



Corruption

Is government's approach good enough?

This debate organised by the Centre for Development and Enterprise took place on 28 May 2001. The speakers were Muthanyi Ramaite, director-general of the department of public service and administration; Colm Allan, director of the Public Service Accountability Monitor, based at Rhodes University; and Professor Siphon Seepe, principal of Vista University's Sebokeng campus. The debate was chaired by Tom Boardman, chief executive officer of BOE Bank.

What the speakers had to say ...

Muthanyi Ramaite opened the debate, emphasising that South Africa could not afford corruption, given its stage of development and the socio-economic goals it had set itself. Government's attitude was that corruption should not be tolerated and should be tackled urgently and systematically. However, this was an area where one could never say enough had been done, and where continuous vigilance and improvement were needed.

It was also important to recognise that corruption was not a problem confined to the governmental sphere, and that government was not solely responsible for dealing with it. It was a societal problem with domestic, regional and international dimensions. The real question was whether the whole country's approach to corruption was good enough. The fight against it demanded a collective effort involving business and organs of civil society as well as the state.

In line with its recognition that corruption had to be addressed comprehensively, government had in 1997 brought together different sectors of society with the aim

of developing a broad anti-corruption strategy. This led in 1999 to an 'anti-corruption summit', as a result of which government, business and representatives of civil society formed the national anti-corruption forum. Comprising 10 representatives of each constituency, the forum was mandated to make policy inputs and monitor the anti-corruption efforts of all three sectors. This forum had been meeting for some time and was due to release a report in the near future on what had been achieved since the summit.

In addition, since 1994 government had put in place a variety of institutional, regulatory and legislative systems designed to combat corruption. Indeed, it might be thought that there were too many bodies now working in this field, including the National Director of Public Prosecutions, the Public Protector, the special investigating unit formerly headed by Judge Willem Heath, and the Public Service Commission. Every government department of note also had an anti-corruption unit. Government had monitored some of the institutions,

notably the directorate of prosecutions, and there was 'some satisfaction' with their performance.

The current legislative provisions were quite comprehensive, and included the law protecting 'whistle-blowers', the Promotion of Access to Information Act, improved access to information on such matters as procurement, and legislation enabling the state to recover the proceeds of crime.

In addition, there were strict requirements relating to the conduct of public officials. For example, directors-general and other senior public service managers were required to disclose their financial assets. The same applied to elected representatives.

On the administrative front, the Public Finance Management Act obliged all institutions that received state funds to set up internal and external audit committees to ensure adherence to strict financial standards, and to devise anti-fraud plans. The systems and legal instruments set in place by government were now working fairly well.

Important areas of weakness remained, however. To strengthen overall governmental accountability, it was important that information should be publicly available about the extent of corruption in government and what was being done about it. Such information was currently not available, or not kept centrally. South Africa had

Forms of corruption

Corruption involves the misuse of office or information for personal gain. Conceptions of what actually constitutes a corrupt act may vary at different times and in different places – but around the world today there is broad agreement that certain actions are 'corrupt' and damaging to public life. These include bribery, extortion, fraud and embezzlement, insider trading, kickbacks and nepotism. It is generally not too difficult to know whether a transaction involves corruption. Everyone understands the difference between a gift and a bribe. A good test of the distinction between honest and corrupt dealings is whether the parties involved are prepared to be open about them.

Corruption is damaging in many ways. Corrupt politicians and officials are less concerned about serving the public, and more concerned to serve their own interests. Where corruption is allowed to flourish it severely distorts incentives, undermines investment, and leads to spiralling waste and inefficiency, the development of predatory elites, and the alienation of citizens from the state.

WHAT ARE THE CDE DEBATES?

CDE debates are intended to explore important issues, and identify challenges facing policy-makers and citizens. In this way, CDE hopes to inform public opinion. This publication is widely distributed and publicised as CDE's contribution to stimulating debate on the issue in question.

now entered into an agreement with the United Nations office for drug control and crime prevention, in partnership with five other countries, to carry out a corruption assessment in each of the participating countries. This would help to determine the extent of the problem in South Africa, identify shortcomings in government's approach, and establish benchmarks to determine how corrupt South Africa was relative to other countries. This was very different from the surveys carried out by Transparency International, which were based on perceptions and were bound to contain distortions.

On the international front, South Africa was party to a number of agreements on corruption but was not yet fully compliant with their requirements, for example on the provision of information.

The country's legislative framework also suffered from certain shortcomings, and would be reviewed. The key concern was that more sophisticated forms of corruption had emerged with the modernisation of the economy. The problem went beyond the simple bribery of state officials, and encompassed the abuse of public resources for self-enrichment or any other purpose.

There was a tendency in South Africa to focus on the most visible corruption at the highest levels, while some of the worst forms of abuse that really damaged the service delivery system and the economy were often to be found lower down. For example, working with the department of health, the public service department had uncovered the large-scale theft of up to R40 million-worth of medicines from the Chris Hani-Baragwanath Hospital in Johannesburg. Driven by criminal syndicates far from the public eye, this had the effect of denying citizens access to medical care. Petty corruption, involving traffic police, for instance, or the theft of examination papers, was also an issue that needed monitoring. Government had enjoyed some success in dealing with corruption of this kind in Mpumalanga, but this had not been reported by the media.

To sum up, government had done much to address the regulatory and systemic issues and to set up the necessary institutions. Solid progress could be reported, although there was a need to improve access to information on levels of



corruption so that the gravity of the problem in South Africa could be assessed and seen in perspective. Institutions fighting corruption needed to be rationalised, and legislative frameworks improved and modernised. But corruption in government was only one dimension of the problem – corruption in the private sector also had to be addressed. Through the anti-corruption forum, attention also had to be given to the issue of moral regeneration raised by former president Nelson Mandela, so that the whole of South African society could be mobilised.

Colm Allan argued that the public sector necessarily had to be the main focus of any anti-corruption campaign. If funds were misappropriated in private companies, management would soon take action. The tax-paying members of the public were ultimately the financiers of the state sector.

Government had to be measured not only by what it was saying about corruption but also by the actions it was taking to combat it. The priorities had to be to change the organisational culture – the idea that it was acceptable to abuse public office for private gain – as well as the institutional context and working practices that made it possible for people to act corruptly.

“
If public officials believe government is not entirely committed to combating corruption, they are likely to abuse their positions
”

The very first question to ask was whether government consistently made public pronouncements that demonstrated its unwavering rejection of corruption. If public officials believed government was not entirely committed to combating corruption, they were likely to abuse their positions. As the philosopher William Thomas had observed, things people perceived as real were real in their consequences.

In March this year the Public Service Accountability Monitor (PSAM) conducted a survey on how public officials in the Eastern Cape capital of Bisho perceived levels of corruption. Forty-four per cent of respondents agreed with the statement that the number of corrupt acts in government and society had risen since the advent of democracy. Only 30 per cent disagreed. Nineteen per cent believed most or almost all officials in national government were involved in corruption, while 22,5 per cent believed most or almost all provincial government officials were corrupt. It was worth noting that 89 per cent of the officials surveyed by PSAM classed themselves as African South Africans. Surveys conducted among the general public by Idasa had found that even higher percentages of the respon-

dents believed corruption was rife. A survey conducted in 1995 had found that 46 per cent of the public believed most or almost all state officials were involved in corruption, and by 1998 this had increased to 55 per cent.

What was government doing to counter perceptions such as these that it was soft on corruption? In fact it had been very selective and partial in its condemnation of corrupt acts or conflicts of interest involving officials and politicians, and this had given rise to a perception that it lacked the political will to expose and combat corruption.

For example, the national government had failed to condemn Mpumalanga premier Ndaweni Mahlangu for reappointing Steve Mabona as safety and security MEC in 1999, after the latter had been forced to resign for his part in issuing a fraudulent driver's licence to the deputy speaker of parliament, Baleka Kgositsile. It had said nothing about Mahlangu's appointment of Jacques Modipane as finance MEC, even though the latter was under investigation by the police and the Heath unit for his alleged part in the Mpumalanga promissory notes scandal. There had been no government response to Mahlangu's statement that it was acceptable for politicians to lie.

In yet another high-profile case receiving national attention, government had said nothing about the alleged breach of parliament's ethics code by the ANC chief whip in the national assembly, Tony Yengeni. Nor had government reacted to the disclosure that the Eastern Cape health MEC, Bevan Goqwana, was running a private ambulance service and medical practice. Indeed, provincial premier Makhenkesi Stofile had said he had granted permission for such business activities, making himself party to a breach of the Executive Members Ethics Act. The premier's wife, Nambita, was the director of two companies under contract to provincial government departments, yet the premier had dismissed suggestions of a conflict of interest. There were many other examples of such inconsistency.

It was true that government had created an impressive framework of laws, backed up by various agencies, but these laws were worthless if they were not implemented. A number of cases in the Eastern Cape raised questions about whether the regulatory framework was being applied. A public works inspector accused of defrauding his department of R450 000 had been suspended on full pay for four and a half years. Only after pressure from the PSAM had he been recalled to office and charged with misconduct. An accountant had been arrested five years ago for trying to defraud the transport department of R1 million. The criminal case against her had been withdrawn after the docket had gone missing, and she had not yet

been charged. In cases such as these it was crucial to make use of provisions to under-



How to deal with corruption

How can corruption be controlled? Drawing on his extensive studies of successful campaigns to reduce corruption in Hong Kong, Singapore, Mexico, and other countries, the development economist Robert Klitgaard cites the following strategic lessons:

■ First, **fry the big fish**. Big corrupt actors must be publicly named and punished before a cynical public will believe that an anti-corruption effort is more than words. Importantly, the first big fish must come from within the party in power.

■ Second, **begin bureaucratic reforms with positive steps that help civil servants**. In particular, work with bureaucrats to define organisational objectives and ways to measure success, and then link part of their compensation to the achievement of results.

■ Third, after frying a few big fish, **focus on prevention**: reduce monopoly, clarify discretion, enhance accountability, increase the probability of being discovered, and pay people for excellent performance, including reducing corruption in areas they manage or as 'whistle-blowers'.

■ Fourth, **have a strategy**. This may sound obvious, but in fact most so-called anti-corruption campaigns are not strategically focused, and do not target priorities and then tackle them systematically. Having a strategy involves analysing corruption as a crime of calculation and as a function of corrupt systems rather than (just) corrupt individuals, and developing a clear idea of ends and means in the short, medium and long terms – with the result that corruption, although it will never disappear, may be kept to a minimum.

Based on Robert Klitgaard, *Controlling corruption*, University of California Press, 1988; and Robert Klitgaard, Ronald MacLean-Abaroa, and H Lindsey Parris, *Corrupt cities: a practical guide to cure and prevention*, ICS Press and World Bank, 2000.

take internal investigations, and officials should be brought promptly before disciplinary hearings.

In a broader perspective, it had to be said that the police and the directorate of public prosecutions had achieved very uneven results in tackling corruption; and it was disturbing that the Heath special investigating unit had been all but incapacitated by the executive arm of government after attempts to involve it in the arms deal inquiry. Finally, it was worth noting that, although an anti-corruption law had been placed on the statute book in 1992, there had not yet been a single conviction in terms of this legislation.

Professor Seepe said it was not helpful to hide behind or appeal to international benchmarks comparing levels of corruption with those in other countries. Besides, South Africa was not doing well anyway, and South Africans shouldn't try to exonerate themselves by pointing out that others were even worse.

They knew that certain things were wrong without having to refer to conditions elsewhere. It was a source of pain to him that the country was constantly confronted by scandals involving people formerly involved in the struggle against apartheid. The looting of government funds by officials with struggle credentials was so commonplace that it was no longer shocking. Former president Nelson Mandela had expressed bewilderment over the fact that

those who fought against apartheid had turned out to be as corrupt as the regime they had struggled against. To explain how victims of oppression and the denial of human rights could do such things, one had to look at the broader context.

Accountability was key. The idea of corruption made no sense to autocrats because they were not accountable. Accountability only functioned properly in a context of competing interests where those in power could be challenged. The dominance of the ANC meant that there was virtually no pluralism in black politics.

New opportunities had arisen for former anti-apartheid activists to win positions of power and influence. Former comrades jockeyed and stabbed each other in the back in a struggle for top positions, and ingratiated themselves with the political leadership. The politics of self-interest and narrow ambition replaced the spirit of altruism.

Furthermore, Thabo Mbeki's presidency had consolidated power at the centre. People were instructed to keep debates inside the party and were discouraged from challenging the leadership. Loyalty was rewarded with protection. Mpumalanga premier Ndaweni Mahlangu had been condemned by a wide cross-section of South Africans, including Archbishop Desmond Tutu, but the president had responded by accusing them of lacking compassion and a spirit of forgiveness.

Corruption appeared in many guises. Dubious appointments were one form of corruption.



So, too, was extravagant expenditure on such projects as the R300-million Mpumalanga government complex and a presidential jet, while people were dying of AIDS.

The cost of corruption was the weakening of the public's confidence in democracy. Widespread corruption would undermine the relationship of trust between gov-

ernment and the governed if not checked vigorously, and ordinary people would become estranged from government and politics. In the long run, they would come to accept that it was futile to use official or democratic channels, and that the most effective way to deal with government was by corrupt means.

Points raised during open discussion ...

- To what extent has civil society actively engaged government on the corruption issue?
- Are existing public service labour procedures an obstacle to anti-corruption efforts? A case was mentioned where a head of department in the Gauteng government had been dismissed for corruption after a lengthy internal disciplinary inquiry. The Commission for Conciliation, Mediation and Arbitration (CCMA) had overturned the dismissal as unprocedural. Two other officials involved in the same case had simply been transferred to different departments, and had escaped censure altogether. The point was made that unless there was exemplary punishment, as in Singapore, corruption and maladministration would continue unabated.
- To what extent are allegations of corruption against the government used to engender Afro-pessimism? On the other hand, is government evading its responsibility for tackling corruption by playing the race card?
- How reliable are surveys of public perceptions of corruption in South Africa? Are critics of government generalising from ill-explained research methods and anecdotes?
- Is there an excessive focus on government's shortcomings, while private sector corruption is understated?
- Is part of the problem the fact that patronage is accepted and institutionalised in African societies?

On the question of whether civil society was doing enough to engage government, **Professor Seepe** said many people were trying to raise issues in various ways – through the media, in the universities, through research bodies. One such example was the PSAM's website bringing questions of corruption to the attention of the public. No one could claim ignorance, and it was the duty of government to take note of the public's concerns and respond to them.

In response to the question of whether private sector corruption received enough attention, **Muthanyi Ramaite** stressed that the struggle against corruption had to be a collective effort involving all sectors. It could not be denied that some actions in the private sector had very negative consequences for South Africa. **Colm Allan** agreed that corrupt practices in business

and civil society were matters for concern, but reiterated the point that company managers and boards of directors were answerable to shareholders – while, with regard to government and the public sector, 'all of us are the shareholders'. There was also a heavier onus on the state precisely because it was the last refuge of the weakest and most impoverished sectors of society.

The speakers were sharply divided on whether government was soft on corruption and reluctant to use the instruments at its disposal, or prone to using them selectively.

Muthanyi Ramaite conceded that certain laws and regulations 'presented difficulties', but emphasised that government was in the throes of a legislative review. There were undoubtedly weaknesses in the public service disciplinary system. Government certainly did not want officials accused of wrongdoing to

be suspended for six months or more on full pay, but more than any other institution it had to be seen to act in terms of the law. Public servants had rights and deserved legal protection. Disciplinary procedures were the result of collective discussions in such forums as Nedlac, and did not rest entirely in the hands of government. The proper recourse for those who were not happy with the outcome of a disciplinary hearing was to appeal against it. He knew of no case where an official had been accused of corruption and no action had been taken. Where information of transgressions in departments was brought to government's attention, it would act. He could cite many examples where steps had been taken against errant officials, including those in the national department of correctional services, where there had been serious problems, and the Mpumalanga education department. In terms of the Public Finance Management Act, heads of department like himself were personally liable for money squandered in their areas of jurisdiction. They had to answer to parliament's standing committee on public accounts. There would indeed be a crisis if people lost confidence in the capacity of the legal system to deal with cases of corruption. However, this was certain-

“
Government has been selective and partial in its condemnation of corrupt acts or conflicts of interest involving officials and politicians
”



ly not the case at present. **Muthanyi Ramaite** concluded by observing that there was a danger of recklessness and a lack of balance in debating the issue of corruption. It was unfair, for example, to claim that the executive had incapacitated the Heath unit when it had followed a Constitutional Court ruling; or that the purchase of a presidential jet as such could be interpreted as an instance of corruption.

Colm Allan argued that there could be no question of feeding into Afro-pessimism and racial stereotyping if critics simply held up a mirror to the authorities and said: 'Here's the constitutional and regulatory framework we fought so hard for, and here's your performance.' The issue was not that patronage was ingrained in African society, but the lack of an adequately developed culture of public accountability. Government's standards would only be as high as those that South African citizens insisted it should meet.

The examples of corruption he had cited were not anecdotal, but based on recorded interviews with heads of

department who were asked whether they complied with their constitutional and legal obligations. Since July 1999 government departments had been obliged to apply the new disciplinary framework and had the power to take action against officials within a period of two months – but this was not happening. The necessary procedures were available, and the aim should be to ensure that they were put into force.

Professor Seepe argued that public confidence in the ANC's stated commitment to fighting corruption had been shaken by 'critical incidents' such as the Yengeni case. People were now asking what had happened to that commitment. The abuse of power did not manifest itself suddenly, but took root slowly. Admirable legislative frameworks and instruments were not sufficient to prevent it. Africa offered many examples of fine constitutions and laws which had not prevented abuse. What was needed was a vigilant society, and institutions of civil society that were prepared to challenge government.

Concluding remarks from the chair

Closing the debate, **Tom Boardman** stressed that government, as the highest authority in the country, carried a special responsibility in combating corruption within its own ranks and in the wider society. Putting a legal framework in place was only the beginning of the job. The real chal-

lenge lay in its implementation, and on this front continuous vigilance was necessary. The experience of government the world over all too often confirmed the sharp truth in Lord Acton's well-known maxim that 'power tends to corrupt, and absolute power corrupts absolutely'.



000117

THE CENTRE FOR DEVELOPMENT AND ENTERPRISE

BOARD: E Bradley (chair), F Bam (deputy chair), S Ndukwana (deputy chair), A Bernstein (executive director), N Angel, F Antonie, J Bezuidenhout, D Bowden, D Bucknall, C Coovadia, O Dhlomo, W P Esterhuysen, M Keeton, L Lambert, A Lamprecht, J Latakgomo, R Lee, G Leissner, J Mabuza, J McCarthy, R Menell, I Mkhabela, S Motau, K Mthembu, M Mthembu, W Nkuhlu, M O'Dowd, F Phaswana, R Plumbridge, N Ratshikhopha, L Schlemmer, N Segal, C Simkins, M Spicer, M Tisani, J van Wyk

INTERNATIONAL ASSOCIATE: Professor P Berger (Boston University)

Pilrig Place, 5 Eton Road, Parktown, Johannesburg 2193, South Africa • PO Box 1936, Johannesburg 2000, South Africa
Tel 27-11-4825140 • Fax 27-11-4825089 • e-mail: info@cde.org.za

CDE acknowledges the financial support of the Friedrich Naumann Foundation in sponsoring this CDE debate.

© Centre for Development and Enterprise. The material in this publication may not be copied, stored, transmitted or reproduced without the permission of the publisher. Short extracts may be quoted, provided the source is fully acknowledged.