whatever their criticism might be to not stand progress in its way. Secondly, action implied by the first motive is likely to draw the government into new acts and new types of engagement whether it likes it or not. A vivid example is the passing of the Anti-Monitoring Law earlier described in this section of the thesis. The big challenge can be found in how to disperse the high concentration of power by vested interests, the repertoire of reform must gradually expand to include broader structural interdependence among core state institutions and furthermore promote wider giving and taking between the state and civil society. One of the best examples is the Solana Covenant which clearly shows how complementation of core state institutions such as the Ombudsman, CSC and COA can reinforce each other's capabilities and achieve focus. However, this is just the beginning because Solana is vulnerable to coordination failure whenever there are major changes in institutions. The interdependence of these institutions must be broadened. For example, to achieve success in the prosecution of high profile cases, closer collaboration is demanded among the prosecution agencies such as the Ombudsman, the Department of Justice (DOJ), AMLC and the Sandiganbayan. It is also very important that state institutions have a sensible give and take relationship with civil society to fight on its side. Currently this is found difficult due to the states lack of action on high profile cases (Gonzalez et al., 2006, pp.39).

The key focus on anti-corruption efforts should be on enhancing political accountability and taking maximum advantage of ongoing reforms in public management. Other priorities are to create new accountable structures within and without agencies, increase formal channels of access to decision-making, enhancing oversight through participatory strategies and deconcentrating political and economic power through deeper decentralisation and privatisation. Oversight can be enhanced through participatory strategies such as observers in the budgeting and bidding process where NGOs serving as pressure points (Gonzalez et al., 2006, pp.39-40).

A reform program should be designed to make more public officials answerable to a wider range of constituencies. Strong sources of advocacy and analysis from NGOs and academic institutions are imperative for building and empowering constituencies that generate a sustained demand for the control of corruption. For example, think-tanks like DAP have developed and adapted anti-corruption tools earlier described to raise transparency and accountability. Summarising, initiatives like this are a powerful impetus for developing performance benchmarks, and providing a breeding ground of change from a control-oriented framework to one of quality service delivery and accountability. (Gonzalez et al., 2006, pp.39-40).

Political accountability is many times seen as the most crucial constraint of politicians and their behaviour and it should be made possible to enforce sanctions on them. An important step in this direction is to increase the transparency of the decisions made by elected officials by ensuring the access to information. This can be done through wider publication and information dissemination with the aid of ICT and encouraging the public debate which should consequently

be followed by the strengthening of institutions so that they have the power to apply credible sanctions to them (Gonzalez et al., 2006, pp.40-41).

Civil society groups can also express their collective demands for transparency and accountability in many ways. Civil society organisations can increase accountability pressures as part of the good governance agenda. Within the Philippines there is a strong tradition of collective action as part of the political process. Therefore, exogenous pressures and opportunities will have a powerful impact in reducing state capture and making steady progress in tackling anti-corruption (Gonzalez et al., 2006, pp.40-41).

The fight against corruption should be more focused on state capture instead of defining it as an agency problem. Right now the battleground should be shifted from small wars (principal-agent problem) to a grand war (grand corruption, state capture). The challenge lies in the evolution of strategies that are more creative and rigorous and because the challenges are greater the more energy is needed. Due to the fact that the Philippines are a soft state, the country only has few resources to do the battle. Therefore it makes sense to concentrate resources on strategies that would make a big difference and provide the impetus for changes along a broad front. Said in other words this would mean to do a lot for little instead of doing a little for a lot. Also, a shift should take place from personal (patronage) to impersonal exchange (rules that are enforced impartially). The country should come up with mechanism to develop constructs in which there are favourable incentives to impersonal transactions. Concluding one could argue that a good starting point is to devolve the power of discretion related through state capture, and to effectively reduce it by ensuring that big ticket items are out of reach of the few big payers who hold concentrated authority. The danger of course lies in the fact that this could lead to a decentralisation of corruption. However, this would at least deal with a greater numbers of rent seekers which would restrict any one faction to a limited domain and prevents it from capturing regulations (Gonzalez et al., 2006, pp.41-42).

When looking at the outcomes of the model of the Philippines it becomes clear that many of the just discussed causes for improvement are related to the lack of or inadequately working initiatives existent within the different control mechanisms. Concluding one could say that there is adequate 'control from the outside' because of the existence of the Asia-Pacific Regional Framework and the involvement of many international organisations within the country. However, as partner in the Asia-Pacific Regional framework this does not automatically means that enforcement of the agreement is possible through judicial steps because it is a non-binding partnerships where not strict agreement have been made. In contrast this is the case with conditionalities from international organisations such as the World Bank. However, the disadvantage here is that most of these organisations have their own agenda and therefore this could jeopardise the coherent framework which should be present to effectively curtail corruption. The second control mechanism 'control from above' is dependent on the initiative good – poor. There are some excellent institutional reforms and agreements made in for example the Anti-Corruption Convergence Summit. However, there are two very important variables not met, 'the executive right of appointment and dismissal' and the lack of 'political will of state leaders'. Therefore I can conclude that this control mechanism is far from completely in place. Even more because a lot of other initiatives are also related or dependent on these two. The general conclusion therefore is that this mechanism in total is Adequate in general but poor when it really matters. The next mechanism, 'control from within' score better compared to the other types of initiatives. This due to the earlier described progress with regards to enforcing internal and institutional control. One of the things that is visible right away is that almost all variables are represented through at least one initiative and that many covenants have been established to implement agreements. Also the performance of two of the most important institutions, the Ombudsman and the Sandiganbayan, has made incredible improvements. One could conclude

that the current initiatives should be enforced even more and that some of the initiatives should be expanded to other government agencies as well. Furthermore, the PAGC should get more rights and powers and the Government Rationalisation plan should take the NACPA as an example in order to establish a coherent framework. Finally there are also some variables where work needs to be done. The most important lack of initiatives making sure that there is a separation between civil service and politics and the professionalisation of the bureaucracy which can be improved a lot. As leading example for best practices one can look at the IDR (PRIDE) and its implementation together with the new government procurement Act (RA 9184). The last control mechanism is to a certain extent in a poor condition. There are not many checks and balances into place to make sure there is control from below. Besides this there is a major lack of legislative and judicial independence. However, there is also positive news with many control organisations active both from the political society and the public who are mostly a joint effort from many different organisations which is very good news. Nonetheless, also here there are still many improvements possible such as the lack of implementation of Section 13 of the new procurement Act. However, this could also lead to division if organisations do not share the same goals. Also, the influence from and control from the Philippine ‘parliament’ is limited because of its lack of instruments and power to use them. Finally, there is a great lack of fair elections because of a bad performing COMELEC and constant cheating and other problems related to free and fair elections. Summarising one could say that there are a few major issues that need urgent attention. The rest of the initiatives is actually doing well and have made major improvements in comparison to the last years. However, as mentioned several times now, a coherent approach is necessary in order to effectively and efficiently combat corruption in general but also in the Philippines. The following conclusion will address this issue and also gives some points of attention for the road ahead.

3.5 Sub-conclusion

After describing the different frameworks, strategies, plans and initiatives in the Asia Pacific Region, with a specific focus on the Philippines as case study, this conclusion will give some recommendations to further curtail anti-corruption in the Philippines. This is done by explaining where the focus should be in relation to the different control mechanisms mentioned in the theoretical framework in the second chapter. Furthermore, this is also placed in the context of the Asia-Pacific anti-corruption approach to see to what extent this plan will still be followed in the future and what the country has learned so far implementing it.

When taking into account all the different challenges ahead it becomes clear that the basis for an effective anti-corruption policies appears to be overwhelming, as they require significant changes in the complex structure of relationships within government and among government, the private sector and civil society and in the current policy practices of the government. The solution to the challenge is not to pursue reforms all at once. As quoted by Gonzalez, “the choice and sequencing of reforms must be in harmony with both the limits and possibilities of vulnerable governance in the country”. This can be explained by the fact that the focus is important in the design of the programs. The strategy to do a lot for little means providing more substantial assistance to a more limited set of strategic programs. The different risks related to anti-corruption programs should be improved. In this line of argumentation, it may not make much sense to focus on sure winners because they would have succeeded anyway. On the contrary, it is also a waste of resources to target those which are bound to fail because these can merely be seen as transients. The main goal should be to target projects with high social returns and to avoid strategic behaviour such as that kind which encourages moral hazard. Finally, one of the basic rules is to avoid programs that have overlaps or in any way affect each other (Gonzalez et al., 2006, pp.42-43).

Compliance to the programs should be easy and not expensive, otherwise agencies will have an incentive to avoid any attempt to comply and simply risk the legal consequences. When this occurs, a discretionary approach may provide the benefit of lifting the level of compliance by encouraging agencies to meet an intermediate standard. Rather than the all or nothing option, discretion can provide agencies attainable intermediate goals.

There is a difference between proactive and reactive strategies where proactive ones have higher dividends as outcome. Proactive approaches encourage through education, coerce through the possibility of audit or require via enforceable rules compliance before the actual breach occurs. Some of the proactive approaches may be more resource intensive such as education but they can still be more cost-efficient than reactive strategies such as the lifestyle checks. However, reactive approaches may be effective for the demonstration effect. But this only occurs when the breach is concentrated in the case of high profile cases and is easy to trace back to the offender (Gonzalez et al., 2006, pp.43-44).

Serious anti-corruption campaigns cannot only be commanded from the outside but also need committed leadership from within, more specifically from the topmost levels of the state. While the initial pressure for reform can come from below any effective programs should be supported from the top. However, the downside is that any strategy that relies solely on high-level leadership will be vulnerable to the many uncertainties related to the political process. A 'convergence' of strong players would make for a breakthrough performance against corruption. If leadership is broadly-based this can make the difference in devising means for sustaining ends. Broadening the number of stakeholders in various sectors and encouraging their participation in decision-making can end policy biases while the decisions are made in all transparency, open to the scrutiny of the public.

In the Philippines a leadership role is played by a determined Office of the Ombudsman which has the authority and resources to launch reforms in its areas of responsibility. It has become apparent that reform efforts will require the combined energies of the executive department, legislature, judiciary, constitutional bodies as the COA and CSC, private sector, civil society and the international donor community. One of the most vivid examples is the National Anti-Corruption Program of Action (NACPA) under the leadership of the newly-appointed Tanodbayan Merceditas Gutierrez which has already undertaken several initiatives within the strengthened type of convergence. Because she was the one who brought together the leaders of the executive, legislature, judiciary constitutional bodies, private sector and civil society in the summit organised by DAP in March 2006 to commit all the different actors to a common program of action, articulated in the NACPA. Of course, every leadership has the possibility to make mistakes. However, without it far more worse things can happen. Leadership is especially needed when other cannot be expected to step in so readily and directly. Again, even limited reforms also create a risk for state capture, where narrow interests shape policies to their liking which finally leads to undermining public trust and a weakening of the impetus for further reform.

The development of dialogues with institutions of government, private sector and civil society are critical for gaining knowledge beyond the narrow limits of the control mechanisms elaborated in this thesis. Dialogues are also very important in building relationships with the population. In anti-corruption, it is imperative to focus on confidence-building efforts among civil society whose scepticism and apathy in combating corruption are generally widespread. The level of success of specific reform instruments is often closely linked to the way in which people feel trust in their institutions and each other.

The existence of the problem of state capture creates in many ways an important urge to understand the private-public sector governance relationships. Consequently, this requires rethinking the traditional advice of controlling corruption as a sole problem existent within the bureaucracy. An important need is present to focus on the links between elective public officials and the private sector through campaign finance, link between appointive public officials and the private sector through regulation, policies and contracts. The fact whether an enabling or constraining environment is created, along with incentives and disincentives for change would be decisive in the choice and stepwise implementation of reform initiatives. In order to get more insight, the political culture should be assessed how it relates to the way authority is exercised and to the extent to which power is deployed across different institutions. Getting a clearer picture where discretion can be found would be a significant step in breaking the links between money and influence and hereby reversing state capture. The country's political culture is characterised by political finance with high spending abilities of politicians and the weak power of parties to affect the way this culture progresses. There is also a close link between the culture of governance and accountability because patron-client structure, especially in political parties, should stop and be replaced by explicit rules.

Another very important aspect is the sustainability of the anti-corruption efforts. As explained earlier, standalone efforts are likely to be vulnerable to state capture. These reform efforts can be good demonstrations but may only survive for a brief period of time before being stopped by inefficiencies at other levels. Therefore it is very important that initial reforms grow into more comprehensive programs. Nonetheless, despite the efforts to limit the government's role in the Philippines to an enabling and facilitating one, it remains the biggest player in terms of its own public management stakes.

The focus in the Philippines is at the Office of the Ombudsman which has the role to fight grand corruption. Together with institutions like CSC and COA, they can act as main institutions to lead the war on corruption. In addition, it is also important to encourage the Philippine Supreme Court to be more proactive. However, there is an urgent need to grant more statutory independence to these institutions. One of the possibilities is to model these institutions after the *Bangko Sentral ng Pilipinas* (Philippines Central Bank) which is seen as the only Philippine agency with true statutory autonomy. Other good starting points would be to give COA the mandate for real-time auditing, or CSC the authority to make the appointments below the cabinet level, which will put limits on power concentration. Civil society organisations, such as the PCIJ should be strengthened and must be supported to expose more of state capture. Also, more international pressure such can create the necessary drive for hard reforms.

Sustainability of reforms also means fighting the underlying sources of institutional weaknesses and strengthening institutions that can resist them. One of the key aims is to build public service neutrality by ensuring that the public service is politically neutral and that public servants are neither allowed nor required to make contributions to political campaigns in order to keep their job in the public sector. This will lead to a meritocratic public service that will resist party bias and will encourage decision-making in the public interest. Other key points are to strengthen the lower courts so that anti-corruption cases are decided fairly and with dispatch. Likewise, there is a strong need to strengthen forms of corporate governance.

Summarising, one can conclude that while valuable windows of opportunity may arise in specific situations, it is necessary to focus on the long-term character of reform and to manage expectations. It might be impossible to completely wipe out corruption but still swift decisive actions must be taken to solve big corruption cases. To achieve this, the government must assign budget resources as well as capable and honest managers to execute a targeted and programmatic

anti-corruption campaign. Civil society can also play a role in this process because business associations and NGOs can help identify priorities and can monitor results, but they cannot deploy the political will and resources of the state that are needed in the end to create transparent and accountable institutions.

Consequently, tackling corruption still remains a big challenge that mostly like will take a long time before big improvements can be expected. The general conclusion is that the plans are existing in government policies, programs and strategies and that they most of the times live up to the theoretical demands when assessing them on the basis of the different control mechanisms. However, the implementation does not work out in practice as initially thought due to the earlier described lack of one coherent approach, lack of resources and most importantly the lack of political will and leadership as described in the previous section when assessing the current situation in the country. However, many initiatives carried out in the last few years have shown that major improvements can be made as long as people are determined to achieve success in fighting corruption. I believe that until the time comes that the people are again fed up with their President and the political elite is replaced by integer politicians and leaders through another People Power Revolution (such as EDSA II) the struggle against corruption must go on because this research has shown that successes can be achieved and hope for a better future can motivate others to join the fight against corruption and shorten the waiting time for another political revolution of which the first signs are already visible. Being a pessimist one would claim that recent history tells us that power corrupts, however an optimist would claim that in the past there have also been honest and integer presidents such as Ramon Magsaysay who have played a very important role in the countries development and future.

The road ahead

The following points are recommended based on the outcomes of the analysis and by academics in the Philippines for setting up the subsequent Philippine anti-corruption agenda in order to achieve further breakthroughs.

Due to a lack of resources, it would be wise to maintain a few but highly-visible initiatives especially when there is a need to jumpstart the drive against corruption. Because these initiatives can alter the behaviour of public officials. Other highly focused campaigns and effective means involving ICT such as lifestyle checks and scrutiny of bank records can increase the probability that his or her corrupts acts would be detected and investigated. The chance of building an strong case against corrupt public officials and to also improve the probability of convicting hem can improve in these cases. However, in other fields it does not make sense to implement a extensive amount of measures because the costs of addressing corruption are prohibitively high and the few resources available should be spent on strategic measures such as enforcement. In addition, the public sees punishment as the best way to fight corruption. In this respect, the focus should be once more on catching big fish because this way the government is able to send a strong signal to the public that it is serious in tackling corruption.

Besides this, it is important to move away from the excessive focus on the agency problem and on the typical judicial and legal measures. The focus on pettier forms of corruption should give way to address bigger forms of corruption such as state capture. Due to the enormous impact of state capture this works as a powerful mechanism to stop anti-corruption initiatives, eroding their effectiveness and sustainability, since the political and economic forces associated with capture play a central role in shaping anti-corruption policies and outcomes.

Furthermore, stand-alone efforts should be avoided and the reforms must prefer structural interdependence among core state institutions and build alliances. Without any harmonisation of the efforts within government, groups of reform are bound to fail. Coalitions with several civil society groups and even donor alliances should be constructed to maximise results. Proper information should be given to enable them to participate in a meaningful way.

Actions based on awareness campaigns that include moral regeneration drives or values orientation may not add up important changes in the starting phase of the anti-corruption campaign. Similar activities such as costly low value-adding advertising campaigns and promotional activities should also be avoided because they are bound to fail if they are not part of a wider strategy to build more social capital. It can be said that these measures have a very low impact in a society where corruption is endemic.

The focus on prevention rather than cure changes the breeding ground for corruption as part of long term strategies. The wise words ‘deterrence is better than cure’ are important and therefore preventive measures must be given priority and the attention they deserve. Short-term measures are important to obtain quick wins but finally they should contribute to long-term outcomes. Due to the entrenched nature of corruption, breakthroughs are necessary but incremental improvements over the long-run may be more cost-effective and give campaigns better outcomes. Also, the symptoms of corruption should not only be tackled but instead one should go to the root of the problem. It is important to determine the points of vulnerability to corruption and to analyse exactly how corrupt buyers and sellers find each other, how they enforce implicit contacts and break up whatever pattern are visible.

Political power used to influence or shape policies in order to penetrate and preserve economic power must be controlled. Deconcentration of economic power through devolution and privatisation can have a positive influence because personal exchanges (patronage) can be shifted to more impersonal exchanges. The effect of the devolution of central powers to local governments would reduce the importance of the outcomes of national contests since the sole discretion would be moved from national agencies to local governments. Some may argue that this would only move the problem because the only thing that shifts between the levels is the discretion. However, the big difference is related to the fact that investors under a decentralised regime have a choice among different locations which lead to a more competitive regime. According to economic researchers, rents and exactions tend to be small because the different local governments compete with each other for investment. This rule also applies when looking from an international context to national governments who also compete for trade and investment. When this global deconcentration of power occurs, there is less room for national authorities to exercise discretion in changing the rules of the game since the country must effectively compete with other offering similar terms. Eventually, the choice has to be made by governments themselves and this decision also binds their successors and therefore it ensures some form of policy stability.

Finally, stabilising the civil service in the sense of a fixed term of office up to a certain level of government can provide continuity of policies. Currently, in the Philippines the bureaucracy is underpaid and deficient in training and qualifications which makes it vulnerable both to patronage politics and corruption. Improving these deficiencies would have positive influence in the bureaucracy’s autonomy and preventing patronage.

Chapter 4: Curtailing Corruption in the European Union

This chapter is concerned with the question how corruption is curtailed in the European Union. As mentioned in the introduction, the European Union is working at this moment to put together a comprehensive EU anti-corruption policy. Before describing this policy in greater detail, first of all the legal and institutional framework at the supranational level within the EU is discussed with regards to anti-corruption policy. Secondly, the status of the comprehensive EU wide policy against corruption is discussed. Finally, some conclusions are drawn and the sub-question is answered.

4.1 Legal and institutional framework at the supranational level within the EU

The fight against corruption takes place within the *acquis communautaire* where the EU Convention on the Fight against Corruption involves officials of the European Communities or officials of the member States of the EU which defines both active and passive corruption in the widest possible terms and impose on the member States the duty to ensure that their legislation covers all aspects of this definition. Besides this, another important document is the European Code of Good Administrative Behaviour adopted by the European Parliament on the 6th of September 2001 which was drafted by the Office of the EU Ombudsman and should guide all institutions and bodies of the European Community, its administration and officials in their relations with the public (Vidláková, 2003, pp.8).

In relation to the EU accession countries, the anti-corruption policy of the candidate states has been one of the most urgent requirements. Pressure from the Commission has led not only to important legislative, but also to institutional changes, such as increased co-ordination between various organs of enforcement, training of law enforcement officials and EU-assisted reform of the judiciary. However, the Open Society Institute (OSI) book on Corruption and Anti-corruption Policy under the EU Monitoring and Advocacy Program (EUMAP)⁸ contains an open criticism of the shortcomings in the approach of the European Commission to tackle corruption in candidate countries. The shortcomings mentioned are the different assessments of candidate countries and member countries and the lack of benchmarks, of a framework of EU anticorruption standards or a mechanism for monitoring adherence to such a framework. Consequently, the EU is recommended to "sponsor comparative research on corruption in candidate States and member States and join the Group of States against Corruption (GRECO)" (Vidláková, 2003, pp.8).

The Council of Europe

In 1999 the Council of Europe adopted two important international agreements for the fight against corruption: The Criminal Convention on Corruption (European Treaty Series No.173) and The Civil Law Convention on Corruption (European Treaty Series No.174). In addition to these legal measures the following should also be noted: Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption and Recommendation Resolution (2000) 10 on Codes of Conduct for Public Officials (including a Model Code) (Vidláková, 2003, pp.8-9).

In addition to the two conventions on corruption just mentioned, the Council of Europe's Committee of Ministers approved a broad framework of "Twenty Guiding Principles for the

⁸ EUMAP is the EU Monitoring and Advocacy Program (EUMAP) and an online centre for comprehensive resources, news, and analyses on human rights and the rule of law in Europe which is part of the Open Society Institute (OSI)

Fight Against Corruption” in 1997. These principles, although not binding for any state, serve as a potential framework for developing anti-corruption strategies in the broadest sense. The principles do not only include anti-corruption legislation but also measures to prevent and fight corruption, including promotion of public awareness, independence of the prosecution and judiciary, limitation of immunity for public functionaries, public administration reform (including transparency), codes of conduct for elected representatives, regulation of political party financing, and freedom of the media to seek and publish information (Guglielmo et al., 2002, pp.42)

On the 5th of May 1998 the Committee of Ministers adopted Resolution (98) 7 authorising the establishment of the Group of States against Corruption (GRECO) in the form of a partial and enlarged Agreement. Consequently on May the first 1999, the Agreement establishing GRECO was set up by the Resolution (99) 5 which was adopted by 17 states, among them five accession States: Cyprus, Estonia, Lithuania, Slovakia and Slovenia, as well as Bulgaria and Romania. The aim of GRECO is to monitor, through a process of mutual evaluation and peer pressure, the observance of the Guiding Principles in the fight against corruption and the implementation of the adopted international legal instruments, as mentioned above. The membership and functioning of GRECO are governed by its Statute and by its Rules of Procedure. For the evaluation procedures ad hoc teams of experts are appointed, on the basis of the list of experts proposed by GRECO members, to evaluate each Member State in each evaluation round. Evaluation teams are the corner-stone of the GRECO procedure, within which they play an essential role. GRECO approves the questionnaire for each evaluation round. The first evaluation round ran from January 2000 to December 2002 and dealt with Guiding Principles 3, 6 and 7 concerning the independence and autonomy of persons in charge of the prevention, investigation, prosecution and adjudication of corruption offences; the promotion of the specialisation of such persons or bodies and their provision with appropriate means and training to perform their tasks; and the limitation of immunity in the area of corruption offences to the degree necessary in a democratic society. Since the beginning of 2003 the second evaluation round was launched which deals with confiscation of corruption proceeds, liability of legal persons, public administration and public officials, tax measures to curb corruption and accounting offences related to corruption. The evaluation activities of GRECO are relatively new, but even at present it is possible to assume that they will become the most objective instrument of corruption evaluation and combating with the application of particularly the evaluation criteria based on the Council of Europe Twenty Guiding Principles for the Fight Against Corruption and the two Conventions on Corruption (Vidláková, 2003, pp.8-9). However despite the fact that GRECO has become the first organisation to systematically evaluate both candidate and member EU States, the European Commission has not mentioned the Twenty Guiding Principles at any point in accession documents or Regular Reports, although it has commented on candidate countries joining GRECO in the Regular Reports (Guglielmo et al., 2002, pp.42)

One could argue that the initiative of the Council of Europe is important because it made it for the first time possible to do comparative research on corruption on the EU level. Besides this, the main function of the Council of Europe is to strive for more unity in Europe with a lot of attention for reaching a pluriform democracy, the principles of the law and securing human rights. In this light, tackling corruption is something that is really in line with the goals of the institution. Furthermore, one of its goals is related towards creating more unity in Europe, in this light corruption and its prevention is a very important topic because as stated before success can only be achieved if there is a coherent approach in all the different countries (Member States).

Other important background initiatives

In addition to the comprehensive EU anti-corruption strategy the European Union has undertaken the following background initiatives and relating documents with regards to fighting corruption as summarised on the SCADplus Website:

- Article 29 of the Treaty on European Union mentions preventing and combating corruption as one of the ways of achieving the objective of creating and maintaining a European area of freedom, security and justice;
- the 1997 action programme on organised crime calls for a comprehensive anti-corruption policy based on preventive measures;
- the first communication on an EU anti-corruption policy suggested banning the tax deductibility of bribes and introducing rules on public procurement procedures, accounting and auditing standards, and measures relating to external aid and assistance;
- the Council's 1998 Vienna Action Plan and the Tampere European Council in 1999 also identified corruption as a particularly important area where action was needed;
- the Millennium Strategy on the Prevention and Control of Organised Crime reiterated the need for approximation of national legislation and to develop multidisciplinary EU policy and urged Member States to ratify the EU and Council of Europe anti-corruption instruments;
- the Communication on the fight against fraud, which sought to establish an overall strategic approach.

Furthermore, the EU has also established the earlier mentioned own instruments to tackle corruption:

- the two conventions on the protection of the European Communities' financial interests and the fight against corruption involving officials of the European Communities or officials of the EU Member States;
- the European Anti-Fraud Office (OLAF) set up in 1999, which has interinstitutional investigative powers.

The Commission is also in favour of accession to a number of instruments originating from other international bodies. The aim is to take account of the activities that already exist, in order to avoid duplication, and to ensure that measures already existing in the EU have the same mandatory character in other international organisations. The Organisation for Economic Cooperation and Development (OECD), the Council of Europe and the United Nations have already produced their own conventions on corruption:

- OECD Convention on combating bribery of foreign public officials in international business transactions;
- the Criminal Law Convention on Corruption of the Council of Europe;
- the Civil Law Convention on Corruption of the Council of Europe;
- the United Nations Convention against Corruption.

4.2 A comprehensive EU anti-corruption policy

The comprehensive EU anti-corruption policy exists out of a general framework that consists out of three main target areas: the first area is concerned with combating corruption in the private sector which is a 2003 framework decision, the second area of concern is the fight against corruption involving European Community officials and finally the establishment of a comprehensive EU anti-corruption policy. In addition there is also the role of international organisation such as the UN with its Convention against Corruption, the Negotiations in the Council of Europe just discussed and the OECD regarding action against corruption (COM(2003) 317 final).

The EU progress in tackling corruption is described in the comprehensive EU anti-corruption policy Act and also suggestions and improvements to give fresh impetus to these efforts is mentioned. One of its main aims is to reduce all forms of corruption, at every level, in all EU countries and institutions and even outside the EU. Furthermore, the text in the Communication also identifies possible areas where the EU might be an appropriate actor to take future initiatives in the fight against corruption (COM(2003) 317 final).

Communication COM(2003) 317 is the final version of the communication which is not yet published in the Official Journal. The communication adopts the definition of corruption used by the United Nations' Global Programme against Corruption which is the following: "the abuse of power for private gain". In its conclusion the principle elements of a future EU anti-corruption policy are elaborated (COM(2003) 317 final).

The principle elements of a comprehensive EU anti-corruption strategy

- a strong political commitment at the highest level;
- the implementation of existing anti-corruption instruments should be closely monitored and strengthened. The Commission recommends that the European Community adhere to the Council of Europe's conventions on corruption and participate in its monitoring mechanism, GRECO;
- EU Member States should develop and improve investigative tools and allocate more specialised staff to the fight against corruption;
- Member States and EU institutions and bodies should redouble their efforts to combat corruption damaging the financial interests of the European Community;
- common integrity standards should be established for public administrations across the EU;
- the efforts of the private sector to raise integrity and corporate responsibility should be supported;
- the fight against political corruption and illicit financing of social partner entities and other interest groups should be stepped up;
- corruption-related issues should be addressed in dialogues with acceding, candidate and other third countries;
- the EU should continue to make the fight against corruption an integral part of its external and trade police.

Figure 6: SCADplus Activities of the European Union, "The principle elements of a comprehensive EU anti-corruption strategy" (Source: Website SCADplus)

Consequently, these principle elements are elaborated in greater detail in the different sections of the Communication. To begin with, a historical introduction and a section on terminology are followed by a third section that highlights one of the most important aspects: the priority given

to political commitment. In this section is stated that a clear political determination and an unambiguous stance by the Member States and the EU would give a clear signal to representatives of other countries (COM(2003) 317 final).

Furthermore, it is also important to mention that the Communication stresses the need to develop an anti-corruption culture in EU institutions. In order to do so, it reviews the steps taken by the Commission in this field, with a focus on the creation of the European Anti-Fraud Office (OLAF). In addition it places emphasis on the guide to sound financial management and other internal measures taken by the Commission. Following the creation of the Investigation and Disciplinary Office (IDOC) in 2002, there is now a need for a memorandum of agreement to regulate relations between these two Offices (COM(2003) 317 final).

Prosecution initiatives

In order to best describe the contents of the different sections of the Communication I have characterised them according to the 3-P structure as used in chapter three. The section that deals with prosecution initiatives explains the need to agree on common definitions of offences and common penalties and to elaborate the multidisciplinary EU policy. Other key elements are the ratification of European and international anti-corruption instruments, the monitoring of their implementation and the fight against corruption in the private sector (COM(2003) 317 final).

With regards to monitoring implementation, the Commission points out that, once the EU instruments are in place, there will be a need to harmonise criminal law provisions in the Member States. It is believed that international efforts to combat corruption can prove their worth only if they are followed by monitoring and evaluation mechanisms based on peer review. The Communication also points to the lack of a proper follow-up or evaluation mechanism comparable to GRECO. However, the Commission is not at this stage in favour of setting up a separate evaluation and monitoring mechanism for the EU, in order to avoid duplication of efforts (COM(2003) 317 final).

Although the Council of Europe's civil and criminal law conventions on corruption and the Statute of GRECO all contain specific accession clauses for the European Community, the EU has not acceded to them at this point. However, the Commission is preparing for accession and if participation in GRECO is not regarded as good option other possibilities such as setting up a separate EU evaluation mechanism will be considered (COM(2003) 317 final).

Also within the field of prosecution, is the fight against corruption in the private sector which is also discussed in the strategy. A so-called Joint Action to make corruption a criminal offence was already adopted in 1998. In 2002 Denmark submitted an initiative for a more binding Council Framework Decision on the same subject. The Commission welcomes this initiative because it gives the same degree of legal protection against corruption, regardless of whether it occurs in the public or the private sector (COM(2003) 317 final).

Until now there have been several advances in the field of police and judicial cooperation in the EU. First of all the judicial cooperation network EUROJUST, was set up in 2002 with a mandate that covers fraud and corruption, money laundering and participation in a criminal organisation. In addition, the mandate of the European Police Office (Europol) has been extended and the Commission has suggested appointing a European Financial Prosecutor to deal with corruption affecting the financial interests of the Community. The Framework Decision on the European Arrest Warrant, which is applicable since 1 January 2004, can be seen as a key factor in the fight against corruption because it will make it easier for offenders to be surrendered to the judicial

authorities of the requesting State. Another enforcement mechanism is the second Money Laundering Directive adopted in 2001 (Directive 2001/97/EC) which classifies corruption as a serious offence and thus increases the obligations on the Member States to fight it. Finally, the Council is currently examining proposals for two new legal acts on the mutual recognition of orders freezing the proceeds of corruption offences and facilitating the confiscation of such proceeds (COM(2003) 317 final).

The main problem, in the Commission's view, continues to be the implementation of legislation, and consequently more importance should be given to preventing, investigating, prosecuting and adjudicating corruption cases. This calls on the Member States to introduce common standards for the collection of evidence, the confiscation of the proceeds, special investigative techniques and the protection of whistleblowers, victims and witnesses. Furthermore, it also urges Member States, where necessary, to introduce clear guidelines for the staff of public administrations. Besides this, anti-corruption authorities must be independent, autonomous and endowed with effective means for gathering evidence and protecting those who help them to combat corruption. Concluding one could therefore argue that inter-agency cooperation and joint investigations should be encouraged (COM(2003) 317 final).

Prevention initiatives

With regard to prevention, the Commission wants to focus on preventive measures designed to avoid conflicts of interest and to introduce systematic checks and controls. It urges to undertake steps to raise integrity in the public sector and recommends a comprehensive dialogue on minimum standards and benchmarking. The Commission also wants to examine issues surrounding public procurement in the light of the introduction of new rules and stresses that bribes paid to foreign public officials will no longer be tax-deductible (COM(2003) 317 final).

With regards to raising integrity in the private sector, the Commission calls on the professional associations of notaries, lawyers, accountants, auditors and tax consultants to continue to improve their self-regulatory regimes. In order to raise corporate responsibility, the Commission urges companies which may be both offenders and victims of corruption, to do everything possible to prevent corruption such as applying modern accounting standards, adopting adequate internal auditing schemes and codes of conduct, and to establish clear rules on whistleblowing. Summarising, one could say there is a need to raise awareness in the private sector as a whole, and the Commission tries to accomplish this to stimulating the dialogue between the public and the private sector through initiatives such as the EU Forum on the Prevention of Organised Crime (COM(2003) 317 final).

One of the ways to come up with future policy priorities in this field is the statutory audit that will be the subject of a forthcoming communication from the Commission. This is done because, although the EU adopted a Regulation in June 2002 requiring listed companies including banks and insurance companies to prepare their consolidated accounts in accordance with International Accounting Standards (IAS) and issued recommendations on the independence of the statutory auditor, there is at this point no agreed auditing standard in the EU (COM(2003) 317 final).

The Communication also has a section on special bodies and organisations that can be found at the interface between the public and the private sector, such as political parties and trade unions. The Commission is urging for a review of the links maintained by these organisations. The Commission argues that only transparency in the financing of social partners and interest groups and in election spending can prevent potential conflicts of interest. On the basis of the results of

such a study, the Commission will produce proposals on best practice in terms of transparency (COM(2003) 317 final).

Promotion and implementation

In order to promote anti-corruption policies in the ten new EU Member States, candidate countries and other third countries, the Commission has drawn up ten general principles, which are annexed to the Communication. It also proposes increasing efforts to extend the comprehensive anti-corruption strategy to all of these countries and recognises that the biggest challenge remains effective implementation. One of the ways to address this problem is through better coordination which could be achieved with a single anti-corruption unit or body, as suggested by the Commission on a number of occasions. In addition, better training and specialisation in this area are also recommended, as is a general strengthening of the national institutions (COM(2003) 317 final).

In its fight against corruption and as part of its new neighbourhood policy, the EU is examining the possibilities for improving police and judicial cooperation and developing mutual legal assistance with neighbouring countries. In the area of cooperation agreements and external aid programmes, the Commission is currently reviewing its framework agreement. This includes specific financing agreements and tender documents with as its goal to insert anti-corruption clauses. This has already been done in the case of the ACP-EU partnership agreement signed in Cotonou in 2000. The Commission is pursuing a strategy, related to trade policy, where studies have shown that corruption can be combated by open, transparent and competitive market conditions. In addition, other measures are also recommended such extending as the Agreement on Government Procurement to other parties to the World Trade Organisation and is committed to negotiating a multilateral agreement on transparency in government procurement. Finally, the Commission invites Member States to monitor the implementation of anti-corruption clauses for officially supported export credits, in line with the revised OECD "Action Statement" of 2003 (COM(2003) 317 final).

Corruption among European Union Officials

One of the priorities of the EU is fighting corruption and fraud within the European institutions. The Member States of the Union cooperate at international level with non-member countries and within international organisations. The Organisation for Economic Cooperation and Development (OECD) and the earlier elaborated Council of Europe have adopted conventions in this area (Council Act 97/C 195/01).

On April the 14th 2005 the Council (Justice and Home Affairs) adopted the previous explained resolution concerning a comprehensive EU policy against corruption in which it urges the Member States that have not already done so to ratify and implement *inter alia* the European Union Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union. The Council is strengthening judicial cooperation between the Member States in order to fight corruption involving officials of the European Communities or officials of Member States of the European Union. In the light of this convention, "official" means any Community or national official, including any national official of another Member State (Council Act 97/C 195/01).

In the Convention a "Community official" means:

- any person who is an official or other contracted employee within the meaning of the Staff Regulations of officials of the European Communities or the Conditions of Employment of other servants of the European Communities;
- any person seconded to the European Communities by the Member States or by any public or private body, who carries out functions equivalent to those performed by European Community officials or other servants.

In addition, it is important to mention that a "national official" can be defined by reference to the definition of "official" or "public officer" in the national law of the Member State in which the person in question performs that function. This is necessary for the purposes of application of the criminal law of that Member State. Nevertheless, in the case of proceedings involving a Member State's official initiated by another Member State, the latter shall not be bound to apply the definition of "national official" except insofar as that definition is compatible with its national law (Council Act 97/C 195/01).

The Council act also mentions the difference between a form of active and passive corruption. In the Act this is stated as follows: "The deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties constitutes a form of passive corruption" and also "the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties constitutes active corruption". There is an obligation for each Member State to take the necessary measures to ensure that conduct just mentioned is made a criminal offence (Council Act 97/C 195/01).

Also, related to the above mentioned, each Member State must take the necessary actions to ensure that in its criminal law the descriptions of the offences committed by or against its Government Ministers, elected members of its parliamentary chambers, the members of its highest Courts or the members of its Court of Auditors in the exercise of their functions must be applied in a similar manner in cases where such offences are committed by or against Members of the Commission of the European Communities, the European Parliament, the Court of Justice and the Court of Auditors of the European Communities respectively in the exercise of their duties. Where a Member State has enacted special legislation concerning acts or omissions for which Government Ministers are responsible by reason of their special political position in that Member State, the above paragraph does not apply to such legislation, provided that the Member State ensures that Members of the Commission of the European Communities are also covered by the criminal legislation implementing points. These two paragraphs are without prejudice to the provisions applicable in each Member State concerning criminal proceedings and the determination of the competent court (Council Act 97/C 195/01).

Furthermore, it is important that the Convention does not interfere with the relevant provisions of the Treaties establishing the European Communities, the Protocol on the Privileges and Immunities of the European Communities, the Statute of the Court of Justice and the texts adopted for the purpose of their implementation, as regards the withdrawal of immunity (Council Act 97/C 195/01).

In the light of punishment, each Member State must take the necessary measures to ensure that the improper conduct as earlier defined, and participating in and instigating the conduct in question, is punishable by effective, proportionate and dissuasive criminal penalties, including, at least in serious cases, penalties involving deprivation of liberty which can give rise to extradition. Furthermore actions need to be taken to allow heads of businesses or any persons having power to take decisions or exercise control within a business to be declared criminally liable in accordance with the principles defined by its national law in cases of corruption, by a person under their authority acting on behalf of the business (Council Act 97/C 195/01).

Necessary measures need to be taken to establish its jurisdiction over the offences the Member State has established in accordance with the obligations arising out of the Convention where:

- the offence is committed in whole or in part within its territory;
- the offender is one of its nationals or one of its officials;
- the offence is committed against one of the persons referred to in point 1 or a member of one of the European Community institutions (Commission of the European Communities, the European Parliament, the Court of Justice and the Court of Auditors of the European Communities);
- the offender is a Community official working for a European Community institution or a body set up in accordance with the Treaties establishing the European Communities which has its headquarters in the Member State in question.

If the situation occurs that a Member State which, under its law, does not extradite its own nationals the necessary measures must be taken to establish its jurisdiction over the offences it has established in accordance with the obligations arising out of the Convention, when committed by its own nationals outside its territory. Another variation is that if any procedure in connection with an offence established in accordance with the obligations arising out of the convention concerns at least two Member States, those States shall cooperate effectively in the investigation, the prosecution and in carrying out the punishment imposed by means, for example, of mutual legal assistance, extradition, transfer of proceedings or enforcement of sentences passed in another Member State (Council Act 97/C 195/01).

In the light of all these agreements in the Convention Member States shall apply, in their national criminal laws, the *ne bis in idem* rule, which means that a person whose trial has been finally disposed of in a Member State may not be prosecuted in another Member State in respect of the same facts, provided that if a penalty was imposed, it has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing State. It has to be mentioned that no provision in this Convention prevents Member States from adopting internal legal provisions which go beyond the obligations deriving from this Convention (Council Act 97/C 195/01).

Finally, if any dispute arises between Member States on the interpretation or application of the Convention, which has proved impossible to resolve in a bilaterally manner, this must in an initial stage be examined by the Council in accordance with the procedure set out in Title VI of the Treaty on European Union with a view to reaching a solution. Eventually, if both parties have not found a solution within six months, the matter may be referred to the Court of Justice of the European Communities by one of the parties (Council Act 97/C 195/01). Of course, the Convention is subject to adoption by the Member States in accordance with their respective constitutional requirement and is open to accession by any State that becomes a member of the European Union (Council Act 97/C 195/01).

Correspondence with the Analytical Model

After describing the different plans, policies and strategies in the European Union this section will describe to what extent all the different control mechanisms are in place in order to curtail corruption. This is done using the analytical model which is elaborated in Chapter two of this thesis.

The first control mechanism ‘control from the outside’ describes the existence of international or regional agreements and rules or conditionalities from international organisations. There are some supranational agreements present in the EU such as the European Code of Good Administrative Behaviour which guides all institutions and bodies of the EC, its administration and officials in relations with the public. However, more important are the international agreements for the fight against corruption from the Council of Europe with as most important one the framework of ‘Twenty Guiding Principles for the Fight Against Corruption’. However, although in place these principles are not binding for any state. GRECO tries to monitor this progress but due to its relatively new activities the Commission has not mentioned the Guiding Principles in accession documents or Regular Reports. Nonetheless, the role of GRECO will most like become more important because the Commission has already commented on candidate countries joining it in the Regular Reports. In addition it is important to mention that the Commission is also in favour of accession to a number of instruments originating with other international bodies such as the OECD Convention and the UN Convention. Summarising these steps, one could conclude that this control mechanism is already in place to a certain extent and that this will certainly improve even further in the near future.

When analysing the new comprehensive EU anti-corruption policy it is important to look at the contents to see whether or not all the remaining control mechanisms are met. In order to do this in an effective and orderly manner this is done by look at the comprehensive strategy and using the theoretical model to see if all the different variables are taken into account. It has to be noticed that the comprehensive policy also exists out of the fight against corruption involving European Community officials. Therefore this policy will also be taken into account when analysing. The efforts relating to combating corruption in the private sector which are part of the 2003 framework decision will not be used because the focus is on the public sector in this thesis sector and therefore it would go beyond the scope of the thesis.

Control mechanism	Related variables	Initiatives in the EU	Prosecution/Prevention/Promotion
“Control from above” / Executive control	<ul style="list-style-type: none"> morality enhancing mechanisms (i.e. awareness campaigns) 	Need to develop an anti-corruption culture in EU institutions, guide to sound financial management and OLAF initiatives	Prevention
	<ul style="list-style-type: none"> executive reporting systems 	See Council Act 97/C 195/01 with regards to the fight against corruption involving European Community officials	Prosecution
	<ul style="list-style-type: none"> institutional 	Implementation existing instruments and monitoring	Prevention

	reforms	Adhere to Council of Europe's conventions and participate in GRECO	Prevention
		Inter-agency cooperation and joint investigation in the field of prosecuting and adjudicating corruption cases	Prosecution
	• restriction in size and administrative discretion of institutions	(present)	(not relevant)
	• executive right of appointment and dismissal	(present)	(not relevant)
	• the political will of state leaders	A strong political commitment at the highest level	(not relevant)
"Control from within" / Internal or institutional control	• internal and institutional controls of the administrative and executive system	MS should develop and improve investigative tools and more staff	Prosecution
		OLAF / IDOC	Prosecution
	• administrative (and financial) controls (i.e. controlling and auditing bodies such as Anti-corruption commission and Ombudsman Offices)	Fight against illicit financing of social partner entities and other interest groups should be increased	Prosecution
		Money Laundering Directive (Directive 2001/97/EC)	Prosecution
		Two proposals for freezing the proceeds of corruption offences and facilitating the confiscation of such proceeds	Prosecution
	• separation between civil service and politics	Mentioned as one of the Principle elements	Prosecution
	• the professionalisation of the bureaucracy	Common integrity standards should be established for public administrations across the EU	Prevention

	<ul style="list-style-type: none"> the accountable use of public resources (i.e. audited accounts) 	New Statutory Audit rules in accordance with IAS	Prevention
	<ul style="list-style-type: none"> the competitive compensation and merit systems based on performance 	(present)	(not relevant)
	<ul style="list-style-type: none"> transparency in bidding for and granting of public sector contracts 	<ul style="list-style-type: none"> Fight against corruption should be an integral part of the external and trade policies 	Prevention
		<ul style="list-style-type: none"> Research towards link between public and private sector (financing) 	Prevention
“Control from below” / Democratic control	<ul style="list-style-type: none"> checks and balances 	Need for evaluation mechanisms (i.e. GRECO)	Prevention
	<ul style="list-style-type: none"> separation of powers 	(present)	(not relevant)
	<ul style="list-style-type: none"> rule of law 	Joint Action to make corruption a criminal offence	Prosecution
	<ul style="list-style-type: none"> legislative and judicial independence 	Judicial Cooperation (EUROJUST)	Prosecution
		EUROPOL	Prosecution
		Proposal EU Financial prosecutor	Prosecution
	<ul style="list-style-type: none"> control organisations of the civil and political society and the public 	Support for private sector initiatives / Council Framework Decision	Prevention
	<ul style="list-style-type: none"> empowered parliaments which have the ability to use their instruments 	(present)	(not relevant)
	<ul style="list-style-type: none"> free press 	(present)	(not relevant)
<ul style="list-style-type: none"> active civil society 	Raising awareness through initiatives such as the EU	Prevention	

		Forum on the prevention of organised crime	
	<ul style="list-style-type: none"> • free and fair elections 	(present)	(not relevant)

When looking at the other control mechanism it comes clear that the comprehensive EU anti-corruption policy framework basically covers all the different control mechanisms but that specific initiatives are in most cases not yet formulated. Besides this, there is a lot of attention going to prosecution initiatives and less to the specific promotion initiatives such as awareness raising campaigns towards the European citizens. Of course, the lack of specific initiatives is also related to the supranational character of the policy framework, however if the aim is to use a coherent approach it is necessary to make more specific plans in order to achieve success.

4.3 Sub-Conclusion

When looking at the analysis carried out with the help of the analytical model it becomes clear that all control mechanisms are basically in place when looking at the supranational (EU) level. As mentioned earlier the main problem is related to the fact that increasing efforts are needed to extend the comprehensive anti-corruption strategy to all of the Member States and consequently the biggest challenge remains effective implementation. This should be achieved through better coordination but also through, for example, a single anti-corruption unit or body as already suggested by the Commission on several occasions. These initiatives should go hand in hand with better training of professionals and specialisation in this area and strengthening of the national institutions. One can conclude that the current status of the comprehensive EU anti-corruption framework is still in a very early stage but that the plans are encouraging and in line with theoretical backgrounds on how to control and tackle corruption. However, the question remains if and to what extent the EU can learn from the Asia-Pacific initiative and more specifically the Philippines. This question is answered in the final Chapter.

Chapter 5: Conclusion

After describing and analysing the situation in the Asia-Pacific region, with a focus on the Philippines, and assessing the status of the comprehensive EU anti-corruption policy framework on the supranational level this last chapter combines the results found in order to give a well underpinned answer to the central research question. This question was as follows:

- *To what extent can the new comprehensive EU anti-corruption policy profit from insights in the Asian approach?*

In order to answer this question first of all the most important conclusions of the analysis of the Asia-Pacific framework and the assessment of initiatives in the Philippines using the analytical model are summarised and are compared with those of the EU to see what the differences in approach are. This is done in order to find out what the EU can learn from the Asia Pacific Region and especially the Philippines with regard to setting up and implementing the EU policy framework.

With regard to the different national plans, policies and strategies in the Asia-Pacific Region and Philippines the Nine-Point Approach to fight Corruption together with its seven points of recommendation for implementing them, correspond to a large extent with the different control mechanisms that should be in place in order to prevent and curtail corruption. The influence of the different donors on the contents of the anti-corruption plans is clearly visible and together with implementation difficulties the reality is that there is not one coherent plan or approach which is followed throughout the region or country. However, summarising one could say that the design of the Nine-Point Approach to Fighting Corruption in the Philippines, as proposed by the World Bank, is decent and foresees in a coherent approach. Therefore, the initiatives were not bound to fail initially, but the political climate as well as other problems related to implementing the plans have resulted in the fact that many of the goals are very hard to achieve if not tackled in a coherent manner. In this sense, the three pillar approach of the Asia-Pacific framework can be a useful tool to monitor progress and help each other through peer-reviewing but should in this light not be seen as 'the' blueprint for success. In contrast, the Nine-Point Approach, as part of the country-specific plan of the World Bank embraces the coherent approach in a more thorough way and takes into account most of the different control mechanisms in its plan and strategy of implementation.

The same could be argued for the comprehensive EU anti-corruption policy framework because it takes into account all the different control mechanisms but it has to be mentioned that specific initiatives are in most cases not yet formulated. The lack of specific initiatives is of course, just as with the Asia-Pacific Plan, also related to the supra-national character of the policy framework. However, with the aim towards a coherent approach it is definitely necessary to make more specific plans in order to achieve success. Therefore the main problem is related to the increased efforts necessary to extend the comprehensive anti-corruption strategy to all of the different Member States and implement it in an effect and efficient way. Besides some often heard proposals to deal with this issue, such as a single anti-corruption unit or body, this is the aspect where the EU can definitely learn from countries with a long history in tackling corruption such as the Philippines. Especially because at this moment the EU framework is still in a very premature phase which makes it possible to even further improve the already promising plans so that they can be effectively implemented while making use of lessons learned in the Philippines.

Seen in this light, most of the general remarks about improving the implementation in the Philippines is useful in EU perspective, but there are recommendations that deserve some extra attention because they are really valuable in order to prevent mistakes from happening again.

One of the most important lessons learned in the Philippines is that when a country is considered to be a soft state, which in this context means that the country has a limited amount of resources in the fight against corruption, it makes sense to concentrate the resources on specific strategies that make a big difference to provide the impetus for change along a broader front. In the EU this could be the case for the new accession countries such as Romania and Bulgaria. In addition, both in the Philippines as in the EU there is not enough ‘control from the outside’ because most agreements are of a non-binding nature. In the case of the EU this is maybe of lesser concern as well as the conditionalities imposed by donors. However, a very important necessity is the political will of state leaders with regard to implementation. As the situation in countries arises that the challenge seems to be overwhelming, the solution is not to pursue all the reforms at once. There must be harmony between the choice and sequence of reforms that takes into account both the limits and possibilities existent in the country. In this respect, the main goal should be to target projects which have a high social return and to avoid strategic choices with a high moral hazard. Of course, there should be no problems overlapping each other. Furthermore, programs should be easy to join and therefore not extremely costly. Also, there should be a good mix of pro-active (prevention) and reactive (prosecution) strategies because both have different risks attached to them. This is the same with regard to leadership that should be present from the outside and inside where there should be strong leadership from the topmost levels of the state. While the initial pressure for reform can come from below any effective programs should be supported from the top. However, it has to be mentioned that the downside is that any strategy that relies solely on high-level leadership will be vulnerable to the many uncertainties related to the political process. A so-called ‘convergence’ of strong players would cause a breakthrough in the fight against corruption. But if leadership is broadly-based this can make the difference in devising means for long term goals. Broadening the number of stakeholders in various sectors and encouraging their participation in decision-making can end policy biases while the decisions are made in all transparency, open to the scrutiny of the public.

Another issue of importance is that an enabling environment in any country should be created with incentives and disincentives for change because this is decisive in the choice and stepwise implementation of reform initiatives. In order to get more insight in the problem of state capture, the political culture should be studied to see how it works. Efforts that are implemented should be sustainable because standalone efforts are likely to be vulnerable to state capture. In order to prevent that new initiatives are stopped by inefficiencies at other levels it is important that they grow into more comprehensive programs. Therefore it is important that while valuable windows of opportunity may arise it is necessary to focus on the long-term character of reform and to deal with existing expectations. In order to do so, actions must be taken which have the necessary budget resources as well as capable and integer managers to execute the targeted and programmatic anti-corruption campaign. This is where civil society can also play a role in the process because business associations and NGOs can help identify priorities and can monitor results. However, they cannot deploy the political will and resources of the state that are needed in the end to create transparent and accountable institutions.

Therefore one can conclude that even when well founded plans are present in government policies, programs and strategies this does not necessarily mean that the implementation works out in practice as initially anticipated. However, experiences in countries like the Philippines have shown that improvements big or small can be made as long as different people are determined to achieve success in fighting corruption. In this line of argumentation, it is important that the

above mentioned lessons learned are taken into account, when setting up anti-corruption programs, together with a strong political will and leadership.

Finally, the end-conclusion of this research paper is that the new comprehensive EU anti-corruption policy can certainly benefit from insights gained in the Asia-Pacific approach and more specifically from the Philippines with regard to implementation. In this light the EU can definitely benefit and learn when focusing on the new Member States who are struggling with a relatively high level of corruption. Due to the fact that these countries can to a certain extent also be classified as 'soft states', the constraints are somewhat similar and lessons learned in the Philippines can very well be used. However, I strongly believe that both continents and different countries can learn from each other in a mutual enforcing way which is of course dependent on the nature of the corruption problem and the country facing it. As just described this mainly depends on the level of similarity between both countries or problems. The recently joined Member States such as Romania and Bulgaria can learn a lot with regards to implementation of anti-corruption strategies and for example the EU can learn many things from the Asia-Pacific framework concerning peer-reviewing and monitoring which still needs to be incorporated in their new comprehensive framework. This way, fighting corruption in countries like Poland and Italy can be done hopefully without making the same mistakes as seen in the Philippines or other similar countries. In addition, the fight against corruption in the EU will probably be a far more less exhausting task because many more control mechanisms on the supranational level are in place and the resources are available to tackle the problem in countries in a coherent manner. Nonetheless, fighting corruption initially start from within each person and therefore every citizen should fight corrupt behaviour when confronted in order to form a global alliance in the fight against corruption.

Appendix I - Nine-Point Approach to Fighting Corruption in the Philippines

REDUCING OPPORTUNITIES FOR CORRUPTION

Through policy reforms and deregulation, noteworthy progress has been made in the last 10 years to reduce opportunities for corruption, but much more can be done. Opportune areas for policy reform in the Philippines include:

- tax policy (for example, preferential tariffs, exemptions, investment incentives) and administration (for example, tax audits)
- regulation of infrastructure services and public utilities such as power, telecommunications, water, aviation (for example, granting of franchises, government guarantees, competitive arrangements)
- corporate governance reforms, particularly in the financial services area
- environmental and land use regulations
- import and trade arrangements.

REFORMING CAMPAIGN FINANCE

The dynamics of electoral politics as practiced in the Philippines—particularly, the financial requirements to obtain and retain office and placate core constituencies—create dysfunctional incentives that degrade the performance of the public sector as a whole. In its issues, nature, and institutional origins, issues of corruption in politics are bigger than campaign finance reform and different from petty corruption in procurement and bribery in the civil service. Although these issues have been acknowledged in the Philippines and demand due consideration, the World Bank's recommendations do not address them for lack of expertise and jurisdiction in this area. Nevertheless, reforms of political processes and systems should be an integral part of the government's overall anticorruption program.

INCREASING PUBLIC OVERSIGHT

Measures to increase significantly the information made available to the general public have special importance because they let citizens know what officials are accountable for and how to judge their performance against those standards. Active efforts to engage civil society to advance accountability and integrity are also needed. Actions that could enhance transparency and public oversight include:

- establishing a citizen charter, requiring an agency to specify and publish: each step of procedures to obtain a particular service; maximum length of time to conclude the process; and procedures to file complaints on agency failure to follow required procedures
- using government officials' statement of assets and liabilities proactively to identify possible cases of corruption
- conducting client surveys to get regular feedback on access and quality of government services
- establishing advisory boards made up of prominent Filipino citizens to assist the Office of the Ombudsman as well as each department and agency targeted for anticorruption effort
- limiting the role of advisers in the government, who are not governed by public accountability and parliamentary processes, and enhancing the role of cabinet officials who are strengthening the ongoing initiatives for governance-appraisal systems for cities and municipalities and publishing results annually.

REFORMING BUDGET PROCESSES.

Reforming *budget processes* to achieve:

discipline, allocative efficiency and operational efficiency is a promising area to address corruption issues.

Key potential actions to reform the budget process are:

- enhancing the integrity and effectiveness of government wide and agency-level financial management systems
- improving program performance monitoring and evaluation
- simplifying public procurement, eliminating non-competitive aspects, actively rooting out cartels, and opening up tenders to international competition
- limiting congressional discretion over detailed line-items and strictly enforcing public finance rules in remaining cases.

IMPROVING THE CIVIL SERVICE.

The poor incentive framework governing the *civil service* in the Philippines is another major factor contributing to corruption. During the SWS September 1998 survey, respondents were asked why graft and corruption happens in the government. The three top reasons cited were: to be richer; their salaries are not enough; and difficulties of life today. With this in mind, restructuring the civil service to reinforce merit and to provide adequate financial compensation and accountability for performance is recommended as a key element in a national anticorruption program.

Some of the actions suggested in this area are:

- limiting the scope for patronage in public employment by depoliticizing the civil service and strictly regulating the use of casual and other contractual workers
- decompressing the government pay scale to provide competitive salaries up to senior levels
- strengthening performance evaluation, implementing related awards and sanctions, and enhancing meritocracy in appointments and promotions.

TARGETING SELECTED DEPARTMENTS AND AGENCIES.

Many corrupt behaviours are unique to specific government units and functions. At this level, it is easier to make progress in the Philippines since: agencies and departments are relatively small; their mandates are narrow, well-defined, and can easily be subjected to scrutiny and reform; ambiguous legislation and administrative orders can be clarified or rescinded, and business processes can be broken down into discrete components and evaluated.

Examples of suggested actions in this area are:

- selecting priority department and agencies, based on the public's priority concerns
- identifying areas for a few quick wins that would give momentum to further reforms.

ENHANCING SANCTIONS FOR CORRUPTION.

Anticorruption efforts should focus on preventing and eliminating root causes of corruption, but government's capacity to detect corruption and sanction corrupt practices should also be strengthened. The goal is to change the current perception of corruption in the Philippines—from a “low-risk, highreward” activity to a “high-risk, low-reward activity.” The following actions would strengthen the anticorruption institutions:

- fast-tracking—for successful prosecution—a few high profile pending cases of alleged graft and corruption
- merging the Presidential Commission Against Graft and Corruption with the Ombudsman's Office and strengthen the latter's capacity
- strengthening capacity of the *Sandiganbayan*

- supporting capacity building in forensic audit at Commission on Audit and corruption prevention at the Civil Service Commission
- streamlining and simplifying the legislative and regulatory framework involving corruption and civil service codes of conduct
- strengthening the functions of the Inter-Agency Anti-Graft Coordinating Council to harmonize rules and joint activities.

DEVELOPING PARTNERSHIPS WITH THE PRIVATE SECTOR.

The private sector, as a major source of funds used for corrupt purposes, has to be mobilized to combat corruption. Involving the private sector will not only allow more sophisticated and sensitive policy responses to corruption to be developed but will also put pressure on the private sector to raise its own standards of behaviour. The following actions could be part of a government-private sector partnership against corruption:

- involving representatives of the private sector in designing anticorruption strategies in vulnerable departments such as customs, taxation, industrial policy, infrastructure, and investment.
- engaging in a dialogue about how to solve the collective action problem associated with bribery: how to prevent some firms from continuing to bribe when others stop, thereby creating incentives for the others to revert to bribery again. The model antibribery legislation sponsored by the Organization for Economic Cooperation and Development (OECD) is an example in that it promises significant penalties for those who continue to pay bribes. Another example is the Integrity Pact concept being piloted in Indonesia, requiring a formal no-bribery commitment from all bidders for government contracts.
- encouraging higher standards of corporate governance. The OECD Principles of Corporate Governance (April 1999) provide a useful model for a local initiative.
- developing and implementing company codes of conduct and ensuring their effectiveness through internal control mechanisms, personnel training, and sanctions.
- adopting accounting and auditing rules and standards to ensure transparency in business transactions.

SUPPORTING JUDICIAL REFORMS.

Global experience has shown lower levels of corruption in countries with predictable judiciaries (in the sense of adjudicating cases consistently and efficiently). Factors that make for a predictable judiciary are: merit based recruitment and promotion; adequate compensation; and accountability for performance. In the Philippines, available data suggest considerable room for enhancing the judiciary's effectiveness and reducing perceptions of corruption within its ranks. A preliminary assessment suggests that an action program for judicial reforms should address the issues of: perception and reality of judicial corruption; case overload and delays; poor working conditions; alternative dispute-resolution mechanisms; and judicial education.

Appendix II – Implementing an Anti-Corruption Program

Having a good anticorruption strategy is a necessary but insufficient condition for progress effectiveness in implementing the strategy will be a key determinant of success. In this regard, we have seven preliminary recommendations:

- Appoint strong leadership and management.
- Set up a multisectoral advisory group.
- Develop a sequenced action program of priorities chosen from the nine-point anticorruption strategy.
- Launch programs immediately in priority agencies.
- Upgrade capacity in anticorruption institutions.
- Launch joint intergovernmental and interinstitutional efforts.
- Seek donor assistance for the government's anticorruption program.

Strong Leadership and Management. Because leadership is of such critical importance in the anticorruption struggle, a talented manager should be appointed. This manager must have impeccable and widely recognized integrity, a track record of sticking to a job and showing results, and the ability to communicate well with a wide public audience. To drive forward the anticorruption strategy and agenda, the manager should be given the support of a strong organization and adequate resources. The manager's mandate would involve spearheading the anticorruption efforts and coordinating a variety of agencies and groups involved in the effort.

Multisectoral Advisory Group. To advise the government on its anticorruption strategy and monitor progress on a regular basis, a multisectoral advisory group of national and international experts should be set up. This group should include prominent Filipino citizens who represent civil society efforts to combat corruption. Efforts should also be made to establish a proactive partnership with civil society institutions to monitor government performance and to encourage the private sector to improve its own behaviour.

This group should:

- Acknowledge the rising concerns of citizens and private enterprises about corruption and announce that the government will give priority to eliminating corrupt practices that impede antipoverty programs and business sector growth.
- Emphasize that combating corruption will require a strong and sustained government and civil society partnership and that the multisectoral advisory group is being formed to seek such partnership.

A Sequenced Action Program (2000–2004). For effective implementation, the actions listed in the nine-point anticorruption strategy—and many others, which will emerge from further analysis and consultation—must be ranked by order of importance. It is recommended that the government develop a sequenced anticorruption action program, based on diagnostic surveys of households, businesses, and public institutions to identify priorities for anticorruption action and to design remedial programs. The surveys should be done by independent survey organizations under the guidance of the multisectoral advisory group. The survey findings should be presented to the public, an essential step in raising its awareness of the exact nature of corruption in the Philippines and what to do about it. Based on the World Bank's experience of such surveys in four countries, we recommend at least three surveys:

- **Government Sector Survey.** A survey of selected government agencies to look at the role of different actors in decision-making, implementation, and evaluation of its activities. This would highlight the processes and procedures within which corruption is embedded, the manner in which it is organized, and the reasons for the failure of regulatory and control mechanisms in place.

- **Corporate Sector Survey.** A firm-level survey to find out the nature and extent of corruption faced by firms and its impact on business costs and investment decisions.
- **Household Survey.** With a special focus on poor households to find out how corruption affects their lives in terms of their employment opportunities and their access to public services and public resources.

Anticorruption Programs in Priority Agencies. Specific anticorruption programs may be launched immediately in several priority departments and agencies. Within the selected government departments, citizens boards should be formed to advise on priority action programs for eliminating corruption, improving efficiency in the delivery of services to poor communities and for monitoring progress. Agencies making rapid progress in anticorruption programs might be given priority in budget allocations while those lagging behind could face budget cuts.

Institutional Capacity Upgrade. Upgrading the capacities of key anticorruption institutions should be an implementation priority to bring to justice corrupt officials, particularly those in high places. We suggest upgrading three institutions in particular: the Ombudsman's Office, the Sandiganbayan, and the Inter-Agency Anti-Graft Coordinating Council.

Intergovernmental Efforts. Problems of corruption embedded within the broader system should be explicitly addressed through joint government, congressional, and judicial reform efforts. Congress should back reform by improving governance through legislation, increasing legislative oversight, imposing more severe sanctions on wrongdoers, and operating transparently itself.

Donor Assistance on Anticorruption. It is recommended that the Philippine government seek a reorientation of assistance provided by the World Bank and other donors in support of its national anticorruption campaign as well as seek additional assistance. This effort could build upon the dialogue on governance issues, initiated at the March 1999 Consultative Group (CG) meeting in Tokyo.

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