

Study 2a

The industrial anatomy of corruption: Government procurement, bidding and award of contracts¹

Amado M. Mendoza, Jr.²

1. Prologue

The demise of the Estrada administration in January 2001 is the latest evidence that corruption remains one of the salient issues in the country's political life despite widespread cynicism that the problem may ever be resolved. The public uproar against Estrada's corruption started with the revelations of a disaffected ally, Governor Luis "Chavit" Singson, alleging the President's regular receipt of pay-offs from operators of *jueteng*, or the popular illegal numbers game.³ Singson's disaffection was caused by the awarding of a lucrative government contract to operate a legalized version of *jueteng* (Bingo 2-Ball) to another presidential crony, Charlie "Atong" Ang, who in turn awarded the franchise to operate Bingo 2-Ball in Ilocos Sur, Singson's home province, to Singson's bitterest business rivals and political enemies.

Singson's revelations, the subsequent Senate Blue Ribbon committee hearings, and the presidential impeachment trial indicated how, among many others, the award of government contracts can be distorted in a manner that is simultaneously disadvantageous to government and lopsidedly benefits favored private interests. In a reprise of previous questionable arrangements, Ang's grossly undercapitalized corporation was awarded a juicy contract by the Philippine Amusement and Gaming Corporation (PAGCOR) even before it was formally registered with the Securities and Exchange Corporation (SEC). Ang's outfit bagged the contract on the verbal say-so of Estrada to PAGCOR chairperson, Alice Reyes, and without the benefit of a public bidding. The preferential treatment of Ang was apparently premised on the former giving Estrada a substantial cut of his earnings.

¹ Research assistance was provided by Ms. Ruby Ann Pimentel of the UP School of Economics.

² Associate Professor, Department of Political Science, College of Social Science and Philosophy, University of the Philippines, Diliman, Quezon City.

³ *Jueteng* is a variant of a Chinese numbers game wherein the bettor is asked to pick two numbers between 1 and 37. The lucky pair is drawn and the winnings depend on how much and which numbers others has bet. The survival of *jueteng* depends on a network of operators whose activities are protected by officials and law enforcers from the village to the national level. Bet collectors (*cobrades*) report to *cabos* (headmen) who in turn are supervised by a *jueteng* operator. The operator ensures that the racket is protected by civilian, military and police officials. The layers of protection begin at the town level, then the provincial, regional, all the way up to the national. Singson's revelations indicate that Estrada did what

During the impeachment trial proceedings, several witnesses including former Secretary of Finance Edgardo Espiritu, testified that a government bank, the Philippine National Bank (PNB), extended a P600 million loan to BW Resources, owned by another presidential crony, Dante Tan, even if the firm was not credit-worthy. BW Resources was the same company that got involved in massive stock price manipulation in 1999-2000 that almost wrecked the local stock market.

Grand corruption happens at the highest governmental levels and involves major government programs and projects. Governments frequently transfer large economic resources to private firms and individuals through procurement contracts, award of concessions, and sale of public assets. Given the attractiveness of these transfers, certain private interests are not content to allow the award of the same through fairly-competitive processes. Bribes are offered and accepted to ensure the capture of these resources. These bribes in turn transfer monopoly rents to private interests with a share to the corrupted public officials.

Corruption that involves top-level public officials can produce serious distortions in the way society and government operate. The government pays too much for large-scale procurements and receives too little from the sale of public assets and the award of concessions. Corrupt officials distort public choices and decisions to generate large rents for themselves and to produce inefficient and inequitable public policies and programs. Incentives to corruption exist because state officials have the discretionary power to allocate scarce resources and impose costs.

2. Purpose of paper

The paper will investigate the industrial anatomy of corruption in the area of government contracting, which involves government procurement, bidding and award of contracts funded both by the government and by international financial institutions such as the World Bank and ODA (official development assistance). By industrial anatomy, we seek to identify and describe the technologies used in the corrupt practice, the politico-economic players involved, the enabling/disabling policy and socio-political environment, and the like.

This paper contains two major parts: first, an extensive review of the literature in corruption with respect to public procurement and contracts; and second, several case studies to unearth new and emerging corruption technologies.

The extensive review of literature (ROL) was undertaken to profit from the surfeit of articles and studies on government corruption that have been done for the past decades not only by academics and moralist-do-gooders but also by journalists and various congressional investigative bodies. The ROL reveal old and perfected technologies of corruption. Still, some traditional areas of corruption remained understudied—for instance, corruption within the military and police establishments.

However, we argue that three major developments have offered new opportunities for corruption and rent-seeking and have therefore led to the development of new corruption technologies as well as caused the entry of new players into the fray. These developments include globalization and economic liberalization, democratization, decentralization and devolution.

While globalization and economic liberalization will theoretically lessen the opportunities for corruption and rentseeking in a here-to-fore protected economy, the transition period affords entrepreneurs of all types new opportunities to capture rents through corruption. For instance, the (initial public offering) IPO fever during the later years of the Aquino administration and the early half of the Ramos government afforded insiders and other favored individuals and groups lucrative rent opportunities. A case that should be studied assiduously is the public offering of the PNB and PNOC shares. Another case is that of the sale of Fort Bonifacio: the Metro Pacific Group won over the Ayala Corporation by offering an unbelievable premium of about P10,000 a square meter. Yet, as soon as the Metro Pacific got the contract, it obtained a loan from the Government Service Insurance System (GSIS), to finance the 20% down payment required of the winning bidder. The rents created during the transition to liberalization may be an acceptable one-time cost that must be borne by the economy. However, there is reason to believe that the transition will be a long-drawn process in the Philippines. As a protracted process, the transition to liberalization will be witness to various episodes of rent-capture by entrepreneurs through corrupt deals. The transition is hypothesized to be long-drawn given the relative impermanence of the social consensus, perhaps even including the current elite consensus, behind economic openness in Philippine society (see Mendoza 1996 for a fuller discussion of this point).

Democratization after the 1986 EDSA Revolution also wrought significant changes. Whereas the dictator centralized rent opportunities and tried to dispense the same to favored actors in exchange for loyalty to the regime and other considerations, the demise of the Marcos dictatorship also “democratized” corruption and corruption opportunities. It is true that every Malacañang occupant brings with him/her a set of palace favorites. Nevertheless, the post-1986 situation suggests that a looser industrial structure of corruption replaced a more systematic and controlled one established by the dictatorship. Democratization coupled with economic liberalization can in fact create new opportunities. A case that should be studied involves the negotiated contracts entered into by President Ramos in 1992-93 to ease the power crisis.

Finally, decentralization and devolution of powers from the central government to local government units at various levels can be examined. Prior to the enactment and implementation of the Local Government Code of 1991 (LGC), corruption with respect to government procurement and contracts was largely done at national government/agency levels. However, the LGC, with its grant of new powers and responsibilities to LCEs (local chief executives) brought these new players into the corruption game without requiring them to take the lead from national officials. The case of Gov. Juanito Remulla and the industrial transformation of Cavite province is very instructive. On the whole, Remulla’s case (fully documented in Coronel 1995, Kelley 1997, 1998, 1999, 2000) is one where it was not just the devolution of powers that created more opportunities to capture rents. Economic growth itself, spurred even by the country’s openness and the entry of direct foreign investments, was equally fecund with corruption possibilities. All of these factors helped transform the technology of corruption. It helped create more efficient and less ‘corrupt’ (in the traditional sense) local governments to facilitate the entry of domestic and foreign businesses. In the process, petty or retail corruption in business permit applications and basic government procurements were curtailed. On the other hand, it encouraged corruption in entirely new areas, more akin to political corruption that takes place at the national government level, such as:

- ‘cuts’ from the conversion of agricultural land to industrial-commercial-residential estates (for a longer historical perspective on land conversion in Cavite, see McAndrew 1994);
- ‘cuts’ in major infrastructure contracts, e.g., construction of export processing zones and industrial estates, power plants, housing projects, golf and country clubs:

- new opportunities for crafty entrepreneurship as Remulla ended up owning real estate firms that developed the converted agricultural land and a host of other enterprises that service or benefit from industrialization and urbanization such as tourism, gambling, and the like. Remulla did not only profit from the award of permits to operate to foreign industrial ventures; he also profited from the preferential awarding of contracts to those interests who flocked to Cavite to supply the hard infrastructural requirements of a new industrial area such as highways, industrial estates and factory buildings, telephony, golf courses and hotels, executive and middle-income housing, and the like. In addition, Remulla also captured rents by “selling” industrial peace to existing and prospective investors: through salvaging of militant labor leaders, harassment of labor union officials and organizers, establishment of pro-management labor unions and the like.

Decentralization and industrial growth also transformed the relationship between local government officials and the national capital. Opportunities were provided so local officials can become players at the national level as well, making them powerbrokers at the upper levels. Cases in point include Remulla himself who became presidential adviser on local government under President Estrada (his son Crispin got appointed as presidential legal adviser and is now spokesman of the pro-Erap Pwersa ng Masa political party while another son, Gilbert, just got elected congressman of the 5th district of Cavite in the 14 May 2001 by-elections); Emilio “Lito” Osmena, the governor of Cebu who became a presidential adviser on flagship projects under President Fidel Ramos; and Dick Gordon, former mayor of Olongapo City who then became chairman of the Subic Bay Management Authority (SBMA) under Ramos, and now President Macapagal-Arroyo’s tourism secretary. On the whole, decentralization created new symbiotic arrangements between the local and the national, a self-perpetuating chain of patronage and corrupt business deals with connections with the national strengthening the locals allowing the latter access to the national coffers for electoral campaigns and patronage.

3. Review of the theoretical literature on corruption and government contracts

Corruption is often defined as the “use of public office for private benefit”. Saxonhouse (2000), however, points out that corruption was originally used to refer to a “transformation away from some original form”, implying a normative aspect to the problem of corruption. The existing economic literature on corruption makes use of the modern definition, it generally recognizes pernicious effect of corruption and its allied activity -- rent seeking.

Moral objections against corruption and rent seeking have been raised but the most common reasons given for the general antipathy are as follows: (1) it undermines the role of the state; (2) it is biased against the poor who cannot compete on the basis of the price mechanism; (3) introduces or exacerbates uncertainty which discourages investment; (4) gives incentive to introduce more bureaucratic controls; and (5) gives rise to unproductive activities such as lobbying. The UNDP Report (1997) and the TI Source Book provide a comprehensive study on the causes, consequences and remedies for corruption. Gondie and Stasavage (1997), also provides a comprehensive study but had emphasized the relationships among the government, civil service, judiciary and civil society, along with the particular development strategy being pursued by the government, in understanding corruption.

There is also a wide selection of literature focusing in specific aspects/dimensions of the corruption issue. Hutchcroft (1997) focused on the interrelated nature of rent seeking, corruption and clientelism. Cartier-Bresson (1997) analyzes corruption in the context of socio-economic networks and coordination principles. Della Porta and Vannucci (1997), on the other hand, argues that organized crime thrive in a corrupt environment. One can relate this to Rose-Ackerman (1996) emphasis on the role of incentives (costs and benefits) in determining the level of corruption in an economy. She also stresses that corruption undermines the legitimacy of the state, a position that is supported by Tanzi (1998) who stated that the fight against corruption cannot be separated from the need for reforms of the state. If reforms are not undertaken any direct action against corrupt acts will not be effective.

The hypotheses forwarded by the theoretical literature have also been subjected to empirical investigation. Ades and di Tella (1997) find empirical evidence on the two prevailing theories on corruption: first that it is due to poor incentives/monitoring (proxied by the tightness of enforcement laws) and second, to lack of competition in bureaucracy/product market (proxied by the level of competition in the product market).

Results show that both are significant and inversely related to corruption levels. Kaufman and Wei (1999) disproves the theory that corruption leads to efficiency by showing that higher levels of corruption leads to higher cost of capital and longer use of management time.

There is also a wide literature relating corruption with economic performance. Campos, et. al. (1999) finds evidence that higher predictability in corruption is related to higher levels of investment and growth. However, corruption still dampens investment potential because part of resources is channeled to unproductive activities such as lobbying and bribery. De Dios and Estafahani (1999) hypothesize that political contests is due to rivalry over control of government resources and elections is a chance to retain or attain this power. They were able to show that an upcoming election has a significant effect on investments. Brunetti (1997) provided evidence that institutional uncertainty leads to lower economic performance and that perceived corruption levels per se is an important determinant of investment. Wei (1997) showed that corruption acts like a tax on foreign direct investment. Mauro (1998) provides evidence that corruption distorts composition of government expenditure towards sectors/goods that have less competition and more complex technology. Statistical estimates show that corruption levels have an inverse relationship on education budget, and health expenditure to some extent.

Existing economic literature has also focused on modeling the corruption phenomenon. Coolidge and Ackerman (1997) models corruption by assuming an autocrat who solves his rent/revenue maximization problem subject to the constraint that introducing government intervention lowers national output, which is his revenue base. This model was used to analyze/explain corruption in Africa. Khan (no date) focuses on the quality of a state's civil society as an important factor in determining the prevalence and destructiveness of corrupt activities, particularly the complexity of client-patron networks. Shleifer and Vishny (1993), on the other hand, models corruption as a monopolist in providing public goods and extends it to collusive and competitive situations, and cases with or without theft (from government coffers). They show that corruption without theft is similar to a tax but causes more distortion because it is illegal and some of the resources are used to remain undiscovered.

Recently, corruption has been modeled using the principal-agent framework. Generally, they make use of a three-person game, which includes the firm/private sector, an agent (i.e. tax collector) and the agent's principal/supervisor/manager. Celentani and Gamiza (2000) used a principal-agent framework to show that an increase in competition does not

necessarily lead to a reduction in corruption. Eskeland and Thiele (1999) showed that the higher the discretion of an agent is related to higher levels of corruption. Dabla-Norris (2000) proved that if monitoring cost is prohibitive, it may be optimal to have a positive level of corruption. The effectiveness of anti-corruption campaigns at the lower tier depends on the costs involved in monitoring, the technology and the responsiveness of the economy to the level of corruption. In all of these models, the role of the principal is to monitor the performance of the agent who decides to cheat or not to cheat. The firm/private sector simply decides whether to accept the agent's offer on the basis of the benefits and costs involved.

Other aspects of corruption that were modeled include Sieberg (2000) who, using an extended prisoner's dilemma game, showed how two similar states could diverge in dealing with weak institutions, whose role is to enforce property and contract rights, depending on the size of state and the level of cooperation/solidarity in its society. This framework was used to explain why extra-legal activity proliferate in Russia but not in Estonia. Chand and Moene (1999) showed that fiscal corruption can be contained by providing the proper set of incentives. However, they caution that corruption should first be curtailed at the higher levels of management for this objective to be successfully attained.

The "supply" side of corruption has been dealt with in the literature, but there is a need to look further into the determinants of the "demand" side. The lone article so far on this issue, Tanzi (1998), identified factors that determine both the supply of and demand for corruption. There is a need to develop the literature further, particularly in relating it to the Philippine setting. The question of what the existing incentive mechanism which makes "bribery" feasible, what are the dynamics involved in the market given the nature of Philippine politics, what are the different organizational patterns of corrupt groups and how it developed, etc. should be addressed. Empirical evidence is also needed to support the hypothesized role of social networks such as client-patron relations or reciprocal relations in the theory of corruption.

Several of the articles made use of empirical models to test their hypothesis. Brunetti (1999), de Dios (1999) and J. Campos (1999) find that uncertainty has a significant and negative correlation with investment. Following Weber's lead, if corruption was predictable, then the costs can be treated as if it were a tax and entrepreneurs can plan better. Ades and Di Tella (1997a) tested the significance of anti-corruption policies—trade openness and tighter law enforcement—and found both to be significant with opening to international trade to be a more potent policy tool against corruption. Coolidge and Ackerman (1997), on

the other, used a theoretical model to analyze several African economies for their analysis. In this model, the rents accruing to rulers (and bureaucrats) are a function of the level of government intervention in the economy.

Other articles focused more on the socio-political side of corruption such as Hutchcroft (1997) and Cartier-Bresson (1997). Hutchcroft sought to build a framework to explain the role of rent-seeking, corruption and clientelism in Third World development. He drew from these three separate literatures believing that there was a need to unify and draw upon these theories to have a better grasp of the “quest for and allocation of particularistic advantage. Meanwhile, Cartier-Bresson argued that most corruption models are inadequate in that they overlook corruption’s societal-institutional setting. We are counseled to analyze corruption in the context of “socio-economic networks” adhering to different organizing principles: market competition, hierarchy (where corrupt practices are mediated through authority and obedience), and solidarity (where corruption occurs amongst agents who have built “social capital” through proximity and frequent inter-action). Case studies, on the other hand, were provided, on Italy, by Della Porta and Vannucci (1997); on several African countries (Somalia, Nigeria, Botswana and Uganda), by Coolidge and Ackerman (1997); on the Philippines, by Coronel (2000 and 1998); and cross-country evidence is presented in Brunetti (1999) and UNDP (1997).

The “supply” side of corruption has been dealt with in the literature, but there is a need to look further into the determinants of the “demand” side – what are the existing incentive mechanism which makes “bribery” feasible, what are the dynamics involved in the market given the nature of Philippine politics, what are the different organizational patterns of corrupt groups and how it developed, etc. Empirical evidence is also needed to support the hypothesized role of social networks such as client-patron relations or reciprocal relations in the theory of corruption.

Analyses of procurement-and-awards corruption using the principal-agent framework generally make use of a three-person model: the principal, the agent and the firm. Among the articles surveyed, only Celantani and Ganuza (2000) has provided mathematical modeling for the corruption phenomenon in the procurement process. Here, the agent makes a decision whether to be corrupt or not based on the probability of discovery, the penalty and the payoff. The firm will make the decision to bribe or not only when the agent has placed its offer, otherwise it will comply with the bidding process. The principal is the one that specifies the bidding process, sets investigations and determines the penalty. Although the model has interesting implications, it does not fully capture the essence of corruption in the

real world, particularly for the Philippines. A key argument is that there is need to analyze patterns of corruption in their socio-political context.

The articles of Cartier-Bresson (1997) and Gondie and Stasavage (1997), which also make use of the principal-agent theory, provide a more appropriate framework. It analyzes corruption in the context of the socio-economic environment where it evolved, which allows a better perspective on the unique features of corruption occurring in each country. Their discussion, however, is limited only to a qualitative exposition of the possible causes and effects of corruption.

Bardhan (1997) of course argues that the question whether the corruption patterns that arises in an economy would be competitive or monopolistic is independent of the nature of the polity. Charap and Harm (1999) is among the theoretical pieces that argue that corruption patterns are endogenous to political structures. Thus, corruption can be systematic and planned rather than decentralized. Corruption under strong authoritarian polities tend to be systematic while decentralized corruption is associated with democratic polities as well as weak dictatorships.

In this paper, we argue that three major developments have offered new opportunities for corruption and rent-seeking and have therefore led to the development of new corruption technologies as well as caused the entry of new players into the fray. These developments include globalization and economic liberalization, democratization, decentralization and devolution.

While globalization and economic liberalization will theoretically lessen the opportunities for corruption and rent-seeking in a here-to-fore protected economy (Ades and de Tella 1995 and 1997b), the transition period affords entrepreneurs of all types new opportunities to capture rents through corruption. Market reforms associated with globalization may not always reduce rent-seeking opportunities. It may in fact reproduce incentives for rent-seeking behavior even in the presence of comprehensive liberalization. Recent Latin American experience shows that distributional coalitions (of the Mancur Olson type) may proliferate when the state withdraws from the economy, not only when it intervenes (Schamis 1999). It could also happen that improper sequencing of economic reforms could cause problems. Russia's experience shows how premature price liberalization without prior or accompanying de-monopolization simply shifted the flow of monopoly rents from the state to private monopolists. In this case, the low level of competition can explain the surge in rent-seeking and corruption associated with the early phase of economic liberalization. This is consistent with the empirical literature that finds that corruption is

negatively correlated with different indicators of economic freedom (Henderson 1999 and Paldam 1999), with openness, defined as the ratio of imports to GDP (Ades and di Tella 1997 and Brunetti and Weder 1998), and the number of years that a country has been open to international trade (Sachs and Warner 1995, Treisman 2000, and Leite and Weidmann 1999).

While it may be argued that the rents created during the transition to liberalization may be an acceptable one-time cost that must be borne by the economy, there is reason to believe that the transition will be a drawn out process in the Philippines. As a protracted process, the transition to liberalization will be witness to various episodes of rent-capture by entrepreneurs through corrupt deals. The transition is hypothesized to be long-drawn given the relative impermanence of the social consensus, including the elite consensus, behind economic openness in Philippine society (see Mendoza 1996 for a fuller discussion of this point).

A rough estimate of the Filipino public's response to economic openness may be represented by results of a September 1999 public opinion survey on possible changes in the Philippine Constitution. To avoid the suspicion that plans to amend the charter are motivated principally by self-serving motives (such as the lifting or extension of term limits for the President and other elective officials), the Estrada administration initiated in mid-1999 an amendment drive called Constitutional Correction for Development (or CONCORD). The said plan intends to limit changes to the economic provisions of the charter with the objective of making it more attuned to the challenges of globalization.

Concretely, the Estrada plan intends to amend the charter by lifting the prohibitions on ownership of land by foreigners and 100% foreign ownership of public utilities, mass media, and other strategic industries. While the September 1999 survey of Pulse Asia indicate that most Filipinos were against amending the Constitution in general, it was precisely the economic amendments proposed by President Estrada that Filipinos found most unacceptable. While 77% of the survey respondents were against extending the term limits of elected national and local officials, a heftier 92% did not want foreigners to own land in the country. In addition, 88% did not want foreigners to own public utilities or mass media companies while 81% registered opposition to a proposal allowing foreigners to own retail companies in the country.⁴ The profile of the respondents tends to suggest that these opinions are held strongly by the poorer sectors of society. Majority (at 64%) of the survey

respondents rated themselves as poor/very poor, with nearly half of the total (45%) saying their quality of life in the last year deteriorated rather than improved (19%).⁵

The attitude against alien ownership of land appears to be common across income classes.⁶ Of the 6% of the survey respondents who rated themselves very poor, 94% were not in favor; 92% of those who rated themselves poor (57% of the respondents) agreed with them. The 7% who rated themselves well-off or wealthy, were of the same opinion. Strong differences in opinion among the income classes are more pronounced with respect to foreign ownership of media and retail companies. While 93% (83%) of the very poor did not approve of foreign ownership of media firms (foreign ownership of retail companies), only 84% (66%) of the wealthy had the same opinion.

The need for domestic social conflict resolution is highlighted by recent research that show that internal conflicts can help explain why growth rates could not be sustained and why so many countries have experienced a growth collapse after the mid-1970s. Conflicts interact with external shocks on the one hand, and the domestic institutions of conflict management on the other. Economic evidence show that countries that sustained the sharpest declines after 1975 were those with divided societies (as measured by indicators of inequality such as Gini ratios, ethnic fragmentation, and the like) and with weak institutions of conflict management, as proxied by indicators of the quality of government institutions, rule of law, democratic rights, and social safety nets (Rodrik 1998). Capital mobility itself can lead to a distributive conflict even as it enhances efficiencies. Just as free trade in goods, there is no guarantee that capital mobility makes everyone better off. Consequently, capital mobility may be politically unsustainable (Rodrik and van Ypersele 1999).

The impact of decentralization and devolution of powers from the central government to local government units at various levels on corruption is an interesting issue. The literature is divided on this point. Klitgaard, Maclean-Abaroa and Parris (2000) and Poblador (2000) are among the most recent papers arguing theoretically that corruption will worsen with decentralization. These authors note that all over the world as well as in the Philippines, local governments are susceptible to systemic corruption since they are,

⁴ Stella O. Gonzales, "Majority says no to Cha-cha," *Philippine Daily Inquirer*, 14 October 1999, pp. 1 & 20.

⁵ Rina Jimenez-David, "It's the economy, Sir," *Philippine Daily Inquirer*, 14 October 1999, p. 9.

⁶ A noted Manila columnist warns against a simplistic reading of the survey results on this question. He asserts that both the Filipino businessmen and public perceive President Estrada's CONCORD "as an opening wedge to allow Chinese, domestically and in Asia, to expand their ownership and control of land and the public utilities" rather than an even-handed invitation to all foreigners (Amando Doronilla, "New currency for the Filipino First Policy," *Philippine Daily Inquirer*, 5 November 1999, p. 9).

compared to national governments, usually weaker. Pay scales for professionals are lower, leading on average to lower-quality personnel. Furthermore, the risks of co-optation by elites or populists are higher. Thus in the hands of unscrupulous opportunists, local governments can easily become the sites of petty tyrannies, systemic corruption, or both. The work of others (e.g., Huther and Shah 1998) fails to unearth a systematic relationship between corruption and decentralization and devolution while cross-country empirical work done recently suggest a strong negative relationship between fiscal decentralization in government expenditure and corruption (Fisman and Gatti 1999). Meanwhile, Treisman (1999) finds that federal states are more corrupt than centralized ones though his findings were criticized by Lambsdorff (1999) since part of the negative impact of a dummy variable for federal states on corruption is explained by a country's overall size as measured by its total population. Federal states are commonly larger than centralized ones.

4. Review of empirical literature on Philippine corruption

The empirical literature on corruption in the Philippines is quite rich and comes from diverse sources including academe, journalists, courts, and legislative bodies. After the fall of the Marcos dictatorship in 1986, several significant sources of primary materials on corruption during the Marcos dictatorship surfaced. These included papers seized by the U.S. Customs Service from the disembarking party of the fallen dictator at the Hickam Air Force Base in Hawaii now known as the Marcos-Honolulu Papers, the perpetuation of testimony proceedings conducted by the Sandiganbayan of the ailing Baltazar Aquino (former Secretary of Public Highways during the Marcos administration), and papers presented by Oscar Rodriguez (former Public Highways deputy minister during the Marcos administration) to a visiting Japanese parliamentary delegation in March 1986. These documentary sources presented a clear picture of how corruption was organized and carried out with respect to infrastructure projects funded by Japanese official development assistance (ODA) during the Marcos years.⁷ Then in turn, we shall try to contrast the relatively more organized high-level corruption during the dictatorship to the looser structures during the post-Marcos administrations.

⁷ Guides to the documents are provided in Mendoza (1992a, 1992b, and 1992c).

Rodriguez was appointed by President Marcos as implementing officer of the Philippine-Japan Project Loan Assistance Program (PJLAP), a special government agency organized by Marcos to oversee all Japanese government-funded yen credit projects in the Philippines after the declaration of martial law in 1972, four years before the lapse of the Japanese Reparations Program. Previous to the PJLAP, the principal conduit of Japanese public monies into the country was the Reparations Commission headed by Marcos friend, Senator (formerly General) Eulogio Balao. The Reparations Program was the Japanese government's response to the need to compensate for the damages suffered by the Philippines and its citizens during the Second World War.

It could be discerned from the above documents that President Marcos exacted kickbacks from each of the private Japanese corporations who were awarded supplier contracts in connection with Japanese-funded infrastructure projects in the Philippines. This Marcos-Japanese relationship started with the Reparations Program. It continued up to the last years of the Marcos dictatorship when the Overseas Economic Cooperation Fund (OECF) became the main conduit of Japanese public funds into the country following the end of the Reparations Program.

In general, the Japanese government-provided funds were to finance several specific general infrastructure and development projects in the Philippines. The equipment requirements of the projects were to be purchased from Japanese manufacturers/suppliers in the manner of so-called "tied aid". Ostensibly, the Japanese suppliers must compete with each other in a bidding process where the qualified bidder submitting the lowest bid price was awarded the supplier's contract. However, Marcos and his associates perfected a system where no Japanese supplier could win a contract unless a 15 percent (of the total contract price) or "commission" was paid. This 15% "commission" would be included in the total contract price to be paid by the Philippine government out of Japanese government-provided funds to the Japanese supplier.

Except for a single instance where they attempted to win contracts without paying any commission to Marcos, the Japanese suppliers generally acceded to the "commission" system. All qualified bidders therefore knew that they were expected to pay the "commission" if they wanted to win a contract. They would still compete in the bidding process. Since all were willing players, one can say that suppliers' contracts were judiciously apportioned to a select group of Japanese suppliers in some sort of a queue-ing system. This meant that if a particular Japanese supplier did not win a contract for a particular project, it could still get one in another project.

The key Marcos aides involved in the operations were Balao, Aquino, Rodriguez, and Andres Genito, Jr. (a Marcos crony who became a member of the rubber-stamp parliament during the Marcos dictatorship). Balao collected commissions on projects financed under the Reparations Program; most of these projects were administered by Philippine government agencies other than the Department/Ministry of Public Highways. Genito took Balao's place when the latter died. In a kind of division of labor, Aquino collected commissions on projects administered by the Department/Ministry of Public Highways and financed by the Overseas Economic Cooperation Fund (OECF). Rodriguez, who was accountable only to Marcos, though technically Aquino's subordinate took care of the technical function of accepting and evaluating bids and recommending (to Marcos) the award of contracts to specific Japanese firms. He could have been in charge of the queue-ing system alluded to earlier.

A key aspect of the entire operation was the collection side. Examination of the documents indicated that a private corporation, Angenit Investment Corporation (ostensibly owned by Genito but actually controlled by Marcos) was used and played a central role in the collection of commissions from the OECF loans. Bids for contracts were coursed by the Japanese traders through Angenit that, in turn, made recommendations for approval to Marcos. Genito and Aquino occasionally traveled to Tokyo or Hongkong to accept the pay-offs in cash from representatives of the Japanese suppliers. In Aquino's case, he would immediately deposit the same accounts to a numbered account with the Hongkong office of the Swiss Banking Corporation. Upon his return to Manila, Aquino would hand over the deposit receipts to Marcos.

The discussion of this specific case of corruption during the Marcos dictatorship shows the difference in the "industrial organization" of corruption in autocratic polities compared to democracies. As Rose-Ackerman (1999) points out, the industrial organization of corruption depends not just on the nature and organization of government but also on the organization and power of private actors. Corruption under the Marcos dictatorship is organized as a "kleptocracy" (Rose-Ackerman 1999). In this situation, the kleptocratic ruler faces a large number of unorganized (therefore less powerful) potential bribe payers. Marcos was powerful enough to whip the Japanese suppliers in line and managed to organize an effective and credible system of collection and enforcement.

As expected, the industrial organization of corruption in the Philippines was altered with the reintroduction of formal democratic and electoral processes after the demise of the Marcos dictatorship in 1986. As De Dios and Esfahani (2000) have pointed out, the

provision of three co-equal branches of government and the system of checks and balances results in an “independent monopolists” model of corruption described by Shleifer and Vishny (1993). Even if the executive may have the power to enter into contracts with favored parties, the power of the legislature to conduct investigations may be regarded as potent and may force the executive to share part of the bribe with key legislators, especially those who have skillfully mastered the “AC-DC” (short for “attack and collect, defend and collect”) tactic like former Senator Ernesto Maceda. Even the judiciary, especially the Supreme Court, can join the fray and gain its share of the loot, with its power to issue temporary restraining orders (TROs) binding on the executive or any of its agencies.

5. Analytics of corruption with respect to government procurement and sale of public assets

Incentives to corruption exist because state officials have the discretionary power to allocate scarce resources and impose costs. Governments frequently transfer substantial resources to private firms and individuals through procurement contracts, loans, award of concessions and sale of public assets. Given the attractiveness of the resources and assets, certain private actors will not passively wait that the same will be awarded through fairly competitive processes. Bribes are offered and accepted to ensure the capture of these resources. These bribes in turn transfer monopoly rents to private interests with a share to the corrupted public officials.

As a rule, procurement contracts are awarded through a public bidding participated in by qualified firms. In certain cases, no public bidding is held and contracts are awarded on a negotiated basis. When the government is a buyer or a contractor, there are several reasons to bribe public officials:

- A private firm might pay to be included in the list of qualified bidders and to restrict the length of the same list.
- The firm may pay for inside information, e.g., minimum and maximum price thresholds, average-offer prices, and project evaluation criteria.
- Bribes may induce officials to formulate the bidding specifications so that the corrupt firm is the only qualified supplier.
- A firm may pay a bribe to be selected as the winning contractor.

- Finally, once a firm wins the contract, it may pay to get inflated prices or to skimp on quality.

These procurement contracts involve both large-scale infrastructure or capital goods projects and consumption goods such as drugs, books and other school supplies, and the like. Goods that are used up in consumption are favorite candidates for corrupt deals because it is difficult *ex post* to discover whether or not they were actually delivered. A good example of the former is the \$2.2 billion Bataan nuclear power plant provided by Westinghouse, which was able to edge out General Electric (GE) by reportedly paying a \$60 million bribe to President Ferdinand Marcos through his crony, Herminio Disini (Verzola, Buenaventura and Santoalla 1991). Examples of the latter type are documented in Chua (2000/1998; 1999) that revealed that up to 65% of textbook funds goes to bribes and Corotan (2000a/1995a; 2000b/1995b) for drugs and rice, respectively.

Corrupt deals with respect to procurement contracts and concessions therefore introduce several dysfunctionalities. They may limit the number of bidders, favor those with inside information and/or connections over the most efficient bidders, limit the information available to participants, and introduced added transactions costs. The distortions will also affect the behavior both of the public officials and the private firms.

Let us take the case of the public officials. They may select projects and make purchases with little or no economic rationale. As a rule, kickbacks are better obtained on capital goods projects and input purchases than on labor-intensive projects. For this reason, state officials may favor capital-intensive projects irrespective of their economic justification. If we return to the Bataan nuclear power plant example, one may accept the need to provide for alternative energy sources for the country. However, the rationality of building a nuclear plant in an area bisected by several earthquake fault lines and located near an active volcano is definitely questionable.

In addition, corrupt state officials will have or develop shorter time horizons and therefore higher discount rates than the country's citizens. The ruler's venality may make him insecure and subject to overthrow. In turn, this insecurity induces him to steal more, making him even more insecure, and so forth. As a result, the ruler will support projects with quick short-term pay-offs.

On the other hand, the corruption and corruptibility of the country's rulers and public officials introduces an additional element of uncertainty in the minds of private investors. Paradoxically, one of the strands of this uncertainty involves the efficacy of the bribe: will the firm get the "good" it wants in exchange for the bribe paid?; were the "right"

officials bribed? In the face of this uncertainty, investors may commit funds only to short-term, get-rich-quick projects. This short-term orientation on the part of investors is understandable. First, they fear that those in power are vulnerable to overthrow because of their corruption. The new regime may not honor the contracts entered into by the overthrown regime. Second, even if the current regime remains in power, investors may still fear the imposition of arbitrary regulations and financial imposts once investments are made. They may be concerned that the ruler will permit competitors to enter the market or worry that their contracts will be voided for political reasons and economic considerations. Having paid a bribe in the past, investors are vulnerable to future extortionary demands.

For these reasons, concessionaires may run down their concessions at a faster rate, e.g., logging concessionaires may cut down trees more quickly than it would in less corrupt jurisdictions. Investors may also be reluctant to invest in immobile capital assets that will be difficult to move should political conditions change.

The sale of public assets to private interests may reduce corruption to the extent that it removes assets from state control and converts discretionary official actions into private, market-driven choices. However, privatization of public assets is laden with corrupt opportunities. Analogous to the award of procurement contracts, bidders for a public asset may bribe officials in the privatization agency or at the top of government for the following reasons:

- The private firm wants to be included in the list of qualified bidders.
- Firms may pay to restrict the number of other bidders.
- Firms may pay bribes to obtain reliable information including a good assessment of the monetary value of offered assets. For instance, corrupt privatization officials may present information to the public that makes the company look weak while revealing to favored parties that it is actually doing well. The latter in turn are the high bidders in seemingly open and above-board bidding.
- Firms may pay bribes to obtain the public asset offered for sale at below-market cost.

In privatization exercises, corruption may mean that the most efficient bidder loses out to favored parties. Even if the most efficient firm does win, corruption in the tendering process assures that the government got too little revenue from the sale of the public asset. This implies higher taxes or lower public spending.

The question of corruption in relation to procurement contracts and sale of public assets should not be seen merely as an economic matter. Corruption must be seen as a political problem. It is believed that autocratic polities are more corrupt than democratic regimes because of the absence of checks and balances. In democracies, the desire for re-election constrains the avarice of politicians. Opposition candidates have the incentive to expose corrupt incumbents. Furthermore, political and civil liberties and a free mass media make open and transparent government possible and corruption more difficult. However, the requirements of electoral processes may induce corrupt behavior. In a number of democracies, corruption scandals are frequently associated with the financing of political campaigns. [Some of the cases reviewed in this paper—the PEA-Amari, Centennial Expo, and Benpres-North Luzon Expressway scandals—relate electoral finances with questionable government deals.] Elections must be financed and wealthy actors concerned with policy and legislative outcomes may be willing to foot the bill. Financial pressures induce politicians to accept payoffs, thus working against the other corruption-reducing effects of competitive elections. Even legal contributions to politicians can be a source of concern. Interests that contribute to electoral campaign chests may expect help in the legislative process or special treatment in seeking government contracts and concessions or in dealing with the bureaucracy. It is not uncommon that heavy financial contributors are awarded juicy government contracts and accorded preferential treatment by successful candidates. The benefits enjoyed by Lucio Tan under the Estrada administration are the latest examples of this phenomenon.

All of these things are best understood in the context of a Philippine political economy characterized by a relatively weak state dominated by vested private interests. De Dios and Esfahani (1999) observed that political contests over control of the state are quite intense since “the government disposes over a significant amount of resources and exercises discretion over a wide sphere” and that the elites struggle to skew the deployment of resources to favor specific interests.

6. Case studies

6.1 The Expo scam

The financial demands of electoral democracy induce politicians and private interests to resort to corruption. Among the practices include the illegal receipt of campaign funds

from private individuals and firms by politicians in exchange for lucrative government contracts or for favorable treatment by the bureaucracy, or the raid by incumbents of the public treasury for the same purposes. In the post-Marcos period, three scandals—the Centennial Expo, PEA-Amari, and Benpres-North Luzon Expressway—all of which transpired during the Ramos presidency highlight the fatal connection between grand corruption and electoral finance. These scandals were of two types: the first involved the disadvantageous sale of public assets to favored private actors in exchange for electoral contributions; while the second involved the grant of lucrative public contracts to private firms at terms grossly disadvantageous to government.

Let us consider the Centennial Expo scandal.⁸ Expo Pilipino in Clark Airbase, Pampanga is the centerpiece of the country's centennial celebration in 1998. The project turned out to be an expensive (costing a total of P9 billion, or 1.7 percent of the 1998 national budget) white elephant and, moreover, was discovered to have been marred contracts disadvantageous to the state. Following the speech of Senator Nikki Coseteng in August 5, 1998, the Senate Blue Ribbon Committee conducted its investigation on the matter and its final report included the recommendation for the persecution of former President Ramos and eight others (including former Vice President Salvador Laurel and five former cabinet members) for “technical malversation or misapplication of public funds.” Thirteen of 23 senators signed this report.

President Estrada soon after formed the Ad Hoc and Independent Citizens' Committee (AHICC) headed by former Senator Rene Saguisag to look into the same matter. The result was basically the same except that the “blame” was shifted more to Laurel who was the Chairman of the National Centennial Commission. Ramos and his former cabinet members claimed that the findings were politically motivated and designed to draw attention away from a textbook scam involving a relative of President Estrada and his budget minister, Benjamin Diokno.

In any case, the matter was referred to the Office of the Ombudsman for appropriate action. Saguisag has called for the inhibition of Ombudsman Aninano Desierto who was a Ramos appointee. It was to no avail; on 3 February, 2000, Disierto cleared former President Ramos from charges in connection with the 328% increase in the cost of the Freedom Ring,

⁸ Most of the data about the Centennial Expo scandal were taken from the Senate Blue Ribbon Committee Report Nos. 19 and 30, Yamsuan and Gonzales (1999), Florentino-Hofileña and Sayson (2000/1999) and Cueto (2000a and 2000b).

one of the most expensive components of the project, ignoring the fact that he is the final approving authority for all projects.

Florentino-Hofileña and Sayson wrote their report on the Centennial Expo scandal after the Senate Blue Ribbon committee released the results of its own investigations. They claimed that the Senate report failed to uncover “the use of the Centennial as a cover for raising funds for the Lakas campaign” (Florentino-Hofileña and Sayson 2000/1999: 163). One of the star witnesses at the Senate Blue Ribbon committee investigations, Joseph Ocol, executed an affidavit in June 1999 detailing how contractors working on the Centennial project were asked to make substantial contributions to Lakas, the ruling party. These contributions were in turn delivered to Lakas fund raisers by officials of the Bases Conversion and Development Authority (BCDA) and the Clark Development Corporation (CDC), two government agencies involved in the Centennial project. However, since Lakas was itself split into two camps, the campaign contributions supported both the candidacies of de Venecia and Ramos’ former defense secretary, Renato de Villa.

The Saguisag committee failed to report on another possible scandal: the ownership of 200 hectares of baselands within the former Clark Air Base leased to Global Clark Assets (Global). Global, a company headed by Nora Bitong, formerly a business associate of Senator Juan Ponce-Enrile, was initially the government’s strategic partner from the private sector for the Centennial project. It was supposed to shoulder 55% of the equity of the Philippine Centennial ’98 Corporation (EXPOCORP) equivalent to P550 million. Global made a down payment of P150 million, the rest to be paid in installments. In return, Global got a lease on 200 hectares of the baselands. However, beyond giving another P90 million, Global failed to pay the balance. Because of that failure, then President Ramos decided to rescind the contract with Global and put more government money into the project. There is a forfeiture clause (which provided for the forfeiture of a P100 million performance bond) in the said contract but Ramos decided to return Global’s money ostensibly to avoid legal troubles. In addition, Global was allowed to retain the lease even if it withdrew from the project.

6.2 The Amari and Benpres scandals⁹

The Amari scandal apparently involved the disadvantageous sale of public assets to private interests in exchange for substantial bribes that apparently found their way into the

campaign chest of the ruling political party for the 1995 by-elections. Tordesillas and Coronel (2000/1998) described in detail how the Amari Coastal Bay Development Corporation (or Amari) paid up to PhP 2.8 billion (\$107 million at the time) in kickbacks for a highly under-priced 158-hectare plot of reclaimed land along Manila Bay. The said property was bought by Premchai Karnasuta, the owner of one of Thailand's biggest construction companies, at the ridiculously low price of PhP 1.9 billion (or \$72.4 million) at P1,200 per square meter from the Public Estates Authority (PEA) through Ital-Thai Philippines.

By the admission of PEA's own officials, the cost of reclaiming land stood at P2,000 to P5,000 per square meter. In fact three other firms had offered P1,400 to P1,600 per square meter but the PEA did not negotiate with them. Moreover, reclaimed land near the said property was selling at up to P90,000 per square meter. The cooked deal was apparently helped by tailor-made appraisals (from P750 to P1,000 per square meter) of the land to favor Amari's initial bid of P1,000 per square meter. One firm had valued the property at P1,680 per square meter in 1991, yet it pulled down its estimate to P1,000 in 1995. A year later, when asked by Amari to appraise the same property, the same company put a per square meter price tag of P4,500. PEA records show that these appraisers were contracted by the PEA official, Justiniano "Bobby" Montano IV, who apparently received a substantial share of the kickbacks.

Amari allegedly paid a high-ranking politician PhP 400 million (\$15 million) for facilitating the land deal. According to a Senate investigation of the Amari transaction, checks amounting to P300 million issued by Amari to one of the wheeler-dealers involved in the deal were encashed by the sister-in-law of a high ranking leader of Congress" (Tordesillas and Coronel 2000/1998: 146). When the Senate Blue Ribbon Committee released its in 1997, the legislative chamber buzzed with the rumor that the official was Jose de Venecia, Speaker of the House of Representatives and secretary general of the ruling Lakas party. De Venecia has denied the allegation. While corruption charges were filed against a string of officials (including Montano) as a result of the Senate investigations, many questions about Amari remain unanswered. De Venecia's role in the deal is one. Former president Ramos' possible involvement is another. Allegations of payoffs made to several officials (allegedly including acknowledged AC-DC master Senator Ernesto Maceda who first denounced the scam in a privilege speech in the Senate) to hush up the investigation of the transaction also remained cloaked in mystery.

⁹ Most of the data about these scandals were taken from Tordesillas and Coronel (2000/1998),

While de Dios and Esfahani (1999) raised fears that the large projects of the Ramos administration faced the “threat of reversal” with the ascension to power of the Estrada government, these apprehensions did not materialize in the Amari project. Another set of private interests close to the current occupant of Malacañang managed to wrest control of the project. In late 1999, the group led by businessman Ramon Ang, the right hand man of San Miguel Corporation chairman Eduardo “Danding” Cojuangco, wrested control of Amari from Ital-Thai Philippines. The Estrada administration reportedly felt that the government did not get a good deal out of the PEA-Amari project and ordered a renegotiation of the contract. President Estrada reportedly agreed to uphold the project after the terms of the contract were modified to give the government a 30-percent share of the land developed in the property from 20 percent in the previous contract (Cabacungan and Torrijos 1999 and Dumlao 2000).

Ital-Thai and de Venecia figured prominently in another scandal—the Benpres/North Luzon Expressway case. The scandal erupted when a young first-termer congressman, Mike Defensor, who was questioning the award to Benpres Holdings of a contract to rehabilitate the North Luzon Expressway, disclosed to media that he received P200,000 from a Benpres representative a few days before Christmas 1995. Defensor said that he soon returned the money to a member of the Lopez family that owns Benpres and the ABS-CBN broadcast network. The Lopez kin reportedly accepted the money but denied any knowledge about its source. Benpres also denied the bribery charge and Defensor, fearful of the Lopez family’s media clout, fudged the details of the pay-off in a congressional hearing.

As will be revealed subsequently, the entire controversy was actually a contest between two private corporate groups over a lucrative government contract. In July 1995, a company jointly owned by Benpres and another Lopez firm, the First Philippine Holdings Corp., signed an agreement with the government-owned Philippine National Construction Corporation (PNCC) to rehabilitate and extend the tollway to Subic and Clark. Ital-Thai was also interested in the project and presented an alternative proposal to rebuild and extend the highway to Pangasinan. Ital-Thai had a champion in de Venecia “who not only suggested that the firm bid to build the highway to his home province, but also interceded for the company, when it looked like Benpres was going to get the deal” (Coronel 2000/1996: 138).

There were persistent rumors, which de Venecia denied, that Ital-Thai contributed to the Lakas campaign chest in the May 1995 by-elections.

Defensor and some of his congressional colleagues were apparently used by de Venecia's camp to lambast the contract with Benpres. He reportedly received a comparison of the Ital-Thai and Benpres proposals from a senior congressman allied with de Venecia. He then used the information in a privilege speech in November 1995 when he said the tollway agreement with Benpres smacked of "highway robbery."

Even if one was to admit that the attacks against the Benpres contract were primarily motivated by a sour-graping firm and its political patron, there is still much to be said about the said contract. For one, the PNCC management had earlier raised questions about awarding the contract to a corporation that had no track record in road construction. Public Works secretary Gregorio Vigilar countered that Benpres' lack of experience in road-building was not an obstacle as it was being called in mainly for its financial clout and managerial experience. Instead of a public bidding, Benpres got the contract on a negotiated basis. Government apparently wanted to fast-track the project so the highway would be ready for use by the leaders heading for Subic for the 1996 Asia-Pacific Economic Community (APEC) summit.

Because of the APEC consideration, the contract with Benpres was apparently rushed as government took several "short cut" on established procedures. While the Department of Justice (DOJ) ruled in June 1994 that a competitive bidding was not necessary (because the PNCC franchise allows it to enter into joint ventures even without a bidding), it also said that the joint venture agreement had to pass through the Government Corporate Monitoring and Coordinating Committee (GCMCC), an inter-agency body that screens transactions made by government corporations. But Vigilar asked President Ramos to do away with this requirement supposedly to avoid delay. Vigilar also brushed aside the objections of the DOJ and the Office of the Government Corporate Counsel (OGCC) to the transfer of the usufruct—or the right to use and benefit—from the PNCC franchise to the joint venture company to be formed by Benpres and PNCC, but controlled by Benpres through ownership of 80% of said company. Of course, one can mischievously note that Justice Oscar Garcia, the government corporate counsel, is de Venecia's protégé.

6.3 New players

As the modus operandi of corruption with respect to procurement contracts and disposition of public assets have changed, new players have emerged in the post-Marcos

period to claim their own share of the corruption loot. The most significant of these new players are leaders of the new religious movements that have arisen during the past few decades. Of particular interest is Mariano Velarde, more popularly known as Brother Mike, leader of the El Shaddai charismatic prayer movement.¹⁰

In the past, organized religions have been unable to or have been unwilling to parlay their political clout into the ability to corner lucrative procurement contracts from government. A case in point is that of the powerful Iglesia ni Kristo (INK), whose political cachet stems from its ability to impose on its more than 2 million members an electoral slate following a theological principle of maintaining church unity at all times. But the church (or any of its leaders), has never, to public knowledge, attempted to extract political concessions from those it supported except for getting some of its members appointed to important government positions. For instance, the first Secretary of Justice of the Estrada administration, Serafin Cuevas, was an INK member. However, he was booted out from office by Estrada who was displeased with the former's zealotry in pursuing the tax cases filed by earlier administrations against Lucio Tan, one of Estrada's key cronies.

The case is quite different for the more amorphous religious movements such as the El Shaddai charismatic prayer movement headed by Velarde, who also became President Estrada's spiritual adviser apparently in exchange for El Shaddai's support of Estrada's candidacy during the 1998 presidential elections. Velarde was a real estate businessman before he started the charismatic ministry in the 1980s. Nonetheless, he still managed to organize a Mariano Z. Velarde group of companies with the Amvel Land Development Corporation (Amvel) as the group's flagship firm.

In 1998, several pieces of Amvel property in Barangay San Dionisio, Parañaque City were affected by the C-5 Link project, which will connect the Manila South Expressway and the Cavite coastal road through the existing C-5 highway. Since private property would be affected by the road project, the government had to enter into right-of-way-acquisition (ROWA) talks with Amvel and other private landowners. Initially, Amvel and other landowners demanded payments of up to P25,000 per square meter on the strength of a land valuation report made by the Parañaque City appraisal committee, which had placed at P14,000 to P25,000 per square meter the fair market value of private property in Barangay San Dionisio.

¹⁰ Much of the data in this section is taken from Esplanada (2000a, 2000b, 2000c, 2000d).

The government body in charge of right-of-way-acquisition (ROWA) talks with Amvel, the Toll Regulatory Board then headed by executive director Mariano Benedicto II, balked at the P25,000 initial quote, claiming it was too high. A study conducted earlier by the Parañaque City's assessor's office said the prevailing land market values in the area ranged from P490 to P700 per square in the interior to P1,000 per square meter along A. Santos avenue.¹¹ The Asset Valuation Division (AVD) of the Bureau of Internal Revenue (BIR) reported that the affected properties have a zonal valuation of only P4,500 per square meter.¹² The TRB then commissioned three private land appraisal companies to evaluate the affected properties. The three however came up with a wider valuation range: from a low of P3,000 to a high of P18,000 per square. Note that the highest quote is still less than the Amvel's initial demand by P7,000 per square meter. This means that even if this was the price to be paid for the land, the government would have saved P912.7 million. If the lowest quote was the acquisition price, the government would have saved a whopping P2.87 billion.

Eventually, the affected properties were bought by government for P15,335 per square meter and Amvel collected about P1.22 billion for its land. While TRB executive director Benedicto claimed that the deal was aboveboard, Malacañang insiders said that sometime in March 1999, President Estrada "personally directed the TRB to proceed with the acquisition of the Velarde-owned lands" (Esplanada 2000b). In fact, the deed of sale of the property was reportedly executed and then transmitted to the Office of the President and the contracts for land acquisition were approved by President Estrada on 30 March 1999.

Critics of the deal insisted that Amvel should have been paid only P4,500 instead of P15,335 per square meter, or a difference of P10,835 per square meter. Government would have saved about P760 million. They cited Administrative Order No. 50, issued on 17 February 1999 by Malacañang, which set the purchase price for right of way easements at a property's "zonal value plus 10 percent," instead of its ***fair market value***.

It is true that negotiations for the land started in 1998, before AO No. 50 was issued. Amvel vice president for business development Carlos Ramon Baviera claimed that the company was "supposed to be paid by the government as early as the first quarter of 1998" (Esplanada 2000b). In a May 7, 1998 resolution, the TRB board approved payment for the

¹¹ Of course, we know that there is a wide disparity between the assessed value and the fair market value of real estate everywhere in the country. Landowners tolerate the wide disparity because the lower assessed values are the basis for the payment of real estate and other pertinent (e.g., inheritance) taxes.

¹² The BIR zonal valuation does not distinguish property in the interior portion of a community from those along a major thoroughfare. It is common knowledge, however, that properties in the interior areas have a lower value than those along main roads.

said Amvel properties. But it is also true that **final** approval of the deed of sale and the contracts for land acquisition were all signed by President Estrada on 30 March 1999, one and a half months after AO 50's issuance. Does the fact that negotiations started, or that the TRB board approve payment for the said properties in 1998 exempt the deal from the provisions of the said administrative order?

It may again be true that there are no allegations of bribes reported in connection with this land deal. However, the law on corruption (Republic Act 3019 or the Anti-Graft and Corrupt Practices Act) is quite stringent. The said law defines as a corrupt act the "entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby." A year and a half after paying Velarde's firm P1.22 billion, the Estrada administration shelved the C-5 Link project indefinitely. This prompted some critics of Estrada, including DPWH personnel to assail the government for alleged "misappropriation of public funds" (Esplanada 2000d).

7. Concluding remarks

Our investigation into concrete cases of corruption in connection with procurement contracts and sale of public assets indicate significant changes in the modus operandi especially in response to the stimuli of economic growth, decentralization, and the restoration of formal democratic processes in the post-Marcos period. However, the key ingredient involves the exchange of "goods" between a rent-seeking private entrepreneur and public officials with discretionary powers to the detriment of public interest. To this end, the vast powers enjoyed by the Philippine president to approve and finalize contracts should be carefully reviewed in the effort to reform the over-all socio-political environment that fosters corruption.

While the industrial structure of corruption appears to be looser in non-authoritarian settings, there may still be exceptions to the rule. Again, the vast powers of the President come into the picture. In our prologue, we have alluded to how President Estrada organized a protection racket for *jueteng*. Some of the sources interviewed while preparing this paper alerted us to the corruption in the Telepono sa Barangay program. Apparently, the corruption here was tightly organized in behalf of Estrada through the efforts of his crony, Jaime Dichaves, who apparently calling the shots at the Department of Transportation and

Communications (DOTC). The entire country was reportedly divided into areas assigned to telecommunications suppliers like Siemens, Alcatel, and the like without the benefit of public bidding. Of course, these suppliers will overcharge their equipment to incorporate the kickbacks they have to pay. Our sources suggest that an examination of Estrada's secret bank accounts might unearth how much and when these payoffs were made.

There is likewise a need to reform our electoral laws, especially in relation to campaign financing. Most of the cases of grand corruption undertaken within non-authoritarian context were perpetrated for the purpose of amassing hefty campaign chests.

With the demise of the Estrada administration, the organization of an honest-to-goodness national anti-graft body may come to pass. However, this will not be enough. Rose-Ackerman (1999: 5-6) reminds us of a fundamental lesson: "Reform should not be limited to the creation of "integrity systems." Instead, fundamental changes in the way government does business ought to be at the heart of the reform agenda. The primary goal should be to reduce the underlying incentives to pay and receive bribes, not to tighten systems of ex post control. Enforcement and monitoring are needed, but they will have little long-term impact if the basic conditions that encourage payoffs are not reduced. If these incentives remain, the elimination of one set of "bad apples" will soon lead to the creation of a new group of corrupt officials and private bribe payers."

This is an apt reminder for all of us who are still euphoric with the downfall of the venal Estrada regime and his unprecedented arrest for plunder on 25 April 2001. The subsequent events, EDSA *Tres* and Mendiola *Dos*, drove home the point even further.

Bibliography

I. Books and Book Articles

- Ades, A. and R. Di Tella. [1997a]. "The New Economics of Corruption: a Survey and some New Results" in P. Heywood ed., *Political Corruption*, pp. 80-99. Oxford, UK: Blackwell Publishers.
- _____. [1997b]. "National Champions and Corruption: Some Unpleasant Interventionist Arithmetic." *The Economic Journal* July (107): 1023-42.
- _____. [1995]. "Competition and Corruption." Draft Paper, Keble College, Oxford University.
- Bardhan, P. [1997]. "Corruption and Development: A Review of the Issues." *Journal of Economic Literature*. Vol. 35, pp. 1320-46.
- Brunetti, A. and B. Weder. [1998]. "Explaining Corruption." Draft paper, University of Saarland and University of Basel.
- Cartier-Bresson, J. [1997]. "Corruption Networks, Transactions Security and Illegal Social Exchange" in *Political Corruption*, P. Heywood ed., pp. 47-60. Oxford, UK: Blackwell Publishers.
- Charap, J. and C. Harm. [1999]. "Institutionalized Corruption and the Kleptocratic State." IMF Working Paper 99/91.
- Chua, Y. [2000/1998]. "Stealing from Public Schools" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 45-61. Quezon City: Philippine Center for Investigative Journalism. First published as a series of articles under the titles "A Pattern of Ghost Deliveries Plagues DECS," "For 25 years, notorious suppliers did business with DECS," and "Corruption is embedded in the DECS culture" in *Philippine Star* and *Manila Times* (30 November-3 December 1998), *Manila Standard, Malaya, Sun Star Daily* and *BusinessWorld* (30 November-2 December 1998) and *Leyte-Samar Weekly Express* (28 November-4/18 December 1998).
- _____. [1999]. *Robbed: An Investigation of Corruption in Philippine Education*. Quezon City: Philippine Center for Investigative Journalism.
- Coolidge, J. and S. Rose-Ackerman. (____). "High Level Rent Seeking and Corruption in African Regimes: Theory and Cases". World Bank Paper.
- Coronel, S. [2000]. "The Jueteng Republic" in S. Coronel ed., *Investigating Estrada: Millions, Mansions and Mistresses*, pp. 26-36. Quezon City: Philippine Center for Investigative Journalism. First published in *i* magazine, October-December 2000.
- _____. [2000/1996]. "Squeeze Play on the Expressway" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 136-144. Quezon City: Philippine Center for Investigative Journalism. First published in the *Manila Standard* and *Manila Times*, 4-5 March 1996 under the titles "A Clash of Giants" and "Deception on the Highway".

- _____. [1995]. "The Killing Fields of Commerce", in J. Rocamora, ed., *Boss*, pp. 3-31. Quezon City: Institute for Political Democracy and Philippine Center for Investigative Journalism.
- Corotan, G. L. [2000a/1995a]. "Money from Health" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 12-23. Quezon City: Philippine Center for Investigative Journalism. First published as a series of articles under the titles "Ramiro's Record of Sleaze" and "Playing Politics with Health" (in *Today* and *Philippine Star*, 9-10 November 1995) and "DOH Hounded by Corruption Charges" (in *Manila Standard* and *Malaya*, 11 March 1995 and *Manila Times*, 11-12 March 1995).
- _____. [2000b/1995b]. "The Rice Scam" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 24-34. Quezon City: Philippine Center for Investigative Journalism. First published as a series of articles under the titles "Inept and Corrupt, NFA Can't Assure Stable Rice Price," "NFA Entangled in a Web of Graft," and "Rice Policy Follows a Formula for Crisis" in *Manila Times* and *Manila Chronicle* (8-11 September 1995), *Manila Standard* (8-10 September 1995) and *Today* (11 September 1995).
- Della Porta, D. and A. Vannucci. [1997]. "The 'Perverse Effects' of Political Corruption" in P. Heywood ed., *Political Corruption*, pp. 100-122. Oxford, UK: Blackwell Publishers.
- Eskeland, G. and H. Thiele. [1999]. "Corruption Under Moral Hazard". World Bank Policy Paper No. 2204, October.
- Fisnan, R. and R. Gatti. [1999]. "Decentralization and Corruption: Evidence Across Countries." World Bank Development Research Group paper.
- Florentino-Hofileña, C. [2000/1996]. "Profits from Disaster" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 35-44. Quezon City: Philippine Center for Investigative Journalism. First published as a series of articles under the titles "Millions Lost in Mt. Pinatubo Projects" and "Army Clique Enriched by Pinatubo Resettlement Funds" in *Manila Times*, *Manila Standard*, *Manila Chronicle*, and *Malaya* (2-3 September 1996) and *Abante Tonight* (6 September 1996).
- _____ and I. Sayson. [2000/1999]. "Centennial Scandal" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 163-180. Quezon City: Philippine Center for Investigative Journalism. First published in *Business World*, *Malaya*, *Philippine Star* and *Manila Times*, 14-16 June 1999 under the titles "Convenient cover for election fundraising", "How to build a white elephant," and "The great cost of saving the Centennial".
- Gamalinda, E. [2000/1990]. "Public Works Mess" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 7-11. Quezon City: Philippine Center for Investigative Journalism. First published as a series of articles under the titles "Who Makes Money out of Potholes?" and "Who Goes After the Crooks?" in *Malaya*, *Manila Times* and *Manila Standard* (28-29 November 1990).

- Gondie , A. and D. Stasavage. [1997]. "Corruption: The Issues". OECD Technical Paper # 122.
- Hutchcroft, P. [1997]. "The Politics of Privilege: Assessing the Impact of Rents, Corruption and Clientelism on Third World" in P. Heywood ed., *Political Corruption*, pp. 223-242. Oxford, UK: Blackwell Publishers.
- Huther, J. and A. Shah. [1998]. "Applying a Simple Measure of Good Governance to the Debate on Fiscal Decentralization." World Bank Policy Research Working Paper No. 1894.
- Kaufman , D. and S. Wei. [1999]. "Does 'Grease Money' Speed Up the Wheels of Commerce". World Bank Policy Paper No. 2254.
- Kelly, P. [1997]. "Globalization, Power and the Politics of Scale in the Philippines." *Geoforum* 28(2): 151-171.
- _____. [1998]. "The politics of urban-rural relations: land use conversion in the Philippines." *Environment and Urbanization* 10(1): 35-54.
- _____. [1999]. "Everyday Urbanization: The Social Dynamics of Development in Manila's Extended Metropolitan Region." *International Journal of Urban and Regional Research* 23(2): 283-303.
- _____. [2000]. "The Political Economy of Local Labour Control in the Philippines." Unpublished Ms. Southeast Asian Studies Program, National University of Singapore.
- Khan, M. (____). "The Role of Civil Society in Patron-Client Networks In the Analysis of Corruption". Chap. 7 in *Corruption: Integrity Improvement Initiatives in Developing Countries*. <http://magnet.undp.org/docs/efa/corruption.htm>
- Klitgaard, R., R. MacLean-Abaroa, and H. L. Parris, Jr. [2000]. *Corrupt Cities: A Practical Guide to Cure and Prevention*. Oakland, California: ICS Press and World Bank Institute.
- Lambsdorff, J. G. [1999]. "Corruption in Empirical Research – A Review." Transparency International Working Paper.
- Leite, C. and J. Weidmann. [1999]. "Does Mother Nature Corrupt? Natural Resources, Corruption, and Economic Growth." International Monetary Fund Working Paper, WP 99/85.
- McAndrew, John. [1994]. *Urban Usurpation: From Friar Estates to Industrial Estates in a Philippine Hinterland*. Quezon City: Ateneo de Manila University Press.
- Mendoza, A. [1992a]. "Guide to The Marcos-Honolulu Papers (MHP)" in M. Tsuda and M. Yokoyama, eds., *Japan Inc. in Asia: A Documentation on Its Operations Through the Philippine Polity*, pp. 10-13. Tokyo: Akashi Shoten.
- _____. [1992b]. "Guide to the Oscar L. Rodriguez Papers (ORP)" in *Japan, Inc. in Asia*, pp. 14-17.
- _____. [1992c]. "Guide to the Baltazar A. Aquino Papers (BAP)" in *Japan, Inc. in Asia*, pp. 18-23.
- Paldam, M. [1999]. "The Big Pattern of Corruption: Economics, Culture and the Seesaw Dynamics." Unpublished manuscript, Aarhus University, Denmark.

- Philippine Center for Investigative Journalism and Institute for Popular Democracy (PCIJ/IPD). [2000/1995]. "Jueteng Country" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 279-288. Quezon City: Philippine Center for Investigative Journalism. First published in *Today, Malaya, Abante, Philippine Star, and Manila Times*, 4 December 1995 under the titles: "Illegal gambling has a grassroots base"; "Police and politicians protect jueteng"; and "Jueteng is embedded in local society and culture".
- Poblador, N. [2000]. "Devolution and Public Sector Governance: A Critical Reappraisal." Paper presented at the UPSE Seminar Series, 16 July 2000.
- Rodrik, D. [1998]. "Where Did All the Growth Go? External Shocks, Social Conflict, and Growth Collapses." <<http://www.ksg.harvard.edu/rodrik/confcontext.pdf>> (27 January 2000).
- _____ and T. van Ypersele. [1999]. "Capital Mobility, Distributive Conflict, and International Tax Coordination." <<http://www.nber.org/papers/w7150.pdf>> (15 January 2000).
- Rose-Ackerman, S. [1999]. *Corruption and Government: Causes, Consequences, and Reform*. Cambridge University Press.
- _____. [1996]. "The Political Economy of Corruption-Causes and Consequences". World Bank Public Policy for the Private Sector Note # 74, April.
- Sachs, J. and A. Warner. [1995]. "Economic Reform and the Process of Global Integration." *Brookings Papers on Economic Activity*, 1-118.
- Sarmiento, P. [2000]. "The Burdens of Agriculture" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 78-88. Quezon City: Philippine Center for Investigative Journalism. First published under the titles "Weighed Down by Corruption and Waste" and "In Cotabato, Arson and Murder Fail to Silence Whistle Blowers" in *Business World and Malaya* (24-25 January 2000).
- Schamis, H. [1999]. "Distributional Coalitions and the Politics of Economic Reform in Latin America." *World Politics* 51(2): January.
- Shleifer, A. and R. Vishny. [1993]. "Corruption". *Quarterly Journal of Economics* August (1993): 599-617.
- Tordesillas, E. and S. Coronel. [2000/1998]. "The Grandmother of all Scams" in S. Coronel ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, pp. 145-162. Quezon City: Philippine Center for Investigative Journalism. First published in *Manila Standard, Sun Star Daily, Manila Times, Malaya, Business World, Philippine Daily Inquirer, and Independent Post*, 18-22 March 1998 under the titles "Huge payoffs made to officials and brokers," "Amari's trail reaches Malacañang," and "The scam unravels".
- Transparency International (_____). Source Book (Chapter 2, 12 and 13).
- Treisman, D. [2000]. "The Causes of Corruption: A Cross-National Study." *Journal of Public Economics*, forthcoming.

_____. [1999]. "Decentralization and Corruption: Why are Federal States Perceived to be More Corrupt." Paper presented to the Annual Meeting of the American Political Science Association, Atlanta, September.

UNDP Report, [1997]. "Corruption and Good Governance." Division of Public Affairs UNDP, New York.

Verzola, R., M. Buenaventura and E. Santoalla. [1991]. "The Philippine Nuclear Power Plant: Plunder on a Large Scale", in A. M. Mendoza Jr ed., *Debts of Dishonor: Volume I*, pp. 3-126. Quezon City: Philippine Rural Reconstruction Movement.

Wei, S., [1997]. "How Taxing is Corruption on International Investors?" NBER Working Paper No. 6030. May.

II. Periodical Articles

Cabacungan, G. Jr. [2000]. "Gov't eyes e-purchasing unit." *Philippine Daily Inquirer*, 20 June 2000.

_____. [1999]. "NDC to sell Expo, other subsidiaries." *Philippine Daily Inquirer*, 30 August 1999.

_____ and E. Torrijos. [1999]. "Cojunagco pal taking over Amari holding company." *Philippine Daily Inquirer*, 18 November 1999.

Contreras, V. [2000]. "Group urges graft, corruption to be reported via Internet." *Philippine Daily Inquirer*, 27 April 2000.

Cueto, D. [2000]. "Ombudsman ignores graft finding against FVR." *Philippine Daily Inquirer*, 4 February 2000.

_____ and R. Nazareno. [2000]. "Ombudsman ignored evidence on Ramos." *Philippine Daily Inquirer*, 8 February 2000.

Dumlao, D. [2000]. "Firm to resume coastal project." *Philippine Daily Inquirer*, 12 May 2000.

Esplanada, J. [2000a]. "Velarde firm used fake CA ruling in deal." *Philippine Daily Inquirer*, 15 August 2000.

_____. [2000b]. "Government paid P1.2B to Velarde real estate firm." *Philippine Daily Inquirer*, 16 August 2000.

_____. [2000c]. "Amvel tops right-of-way beneficiaries." *Philippine Daily Inquirer*, 17 August 2000.

_____. [2000d]. "After paying P1.2B, C-5 link plan shelved." *Philippine Daily Inquirer*, 1 December 2000.

Fletcher, M. [1997]. "The Sell-off Blues." *Asiaweek*, 21 February 1997.

Henderson, D. R. [1999]. "Power Corrupts—Editorial Comment." *The Wall Street Journal*. 19 April 1999.

Javellana, J. [1999]. "Puno lied too, says Saguisag." *Philippine Daily Inquirer*, 19 October 1999.

Lopez, A. [1999]. "Centennial shenanigans: Ramos is under investigation for corruption." *Asiaweek*, 30 April 1999.

Yamsuan, C. and S. Gonzales. [1999]. "Expo scam: FVR, Laurel held liable." *Philippine Daily Inquirer*, 6 November 1999.