
Part III

THE PRIVATE SECTOR FIGHTS CORRUPTION

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G. SUCCESS STORIES

Chapter 16

Corruption and the Private Sector

■ Neil Maloney

Even though I am no longer serving with the Hong Kong, China, government, my 26 years with the Independent Commission against Corruption (ICAC) have given me some insight into what made that organization so successful.

ICAC

ICAC was established in 1974 following the Commission of Enquiry initiated after the escape from Hong Kong, China, of a chief superintendent of police who had been arrested on corruption charges. Public reaction to this event was intense. The police officer was eventually extradited back to Hong Kong, China, and was sent to prison.

ICAC has three departments. The largest, with more than 750 staff, is the Operations Department, which handles investigations. The second department is the Corruption Prevention Department, which examines procedures and gives advice about preventing corruption to government departments, and when requested, to the private sector. The third department is the Community Relations Department, which spreads awareness of corruption.

ICAC has achieved a good deal in the last 25 years. Hong Kong, China, now has an entire generation raised with the concept of a corruption-free society. In the short term enforcement actions ram home that message, but in the long term, only education can change society. Hong Kong, China, is different from many other Asian cities. People are proud of their city, because they know it works, and ICAC is the main reason for this. Several other countries have set up similar organizations, including New South Wales, Australia, which has even copied ICAC's name and legislation.

We can draw a number of lessons from the Hong Kong, China's, experience. First, the main prerequisite for effectively controlling corruption is acknowledging that clean government is the best guarantee for political stability, economic growth, and social development. A willingness to take action against corruption must be accompanied by determination, persistence, and political will to succeed despite possible interference from those whose interests may be threatened. ICAC was fortunate in that from the outset it was given a clear mandate and the necessary resources. ICAC is not part of the civil service, and the commissioner's independence is guaranteed by law.

Second, without community support and involvement, a first-class investigative agency may still lose the war against corruption. Unlike some crimes, corruption is not easy to detect. Members of the community must be willing to come forward and report it.

The third ingredient necessary for success is an effective legislative framework. Corruption is difficult to investigate and to prove, because of its secretive and conspiratorial nature. Recent developments in information technology and in international financial services have led to much greater sophistication in hiding corrupt assets. An anti-corruption agency needs special powers to achieve results. For example, under the prevention of bribery ordinance, ICAC can examine bank accounts and business and private documents. Under certain circumstances ICAC may require suspects to provide details of their assets and can seize their passports. . At the same time, such considerable powers must be balanced by an effective monitoring system. Every aspect of ICAC's work comes under the scrutiny of an advisory committee consisting of private citizens and senior government officials. An independent complaints committee deals with all complaints received against ICAC and individual staff members.

Finally, a comprehensive strategy to deal with corruption is incomplete without continuous reviews of government policy, practices, and procedures that could give rise to corruption. In addition, the fight against corruption must be anchored in a public service that is fairly and adequately remunerated, and where appointments are based on merit and not on personal influence and connections.

Over the years, ICAC has had a love-hate relationship with other government entities. Not surprisingly, because of its large size and its daily dealings with the public, most complaints of corruption are directed against the police force. In 1997, 2,000 police officers marched on ICAC's headquarters

threatening violence. Some violence did occur, and a few days later the governor of Hong Kong, China, granted an amnesty for all earlier corruption offenses. At that time, few in ICAC agreed with this decision, but within a few years it became apparent that the amnesty had not only defused the situation, but had given corrupt police officers a chance to come clean, and many did so, while those that did not were often ostracized.

While corruption cannot be completely eradicated, Hong Kong, China, has shown that the problem can be substantially reduced and controlled. This can be done when a community and its government, at the highest levels, have sufficient determination and are prepared to pay the price; when government regulations and procedures are clearly understood and strictly followed; and when business people take a long-term view and are committed to steady growth rather than to short-term gains. Above all, to secure and retain public trust and confidence, any agency entrusted with fighting corruption must carry out its duties without fear or favor, and must be backed by a fair and impartial judicial system.

The following recent case is an example of the serious damage that can be caused by one or two corrupt individuals involved in what on the surface could be interpreted as fairly minor illegalities. An acting senior superintendent of Customs and Excise was known to be several million dollars in debt. He was a habitual gambler in Macau, and was also closely associated with a businessman running a factory making video compact disks (VCDs). Investigation revealed that the raw materials sold to the company to make the VCDs and the number of machines involved in their production far exceeded genuine orders for VCDs. At this time the number of pirated VCDs on the market had recently multiplied enormously, bringing the price down from HK\$30 per disk to about HK\$10. In addition, the factory seemed to be tipped off about impending raids by Customs and Excise. Eventually, several hundred ICAC officers raided the factory. They arrested 21 people, including the Customs and Excise officer, and seized 41 VCD production lines, 12 VCD printing lines, and 22 million disks with a total worth of about US\$100 million. Officials of the Motion Picture Industry and International Federation of Phonographic Industries confirmed that the majority of the disks were pirated copies. This was by far the largest seizure of its kind in the world. The Customs and Excise officer was subsequently convicted of bribery and sentenced to four years in prison. The others involved are awaiting trial. Shortly after this incident, Hong Kong, China, was removed from the list of regions noted for piracy of goods.

CORPORATE BEST PRACTICE

Companies are often held liable for their employees' actions, thus companies should formulate a company code of conduct, implement a system of control, and train their employees in anti-corruption legislation. Such actions can be broken down by department as follows:

- Purchasing
 - Ensure that the choice of vendors and other suppliers is based on a competitive tender.
 - Have the finance department rather than the general business operations division handle large capital expenditures.
 - Establish a system for routine auditing of vendors to uncover any conflicts of interest and discourage related-party transactions.
 - Inform suppliers in writing, and perhaps ask them to confirm in writing that they understand, that it is company policy not to engage in any form of corruption or malpractice.
 - Ensure that company management maintains frequent contact with suppliers to provide a direct channel for them to express views and grievances, and as a system of checks and balances.
 - Implement clear internal procedures for making payments, issuing checks, collecting outstanding payments, and keeping proper documentation.
- Sales and marketing
 - Establish a screening system to vet potential new clients to prevent conflicts of interest.
 - Forbid staff members from offering or accepting any form of secret rebate or commission.
 - Impose a maximum expenditure limit for entertainment expenses and only reimburse expenses for which the employee has receipts.
 - Avoid giving expensive gifts to government officials or employees of state-owned enterprises.
 - Provide employees in writing with policies on the maximum value of gifts that they are allowed to receive and in what context they can accept them. In some instances employees should not be allowed to receive any gifts at all.
 - When making gifts to business associates, confirm with the recipients' employers that they have permission to receive such gifts or provide gifts directly to recipients' companies.

- Inventory and stock control
 - Keep a master record of stock and update it immediately upon the receipt or sale of any goods.
 - Assign different employees to procure stock, verify its receipt, and write it off.
 - Conduct frequent spot checks without advance notice to ensure the quality of goods and deter staff from committing unlawful activities.
- Protection of confidential information (client information, bank and financial information, bidding tender information)
 - Implement procedures to prevent interdepartmental communication of confidential procedures (the need to know principle).
 - Establish an information security classification and management system. Install an advanced password system to prevent unauthorized access to computing resources. Grant access rights to confidential information on the basis of need to know.
- Employees
 - Prohibit employee involvement in securities or investments relating to the company's clients. Also prohibit company employees from engaging in personal business with clients, or at least require them to declare it.
 - Direct employees to decline gifts and lavish entertainment if it makes them obligated to the giver and if there is any doubt about the giver's motives.
 - Instruct employees to avoid compromising situations, especially when traveling abroad. Criminal elements may get to employees by, for instance, setting them up with prostitutes while staying in hotels abroad and arranging for them to get out of trouble with the authorities by cooperating with the criminals. If employees do get into trouble while traveling, they should first call their embassy and then their corporate headquarters.
 - Handle any written allegations of corruption or bribery, which often come in the form of anonymous letters, carefully and confidentially and seek professional help.

Implementing a code of business conduct makes employees aware of ethical principles, ensuring they are less likely to commit a transgression accidentally. At the same time the company proves that it has implemented its fiduciary duty. The guiding principles for a corporate code of conduct should cover the following:

- Conduct business affairs fairly and legally, irrespective of an individual's position or a company's standing and market share.
- Conduct business with integrity, fairness, and diligence.
- Be transparent and accountable.
- Avoid bribery, illegal gifts and commissions (kickbacks), embezzlement, misappropriation of funds, and insider dealing.
- Protect clients' confidential information, but ensure adequate disclosure of information to shareholders.
- Avoid and declare conflicts of interest. Also avoid related-party transactions, but if unavoidable, declare them.

SPECIALIZED ASSISTANCE

Private companies are available that can offer security and systems audits; guidance and training for management and staff; and, where necessary, investigation to help companies avoid prosecution, embarrassment, and losses. Law enforcement and other government agencies are unlikely to be interested until a criminal offense is reported, except for ICAC's Corruption Prevention Department

Services of considerable importance to corporations that wish to ensure that their operations in a foreign jurisdiction withstand close scrutiny by the authorities, by the international media, and by their own shareholders include the following:

- *Employee screening.* The overall objective of a personnel screening program is to protect client companies from hiring personnel who exaggerate, make false claims, or intentionally withhold information with regard to their qualifications, work experience, or background. Specifically, employee screening is intended to identify any inconsistencies, fabrications, omissions, or exaggerations on a candidate's resume; confirm the candidate's previous work experience and highlight any character weaknesses; and reveal any previous instances of criminal or civil misconduct. The depth of the investigation is dictated by the type of position to be filled. While checks on candidates for more senior positions are generally more comprehensive, the potential damage that can be caused by lower-grade employees should not be underestimated, as they often have access to sensitive information that could be highly marketable or damaging. Prospective employees should be informed about the screening and asked to sign a consent form.

- *Due diligence.* Corporate due diligence sheds light on an often complex web of relationships established to conceal the true picture. The process reveals ownership, associates, financial standing, and litigation history. The corporation's ethical and business practices and its contacts are also profiled and the implications for the client are assessed. Similar checks can be carried out to establish individuals' background, reputation, dealings, and credit ratings.
- *Vendor auditing.* Because it is so lucrative, purchasing fraud is one of the most common frauds. Among other checks, vendor auditing shows if the vendor is a properly established company and determines that its owners and/or directors are not involved with the client company. It also compares the vendor's prices with market rates and requires the vendor to sign an undertaking regarding corrupt practices.
- *Social accountability assistance.* This is available to ensure that a company's corporate reputation is maintained and that it carries out its business functions in a lawful, humane, safe, and ethical environment with respect to local and international laws and conventions.

Preventing Corruption in the Private Sector

■ **Tunku Abdul Aziz**

The private sector has always been part of the problem of corruption and remains as a major obstacle to ethical business behavior. Success in the fight against corruption in the private sector is even more difficult to determine than in the public sector. It is often illusory, and thus talking about success stories when facts are hard to come by is unrealistic. It is only since the beginning of the 1997 Asian crisis that the focus has shifted to the private sector. However, it is not all doom and gloom. Corporate governance measures now being introduced are beginning to make inroads. Minority shareholders, stakeholders, and others are becoming more vocal and demanding greater access to company information and board accountability. Nevertheless, it is early and the jury is still out. I will therefore focus on good governance as a basis for improved corporate sector behavior. Given the right climate, political will, and ethical leadership, it should lead to greater transparency and accountability in business transactions, and as a result, less corruption. The saying that prevention is better than cure is particularly apt in the context of corruption.

GOOD GOVERNANCE: A WIDER ASIAN PERSPECTIVE

The Asian economic crisis clearly demonstrated that if the region is to avoid a repeat of the devastating turmoil experienced at the end of the 20th century, Asian political and economic leaders must focus their undivided attention on reforming their political, economic, and social institutions and seeking ways to change public behavior and attitudes toward business ethics. The failure of many crucially important government institutions, weakened because of decades of chipping away at the foundations of the democratic mechanisms of checks and balances, was largely instrumental in wiping Asia's tigers and dragons off the world's economic radar screen in 1997. Three years on, the screen is still somewhat fuzzy.

Role of Governments

We cannot begin to discuss the role of the private sector in the fight against corruption without examining the part governments play in shaping the environment in which business is conducted. The Asian economic crisis had less to do with economics than with politics. At the end of the day, it is governments that set a country's moral and ethical tone, just as they were wholly responsible for developing the incestuous relationships with certain favored corporate sector entities that helped spawn crony capitalism in Asia.

Unsustainable Growth

Despite the obvious problems, the haste with which development institutions such as the World Bank, the Asian Development Bank, and the International Monetary Fund waded in to give their seal of approval to the high-growth Asian economies, holding them up as models of economic and financial management worth copying, was unseemly. These economies and the companies they spawned were hardly examples of probity and rectitude, either in the way they practiced their political or economic craft or how they calculated the long-term impact of their brand of business ethics on their countries' future. That these economies could be sustained without transparency and accountability was highly improbable.

Political Will and Ethical Standards

Given that political will is critical to the whole process of developing globally accepted standards of business integrity, its absence can only mean one thing: corruption is tolerated as a business necessity. The disregard for ethical business and political standards led to massive corruption and precipitated the economic turmoil that swept across Indonesia, Korea, Malaysia, and Thailand. It impoverished millions of innocent people who had the misfortune to live under political leadership that had completely ignored the time-honored obligation to protect the weak and advance, as James Wolfensohn of the World Bank once said, "the interests of the many over those of the few."

This is not to suggest that corruption was the sole cause of the Asian crisis. There is no doubt, however, that corruption in all its manifestations contributed significantly to the collapse of the Asian tiger economies. Mahathir Mohamad, the prime minister of Malaysia, was one of the first Asian leaders to deny that corruption was a factor in the collapse of the so-called miracle

economies, asserting that the crises had been caused by a collapse of the stock market, and not by corrupt and imprudent practices. How domestic commercial banks got themselves into serious financial difficulties in the first place was never publicly explained.

As already stated, the corporate sector was part of the problem. It was opportunistic and manipulated the often inadequately enforced laws and regulations to create a business environment that encouraged practices bordering on the criminal. The absence of effective compliance standards did not help matters.

CONNECTIONS: THE CURSE OF ASIAN BUSINESS?

Former Thai Prime Minister Anand Panyarachun, the man who gave Thailand the world's first anti-corruption national constitution, is particularly concerned about the role connections play in the Asian business equation. He says that while the Thais have adopted Western-style capitalism readily enough, this has created an internal contradiction, because they have continued to retain their system of patronage networks, a system built on connections to allocate values and resources. He believes that while personal connections can be innocent, they can become deadly because patronage is not based on merit, and therefore tends to breed inefficiency and corruption (Panyarachun 1998).

The private sector must accept the need for reform to bring about greater transparency and accountability in both domestic and international business transactions. It must develop a sustainable business climate by making it possible to conduct business ethically without resorting to corruption. It must put its house in order, for example, by developing and adopting an enforceable code of business ethics that specifically prohibits bribery and corruption.

The business community must realize that corporate life is not just about managing risk, making sound investment decisions, and coping with economic imponderables. It is also about what it can do as a group to bring about the sort of change that will create a new ethical and level playing field on which business can take place fairly and transparently. What all this means, in effect, is closing windows of opportunity for corruption, including cronyism, by institutionalizing the system of checks and balances.

It is enormously encouraging to see that corporate Asia is engaged in a flurry of activities to reform governance, not because of its deep-seated

inclinations toward high ethical standards, but simply because it has no choice. Globalization is the great arbiter. Corporate Asia has to reinvent itself to survive and prosper in the emerging economic order. What is significant about this is that it is largely self-motivated and self-driven, which means that it is likely to be sustained. Asia is badly in need of these various measures to curb corrupt business practices and to generate investor confidence.

ADDRESSING STRATEGIC GOVERNANCE ISSUES AND THE FIGHT AGAINST CORRUPTION

Reforms now being undertaken in East Asia cover, in varying degrees and intensity, areas of concern to the investing public. They represent a serious attempt to deflect international criticisms of corporate behavior that is perceived to fall well below global best practices. Standards such as those that characterized the Asian miracle economies are both ethically repugnant and, in pure business terms, self-defeating.

In any discussion of corporate sector corruption, the specter of moral hazard looms large. Krugman (2000, pp. 67–69) best illustrates this when he says the following:

Just open a bank, making sure it has an impressive building and a fancy name. Attract a lot of deposits, by paying good interest if that is allowed, by offering toasters or whatever if it isn't. Then lend the money out, at high interest rates, to high-rolling speculators (preferably friends of yours or maybe even yourself behind a different corporate front). The depositors won't ask about the quality of your investments, since they know that they are protected in any case. And you have a one-way option: if the investments do well, you become rich; if they do badly, you can simply walk away and let the government clean up the mess.

What we also should have noticed was that the claim that Asian borrowing represented free private-sector decisions was not quite the truth. For Southeast Asia, like Japan in the bubble years, had a moral hazard problem – the problem that would soon be dubbed *crony capitalism*.

Let us go back to the Thai finance company that borrowed the yen that started the whole process of credit expansion. What, exactly, were these finance companies? They were not, as it happens, ordinary banks: by and large, they had few if any depositors. Nor were they like Western investment banks, repositories of specialised information that could help direct funds to their most profitable uses. So what was their reason for existence? What did they bring to the table?

The answer, basically, was political connections – often, indeed, the owner of the finance company was a relative of some government official. And so the claim that the decisions about how much to borrow and invest represented private-sector judgments, not to be second-guessed, rang more that a bit hollow. True, loans to finance companies were not subject to the kind of formal guarantees that backed deposits in U.S. savings and loans. But foreign banks that lent money to the minister's nephew can be forgiven for believing that they had a little extra protection, that the minister would find a way to rescue the company if its investments did not work out as planned. And the foreign lenders would have been right: in roughly nine out of ten cases, foreign lenders to finance companies did indeed get bailed out by the Thai government when the crisis came.

One way or another, similar games were being played in all the countries that would soon be caught up in the crisis. In Indonesia middlemen played less of a role: there the typical dubious transaction was a direct loan from a foreign bank to a company controlled by one of the president's cronies. (The quintessential example was the loan that broke Hong Kong's Peregrine Investments Holdings, a loan made directly to Suharto's daughter's taxi company.) In Korea the big borrowers were banks effectively controlled by chaebol, the huge conglomerates that have dominated the nation's economy and – until very recently – its politics. Throughout the region, then, implicit government guarantees were helping underwrite investments that were both riskier and less promising than would have been undertaken without those guarantees, adding fuel to what would probably, anyway have been an overheated speculative boom.

I have quoted Krugman at length, because he has succeeded in encapsulating the problems of massive corruption perpetrated in a government-private sector nexus bent on abusing entrusted power, encompassing the fundamental principle of trusteeship and stewardship for personal profit. There are important lessons here to be learned by all countries as they face up to the vital need to develop an environment in which business transactions can be conducted without recourse to corruption.

Malaysia, after years in the denial mode, came clean in a public statement by Deputy Prime Minister Abdullah bin Haji Badawi (2000), in which he said:

It is a fact, that both you and I know, that the government engaged in many rescue operations during the crisis. A more laissez-faire government would have allowed many of our key companies to sink.

But if another crisis were to happen in the future, I am not so sure that we will be able to insulate ourselves and recover in the manner we did this time around. To put it simply, the government may not be able to afford another round of rescues. It is for this reason that the business community must realise that there can no longer be a moral hazard situation. As we face globalisation and move into a knowledge-based economy, time and money cannot be wasted on rescuing the mediocre. In the future, there will be less insurance against failure.

I am well aware of the rumblings and discontent among the professional business community that the government should not continue to protect those who have blatantly mismanaged their corporate empires and have repeatedly come back crying for help. I am aware that these criticisms are being made by Malaysians themselves and not merely by the foreign media or by foreign analysts and I am aware that many of these criticisms are valid.

In the case of the Malaysian corporate sector, its challenge is to put its house in order and redeem its tarnished image, an outcome of the unsavory role that many of its members played so enthusiastically in promoting a corrupt business culture. While the crisis was still playing itself out, it set itself the task of addressing the issue of good corporate governance, incorporating best practices. The result is the much-heralded 1999 “Report on Corporate Governance.”

The report emphasizes the need to strike a proper balance in satisfying the competing demands of business, namely:

- The company’s basic objectives
- Shareholders’ expectations
- Stewardship and trusteeship as a basis for ensuring that the interests of other participants in the affairs of the company are served and protected.

The report looks at good governance as a process rather than a structure, and makes it absolutely clear that the primary responsibility lies with the board. The composition and quality of its members individually and collectively are of the greatest importance. The role of effective and truly independent directors, particularly on the audit committee, in ensuring compliance with best practices cannot be overemphasized.

The report's main recommendations include the following:

- At least one third of the board should consist of people who are independent of the controlling shareholders.
- Board representation should reflect the interests of all shareholders, including minority shareholders.
- The board must disclose the procedures used in nominating candidates for election to the board.
- An independent institutional shareholder watchdog committee should be established to monitor and act in cases of abuse against minority shareholders.
- Each company should adopt a code of business ethics that will form the basis of the company's day-to-day management.

SECURITIES WATCHDOGS THAT BARK AND BITE

The days of unfettered excesses seem about to change for the better. The revamping of Malaysia's Securities and Exchange Commission to give it wider powers and the determination to deal with insider trading and to address such key regulatory principles as investor protection and market integrity will go a long way toward ensuring better corporate behavior. Recent successful prosecutions of "big names" have driven home the important point that wrongdoers do not only face imprisonment, but will also irreparably damage the reputation of their companies.

Experience indicates that publicly listed companies in particular are the most uncomfortable at the prospect of being exposed as perpetrators of serious breaches under the Company's Act. Nothing affects a company's fortunes more negatively than being disgraced nationally or internationally for rogue behavior. The implications are far-reaching, and the risks are not worth the effort. Singapore recently blacklisted Siemens, among other foreign companies, for attempting to bribe public officials to secure an unfair advantage in a multimillion dollar public procurement tender.

Shareholders have an important role to play in the fight against corruption and nepotism. They must be prepared to take serious interest in their rights and responsibilities. Although the primary responsibility for ensuring compliance with best practices remains with the board, shareholders have every right to require the board of directors to subject all their actions to public scrutiny.

A company's annual general meeting is the best occasion for shareholders to raise governance issues and to satisfy themselves that the company is complying with accounting and disclosure standards, as well as other approved procedures. Shareholders attending their company annual general meeting for a free lunch are hardly likely to develop an appetite or stomach for fighting corruption in the companies in which they invest their money.

CONCLUSION

Success in fighting private sector corruption will be judged by the degree to which the private sector is prepared to regulate itself within a legal and ethical framework that is now largely in place in many countries in the region. It is only in the context of ruthless, self-imposed, and regulated discipline, reinforced by a tough no-nonsense approach to law enforcement by incorruptible regulators, that real change is likely. The corporate sector has a special place in society and carries a heavy responsibility in contributing to the well-being and general welfare of the society in which it conducts business and of which it is an important component. To do this it must make a conscious and deliberate effort to denounce corruption by both word and deed.

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H. AN ANTI-CORRUPTION CORPORATE CULTURE

Chapter 18

A One-Stop Services Office

■ Mukti Asikin

A one-stop services office combines the operations of several licensing offices in one building, thus people who need to get various licenses and had to go to several offices, only need to visit one office.

The implementation of a good information system in a one-stop services office will not only reduce corruption, but will also increase the income of local governments, hasten the processing of public administration documents, affect local economic activities, promote transparency and good governance, and awaken society to the need for government oversight. In Indonesia prior to the establishment of such an office people had no access to clear information about the procedures for and costs of licensing, and government officers could easily cheat them.

However, this model is not easily implemented throughout Indonesia. The chapter tries to identify the reasons for this and to offer several solutions.

THE CURRENT SITUATION IN INDONESIA

The system of corruption is so pervasive that most Indonesians are “forced” to become involved in corruption. Citizens at all levels—police officers, members of parliament, military officers, journalists, judges, bankers, and business people—are generally trapped as the subjects as well as the objects of corruption. Given most people’s view that the situation is difficult to fix, many have surrendered to it.

Corruption at the level of the power elite started at the end of the 1960s, when President Soekarno gave military leaders economic access to raise funds to finance military activities and their own welfare. This was because the formal budget was insufficient and the government feared rebellion among the military (Hutabarat 1999). Long before he was elected president, Soeharto was a colonel and a successful military business operator. Corruption became worse early in the 1980s when President Soeharto started to give huge business

facilities to his family (Quah 1999). The same pattern continued with President Habibie, who was involved in a number of instances of corruption, including the misuse of reforestation funds and election irregularities. The public believed that President Wahid, who succeeded President Habibie, would introduce reforms to usher in a new era of clean government and good governance. In reality, in his first year in office he was involved in many corruption cases, and parliament is establishing a special committee to investigate the president's involvement.

Indonesia has a number of laws and institutions aimed at reducing corrupt practices. Laws include the Anti-Corruption Law (1971), the Anti-Bribery Law (1981), the Anti-Monopoly Law (2000), the Law on Official Wealth Reporting (1999), and the Consumer Protection Law (2000). As concerns pertinent institutions, these include the Finance Investigation Body, the Office of the National Ombudsman, and various levels of judiciary. Civil society strongly supports efforts to establish a clean government and good governance, as demonstrated by the emergence of such nongovernment organizations (NGOs) as Indonesian Corruption Watch and the Indonesian Transparency Society. In practice, however, all are powerless, because those of the power elite who are supposed to enforce the law are themselves corrupt.

THE ONE-STOP SERVICES OFFICE

The proposal to establish a one-stop services office arose from pressure from civil society and international institutions that had observed that corruption by government officials involved in issuing various kinds of licenses and official documents had become worse. over the years The project also arose from the government's desire to increase investment in industry through policy deregulation, which required simplified licensing. The deregulation was then supported by a 1996 policy package by the Ministry of Home Affairs regarding an integrated licensing service and one-stop licensing service in the regions.

Various licensing operations that had previously been performed by separate government offices were integrated into a single office. The licensing and other operations involved included the issuance of, for example, trading licenses, land certificates, birth certificates, identity cards, store rental contracts, and licenses to operate a variety of different kinds of businesses.

Gianyar Region

An integrated service unit (ISU) was established in the Gianyar region to provide transparent services. The establishment of the Gianyar ISU is believed to have resulted from the polling of civil society by the local government. The Gianyar ISU used the central government one-stop services office as a model.

The Gianyar ISU offers services for 13 kinds of licensing by the local government, which provides the ISU with equipment to enable it to provide service in two ways, that is, passive service, in which citizens visit the ISU, and active service, where citizens visit mobile units that travel throughout the region. Ninety-eight percent of ISU users prefer the current arrangement to the prior situation, citing as their reasons that they are now aware of the time the process takes and its costs. Within five years of the establishment of the ISU, the region's income increased by 400 percent. One reason for this was that the demand for licenses increased by 1,900 percent, indicating that the new system encouraged people who previously had not attempted to obtain licenses to do so.

Bandung City

Bandung's ISU provides 14 kinds of licenses. Previously, the various offices issuing licenses completed only 50 percent of the total submitted each year. The proportion completed has now reached 92.5 percent, and as of mid-2000, the income realized from licensing had reached 158 percent of the amount anticipated.

Sukoharjo Regency

The local government set up an ISU to repair the image of local government and to increase its efficiency and effectiveness. The Sukoharjo ISU currently issues 16 kinds of licenses, and performance indicators suggest that the time taken to issue licenses is now shorter than in the past.

Solok Regency

Solok's local government invited PT POS Indonesia, a state-owned company in mail delivery services, to jointly establish one-stop offices at post offices. Citizens who need to obtain licenses can now obtain 16 kinds of licenses by visiting their nearest post office.

Banjarmasin City

The city established an ISU in an attempt to reduce people's view that the licensing service was inefficient, ineffective, and a place where they were charged illegal fees. Banjarmasin's ISU provides 29 kinds of licensing services.

Advantages of ISUs

The advantages of ISUs for local governments are as follows:

- Illegal costs and fees are reduced.
- Services obtained through post offices that avoid direct contact between citizens and government officials reduce the possibility of corruption because of the absence of direct contact between license requesters and license grantors.
- Local government income has increased significantly.
- Broader cooperation has been achieved between government officials and local citizens.
- Local governments have reduced their dependence on the central government.
- The establishment of ISUs has helped prepare local governments for increased autonomy.
- The performance of local government officials has improved.
- People are once again beginning to trust local government officials.
- The availability of public services at low cost has increased people's awareness of the need to follow the rules.
- ISUs' use of computerized systems is increasing transparency and efficiency.
- The use of computerized systems has reduced possibilities for corruption.

The ISU system is expected to develop quickly and to spread to other regions.

OBSTACLES TO REPLICATION

Indonesia has approximately 358 regions. To date only 6 regions have one-stop services offices and another 74 are considering such offices. The reasons for this slow spread of the one-stop concept are thought to be as follows:

- Individual government officials do not want to lose the incomes derived from charging illegal fees, especially given that their monthly government salaries are sufficient to cover only 15 days of living expenses.
- The central government does not provide local governments with any funds to help defray the costs of setting up one-stop services offices, and many local governments use this as an excuse even when they have the necessary funds. The central government does not provide other kinds of assistance either.
- NGOs, local institutions, and society generally are not involved in helping local governments to establish one-stop services offices.
- The letter the central government sent to local governments asking them to establish one-stop service offices was not a directive, but merely an appeal to do so.

CONCLUSION

A one-stop services office can improve officials' work performance and help to eliminate corruption. Because it promotes transparency, professionalism, accuracy, and cost efficiency, it also helps boost local economic growth.

Therefore efforts to promote the establishment of one-stop services offices should be carried out in parallel with

- Reducing the number of unnecessary government licenses required
- Increasing the salaries of government officials
- Emphasizing the importance of this system to local institutions, NGOs, local governments, the mass media, and the public
- Supporting efforts by society and the press to monitor performance, so that existing one-stop services offices remain transparent and accountable
- Building an alliance between local institutions, local governments, the press, NGOs, and international organizations to persuade the central government to actively encourage the establishment of one-stop services offices nationwide and to have the political will to minimize corruption.

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Efforts to Create an Anti-Corruption Corporate Culture in Korea

■ **Zusun Rhee**

In recent decades, government-led economic development policy has been instrumental in the rapid development of Korea's economy. During this time, various approval and authorization rules and regulations were indispensable for carrying out this policy effectively. However, while these regulatory measures were effective, they also gave rise to increased opportunities for corruption. It was customary for government officials to award special privileges to certain companies or individuals in return for favors, thereby encouraging illegal political donations or bribes to influential politicians and civil servants. In addition, corruption proliferated throughout society because of authoritarian practices, strong regional and academic connections, sectarianism, and paternalism. As a result, the Korean government only sporadically monitored and punished corrupt government officials and politicians. Such sporadic anti-corruption measures have not been effective.

Globalization is rapidly increasing the interdependency between Korea and world markets. This means that Korean businesses now face fierce and unlimited competition in domestic as well as international markets. As a result, Korea's previous development strategy has become increasingly less viable. However, the existing collusive structure backed by abuses of authority and bribery persists because of the lack of fundamental change in institutional and incentive structures.

ANTI-CORRUPTION EFFORTS

Many Koreans believe that corruption was one of the main causes of the 1997 economic crisis. The government and businesses have also begun to recognize that collusive structures backed by corruption hinder competitiveness. Even though anti-corruption efforts are just beginning, this common recognition about the negative effects of corruption has

resulted in the systematic institutionalization of government anti-corruption measures and businesses' voluntary efforts to impose codes of business ethics.

To promote its anti-corruption policy, in 1998 the government ratified the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. That same year the government also passed the Act to Prevent Bribery of Foreign Public Officials. In 1999 the government established the Presidential Committee on Anti-Corruption (PCAC). The National Assembly is currently discussing the legislation underlying the proposed Basic Act on Anti-Corruption. In addition, since 1998 the government has been pursuing administrative and institutional reforms in an attempt to eliminate the fundamental sources of corruption.

Business associations such as the Federation of Korean Industries (FKI) have also started to adopt their own codes of business ethics and are encouraging their members to comply with them. The FKI announced its Charter of Business Ethics in 1999 and established the Committee on Business Ethics to promote the adoption of business ethics and to strengthen member firms' awareness of business ethics. In 2000 the FKI published its *Manual for Business Ethics Practice*. As part of its promotion efforts, in 2000 the FKI, four other leading trade associations, and the PCAC held joint seminars in Seoul and Pusan to encourage member firms to adopt codes of business ethics.

In the mid-1990s leading Korean businesses such as POSCO, LG, Samsung, and Hyundai began to prepare codes of business ethics; however, most of these codes were too abstract to put into practice. In 2000 a few large companies such as Korean Air and Shinsegae started to reinforce their business ethics codes and to introduce guidelines for business conduct. They have also established bureaus for business ethics as the driving engine for business ethics management. In general, however, businesses' efforts to promote business ethics management are still in their infancy.

Manual for Business Ethics Practice

The objective of the FKI's manual is to help member firms practice codes of business ethics and to help establish business ethics management systems. It consists of five chapters as follows:

- *How to prepare codes of business ethics.* The first chapter addresses procedural recommendations and details of codes of business ethics. The manual

emphasizes that any company introducing such a code for the first time should listen to feedback from its employees, including top management. It also recommends that codes contain the following: basic goals to achieve, guidelines for relationships with pertinent parties related to the company, concrete guidelines for compliance with the code, and a compliance pledge from all staff. The code should reflect a fair, sincere, and transparent relationship between the company and its shareholders, managers, employees, customers, neighborhoods, input suppliers, and competitors, plus the media and local and foreign governments and businesses.

- *How to establish a business ethics infrastructure.* The second chapter recommends that companies set up independent bureaus or committees for business ethics, and suggests details such as the committee's functions, the composition of members, operating principles and procedures, and inquiry and punishment mechanisms. It also provides guidelines for working with company whistle-blowers.
- *How to manage and operate the infrastructure.* For successful compliance, the third chapter urges that top management must have a firm belief about the importance of business ethics and should publicize its will to adopt business ethics through official documents, such as a charter of business ethics and guidelines for business ethics. Senior management should also take steps to encourage voluntary participation by employees.
- *How to educate employees about business ethics.* So that they can comply with the code, all employees should be aware of the business ethics requirements of their particular jobs. Thus ethics education should be tailored according to each employee's job requirements. The manual also suggests that companies prepare their education programs according to the hierarchical structure of their businesses, because employees' roles will differ depending on their position within the hierarchy. This chapter also proposes the content of an appropriate education program.
- *How to evaluate performance.* The fifth chapter addresses the assessment of business ethics programs. It recommends that businesses with ethics programs regularly evaluate the performance and effectiveness of their programs and make appropriate modifications and provides a checklist for assessing programs.

This manual is a comprehensive reference that shows businesses how to establish business ethics management systems. Currently, many FKI member businesses are independently and voluntarily committing to business ethics management.

CONCLUSION

As efforts by the Korean corporate sector to develop an anti-corruption management culture are still in their infancy, it is too early to be able to evaluate the performance of business ethics management systems. However, we can observe progress in the establishment of pertinent legal and institutional arrangements. The PCAC has supported the various corporate efforts through such activities as seminars and conferences related to anti-corruption and business ethics. It also supports the establishment of anti-corruption programs for government officials and strongly supports public sector reform, including regulatory reform. These cooperative efforts by the government, trade associations, and businesses will eventually yield positive results.

I. CORPORATE GOVERNANCE

Partnerships between the Public and Private Sectors to Fight Corruption Linked to Organized Crime

■ Keijiru Kimura

The Japan Federation of Bar Associations (JFBA) is the national professional organization of lawyers, organized under the Lawyers' Act. Membership by lawyers practicing in Japan is mandatory, and the JFBA currently has about 20,000 members. The JFBA is involved in such activities as research, analysis, and formulation of policy proposals on a range of legal issues. The Lawyers' Act specifies that the mission of lawyers is to protect human rights and realize social justice. The Japanese bar has taken this concept seriously, and over the years has set up a number of committees to deal with various human rights issues.

One such committee is the Anti-Racketeering Committee, established in 1980 to protect legal rights infringed by the Japanese Mafia. The JFBA felt obligated to take steps on this issue, because the police were reluctant to deal with problems that seemed to them to be merely private disputes, for example, people threatened by loan sharks in the process of debt collection. In addition, individual lawyers were generally reluctant to undertake such cases because of the fear of violence.

The JFBA and its committees are usually not involved in individual cases; however, it does provide some assistance to help lawyers discharge their mission under the Lawyers' Act. In the area of anti-racketeering activities, the JFBA has attempted to establish an appropriate relationship between lawyers and the police department, so that lawyers and the police can cooperate to tackle racketeering. This cooperation has resulted in many successful cases, including eviction actions against Mafia offices, lawsuits against Mafia bosses under employment doctrine, and injunctions against organized crime.

STRENGTHENING CORPORATE GOVERNANCE

As the members of the Anti-Racketeering Committee gained experience and a deeper grasp of racketeering problems, their interest moved beyond victims in specific cases. In 1990 Japan enacted a statute specifically targeting the Mafia. Nevertheless, organized crime groups continue to have access to significant human and financial resources.

The reason for this is simple. Some people need the services of organized crime groups and provide money to them, and as a result the Mafia are embedded in Japanese society. Thus if Japan is serious about addressing racketeering problems, it must address the “supply side” of the Mafia’s power. During the latter half of the 1990s, it was generally recognized that many leading, prestigious companies continued to pay large amounts of money to *sokai-ya* (defined below). Believing that the improvement of corporate governance was a major anti-racketeering measure, the Anti-Racketeering Committee set up a subcommittee on corporate governance.

Sokai-ya

The term *sokai-ya* generally refers to a person who has obtained voting shares of a company and who, in the guise of exercising shareholders’ rights, threatens to disclose scandals at the shareholders’ meeting or to disrupt the meeting in order to get benefits, other than dividends, from a company in the form of consultant fees, subscription fees to certain publications, or “voluntary” contributions. Such payments are generally referred to as cooperation money.

The history of *sokai-ya* can be traced back to as early as 1899, when Japan enacted its first Commercial Code. During the 1960s *sokai-ya* started to establish close relationships with the Mafia, and the money flowing to *sokai-ya* constitutes a financial resource of the Mafia. The *sokai-ya* problem has become an organized crime problem.

Companies are not necessarily seen as victims of *sokai-ya*, because they have sometimes paid money to them to subdue interruptions by other *sokai-ya*, and even by active shareholders. In 1981 the government amended the Commercial Code to make the provision of benefits to shareholders in connection with the exercise of shareholders’ rights illegal. Until that time, corporate staff in charge of shareholders’ meetings tended to have friendly talks with *sokai-ya* and give them money to assure the smooth conduct of meetings. Following the amendment of the Commercial Code, the number of

sokai-ya appears to have decreased dramatically; however, they have not disappeared. Surviving *sokai-ya* simply became more subtle in obtaining money from companies.

A look at several criminal cases reveals the seriousness of the problem. These include a famous bank that loaned *sokai-ya* more than US\$100 million, a leading security company that gave them more than US\$3 million through security deals, and other such cases where large sums were funneled to *sokai-ya*.

As the *sokai-ya* problem is unique to Japan, it may be difficult for non-Japanese to comprehend why many Japanese companies paid such large amounts of money to *sokai-ya*. An understanding of Japanese shareholder meetings may help. Traditionally these are ceremonies to showcase the authority of the company's management, therefore long shareholders' meetings that involve the disclosure of a scandal or other embarrassing information will damage a company's image.

The mission of the employees in charge of the meetings was to prevent such embarrassment and "negotiate" with *sokai-ya* for that purpose. In most cases top management people were not actively involved; they simply took it for granted that someone would deal with the problem. It is thus no surprise that these employees, who could not consult with police or lawyers, would pay money to *sokai-ya* to attain their objective.

Japan's business sectors have recognized the *sokai-ya* problem and business associations have repeatedly indicated the need for appropriate frameworks of corporate ethics and corporate governance. The government, especially police agencies, is also concerned because the benefits *sokai-ya* derive from their activities go to the Japanese Mafia. This concern is underscored by a 1994 comment by the head of the police department, who stated that the department does not have an interest in companies' past if they reported the facts and severed the relationship with *sokai-ya*.

Nevertheless, scandals related to *sokai-ya* have continued among large Japanese companies. Corporations' monitoring systems (boards of directors, outside financial auditors, and so on) do not work as expected by law, perhaps because of the tacit consent by senior management on how to deal with *sokai-ya*. In addition, criminal sanctions do not work as well as preventive measures, perhaps because to impose criminal sanctions, malicious intent must be proven, and a failure to monitor improper conduct, even though it was caused by gross negligence, is not grounds for prosecution. Under this system senior management

do not face any meaningful legal sanctions, unless they are actually involved in a *sokai-ya* deal.

Members of the Anti-Racketeering Committee have discussed whether a company is a victim of *sokai-ya* or a target of the committee. While the committee has not reached a unanimous opinion, its members agree that companies need to strengthen their corporate governance and monitoring. Some members are attempting to address the issue by using shareholder derivative suits against company directors. By using private lawsuits, the defendants are not only the staff directly involved in *sokai-ya* deals, but also senior management or other directors implicated because of their failure to monitor payments to *sokai-ya*. The Takashimaya case is a leading example of this type of shareholder derivative lawsuit, employed as an anti-racketeering measure.

THE TAKASHIMAYA CASE

Takashimaya, founded in 1831 and one of Japan's most prestigious department stores, found itself to be one of the most notorious after the media disclosed its complex relationship with the criminal underground. In connection with the 1981 amendment of the Commercial Code, Takashimaya, which had stopped payment to certain *sokai-ya* groups, was afraid that these groups might disturb shareholders' meetings and that the president at the time would not be able to manage the meeting effectively because of his health.

Takashimaya's General Affairs Section decided to ask a Mafia boss to settle all these issues, and paid him -60 million per year (about US\$0.5 million per year), and -80 million per year after 1991 until the disclosure by the media. The Prosecutors' Office indicted a director, an executive director, and staff of the General Affairs Section. Even though the criminal cases were limited to payments of -160 million to the Mafia, it was quite obvious that Takashimaya had paid much more during its long-term relationship with the Mafia.

After the criminal investigation, a lawyers' group decided to bring a shareholder suit against all the company's directors to recover the -160 million. Many members of the Anti-Racketeering Committee joined the litigation, based on the understanding that the management of Takashimaya were not victims, but people who had assisted organized crime through their negligent conduct. In response to the complaint, all the directors except those directly involved in the deal, but including the president and the directors in charge of financial affairs, alleged that they knew nothing, even though more than -80 million per year have been lost from corporate funds during a period of more than 10 years

because of a total lack of corporate governance and of a fundamental sense of responsibility.

The case was settled, as all the defendants acknowledged their legal responsibility and agreed to repay -160 million to Takashimaya. Because the case was brought for policy, not monetary, reasons, measures to assure corporate governance were incorporated as part of the settlement. Takashimaya agreed to open shareholders' meetings to the media to enhance transparency, to further strengthen the role of its Legal Affairs Section in severing any relationship with the Mafia and *sokai-ya*, to cease paying cooperation money to dubious entities, and to strengthen the role of the Business Monitoring Section. The corporate governance of Takashimaya has been restored.

CONCLUSION

The *sokai-ya* problem is unique to Japan; however, the lessons learned have broader implications.

- The Takashimaya derivative suit was made possible by the lead provided by the criminal investigation. If conducted by the private sector alone, evidence gathering would be too burdensome. Yet strictly governed criminal procedures have their own constraints and may fail to target all the individuals involved. As the lawsuit targeted directors' who failed to monitor the behavior of company employees, directors not directly involved were sent the message that they could be prosecuted even in the absence of direct involvement.
- Once a company has become involved with the criminal underground, severing the relationship is difficult; therefore preventive measures are important. For this purpose, strengthening corporate governance and monitoring within the company, especially the establishment of a compliance program, is necessary. However, in some cases companies cannot change their attitudes by themselves, even to correct actions they know to be prohibited, without the "assistance" of efficient law enforcement.

Cooperation between the public and private sectors is desirable for such efficient law enforcement, especially as civil measures have a longer reach than criminal ones. Considering the important role of the private sector, the infrastructure to facilitate private law enforcement, especially measures to correct corporate governance and enforce compliance programs, should be incorporated into the legal systems of each company.

Measuring Corporate Corruption in Korea

■ **Jhung-soo Park**

Corruption represents costs in terms of time and money, but it also creates an environment of uncertainty in the operations of firms. Corruption is an outcome of fundamental economic, political, and institutional causes. How do businesses live with corruption? Do they benefit from it more than they suffer? Is it in firms' interests to fight corruption? Are some groups of firms more transparent than others? These are the major concerns of Korea's business sector in relation to corruption.

Taking a stand against corruption can be costly and risky. Businesses may be better off individually and collectively in a corruption-free environment, but they may be reluctant to push for necessary reforms. This situation is a good example of Olson's (1965) paradox of collective action, often referred to as the free-rider problem. At the same time, when its competitors are free to continue to engage in corruption, for a company to try to change the rules of competition and refrain from participating in corruption is difficult, an example of the so-called prisoners' dilemma.

Until the 1997 financial crisis, Korea's economy had been developing rapidly for the previous 40 years. From 1962-96 it had been growing at an average annual rate of nearly 8 percent in real terms (Sakong 1993, pp. 28-29). However, Transparency International's 2000 Corruption Perception Index, which highlighted the perspective of public officials taking bribes, ranks Korea as 48th among 90 countries (table 21.1). In addition, the Bribe Payers' Index (BPI) for 2000 ranks Korea 18th among 19 countries (table 21.2). This could be explained by the persistent and opaque government-business relationships and the long duration of the practice of accepting graft and bribery as necessary evils.

Table 21.1
Corruption Perception Index, Selected Countries, 2000

Country Rank	Country	2000 CPI Score	Surveys Used	Standard Deviation	High-Low Range
1	Finland	10.0	8	0.6	9.0-10.4
2	Denmark	9.8	9	0.8	8.6-10.6
3	New Zealand	9.4	8	0.8	8.1-10.2
	Sweden	9.4	9	0.7	8.1- 9.8
5	Canada	9.2	9	0.7	8.1- 9.9
6	Iceland	9.1	7	1.1	7.3- 9.9
	Norway	9.1	8	0.7	7.6- 9.5
	Singapore	9.1	11	1.0	6.2- 9.7
10	United Kingdom	8.7	9	0.6	7.3- 9.7
14	United States	7.8	10	0.8	6.2- 9.2
15	Hong Kong, China	7.7	11	1.2	4.3- 8.6
23	Japan	6.4	11	1.3	4.3- 7.8
48	Korea, Rep. of	4	11	0.6	3.4- 5.6
63	PRC	3.1	11	1.0	0.6- 4.3
	Egypt	3.1	7	0.7	2.3- 4.1
90	Nigeria	1.2	4	0.6	0.6- 2.1

Table 21.2
Bribe Payers Index, 2000

Rank	Country	Score	Rank	Country	Score
1	Sweden	8.3	11	Singapore	5.7
2	Australia	8.1	12	Spain	5.3
2	Canada	8.1	13	France	5.2
4	Austria	7.8	14	Japan	5.1
5	Switzerland	7.7	15	Malaysia	3.9
6	Netherlands	7.4	16	Italy	3.7
7	United Kingdom	7.2	17	Taipei, China	3.5
8	Belgium	6.8	18	Korea, Rep. of	3.4
9	Germany	6.2	19	PRC	3.1
9	United States	6.2			

Rapid economic growth has been controlled by an economic system of regulated capitalism, in which the government either directly participates in, or indirectly renders guidance to, basic industries and other important sectors, including the financial sector. Korea is one of several countries where government intervention in the market, especially in the financial arena, is extensive. This system involves extensive regulations, which became the root causes of corruption. A business environment vulnerable to corruption and with a weak commitment to ethical behavior in its daily transactions may therefore be seen as the product of a coalition between the state and emerging economic entities (so-called *chaebols*, or giant corporate groups and trusts), which benefited from an expansion of state control.

Since the 1997 financial crisis it has become imperative for Korea to increase the transparency of its market economy. Government policies should also be directed toward eradicating corruption by introducing and implementing various initiatives to uproot corruption, focusing first on the public sector.

THE CONCEPT OF CORPORATE CORRUPTION

Examples of corporate corruption include patronage appointments, bribery, misuse of authority and power, and favoritism in awarding contracts (Jain 1998, pp. 13-29). Most of these examples center around deriving economic benefits from institutional power inherent in political and bureaucratic appointments, that is, public sector corruption.

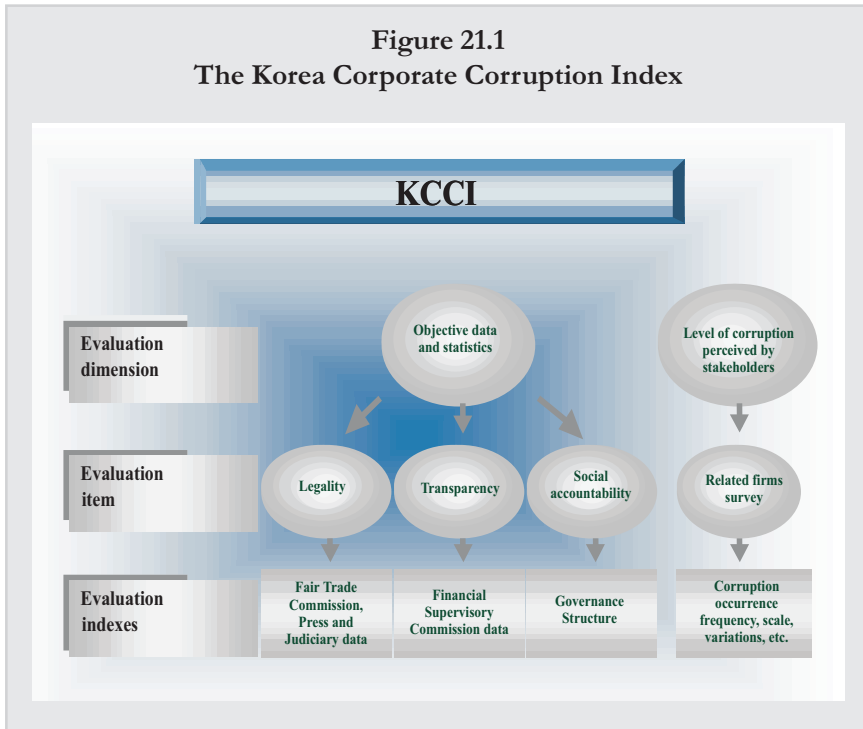
Tanzi (1996) and many others recognize that corruption involves personal relationships, and may even represent informal markets where formal ones have either failed or been circumvented. A broad definition of corruption, which is discretionary violation of an arm's-length principle, could be used as a definition of business corruption.

THE KOREA CORPORATE CORRUPTION INDEX

While a few studies assess the extent to which companies have adopted various practices associated with a corporate ethics program, few have measured individual business corruption practices. Recently, investigators have devised some measures that evaluate the performance of countries or of district governments, such as Transparency International's Corruption Perception Index and Bribe Payers Index, the Institute for Management Development and World Economic Forum's *Global Competitiveness Report*, and the Seoul Metropolitan Government's Anti-Corruption Index. However, corporate

corruption involves various stakeholders, such as owners, managers, outside stockholders, banks, customers, competing firms, suppliers, employees, and the government.

The Korea Corporate Corruption Index (KCCI) includes two components: the corruption perception evaluates the level of integrity of an individual firm based on related firms' experience and self-evaluation by employees, and the level of corruption evaluates an individual firm's activities using authoritative and objective data and statistics (figure 21.1). Even in the case of a data disclosure problem, the level of business corruption can be assessed by three aspects of this model. The first aspect is the extent to which firms' abide by the current legal system, such as the extent to which they engage in tax evasion and bribes. The second aspect assesses firms' transparency by looking at the level of information disclosure and the accuracy of accounting information. The third aspect looks at social accountability, that is, firms' social responsibility and contributions to society. Survey measurements complement this data.



EXPERTISE SURVEY

A first round expertise survey conducted from 7–31 August 2000 served as a validity test of the KCCI. The respondents were chief executive officers, lawyers, accountants, professors, researchers, government officials, and nongovernment organization activists, of which 195 of the 1,000 sent questionnaires responded.

The survey indicated that the business environment in Korea is considered extremely vulnerable to corruption. Tax evasion, bribery, embezzlement of public funds, fake accounting, dual bookkeeping, money laundering, off-book money, stock trading based on insider information, excessive hospitality costs, provision of political campaign funds, special favors from the government action, and transactions without receipts are reported as very serious. The five items rated as the most important contributors to business corruption by respondents are tax evasion (68.4 percent), bribery (40.9 percent), provision of political campaign funds (37.3 percent), fake accounting (36.8 percent), and double bookkeeping (26.9 percent).

Respondents considered the most serious characteristic of business corruption to be its illegality, its lack of transparency, and the absence of social accountability, in that order.

In response to the question about which group benefits the most from corruption and which is harmed the most, 85.1 percent of the respondents said that the business owner benefited the most, and 56.9 percent said that the customer or the general public was the most harmed.

When asked about the root causes of business corruption in Korea 37.2 percent of the respondents cited endemic social tolerance of corruption practices, 25.9 percent cited pervasive government regulation, and 20.6 percent cited unethical and immoral characteristics of business owners.

Finally, when asked who in a firm was responsible for decisionmaking in relation to corporate corruption, 63.6 percent of respondents cited owners, 16.9 percent cited managers, and 12.8 percent cited chief executive officers. This assignation of blame concurs with government thinking and the government's current reform initiative in relation to corporate governance structures.

CONCLUSIONS AND LESSONS LEARNED

Corruption cannot be fought by political and government action alone. The private sector must do its part by complying with anti-corruption laws and transparency principles, supported by citizens and nongovernment organizations.

Measurements of individual firms level of corruption provide information as important as the measurement of public corruption for combating corruption in society as a whole. The Seoul Institute for Transparency plans to measure corruption levels among major Korean firms categorized by industry in 2001 using the KCCI and hope to have an effective part to play in the fight against corruption.

Corruption is bad for business and business is bad for corruption. Corruption may benefit some firms, but creates problems for all others. Most firms would rather operate in an environment in which the rules of competition prevail and where firms' productivity is rewarded. Such firms can be enlisted as allies in the fight against corruption. Thus even though much of the focus to date has been on what governments need to do to combat corruption, if efforts to counter corruption are to succeed, the private sector needs to be drawn into cooperating in the same battle. The evidence clearly demonstrates that businesses are on the supply side of corrupt practices (Johnston 1999). That said, the abolition of corruption involves work not only on the demand side—the recipients of bribery—but also on the supply side—the givers of bribery.

Successful governance improvement and anti-corruption programs depend on public availability of knowledge and information plus collective action (World Bank 1997). Corruption is not a disease that can be cured by a single dose of medicine, but a symptom that needs to be treated by a systematic and strategic political, economic, and social effort.

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