Esprit de corps

Corruption in a transforming police service

André Meeusen

'And thou shalt take no gift: for the gift blindeth the wise,
and perverteth the words of the righteous.'

Exodus 23:8

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed and referenced.

A.P. Meeusen

Table of contents

Introduction

According to President Thabo Mbeki, the fight against corruption is one of the principal tasks of his new government. Corruption is a central concern for a country that is in a difficult political transition and is facing strong economic demands. South Africa needs an effective government. The focus of this paper is one of the areas where corruption is thriving, the South African Police Service (SAPS). I have chosen for a study within the department of Safety and Security because this is the headquarters of the fight against corruption and the place where the rule of law should be rooted most deeply. If the justice-system is corrupt, the whole state will be polluted. According to the Parliamentary researcher for the Safety and Security Committee 'the current level of corruption within the overall criminal justice system is the factor most negatively influencing efforts to substantially improve safety and security in South Africa', undermining both public confidence and crime prevention strategies (Briefing Committee 1999:1). This is one motivation for writing a thesis on this topic: corruption is a central concern for those involved in South African politics.

The theme of corruption is also at the heart of political organization. People organize themselves for certain goals. Whatever these goals are, corruption interferes with their effective pursuance. Studying corruption means studying the nature of government and the tension between the way it should use its power and the way it does. It is about the limits of human organization, the tension between the public and the private, and the slippery way people practice their ethics. This is another motivation for writing on this topic: corruption is a central concern for those involved in political science.

In South Africa, there are widespread beliefs in the existence of corruption. In a survey published by Idasa in 1996, 46 percent of the respondents felt that most officials were engaged in corruption and only 6 percent believed there was a clean government (Lodge 1998:157). The police certainly does not have a clean reputation. In a newspaper poll over half of the respondents called the police 'corrupt and having no integrity' (*Sowetan* 28/3/96, quoted in Syed and Bruce 1997:2). Moreover, an opinion survey at the end of 1998 showed that 60 percent of the respondents thought the government was controlling corruption 'not very well' or 'not at all well' (Mail & Guardian 8/10/99:30).

In this thesis, I want to put these figures into perspective. The purpose of the thesis is two-folded. Firstly, to provide for an analysis of the historical, political, social and organizational roots of corruption within the SAPS. Secondly, to confront this analysis – and the policy directions it suggests – with the practice of fighting corruption in South Africa. The central argument I will present, is that in

the 'fight' against corruption, the government should pay less attention to the 'fighting', and more to the construction of a healthy civil service. This means the development of an 'esprit de corps'. It also means improving the standard of the material corps - vehicles, training, etc. In this thesis I will argue that a direct relation exists between a poor functioning police service and a corrupt police service. I will argue that it is impossible to fight corruption without the availability of a 'healthy' police corps, and that in South Africa some basic requirements for this are absent. I will also argue that a strong connection exists between corruption and the apartheid legacy, but my thesis will show that fighting corruption does not end with this observation.

In the first chapter, I provide a theoretical assessment of the concept of corruption. I will establish the connections between corruption and the (material and mental) condition of the police corps, and the differences and similarities between corruption and good governance. I will also show how corruption conceptually and practically relates to the surrounding world. To understand corruption, it is necessary to understand the concepts of private gain and public interest; only when those are incompatible, we can speak of corruption. In the last paragraph, I will assess the costs of corruption for society. The theoretical analysis of the concept of corrupion and the way it is connected to related phenomena will prove to be a building block in the analysis.

In the second chapter, I give an inventarisation of the main arguments used to explain corruption. The value of political, economic, cultural and organizational factors will be assessed. Following the two-folded purpose of this thesis, in the second paragraph of this chapter the strategies propagated to fight corruption will be examined. Together, these two paragraphs will as a framework provide the background for an assessment of these aspects in the South African context.

In the third chapter, the two-folded analysis will be pursued, examining the causes of corruption in South Africa and the way it is dealt with. There are a number of ways to explain corruption in South Africa. Some say that it is a feature of black government. Others say it is the legacy of the apartheid era. A third explanation is that it is a symptom of the political transition. An assessment of the causes of corruption in South Africa should be aware of all these factors. Furthermore, this chapter gives an oversight of the main strategies of the South African government to fight corruption. Government statements and actual policy will be assessed.

In chapter four, I will take a closer look at the shape of corruption in South Africa by examining the situation at the police stations of Woodstock and Khayelitsha. I have chosen these two stations because they represent two different areas: a black township and a pre-dominantly white/coloured neighbourhood. Constraints of time and space restricted me in investigating the situation at those stations deeply. An investigation of the occurrence and extent of corruption - even

confined to those two stations - was out of the question. Those are the limits of a Masters-thesis, and this forced me to make a choice about the focus of my research. I thought it would be most helpful for the analysis if I would be able to get an impression of how people are working on the ground, and how they perceive the problem of corruption. This could put a fresh perspective on the general discussion of literature on corruption and of government policies - a discussion that otherwise would remain very theoretical.

In the fifth and final chapter, the theoretical conclusions of the first three chapters will be confronted with the practical findings of the case studies, and I will turn back to my central argument.

CHAPTER 1

Understanding corruption

The Corruption Act defines corruption as the offer or acceptance of a benefit for the commission or omission of an act in relation to the powers and duties of a person upon whom any power has conferred or who has been charged with any duty by virtue of any employment or the holding of any office.[1] Apart from its judicial wordiness, this definition is very similar to what is used in most scientific literature. Corruption is the misuse of public resources for private gain. This basic definition - or something like it - is widely accepted by contemporary scholars. There is nothing wrong with this definition. However, it hides some problems that are crucial to understand corruption. It presupposes a clear distinction between public and private, and a clear idea of what constitutes the public interest. In this chapter, I hope to illuminate these problems. This theoretical work will be the foundation of the central argument of this thesis, as outlined in the introduction. In the introduction two explanatory variables for corruption were introduced: a poor functioning police service and the apartheid legacy. This chapter will be the first step in showing the connections, by establishing the relationship between corruption and a poor functioning bureaucracy (the first paragraph), and the public interest (the second paragraph).

1.1 Corruption and good governance

In the Regulations for the South African Police Service (SAPS), several types of behaviour are listed as 'misconduct': sleeping on the job, drinking and using drugs on the job, feigning illness to obtain exemption from duty, driving recklessly, and using threatening language towards fellow employees.[2] These examples do not fall under the legal definition of corruption, although these are types of misconduct that interfere with the effective performance of the civil service. The reason for this exclusion is that no public power is misused (except matters like the salary the officer receives) and no private gain is involved.

It is important to note that a corrupt act is intentionally done, and liable for prosecution. A lazy or incapable cop is not a corrupt cop. Someone who does not strive to become the cop of the year is

1 Act no. 94 of 1992.

2 Quoted in Syed & Bruce 1997:8.

not necessarily corrupt. This is clear from the way we defined corruption, which presupposes both misuse of public power and private gain, an exchange for neglecting or breaking a rule.

Some scholars equate corruption with a lack of good governance.[3] This is partly due to the difficulties in measuring corruption; scholars are often unable to disentangle corruption and bad governance, and therefore take them together.[4] Corruption, as an intentional act, should be treated differently from bad governance, which is basically an act of negligence. Corruption also has a harsher character, being less visible, more harmful, and more difficult to eradicate. However, it is important to keep an open eye to the close relation between a badly organized and poorly performing civil service and the occurrence of bureaucratic corruption. Misconduct, a bad working ethos and corruption often share both causes (for instance, political instability) and consequences (waste of public money, endangering trust in public institutions). When these attitudes are endemic, it becomes less and less useful to make the distinction.

In an excellent article, Diego Gambetta shows that corruption often is an extension of a bad working attitude. The article starts with the 'villain's paradox': "I can only deal with crooks, but crooks aren't trustworthy people to deal with." How can trust - necessary for transactions - be established between people who are prepared to cheat, lie, and break the law? One option is extra-legal law enforcement. This is what the Mafia supplies: protection to illegal markets. A second option is having a 'dangerous' reputation; someone who is seen as dangerous is less likely to be cheated. The other side of the coin is that the risk that prevents people from cheating, also prevents them from making a deal anyway; a 'dangerous' person also has the ability to cheat or extort and get away with it. A third option is to give bad information about yourself to each other: a form of mutual blackmail. Nothing is as safe as entering corrupt deals with people who were involved in other corrupt deals with parties having evidence of this. Before initiation, Mafia novices are asked to commit a murder - to ensure their commitment. However, a policeman would like to prevent knowledge about his wrongdoings to be available. Therefore, Gambetta (1999:17-20) sees the fourth option as the most interesting one.[5] He calls it 'selective incompetence as a handicap signal'. The best way for a policeman to establish his credibility is to persuade his 'clients' that defection is no option for him. He must show that he has more to lose than to win with ending the corrupt relationship. Gambetta (1999:18):

> 'They can show their long-term commitment by showing, for instance, that they have a family to look after or expensive tastes to satisfy. They must also give evidence that

3 See for instance Seegers (1999:4), who orally clarified her point.

4 See for instance Mauro 1995:705 and Rose-Ackerman 1999:3.

5 Gambetta might overlook the importance of the first option: the police as extra-legal law enforcer. In a situation where corruption penetrated all sections of the organization, the police can easily use its legal authority for illegal ends.

> their most profitable opportunities for future gain come from staying in the corrupt market. Their claims to be each other's loyal friend must be backed by the fact that they have no viable alternatives other than being loyal. This can be achieved in a number of ways, by showing for instance that they lack connections with other powerful groups. But it is also achieved by showing that they are not good at pursuing a different career by proper means.'

Not having the ability to pursue a proper career can motivate corruption. But it makes someone also more suitable. It is easier to conceal corruption when you are known as not so smart. Being good at something else than being corrupt means someone has an alternative. The costs of defection are lower.[6] Corruption is something different from bad governance, but a bad working attitude can signal corruptibility.

1.2 Private gain and public interest

The police job has its perks. Just before Christmas, a police officer in Woodstock received a bottle of brandy from a known drug dealer. 'Would you say no to such a small gift?', asked captain Schumacher, convinced of the innocence of the gesture.[7] Small gifts are generally accepted, in politics as well as in trade. In large companies, often rules exist about the size of business gifts. Similar codes are sometimes suggested for civil services. So, generally, there's nothing wrong with a small gift like a bottle of brandy. However, what does it tell us about the relationship between a 'crimefighter' and his opponent in the 'battle against drugs'? The Woodstock police captain didn't seem to be aware of this complication. Another example. During their patrol, the policemen of Woodstock often go to a shop along Main Road, where they can get free tea and coffee. This seems innocent and admissible, but Sherman describes it as the first step in a corrupt career. According to Sherman (1974:6) police acceptance of free meals and coffee is defined as bribery in some U.S. cities and not in others. When does something lose its innocence and become corrupt behavior?

Obviously, this has to do with size and the generally accepted standard. The litmus test of corruption is transparency. If the policeman hides his brandy, something is wrong. Putting it on his desk is a sign that the gift is acceptable - if it would be against the public interest, everyone could speak out about it. In rural communities, it is often tradition to bring a gift to a leader before a visit. In the second chapter, we will see that this 'traditional gift giving' can be defended with an appeal to its transparent character.

The judgment will also be guided by the private gain involved. This gain can be financial and

6 Gambetta (1999:18) uses his own experiences in the Italian academic world as an example. In this corrupt academic market, 'there is no greater sin than having a brilliant new idea'.

7 Schumacher was the captain of the police unit that took me with them on their night shift. To protect the identity of the interviewee, the name Schumacher is used as a pseudonym.

personal or immaterial and indirect. Some examples make this clear. In the Australian province Victoria, police officers allegedly were directed by their superiors to avoid investigating politicians or business people who were influential and supportive of the police agency. This could take the form of covering up evidence or 'loosing' files.[8] The 'private gain' is to avoid damage being done to the police. Syed and Bruce (1997:3) call this 'organizational gain'. Fraternal loyalty can also be at the root of corrupt activities. Investigations in New York showed that policemen were involved in 'burying' files and obstructing or prolonging investigations of corrupt activities by other police officers.[9] Sherman (1974:191-208) points out that young policeman often start with corrupt activities to maintain loyal to the group.

Corruption can also be done for moral reasons. A peculiar example of this is known from Abraham Lincoln, who instigated the bribery of a few members of Congress in order to achieve the required majority to pass the Thirteenth Amendment.[10] Lincoln bribed people for what he saw as the public interest, which makes the definition of 'private gain' very broad. Another example is the philosopher Wittgenstein, who bribed Nazi officials to spare his (jewish) sisters. These examples show how different a formally corrupt act can be perceived. Private gain - whether personal, organizational or political - will always be defined in relation to the perceived public interest. Wittgenstein and Lincoln will be judged more benevolent than those who just filled their own pocket - not in the last place because time changed moral judgment over their acts.

We now come to the important question what constitutes the public interest. It is already uncertain who decides what the public interest is, even in a democracy. Looking at the example of the Australian police, it is clear that the public interest goes beyond that of the ruling party, even when it is the majority party. However, that would make the apartheid policy of favoring the white population and police practice of 'targeting' the black population examples of corruption. This would not be helpful. The apartheid regime saw itself as legitimate; we cannot call its laws corrupt without calling into question the legitimacy of the entire regime. This is not the purpose here. An analysis of corruption must start with acknowledging the presence of those in power. Their intentions and aspirations - their formulation of the public interest - are decisive for the obligations of the civil service.[11] This does not mean that those in power can do as they please; they are bound by their

8 Example taken from Syed & Bruce 1997:5.

9 Syed & Bruce 1997:8.

10 Gambetta 1999:11. The Thirteenth Amendment prohibits slavery.

11 Syed and Bruce (1997:4) therefore speak of the 'corrupt use of the police'. This distinction has its advantages, but also its troubles. It draws the attention away from the own responsibility of the police under repressive regimes like apartheid South Africa or Argentina during the junta. Another problem is that police misconduct like torture and murder is often illegal even in terms of the laws of repressive regimes – the examples that Syed and Bruce use, South Africa,

own laws. Again, transparency can function as a gauge.

The example of the Australian police is also interesting because it questions where the loyalty of a civil service is vested. When the ANC government renamed the South African Police Force into the South African Police Service, what did this mean? The police had to serve the people, was the basic thought behind the new name. Does that mean that the police serves the people in the first place, and serves the ruling party only in the second place? In the South Africa of apartheid, this would have made a huge difference, and that, of course, was exactly the reason behind the name change.

In the United States, it is generally accepted that politicians appoint civil servants of their own party, although a small group of reformers calls this form of political patronage corrupt. Earlier, we concluded that the public interest goes beyond party interest. But this case is generally accepted behavior in a stable democracy. This also points to the situational content of corruption. What is seen as proper or rational behavior in one period, may be seen as corrupt in another time. Morality changes over time, so the definition of what is corrupt should be sensitive to the specific circumstances. In a review of what corruption means in different cultures and traditions, Osborne (199?:11) comes to the same conclusion. Although in every culture bribery is regarded as wrong, this is not thought self-evident: 'bribery is wrong because...' Unlike murder or theft, bribery is not seen as something that is wrong in and by itself. Pragmatic arguments are needed to show why it is wrong.

This starting-point can lead to unexpected directions. According to Gambetta (1999:5), many Italian judges into the 1970s publicly defended the Mafia as 'a benign institution, with which the state could cooperate rather than fight'. In this view, the Mafia was seen as a complementary justice system. The justice minister in Silvio Berlusconi's 1994 cabinet, Filippo Mancuso, held this view. This is situational ethics par excellence: what many see as the cradle of corruption, others as part of the legal system.

From this pragmatic point of view, bribes can be defended by pointing to positive consequences. Take for instance the case of a civil servant in a developing country who, in return for a relatively small financial gain, allows a foreign company to pass by some complex and time-consuming bureaucratic procedures. This example is commonly used in defense of corrupt behavior. By neglecting inefficient bureaucratic rules, the corrupt civil servant is doing something that benefits the economy in the public interest. Leys (1965:219) even argues that the public interest sometimes benefits from bribery: 'politics must be made to pay'. However, the cases in which this kind of

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Argentina and Brazil, are cases in point. If we interpret these activities favorably by acknowledging there relation with a public interest, we could call them 'illegal law enforcement' that serve some public purpose. Another interpretation would again lead to questioning the legitimacy of the regime.

corruption really serves the public interest seem rare.[12]

An interesting case of how the public interest develops, is described by Leys (1965:226-228).[13] In Britain around 1800, it was common practice to go into politics for private gain. In 18th century Britain, jobbery, sinecures, rotten boroughs, treating and other activities were usual and often practiced openly. They were accepted for a number of reasons. Civil service jobs were not paid enough to be attractive for those competent enough to occupy them. At the same time, government-provided services were a luxury good mainly needed by the more affluent sections of the population. This made it reasonable to expect some direct material gratitude from the customer.[14] When this attitude expanded and became more expensive, a reform movement managed to establish a new public morality within a remarkable short period. Leys (1965:227):

> 'What seems to have happened is that the ruling classes were induced to accept an altered perception of the nature of the public interest and so to redefine the purposes of the public offices and state institutions which remained, during most of this period, still under their control.'

However, there is an important difference between 19th century Britain and the situation of new, developing states. As Leys continues: 'It was precisely because they [the ruling classes] already had a clear notion of the public interest that the assertion of the new notion was established with such completeness.' Leys argues that Britain did not move from a corrupt state into a 'pure' condition. It passed from one set of moral standards into another - the old practices became corrupt according to this new standard.[15]

We can conclude that a definition of corruption depends on the particularities of specific societies. The public interest must be at the core of our understanding of corruption. This public interest can be seen as an equilibrium between political power and the moral consent of society. From this perspective, it will not come as a surprise that - as we will see in the next chapter - corruption often occurs when public powers are contested or society is divided on political or moral issues.

1.3 Why corruption is wrong

12 See for this debate Lodge (1994:159), and for further discussion on consequences of corruption, chapter 2.

13 Leys' analysis is a response to the description Wraith and Simpkins give in their Corruption in developing countries (London, 1963).

14 The differences with modern states are clear. Government services are much more extensive and affect all citizens at every level. In developing countries civil servants are paid well compared to the people who often depend on these services out of material necessity.

15 The example of Britain shows the importance of allowing the civil service to adapt itself, in contrast with a confrontational strategy that bears the danger of losing the loyalty and commitment of the entire civil service whose skill and experience will be useful in the future.

Earlier we saw that the wrongness of corruption is not self-evident. Pragmatic arguments are needed to show why it is wrong. This makes the discussion of the consequences of corruption an important matter.

Leys (1965:222) makes a distinction between objective and subjective consequences. Objective consequences are the economic costs and benefits. Subjective consequences are the effects of corruption on the attitudes and the work of civil servants and others.

The objective costs of corruption seem obvious. It includes reduced government revenues, increased costs of products and of running businesses, distorted price signals, bad investments, deterrence of foreign investors and the destruction of market competition. The most direct consequence of police corruption is the increase of crime. Some researchers have attempted to estimate the objective costs of corruption. Mauro (1995) sees a correlation between high levels of corruption and lower levels of investments as a share of the national income.[16] In South Africa, also some attempts to estimate the level of corruption have been made. In 1997, Deloitte & Touche spokespersons suggested that the overall cost of public sector fraud and mismanagement in South Africa could easily exceed 10 billion Rand. A National Party estimate in the same year adds up to an amount of 13.5 to 20 billion Rand in the preceding three years.[17] According to those reports, these estimates are comparable with figures from countries that have a reputation for being corrupt.

Corruption has all kinds of negative effects. Cross-country empirical work has confirmed the negative impact on investment, growth and productivity while it encourages excessive public infrastructure expenditure (Rose-Ackerman 1999:3). In the case of developing countries, it endangers the supply of foreign aid, and sustains the negative capital overflow when money ends up on Swiss bank accounts (Leys 1965:228-229). This is expensive, certainly in poor countries where the need is high and resources are scarce; these countries usually depend on the state when it comes to economic development.

However, from a pragmatic perspective the question should be: what is the alternative? When bribery is justified by low incomes, the end of these practices might lead to demands for higher salaries or to reduced services. Maintaining certain practices might serve an efficient and socially

16 Although Mauro's argument is not unreasonable, his calculations show a precision that is as unreal as it is characteristic for many writers on corruption (in both media and science): 'if Bangladesh [with a score of 4.7 percent] were to improve the integrity and efficiency of its bureaucracy to the level of that of Uruguay [score 6.8] ... its investment rate would rise by almost five percentage points and its yearly GDP growth rate would rise by over half a percentage point' (Mauro 1995:705).

17 These figures come from newspapers and are quoted in Lodge (1998:180). It is needless to say that these can only be rough estimates that only bear vague resemblance with reality.

useful administration. Some scholars argue that corruption has beneficial developmental effects.[18] This might be the case when bureaucratic procedures obstruct entrepreneurial initiatives. The argument is that the corrupt exchanges are more efficient through bypassing unnecessary and arbitrary bureaucratic control systems. This channels capital into investment instead of consumption and results in better economic decisions.[19]

However, it is clear that those are exceptions. Lodge (1994:159) holds that these types of corruption involve senior officials rather than routine petty corruption, which is generally considered as harmful for the economy. In police corruption, the chance on positive effects will be little. Rose-Ackerman (1999:26) points out that corrupt activities have the tendency to accumulate; corrupt officials will create scarcity and delays to attract more demand, and more demand on the corrupt market will attract more corrupt officials. But the strongest argument against tolerating corruption for incidental benefits is that not only objective, but also subjective costs are attached to it. While the objective costs are a matter of economic calculation - which does not leave out a positive outcome - the negative effect of the subjective costs in the long term is inevitable. To arrive at this conclusion, we need to analyze the nature of corruption some further.

A regular South African form of corruption is the theft of dockets. Would it make a difference whether the thief is a policeman or a civilian? A clear difference is that a policeman has better access to the dockets and a lower chance of being caught. Syed and Bruce (1997:4) call this the 'organizational power' of the police. This includes access to police knowledge and resources, support of, and influence over, fellow officers and the organization, and the image and credibility that police officers enjoy (for instance in a court of law). A civil servant is corrupt when he uses his 'organizational power' for his private interests.

However, access and opportunity are not the only differences between a policeman and a civilian stealing a docket. Gambetta (1998) points to a difference in moral blame that brings us to the core of what corruption entails. A public institution has a monopoly, not so much over the production of certain resources (that are of private interest) as over the *rules of its allocation*. The goods of corrupt markets are potentially all those which should not be allocated outside certain rules. Corruption is the violation of the rules, for which an exchange with a third party compensates. The public servant is an 'agent' of these rules; he is *entrusted* with maintaining and protecting them. In the case of docket theft, the police is entrusted with evidence against a criminal that is meant to be used in court of law. Stealing a docket frustrates the goal of police work: persecuting criminals.

18 See for instance Euben (1989:243) and Nye (1967).

19 Another debated issue is the value of patronage systems; some argue that it enhances social stability. See for a

Corruption is different from theft by citizens not because its severity or consequences - it does not matter who has stolen the docket - but because it strikes at the root of government authority. Fighting corruption is important because confidence in the common good and the public power is at stake. A policeman is a *trusted agent*, and therefore in a fundamentally different position than a normal person who steals the docket for his own interest. As Gambetta points out, corruption always involves a third person besides the corrupter and the corruptee. This might be a real citizen, such as the victim of the criminal whose docket was stolen, or the honest bidder on a government procurement. But looking over the shoulder of this third person is always the same abstraction: the general public. Corruption is the betrayal of public trust.

Losing public trust is a subjective cost that does not lend itself for simple economic calculations, but its consequences are severe. When official public purposes are subverted from top to bottom in the hierarchy of a state, the state loses its power both politically and as a tool for economic development. Corruption undermines the effectiveness and authority of the government, and the public trust in government institutions.

When corruption becomes the rule, in the long term problems will arise that demand either a change in moral attitudes to corruption (legalising formally corrupt behavior) or a change in practices (criminalising corrupt behavior). Even when corruption has positive effects, this does not mean corrupt practices can be left in place; it means that the circumstances that led to the corrupt practice should be revised. If corruption is justifiable because it is economically efficient to skip the rules, deregulation is necessary. Corruption is never the solution to a problem.

discussion about this: Leys (1965:219, 229-230).

CHAPTER 2

Fighting corruption

This chapter provides a general analysis of two most central concerns of this thesis, the causes of corruption and the strategies to fight it. The first section of this chapter provides an inventarisation of the main arguments used to explain corruption. [20] A difference will be made between political, economic, and cultural conditions, although these are of course interconnected. This section will show the strong connection between corruption and macro change. Furthermore, corruption can be explained by practical conditions that exist under any political, economic, and cultural constellation. Therefore, some attention will be paid to explanatory variables at meso (organizational) and micro (individual) level. In the second section, different strategies to deal with corruption will be explored. This general analysis provides the background for an assessment of these aspects in the South African context.

2.1 Causes of corruption

Corruption could be explained by political, economic, cultural and practical circumstances. Firstly, the **political context**. Corruption is often seen as a byproduct of a *political transition*. States in transition suffer from growing pains. Rules and regulations are new and unchrystallized. The role of a civil servant and public institutions is new. This leads to unclear lines of authority and overlapping jurisdictions (Seegers 1999). A related problem is what Leys (1965:223) calls the 'standing' of the 'official purpose' of the public office or institution in society. In transitional states, the idea of a national public interest is young and weakly developed and sometimes contested by large groups within society. There is a low level of trust and loyalty towards the state. Sherman (1974:15) points to the effects of political transitions on the community structure, using the sociological term *anomie*. Anomie is defined as 'a state of societal normlessness, produced by a disjunction between culturally prescribed goals and access to institutional means for attaining those goals.' If financial success is the highest value in a community, but the opportunities are not equally available, the 'rules of the game' come under pressure. Sherman (1974:15) describes two possibilities:

> 'On the one hand, that gap [between goals and means] can be created by change from a rigid class structure (with no cultural expectation of upward mobility) to a fluid

20 I have primarily made use of: Leys (1965), Le Vine (1975), Lodge (1998), Sherman (1974) and Theobald (1994).

> class structure (with universal expectation of upward mobility), while the available means - education, employment, opportunities - remain the same. Thus the goals change, but not the means. On the other hand, the gap can be created by a new emphasis on following the rules of the game, or by the creation of new rules - business ethics or law itself - while the culturally prescribed goals stay the same. Thus the means change, but not the goals.'

In both cases, those with least access to means are most willing to break the rules. An interesting suggestion would be that the first case is the position in which many black South Africans find themselves, while the second case describes the position of white civil servants. I will come back to this in the following chapters.

The decolonisation process in developing countries is a clear example of a political transition. After the Second World War, many of those countries became independent states. The colonial history is especially complicated because of the wide gap between the old and the new regime. Many people identified the state with the centralised imperial power that had nothing to do with their interests. The relationship with the state could take different forms, ranging from strategic cooperation to open hostility. Often the state represented an alien and therefore unpredictable rule, and this made bribes a reasonable precaution.[21]

In a decolonized state, more than in any other political transition, a culture or tradition of loyalty to the state has yet to develop.[22] The new state has to compete with many other loyalties, such as family, tribe, and region. Civil servants often have to make choices between these loyalties, and the state is not always their first priority.[23] In these circumstances, what is moral behaviour? A person who is fortunate enough to be able to get jobs for his relatives might feel a moral obligation to do so. If not only his relatives, but also the majority of society accepts the moral rationality of his

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21 McMullan (quoted in Leys 1965:225) makes clear how much the bureaucratic system is based on acquaintance and trust: 'The farmer [..] is uncertain of the exact contents of the various laws that affect him, and uncertain how he stands in relation to them. He knows that he should have a license for his shotgun but cannot be sure that the one he has is still valid, or if the clerk who issued it cheated him with a worthless peace of paper. He knows he should have paid his taxes, but he has lost his receipt, and anyway there is something called a "tax year", different from a calendar year, which "they" keep on changing [..] much better give the policeman what he is asking for, or if he is not asking for anything, better give him something anyway [..] A man does not, says the Ashanti proverb, rub bottoms with a porcupine.'

22 Examples of different types of regime change are post-communism in Eastern Europe, Germany after the second world war and the transition from authoritarianism to democracy in Latin Europe and America. These countries obviously face some similar problems as described here, but the crisis of the state is usually less deep than in post-colonial countries, because they can build on older loyalties and power structures - it is surprising how much remains unaltered after political change at the highest level.

23 Le Vine (1975:47) interviewed a group of twelve Ghanese civil servants ranking from senior officials to lower bureaucrats. He concluded that the state was a very low priority to them: 'A generalised ordering of their socio-political hierarchy of identification - and hence of their hierarchy of trust - could be set out as follows (in order of importance): 1. Nuclear family and/or extended family 2. Close friends/"countrymen"/co-ethnics 3. Business associates 4. "Old boys" (school classmates) 5. Clients/supporters (usually persons in categories 1,2,4) 6. Professional/official colleagues 7. Persons in superior/subordinate official and social positions 8. The country (the government and/or its institutions)'.

actions, should we call this nepotism and say it is corrupt? The definition of corruption we arrived at in the previous chapter, leaves space for a pragmatic judgment.

Another problem in transitional societies is the politicization of government institutions. In post-colonial countries, this means an effort towards indigenisation. After massive political mobilisation in the struggle for independence, the new government is under high pressure to give former activists a place in the new government. In general, patterns of political appointment in civil service nurture corruption.

The **economic context** has a huge impact on both the occurrence and the shape of corruption. A major concern is the condition of the state bureaucracy. Chronic lack of funds leads to an underequipped, poorly trained and irregularly paid civil service.[24] The latter is important when it comes to corruption; future career prospects are fundamental for developing loyalty and working ethos. Insecurity leads to a 'take what you can get' attitude. Theobald (1994:703) sums up the situation for many civil servants in developing countries:

> 'Not only are they unsure about receiving their salaries at the end of the month, but because of frequent and sudden cutbacks, civil servants may not even know if they will still be employed. They are reasonably sure, by contrast, that they will never see the pension towards which they are compelled to make regular contributions.'

The result is that civil servants start seeing their time in the office as an opportunity to make money that they cannot afford to go by. It is clear that in these circumstances the neo-liberal anti-corruption strategy of 'downsizing' the public sector has a contrary effect.

Looking at corrupt behavior in terms of opportunities, it is obvious that in some circumstances the temptation is higher, because more opportunities arise or because it is easier to conceal irregularities. In this regard, the existence of external economic resources is instrumental. Corruption often thrives in situations with state monopolies on natural resources such as oil or gold, or large revenues from foreign aid or customs receipts. In such cases, government institutions have a large amount of assets in possession.[25] The high rates of corruption that the Heath Commission found in the province Mpumalanga can similarly be explained by the existence of the large game parks.[26]

Developing countries are characterised by huge economic inequalities. This can determine the relation of civil servants with the state and with the public in different ways. If the benefits of civil service are relatively high, obtaining an office by bribery is a reasonable thing to do. If the income of the civil servant is low compared with some other groups in society, then it becomes often accepted to increase that income in unofficial ways, as we saw in the example of 18th century Britain. Just like

24 Again, this problem is most severe in post-colonial countries, where a wide gap exists between what a government should do and what a government really can do. The size of the bureaucracy therefore contrast sharply with its budget.

25 This is in accordance with Gambetta's description of corruption in relation to the monopoly on the rules of allocation.

political change, economic change has a profound impact on society. Modernization expands both the size and the scope of government intervention swiftly. Under these circumstances, the state is the major economic actor, and political office becomes the main route to personal wealth. Rapid economic growth stimulates people to look for a stake in the public wealth. This happened in Nigeria during the oil boom and in Korea and Japan in the post-war periods (Seegers 1999:3). Furthermore, rapid economic change often leads to social disruption; as such it is connected to the political and cultural dynamics of a society.

It is difficult to measure the influence of **culture** on corruption. At least three aspects are of importance: political ethos, cultural conflict and modernization. Sherman (1974:16), suggests that a *political ethos* may be either 'public-regarding' or 'private-regarding'. People who participate in the governmental process may see their participation as either helping the general community, or helping themselves and their personal interests. Sherman, following Hofstadter (1955), links this ethos to culture, suggesting that the public-regarding ethos is dominant in the culture of protestant America and the northern European countries, while the private-regarding ethos is dominant in southern European countries and developing nations.[27]

Culture conflict within a community often revolves around political ethos, but other values can also be at issue, such as race, language, or class. In the first place, a culture conflict affects the standing of the public purpose and creates divisions about the public interest. As we saw earlier, this is a fertile breeding ground for corruption. McMullan (1961:185) even suggests that the 'different levels of corruption in different countries depends on the extent to which government and society are homogeneous.' In the second place, as Sherman (1974:16) points out, culture conflict leads to diverging expectations of the aims of law and what the law enforcement priorities should be. Disagreement about the legitimacy of laws or certain policies can support a police agent in bending the rules.

Modernization is a powerful cause of culture conflict. In this thesis, we presume the existence of a modern state bureaucracy. In the present world - despite all the differences between countries - this is the dominant, almost universal form. However, historically politics could be structured in an all together different way. Most pre-modern societies were less massive and more personal. Often a difference is made between democratic societies based on equality and a professional bureaucracy,

26 See Heath (1998) en (1999).

27 This might lead to the suggestion of a white, or more specific, Afrikaner public regarding ethos. The public emphasis during apartheid on the Afrikaner nation is evidence for this. Would the African population, as part of the world of 'developing nations', be more 'private-regarding'? This would be jumping to conclusions. Enough evidence of the opposite exists; it seems that the ANC succeeded in creating a pride in the new South Africa which has survived the first waves of euforia after the transition.

and traditional societies in which politics are often rooted in hierarchy, authority and personal relations. This distinction echoes Weber's work about the modern and the pre-modern state. In a modern state, a 'rational-legal bureaucracy' operates according to rules. In a pre-modern state exists a patrimonial ethos. There is no clear separation between incumbent and office, or between public resources and private interests. The administrative apparatus operates around personal dependencies. Theobald (1994:704) calls this the 'personalistic principles of kinship, clanship, and clientship'.[28] This 'traditional' concept naturally still exists at a lower, micro level, but aspects of it can still persist at state level too.

Often is pointed to traditional gift-giving as an example of this personalistic mode of thought. In many traditional societies, it is custom that a request or visit to a chief has to be preceded by a gift. It is easy to point to the analogy with bribery. This is unfair, as Obasanjo (1994) makes clear:

> 'In the African concept of appreciation and hospitality, a gift is a token; it is not demanded; the value is in the spirit of the giving, not the material worth. The gift is made in the open for all to see, never in secret. Where a gift is excessive it becomes an embarrassment, and is returned.'

The argument of Obasanjo is convincing: transparency can serve as a gauge, accountability as the requirement for honest administration. Obasanjo also points to the use of the gift as a token. As such, it has a specific place in society, and is made in a specific context. Not only socially, also in economic terms the role of the chief is in many cases different from that of the modern politician. Le Vine (1975:82) explains this in the context of Ghana. In Ghana, a chief was wealthy in terms of the services he received, but he could not accumulate capital for his own personal use.[29] Everything a man possessed was stool property after he became chief. The gift was also a means for the chief to show his generosity. His wealth functions as a status symbol for his clan, but is to be shared with the community. It is reasonable to assume that a balance exists that a chief has to maintain; he is allowed to keep some wealth to himself, as long as the community prospers under his rule. When his consumption becomes too expensive for the community, he will lose his privileged position. To keep this balance is the crucial matter, and this is not much different from modern society.

We have to be careful in assessing the influence of culture. Yet we should not present traditional cultures as immune for bribes, and one may wonder whether these societies were not more vulnerable to these practices. For sure, the tradition of gift-giving can make space for new

28 Assessing and critiquing this distinction goes beyond the scope of this paper. For now, I can only say that this distinction makes sense in light of the huge differences between the mass society of today and the traditional face-to-face community. Even larger political entities were structured in such a (hierarchical) way that relations were more direct than in the modern impersonal bureaucracy.

29 Hyden (1983) argues that the importance of accumulating capital historically is a Western concept, and in the African context has less meaning.

habits. As often is the case, something that functioned in certain circumstances becomes unhealthy in a new situation. As Leys (1965:225) states:

> 'while traditional gift-giving can be distinguished from a bribe of money, it is quite obvious that from the point of view of the giver the one has shaded into the other, so that although the practice has taken on a new significance, as the open gift of a chicken is replaced by a more furtive gift of a pound note, it is nevertheless an established fact of life, in which the precise nature of the rule-infringement is partially concealed by continuity with an older custom.'

The tradition of gift-giving gives moral justification and sophistication to the dirty business of bribing.

This points to an important complicating factor in developing countries: the availability of different standards at the same time. The post-colonial situation brings with it a 'wide divergence between the aims, attitudes and methods of the government and those of the societies in which they operate' (McMullan 1961:184). Problems arise when a gap develops between the political culture of the colonisers and of those on which they imposed themselves. This can effect the postcolonial state. As Leys (1965:226) points out:

> 'poised as they are between the inherited public morality of the western nation-state and the disappearing public morality of the tribe, they are subject to very considerable cross-pressures which make it unlikely that the western state morality, at least in its refined and detailed forms, will emerge as the new public morality of these countries; meantime, however, the criteria of the west have sufficient standing in some quarters to ensure that the accusation of corruption is freely leveled against all behaviour which does not conform to them.'

This stresses the pressures on morality in times of rapid economic and social change. Modernization undermines older patterns of authority that could preserve and support a public morality. A vacuum emerges in which loyalty for the tribe becomes a strategic choice and not a responsibility.

Looking at the political, economic and cultural factors discussed, it becomes clear that the most important determinant of corruption at the macro level is change. When political authority is unstable and challenged, when economic developments put pressure on social relations, and when cultural norms and values start to shift, the tension between public and private interest and a political and moral vacuum emerges in which corruption thrives.

However, while noting this, we should not close our eyes for the fact that corruption not only occurs in societies in transition. In the previous chapter we have seen examples of societies - such as 19th century Britain or 20th century Italy - that are much less under the influence of change and where explanations for corruption have to be found in other directions. Corruption is related to **practical circumstances** that exist under any political, economic and social constellation. An important factor is the way the civil service is organized. Organizations can be structured in many ways and they differ in many characteristics: complexity or repetitiveness of tasks, the closeness of supervision, competitiveness or solidarity among co-workers, and so on. A climate of corruption can

be fueled by habits of bureaucratic secrecy, administrative inefficiency and complicated hierarchical decision-making procedures that create lengthy delays. Two for our analysis important features of the civil service organization are leadership and advancement opportunities.

Leadership is important because in police corpses honor and hierarchy are central to the organization. According to Peabody (1962:477-480) policemen personalize authority more than other occupational groups. Leadership within the police corps therefore has an important exemplary role. To be able to fight corruption, this leadership should be above all suspicion. Leadership can also shape reform. Sherman (1974:36) describes the way J. Edgar Hoover dealt with the corruption-ridden FBI, taking a personal role in recruitment, and building up the organizational myth that only 'someone special' can join this agency. In this way, he redefined the collective identity of his organization. Sherman concludes that 'a strong collective identity that "we are something special - honest men in a world of crooks" might be the best method of preventing corruption.' Another aspect of an organization is the *perception of advancement opportunities*. If the opportunity for a bribe is available, corruption becomes a choice. Somewhere along the line, a civil servant will weigh the incentives and disincentives to corrupt the official purposes of an office. For instance, the size of the profits to be made by bribery, compared with someone's regular income, and compared with the penalties attached to being caught and exposed. In the first chapter it was already suggested that the prospect of a successful future career within legal limits will determine this choice to a large extend.[30]

Another factor that is of particular relevance to police corruption, is the availability of legal opportunities.[31] Legal opportunities arise from moral, regulative or procedural laws. When *moral laws* are contested, this opens the door to corruption. Examples of such laws are legislation about gambling, drugs, prostitution, abortion or pornography. These laws have primarily moral value; violation does not harm anyone, while historically always some demand seems to exist. This makes the threshold for allowing such a violation much lower. The importance of this becomes clear in Sherman's (1974: 21, 191-208) description of the 'moral career' of police agents as following a

30 The importance of some other organizational aspects are more contested. While some mention decentralisation (especially delegation of financial authority) as a contributing factor to corruption, others see centralisation and monopolisation of power as a problem. Some point to the introduction of market values in public administration as corrupting government ethics, others see a more market oriented civil service as part of the solution. Another discord is about whether the organising principle of the organization should be competitive or idealistic. An example of a competitive measure is a premium system, which is sometimes advocated to stimulate the police to find criminals. A more idealistic approach would play on the pride of the members or the social importance of the job. The fact that these aspects are more contested, does, of course, not affect their relevance; it only means that their significance has to be analysed in practice.

31 The argument of this paragraph is borrowed from Sherman (1974:22-25).

'ladder of corrupt stages'.[32] The ladder stands for a step-by-step process, in which a person redefines one's self to accept ever more serious deviance. Along the ladder, new recruits slowly modify their standard of ethical behavior: 'Typically, free meals and other 'police perks' are the first steps away from purity, and then some cash forms of 'grass-eating' (passively accepting what is offered) usually for gambling, then for prostitution' (Sherman 1974:21). Sherman's theory points to the fact that corruptibility develops gradually. Laws that are not widely accepted, and lack a clear victim if breached, serve as steps in such a process.[33] Bad *regulative laws* are another example of this, but also lead to corruption in a different way. Sherman (1974:24) explains this with the story of a New York policeman who, when unexpectedly asked to *pay* for a cup of coffee, asked for a refill, and then issued a ten-dollar fine to the café owner for serving coffee in a used cup. In New York, hundreds of such trivial laws exist, and they are a source of power for corrupt policemen. The South African counterparts of these are the Pass laws and the restrictive liquor legislation. In practice these laws were unfeasible and overwhelmingly violated, with thousands of black workers crossing the 'borders'. In fact, the economy could not function without these violations, but they were also a great source of income for corrupt policemen. A third way in which a law system lowers the threshold to corruption is when policemen can not do their work effectively because of *procedural laws*. In an article entitled "What makes a good cop go bad", former NYPD officer Robert Leuci tells how his first misconduct was lying in order to establish 'probable cause' for searching a suspect, so that a case would stick in court.[34] This is justified by the 'unrealistic' laws whith which policemen have to work. Soon, such practices became 'a casual thing' and not long after, he had 'graduate[d] to bigger crimes'. The Mollen Commission that investigated corruption in the New York police suggested that in this way a culture of lawlessness developed (Syed & Bruce 1997:8). While such 'illegal law enforcement' is something different from corruption, it certainly blurs the lines.

Besides these factors that may vary depending on the circumstances, police work involves some features that are always present; they come with the job, and therefore make the police agent especially vulnerable for corruption. Police officers possess a high degree of discretion, without much managerial control. For instance, the choice to arrest or not to arrest someone can be made on

32 This theory is taken from Goffman (1961) who defines a moral carreer as 'the sequence of changes [..] in the person's self and in his framework of imagery for judging himself and others'. He suggests that certain (1) contingencies produce (2) moral experiences, which, as turning points in the way a person views the world, produce (3) stages in his moral carreer. Instrumental in justifying moral change is what Goffman calls an 'apologia', a self-definition that can be reconciled with basic values of society. An example of this is justifying a bribe because salaries are too low, the work is dangerous, etc. (Sherman 1974:20).

33 Sherman (1974:8, 35) states that corruption in England declined since the relaxation of legal restrictions on gambling, prostitution, and homosexuality in 1960.

34 The article of Leuci is quoted at length in Syed & Bruce (1997:8).

numerous bases, and the legitimate bases can cover up any illegitimate basis. This is also due to the low public visibility of the police work - those who attempt to stand within earshot of a policeman dealing with a potential arrestee are usually ordered to 'move along'. Another constant in any police corps is the high group solidarity, which involves higher parts of the hierarchy as well and discourages potential 'whistle blowers'. Sherman (1974:13) points to the 'status problem' of the police work as another constant factor: the low pay of the police relative to their power, the complexity of their task, their life-style, and their prestige. As Sherman concludes: 'the pervasive feeling among officers that society does not reward them sufficiently for the service they render provides a frequent technique of neutralizing whatever guilt corruption creates.' Finally, corruption is more likely to occur in those departments of governments that provide services and deal with the public. The police is no exception to this.

2.2 Anti-corruption strategies

Some historical cases are known where corrupt practices were challenged and within a few years led to success. One of the participants of a conference about corruption pointed to 'the striking difference between Ghana now and two years ago':

> 'The new constitution has given a degree of legitimacy because lawyers and judges are making decisions independently of government. It has reinforced people's view that justice can be done' (Murphy 1995:2).

Murphy mentions 18th century Britain, 19th century Australia and more recently the cities of New York, Hong Kong and Singapore as examples where such a transition took place.[35]

It is too early to analyse in-depth the different anti-corruption strategies available - given the contextual character of corruption, this should be done with the specific features of the South African case in mind.[36] However, it is helpful to show some directions for a possible anti-corruption policy. I will do this by distinguishing three different strategies: ethical, institutional, and judicial measures. Earlier we saw that corruption is an ethical problem, rooted in political transition, economic modernization, and culture conflict, leading to the absence of a developed political ethos and common purpose or at least competition with different ethical standards such as a patrimonial ethos or private regarding ethos. This suggest that in fighting corruption much attention should be given to **ethical measures**, focused on changing attitudes within the public service (public exposure, codes of

35 Of course, counter examples are available. Sherman (1974:33) points to the 'almost cyclical pattern of scandal, reform, relapse, and new scandal' that can be seen in the history of many cities. The cycle goes as follows: a scandal leading to public outrage brings about a 'shake-up' of the system and its players. After a while the scandal fades from the public mind, the reform atmosphere ends - this could take five to ten years - and the corrupt system is rebuilt for business as usual (if it was ever really dismantled) - at least until the next scandal.

36 See especially the chapters 3 and 5.

conduct, training, the development of a working ethos) and among the wider population (information campaigns). In changing the political ethos, Leys takes a top-down approach. Political leadership is important in two senses. Firstly, politicians should be an example in integrity. Only when the message - what is corruption and why it is bad - is clear to all parties involved - from leader via civil servant to the public - progress can be made in fighting corruption.[37] Secondly, they have to show the political will to combat corruption.[38] When the elite itself is corrupt, Leys sees the line of escape in 'a nucleus of puritans' (coming from the petty bourgeoisie) that exercises pressure to apply the official but disregarded public code of ethics. Leys points to the United States, where the elite had to accept piecemeal advance; distinctions were gradually insisted upon which narrowed the area of operation of self-interest and widened that of the public interest. In the end, this diminished the occurrence of bribery and political patronage by and large, although huge differences remained between different parts of government.[39] The question that remains in the case of developing countries is, according to Leys (1965:230), where the 'puritans' come from, given the absence of a petty bourgeoisie; and whether the puritans can succeed by gradualist means, rather than by revolution.

Others put more emphasis on **institutional reform**.[40] Measures can be directed towards the office holders (better selection and training of civil servants, the adjustment of salaries) and towards government structures (clearer procedures and responsibilities, rotation of personnel, downsizing, privatisation, separation of powers, and more emphasis on accountability and transparency). An institutional measure especially suitable police work is to look for overlapping jurisdictions. Drugdealers will not pay much to an individual policeman when a second one may come along later. No individual policeman is able to supply protection and so cannot credibly demand a large payoff.

37 Sherman (1974:196) stresses the importance of not making ethical training 'unrealistic': a wide divergence between theory and practice is 'the first source of cynicism about the job'. Sherman (1974:20) makes this point clear when he decribes the experience of new recruits coming from the academy. After getting a very straight picture of police work, in their first street experience they are initiated by a senior colleague - according to Sherman a key experience after which recruits either go along with the new reality, stick to the formal rules or quit the job.

38 An example of this might be the recently elected president of Nigeria, Olusegun Obasanjo. A newspaper article describes the surprise of Obasanjo when he arrived at the airport for a visit to Alferia and saw a crowd of 44 aides and officials waiting to fly aboard two presidential jets. Obasanjo decided to leave with only one plane and half of the entourage. Similarly, newly appointed communications minister Bola Ige was dumbfounded when he found out that he was entitled to 17 official vehicles. The new government started a campaign against corruption and takes a tough stance on violations. Apparently, the government takes the lead in it, which is widely publicized. When the first lady took a commercial flight, the local media celebrated this with jubilating headlines (Sunday Independent 19/9/99).

39 An example of such a 'piecemeal advance' is described by Leys (1965:229). It became accepted that private profit by public servants at the expense of the public welfare was corrupt; 'but private profit by public servants obtained as a concomitant to service in the general welfare was quite proper.' This shows that compromises – which look awkward when taken out of their context - sometimes are the only road to change.

40 See for instance Seegers (1999) and Murphy (1995).

This might also reduce the level of the rewards, shifting the balance between risks and benefits of accepting bribes (Rose-Ackerman 1999:51). Sherman (1974:29) points to the risk that a reformist attitude - certainly when backed by ethical statements - backfires: policemen who were not or only mildly corrupt, could respond with great resentment to the characterization of all policemen as corrupt. Such a label could lead to a psychological reverse mechanism: "If they say I am corrupt, then I'll be corrupt".

Judicial measures includes the establishment of internal and external control systems and adapting the legal context in which public institutions operate. *Control systems* can differ in openness (measured by the extent to which the officer under suspicion - or, more accurately, anyone besides the investigators - is aware of investigations) and can be reactive or proactive in nature. According to Sherman (1974:29), evidence suggests internal controls are more effective than external controls, while the internal investigation unit functions best if using closed and proactive methods. Control systems should be accompanied by the strengthening of judicial powers, strong penal sanctions, and protection of whistle blowers. Some point to the importance of taking the private sector into account (transparency in banking and finance, fighting organised crime). Controls are important, if only for practical reasons. The other side is that too much control hinders the effective pursuit of government.[41] Another problem is that it leads to antagonistic relations within the service; corruption investigators always have to balance between their purposes and solidarity with the corps.

Earlier we saw that the *legal context* - bad moral, regulative, and procedural laws - can nurture corruption. This suggests law reform. As Murphy (1995:3) states, clear laws put violators on the defensive and impose a context in which they have to explain themselves. Rose-Ackerman (1999:39) sees the answer in 'program elimination':

> 'The most straightforward way to limit corruption is to eliminate corruption-laden programs. If the state has no authority to restrict exports or license businesses, this eliminates a source of bribes. If a subsidy program is eliminated, the bribes that accompanied it will disappear as well.'

Rose-Ackerman points to the Eighteenth Amendment of the U.S. Constitution (on Prohibition) that was a source of corruption between 1919 and 1933, and suggest legalizing formerly illegal activities. However, this is always a political consideration that involves other issues too. For instance, despite the analogy with alcohol, only few countries are prepared to legalize other drugs - putting up with the costs of corruption and fighting drugs related crime. Another solution to laws that give cause to corruption is to reduce official discretion and to make monitoring possible.[42]

41 See for this point Anechiarico & Jacobs (1996).

42 This is especially the case with regulative laws. See Rose-Ackerman (1999:45-48) for a wide range of solutions taken from practice.

It is not my intention to present writers as representing one approach. Most scholars mention all strategies, and merely place their emphasis in different ways. Camerer (1999) and Doig & Riley (1998) advocate an integrative strategy, in which all approaches are important. They point to the Independent Commission Against Corruption (ICAC) of Hong Kong, which is widely regarded as a model of an effective anti-corruption agency. An important factor in its success is the multi-faceted approach of the commission. Camerer (1999:3-4):

> 'What makes the ICAC unique is that it does not confine its activities to enforcement, a fact that may be a major reason for its successes. Rather, it devotes enormous resources to the changing of attitudes and practices.'

This is reflected in the three arms that worked together: investigative operations, corruption prevention, and community relations. Some environmental factors contributed to the success. A favourable political climate existed - given substance by a generous budget, extensive judicial powers, and institutional and financially independence from the executive part of government. Furthermore, the ICAC operated within a 'well-regulated' and 'efficient' bureaucracy alongside a 'large' and 'well-resourced' police force. Lastly, the ICAC worked in a period of economic growth.[43] The example of Hong Kong shows that ethical, institutional, and judicial strategies are interconnected. Ethical campaigns and judicial measures collided with an institutional framework and economic change. When a government fails to pay attention to one of these fields, the whole strategy might become powerless. In the following chapter, we will see which of these measures the South African government has applied in 'the fight against corruption'.

43 Those factors make a comparison with countries such as South Africa problematic.

CHAPTER 3

The problem of corruption in South Africa

There are many analogies between a developing country after colonialism and South Africa after apartheid. South Africa shares some of the problems of developing countries, but has also some advantages that make it less susceptible to corruption. In this chapter, I will put the political, economic, cultural and practical causes of corruption as discussed in the previous chapter in a South African perspective. Unavoidable, this will be done in the context of the transformation process from apartheid to democracy. In the second section, I will assess the government's efforts in fighting corruption.

3.1 The transition to democracy

Compared to other developing countries South Africa is in a different economic situation. During the apartheid period, a partial modernisation took place, which mainly benefited the white population. This leaves the country with major economic differences, but also with the advantages of economic and bureaucratic infrastructures. It means that the state plays a smaller role in the economy and is not the only path to material wealth.

The political legacy is also mixed; in some areas, the apartheid bureaucracy was a well-oiled machine, while in others corruption was rampant. We could describe the apartheid area as the misuse of public resources for white gain. However, in light of the successful transition away from this period, it is not helpful to describe this as corruption, although the civil service still has to deal with a persistent racism. The nature of the apartheid government did lead to corruption in the narrower sense that is used in this paper. The main sources for this were the dark political entities called homelands, and the secrecy that accompanied more and more government activities. Lodge (1998:164-166) describes how millions of Rands flowed into secret funds for covert military operations. The destiny of this money was often vague and not subject to much control. The homeland administrations can boast about an extensive record of corruption affairs (Lodge 1998:167-170).

Routinised corruption was usual in all parts of government, to the extent that payments were made for imaginary work and materials. A 1991 inquiry found 'dishonesty and abuse [to be] rife', and concludes that the 'majority of officials [..] have developed a syndrome of lack of enthusiasm to the

extent sometimes of apathy' (quoted in Lodge 1998:167). The Presidential Review Commission (1998:2) speaks of a 'disempowering work ethic' and poor productivity and service delivery, especially to 'the majority population'.

Because it deals with the public, the police service is one of the most vulnerable departments. Lodge (1998:177) calls it one of the three 'citadels of official self-enrichment' - the others are the departments of Social Welfare, and Justice. Common practices are trade in stolen vehicles, extortion from arrested people and theft of dockets. Only sparse figures are available on police corruption. In 1996, 1,076 policemen were under national investigation for corruption, an increase from 89 investigations in 1995, 56 in 1994 and 32 in 1993. In 1995, 2,000 policemen defrauded their medical aid scheme of 60 million Rand. (Lodge 1998:177-181). The suspicion that corruption is thriving in the police corps, corresponds with a general mistrust in the SAPS. 67 percent of the respondents of a questionnaire thought that police force members accept bribes (Lodge 1998:171). In some townships, trust in the police has dropped to such a low level, that residents rather have the army patrolling the area (Mail & Guardian 27/8/99).

The end of apartheid also meant the end of some forms of corruption. The abolishment of the twin currency system with its financial Rand in 1995 ended one source of corruption. The repeal of the Pass laws and the restrictive liquor legislation dissolved the two most common opportunities for police bribery and extortion (Lodge 1998:170). However, with the transition new possibilities arose. The new power equilibrium brought affirmative action, 'black empowerment', and large number of political appointments. The Presidential Review Commission (1998:16) notes that some new appointees are unable to 'offer much beyond political loyalty', due to a lack of experience, formal training and skills[44]:

> 'senior public service appointments have generally reflected the ethnic or racial composition of the Minister. While we understand the rationale for political appointments into the public service, we feel that this should be an interim and not permanent feature of the service, and wish to emphasize that skill and competence, rather than political loyalty, should be the guiding norm in future, especially as the threat of political sabotage diminishes.'

The arrival of vast numbers of new civil servants was a problem, but so was the presence of old ones. The negotiations between the ANC and the NP government led to an agreement that ensured most civil servants their jobs until 1999 (Garton Ash 1997:10). It is clear that the political changes led to demoralisation and (despite the five years grace) job insecurity amongst the civil servants that

44 The need for skilled civil servants and the abundance of unskilled workers becomes apparent in the number of applications (2 million) for the 11,000 affirmative action posts advertised by the public service commission; only 2,000 of these posts could be filled with appropriately qualified people while the remainder were kept vacant (Lodge 1998:184).

served under the apartheid government.[45] They had to serve a new master that had been seen as 'the enemy' for their whole term of office. The Presidential Review Commission (1998:16) speaks of a 'general distrust' among civil servants 'who were anxious, de-motivated and, in some instances, hostile'. This is a breeding ground for corruption. Legislation after the elections of 1994 made it possible to dismiss incompetent or non-performing officials. But, as the Presidential Review Commission (1998:16) comments, 'in practice the disciplinary and dismissal process remains slow'. The most important reason for this is the financial costs of remunerations and 'golden handshakes'.

With the rise to power of the black majority, a different political culture entered the stage. It is difficult to assess the impact of this change. Some people fear that traditional personalistic politics will come to the surface. According to Seegers (1999:4), the dominant political culture in South Africa is authoritarian, despite the democratic constitution that serves as the official ideology. The democratisation has worsened things:

> 'Government now is more accountable but many people have been led to believe that, just as public power was once the property of the minority, so government now is a property owned by the electoral majority. Some take this enthusiastically, personally and literally' (Seegers 1999:5).

This is stated somewhat bluntly. Both the ANC and its white counterparts are familiar with authoritarian types of leadership, but they also both can appeal to longstanding democratic traditions. Within the white regime, this had its racist limits. Within the black resistance movement, this tradition existed independent from traditional authorities. The real problem is not so much these traditional authorities, but the new power structures that apartheid created, especially in the homelands.

Another point Seegers (1999:5) makes, is that South Africa lacks sound bureaucratic procedures, rules, and regulations:

> 'there is no law regulating state-property. Rules of financial management allow for too much delegation. Managers of projects are not held accountable for project expenditure. Managers are given a too diverse set of responsibilities. Rules of performance management are also too weak, especially given a demonstrable link between poor performance and corruption. Internal auditing is not done in approximately 50% of all state bodies. [..] Clearly the fault lies in defective systems [of] management and control.'

This might be a legacy of the past, but is also a problem that arises in a political transition. On the one hand, it calls for an extensive institutional transformation; on the other hand, too much transformation might cause the same problems in new ways.

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45 Since 1994, the number of civil servants has not altered significantly, although the government meant to 'downsize' the bureaucracy from 1.2 million to 900,000 over three years (Lodge 1998:184). As we saw in the second chapter, this can be interpreted both positively and negatively, depending on the perspective. To find its way out of this discussion, the Presidential Review Commission (1998:19) coins the term 'rightsizing'.

It is clear that South Africa has experienced enormous political, economic, and cultural changes. With the previous chapter in mind, we can describe corruption as both the side effect of this transformation process and a legacy of the apartheid past. The great tragedy of South Africa is that every problem can be traced back to its past, and it is reasonably to assume that it does not take years but generations to overcome this. However, the new government has to deal with this legacy, and just as the past is a given, so is the transformation process. Within this framework, the new government is only beginning to deal with the problem of corruption, as we will see in the next section.

3.2 Anti-corruption policies

The new government has more than once shown its commitment to the fight against corruption and to a transparent and accountable government. In the ANC manifesto before the 1999 elections it was highlighted as one of the party's five key national priorities. The government placed corruption as a priority crime concern on its agenda.[46] Within the South African Police Service, corruption has been defined as a national Priority within the 1999/2000 Police Plan. It is difficult to assess whether this commitment has led to success. A common perception is that corruption is increasing. Some sources within government see this as a sign of progress:

> 'The fact that so many South Africans think that corruption within public life not only exists, but is on the increase, may be because authorities are making more vigorous attempts than ever before to check corruption. Hence, a side effect of the more open style of government means that there is more information on corruption than ever before. The argument is that instances of corruption are more likely to be discovered and publicised in a democratic South Africa, compared to the relative lack of scrutiny that the former government received' (Office of the executive deputy president addits 1998:204).

Indeed, corruption gets more attention now than in the past. Lodge (1998:163) points out that newspapers and other media show a fresh willingness to publish corruption stories where there had been some neglect before, especially in the case of the homelands.

However, one could wonder whether the 'prioritising' of the government is more than political rhetoric. Therefore, we have to take a closer look at the actual judicial, ethical, and institutional measures the government has undertaken. I will now briefly discuss the most relevant government initiatives and activities.

On a **judicial level**, several official inquiries have been started.[47] Currently, more than ten

46 See for instance the National Crime Prevention Strategy (NCPS) which was announced in May 1996 (Office of the executive deputy president addits 1998:204).

47 The evaluation of the activities of anti-corruption agencies was necessarily based on newspaper reports; since these agencies are established only recently, thorough scientific research is not yet available, while constraints of time and space

bodies deal with corruption.[48] Measures were also taken at departmental level. In the police department several anti-corruption agencies were established, including one unit in each province and an Independent Complaints Directorate (ICD). An important step was the establishment of the Office of the Public Protector, which meant structural, institutionalised attention. However, the record of the Public Protector is feeble. It has not exposed any significant instance of impropriety. At times, it made itself vulnerable by investigating matters of questionable importance.[49] Until now, no serious finding against a member of the ANC was made. It must be said that from the beginning, the Public Protector suffered from a lack of resources. The initial annual budget was a measly 7 million Rand (this amount was increased after public complaints by Selby Baqwa, the head of the Office). In light of its very broad mandate, the Public Protector is clearly not able to cope with the deluge of complaints with which it has been confronted (Mail & Guardian 8/10/99:33). Already in 1996 a United Nations report recommended an expansion in both capacity and mandate of the Public Protector, so that it can initiate large-scale investigations of general problems rather than merely respond to individual complaints (United Nations 1996:38-40).

Contrasting with this, is the success of the Heath Special Investigation Unit, labeled by the *Mail & Guardian* (8/10/99:32) as 'the most effective corruption watchdog in South Africa'. Originally the 'Heath Commission' was based in the Eastern Cape, but after its success caught the attention of the national government, it was given national powers. Between 1 April and 30 September 1998 the Commission was able to recover state money and assets that amounted to a total of 501 million Rand, working with a budget of less than 10 million Rand (Heath Commission 1999:10,17). Despite its success, the Heath Commission feels that it is not backed by the government. The major problem is financial cutbacks. For the year 1998, the Commission was promised a budget of 13 million Rand; in practice the Commission had to work with 6 million Rand. In 1999, the official budget was decreased, although it was higher than the actual amount the Commission received in the previous year (Heath Commission 1998). The Commission also expressed its frustration about some legal constraints that hamper the Commission's work. Every case has to be brought to the President, who decides whether the Commission will investigate it. This leads to substantial delays, endangers the Commission's independence, and makes secret investigations vulnerable to leaks (Heath Commission 1998). Recently, the SA government refused to allow the Heath Commission to inquire

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did not allow for such a research within the scope of this thesis.

48 For an oversight see Camerer (1999:7) or the Briefing Committee (1999:2-9).

49 A particular case was the three-month probe into whether Mpumalanga premier Ndaweni Mahlangu infringed the Executive Members Ethics Act with his notorious statement that it was acceptable for politicians to lie. The conclusion was that Mahlangu had indeed slipped up and should therefore apologize to the provincial legislature. The efforts were in vain: the recommendations were brushed aside by the governing ANC (Mail & Guardian 8/10/99:33).

further under attack. On top of the general job insecurity, it places new demands on the old civil servants. The transformation process requires a new range of managerial skills and different control systems. Without adequate training, this can trigger new problems. Education seems to be a problem in the public service, as Seegers (1999:5) points out in relation to new appointees:

> 'Entrance-requirements of the SAPS, for example, are low. SAPS-officers defend this practice on the grounds that they cannot afford to recruit from better-educated sectors of society. If so, training is critical. But observers note that SAPS-training promotes para-military skills more than mastery of professional policing techniques (for example, investigation). SAPS-training also has yet to include a discussion of ethical dilemma's - indeed any kind of ethical curriculum.'

A public service that wants to transform itself must start with training its employees.

From an **ethical perspective**, it is clear that the government's firm stance - in words at least - has had an impact on society. There is more awareness of corruption and its consequences. Even if politicians do not practice their rhetorics, it has practical implications. When they accept the importance of open, democratic and accountable government, this leads to public expectations. As Leys (1965:228) stated, 'If their practice is indefensible by any standards which they are publicly prepared to defend, it robs the whole business of any air of innocence'. When the government declares the 'fight against corruption' one of it priorities, there are no excuses for exposed malpractice.

Besides the political lip service, several educational measures have been taken, such as codes of conducts, but there is no evidence of a broad and structural policy in this regard. Corruption measures undertaken by the anti-corruption units, the ICD, the Public Protector, or other institutions, are all reactive in nature. Preventive measures are ad hoc and limited to providing general guidelines or recommendations, and even those are sparse.[51] Camerer (1999:13) points to the lack of public awareness:

> 'South Africa is far behind in developing the much needed public information material and mechanisms [..] to educate citizens on the evils of corruption and the impact it has on their security and wealth.'

Camerer sees an important role for civil society, but it is clear that, following the Hong Kong example, this can and should be an integral part of government policy.

(1998:2), which casually mentions the 'persistence of rule-bound practices and culture' as a serious constraint inherited from the previous regime. Should the new regime leave all rules behind?

51 For instance, when I spoke with the head of the ICD, Riaz Saloojee, he told me that the ICD provided general recommendations to a station, for example to give training to a member. However, when we discussed a number of individual cases, it turned out that none of them had been followed up by such recommendations.

CHAPTER 4

Men at work

The purpose of this chapter is to get a practical perspective on the discussed issues. The first four sections consist of interviews with four policemen that seemed representative or informative of the general attitudes within the police corps. I have transmitted these interviews in a journalistic style, because their value lies in giving a perspective on corruption from the viewpoint of the individual. In the final section I will discuss some general impressions at the police stations of Woodstock and Khayelitsha.

4.1 Rob McEwen[52]: 'It is easy to paint a vehicle and put "service" on it'

The Woodstock police is headquartered in an old Cape Dutch building on Victoria Road, a continuation of Main Road towards the city bowl - at the outskirts of the city, as one policeman commented. The station serves the inhabitants of the areas Woodstock, Salt River, and Observatory. The police station employs 80 people. However, when it comes to the important weekend- and nightshifts, the area largely depends on a high number of volunteers.[53]

Since the beginning of this year captain Rob McEwen is working as a communications officer at the Woodstock station, taking a low-profile after twelve years of investigating gang-related crime in the areas Mitchell's Plain and Manenberg. The conversation soon arrived at the change from police force to police service. McEwen is not positive about the transformation process: 'I found it difficult. We are supposed to give a service, but we are acting as a police force. It is easy to paint a vehicle and put "service" on it. People expect that we serve them. In practice, it is more difficult. It's a process. Some accept it, for older policemen it's more difficult. Ten years ago, a guy brought to the police station that quibbled too much got assaulted. Now it is difficult to say: sorry sir.'

'When we were a force, the training was different. It was based on coping with violence, with terrorists. Now they give you human resource management and human rights. During apartheid, we lost policemen in the political violence. Now we lose them because of a lack of training. Young members don't get self-defense, that's why more members are dying. The training is more service

52 The names of the interviewees are changed into pseudonyms.

53 On Friday the 26th of November 1999 - the night I joined a shift with one of the police units - house searches were being done by three professionals and 21 reservists.

oriented. But we have the highest crime rate. Gangs are better equipped than the police. We are living in a warzone; we're fighting a battle. They don't teach the guys to cope with that.'

Clearly, McEwen's opinion is based on what he sees as the highest priority for the Woodstock police: 'Drugdealing is the main problem, and related to that car theft and robberies. A lot of youngsters between 11 and 17 go out stealing because they need the money for drugs.'

According to McEwen, the police is literally forceless in the fight against crime. 'The whole police corps, irrespective of race, has gone down. During election campaigns politicians always promise more material, vehicles, and money. For instance, ten vehicles per station were promised, in Woodstock we still have only one van. At some shifts, there are two guys in the van and two inside the station for an area of 57,000 residents. This is impossible to do, especially at Friday nights.'

'The morale lowered because there is no adequate equipment. It is a burden for the guys. We have only one vehicle and can only be at one place at the time. When there is more than one complaint at the same time, it sometimes takes one-and-a-half our to get somewhere. That is impossible in an area with 42 drugshouses. With the new democracy, we expected more attention. But our equipment is outdated. We got email only this month. We need extra manpower and vehicles.'

McEwen is aware of the fact that the situation in some townships is even worse. 'In places like Nyanga and Guguletu, the morale is so low. In Langa, the buildings are in a shitty condition, in the winter the water comes through the roofs. It's a dump hall.'

A major complaint amongst the policemen in Woodstock is the low rate of the wages. McEwen: 'As a captain, I earn 82,000 Rand [gross] a year. I think they earn much more in the private sector. Constables, who work in the most dangerous areas, earn 22,000. That is incredible with the work we do. Black guys are often breadwinner; they have a family to support. They often have no money for insurance policies.'

Another aspect of the transformation process is affirmative action. Obviously, this is a major frustration in Woodstock, an area where only whites and coloureds are employed. McEwen: 'Females and blacks are promoted. It has a negative effect on white members. Also on coloureds. People see no future in the police.' According to McEwen, all the frustrations have amounted to a general lack of discipline. 'Some guys are walking around without a cap, not saluting. People are not interested. It's a general carelessness. With the new labour act, it is also more difficult to fire guys who are drunk on duty. Five, six years ago, you needed matric, a drivers license and a statement that said that you were mentally fit. Now the requirements are the same again. In between, they took standard six guys. Some are good, but most are not.'

Another, more universal frustration for policemen is that their work does not get the appropriate follow-up. McEwen: 'We arrested a 14-year-old murderer. He got released; we caught him again. The judge again said he must be released. After he came free, he killed an E-TV journalist. Gangs use these youngsters to do their work in the frontline. Often we catch a guy, but he pays his way out of correctional services.'

4.2 Mike Gelant: 'Most people are looking for alternative occupations'

It is evening when I have an appointment with detective-sergeant Mike Gelant. We meet in the police pub and decide to go to his office to speak quietly. The door of the old building is closed with a rusty padlock. Inside, the corridors and offices look desolate. We take a seat between piles of case dockets, silent witnesses to the overload of work. Gelant: 'You see how easy it is. You walk in, take a case docket, and sell it for 50 Rand. The security is lax.' The state of the building is dreadful, but Gelant immediately puts things in perspective: 'These are dire circumstances, but we are pretty much well off. In some areas, the police has to take the bus to listen to a complaint. Sometimes, there are no desks at all. The resources are out of proportion.'

Gelant sees a close correlation between corruption in the police corps and the transformation process. Gelant: 'Ten years ago the police had a totally different set-up. There were pre-dominantly Afrikaner white males. The Afrikaners gave the impression that they owned the country. They thought they could ban the ANC forever. They felt that this is their country and that they had nothing to do with the rest of Africa. This believe in the Afrikanerdom is a relic of the past. Many problems come from it.

'An Afrikaner policeman could walk into a shop, take vegetables, potatoes and milk, and just walk off. If anyone showed some resistance, he would beat the living daylight out of this person. The worst punishment was before a case came to court; after this, the Afrikaner judge would just send the person to prison. They're still using the same *mannerism*, but apply it differently: to fill their own pocket. They couldn't step wrong, if they beat someone. That is different now. We didn't come from the good and went to the bad. It was a sick situation. The system was corrupt.'

'The situation is upside-down now. People don't feel responsible for this country anymore: There is no feeling of national pride. So now we can steal and take. Rid the police from as many white faces as possible and then get black people. That's the impression down on the ground. The blacks are disappointed too, they thought they would get jobs. But there is a sense of pride amongst black people that was never there before.'

The government did not succeed in transforming the 'Afrikaner' mind. Gelant: 'Some

improvements have been made. Checks and balances are brought into place. There are anti-corruption units and the ICD. Those structures did not exist in the past. But the cops haven't changed. They don't want to be servants of the people. "How can you think that you kaffir": many policemen think that way. It is not easy to turn around that situation. You can't change people who worked here for fourty years. And the government can't just fire the whole police corps.'

What the government can do, is assist people in adapting to the new circumstances. According to Gelant, the government has failed in this regard. 'Many policemen are not properly trained. Many don't know the difference between a force and a service. Many think the police is a fright of criminals.'[54]

Can all this explain the corruption within the corps? Gelant: 'Corruption has so many sources. To get a border patrol to look away from something for a month's salary: you can be sure he will do this. Maybe that's corruption, but there should be seven people watching this border. I am doing the work of seven people. The whole police is hopelessly understaffed. There are no replacements since 1994 for people who left. Those who stay behind have more to do. It is impossible to be a good cop. You can try your darndest, but you do injustice to other cases if you pay proper attention to one. In one case, it took two years to get fingerprints report. How can we be professional if it goes like that?'

Another factor is money. 'We can't get away from the fact that the police is paid horrific low wages. If you look at the responsibility of a South African cop, the salary is a joke. I earn 50,000 Rand. But I've got a wife who earns the money. She makes twice as much as me as the manager in a company. We have free medical aid, but that is about to change. I am entrusted to investigate murder-cases, but I am not rewarded. I must be happy to accept this in return for what I do. I have solved every single murdercase on my desk. That is my honor. I do that for the love of the job. I just wished they would pay decent. If it wasn't for my wife then I might not have worked here anymore.'

'I agree people should be more trained, should show more respect to people. But the responsibility for training lies with the employer. An employer can't say that you're not paid properly because you're not trained properly.'

'Every government official that is on TV says that the police are corrupt. Then you start acting upon it. The government hammers too much on corruption, instead of workers' rights. There isn't a worker as badly treated as the police. Our rights are the last to be discussed. The last Labour Act is not even applicable to the police, until next year. How they manage to *vemeuk* this, I don't know. We

54 'These drug smugglers are afraid of us', were the exact words of Captain Schumacher, when we patrolled through the most infamous street of Woodstock. 'They know we don't take nonsense.' I don't know whom he tried to convince with this, but it was clear that the three policemen saw themselves as standing against a complete community who collaborated with the drug gangsters.

are workers too. It is ridiculous. These are important reasons why policemen are so negative.'

'The morale is very poor. Most people I know are looking for alternative occupations. What keeps them here is insecurity. But if there is an opportunity, they leave today. When I started here nine years ago, policemen were working harder. So in the end, the money and all that might not be the biggest problem. The payments were the same, but that was no issue because the morale was good and they felt protected by the Afrikanerdom. The first blow to this was the ANC, the second blow the transformation.'

4.3 Sergeant Mediba: 'People have two or three extra income sources'

It's the picture that tells it all: the entrance of the Khayelitsha police station. It does not look like a police station. From the outside, it is not immediately clear what the building is used for. Only the South African flag on top of the building raises the suspicion that this is a government institute. Besides that, there is nothing; no sign that indicates who uses the old school complex. At the gate, men are sitting in the shadow. They look like the old men gossiping at the gate of an old city, except that they are wearing police uniforms. The awareness that this is the police headquarters of the largest township of Cape Town slowly progresses.

Inside, the classrooms are split-up in small offices. In front of office number A11, a large queue of people waits patiently. It turns out that the policemen at the reception, who are supposed to write down complaints, sent most people through to 'A11', the office of Sergeant Gcobani Mediba. He seems the busiest policeman in the station. Mediba: 'The former assistant-sergeants are not well-trained, they do not know what to do, whom to consult. It is easier for them to put a case on my desk. Many policemen are incapable. Sometimes you get lazy policemen who don't want to work. Sometimes a person does not know how to handle a case and confuses people. They don't want to take pressure. They are ignorant. That's why so many people are standing outside here.'

Like captain McEwen, Mediba is communications officer. But in Khayelitsha, this task gets an entirely different interpretation. Mediba is responsible for the contacts with the community. The people waiting in line have all kinds of complaints. A goat-thief complaints about his treatment by a street committee. A girl who is raped has found out where her rapist lives. The wife and the girlfriend of a deceased person are fighting over his house. Mediation and conflict management, those are the gospels of Mediba, who serves his tenth year in the police corps: 'The transformation process is very important. We have many goals, but the main point is to change the minds of our communities by informing them about crime. Workshopping them to bring them to a clear understanding of the law.'

'We facilitated a process of community policing. We invited political and non-political leaders

to discuss crime in the Khayelitsha Community Policing Forum. From there, we could move forward. There is a good relation with the community. They are happy, they are represented. Great support is coming from civic organisations like SANCO. If there is a problem, they forward people to the police.'

'From 1994, we saw more change in the police than ever before. Here in Khayelitsha, no good relations existed between the police and the community. They were fighting with each other. The police was not working because if you were seen you were shot. Information was not flowing as it's supposed to, and the police cannot work without information. People come forward now, even against their own people.'

So according to Mediba the community is changing, although reluctantly. 'Some people don't want to work with the police. Their major complaint: today someone is arrested, tomorrow he is out. They want to know under what circumstances an arrested person is released.'

Within the police corps, the transformation is all but completed. 'We need an increase in wages and more training. Training is very important. I am talking about conflict management, diversity courses. When I see you, I must see a brother and not a white person who oppressed me. Such a course must be undergone by every member. Instead of military training, we must get conflict management. We are not only running after criminals, they have to empower persons to deal with people. There are still professional criminals, but the focus must not only be on military training. Sometimes by giving people a course, you get them away from the police. With their new shooting skills, they end up as criminals. The Human Resources Management have a big task. But some persons are not interested in doing a course.'

The policemen in Woodstock and Khayelitsha also share many complaints. Mediba: 'We need better equipment, and there is a shortage of manpower. Manpower is more important than vehicles. In the townships, you need footpatrol.

'The salary does not satisfy us. On average, people are having three sources of loan from outside. That is an unworkable situation. Some are frustrated. I cannot say that policemen are doing their job up to the standard. Sometimes they are shouting at a member of the community. That is not professional. Maybe it's frustration, but that may not overcome the main goal to serve the community.'

'At times you get bad policemen. It is alleged that some of the police are getting people outside. When someone gets a free bail, poor policemen say they will get them free for 100 Rand. I don't have proof, but there is something of that.'

'Lack of discipline is a big problem. You can train and train and train, but if someone does not accept change, then you get arrogant police. When you approach them they put you off or sent you

to someone else. Policemen forget that they are servants.'

But the police is not the only one who is responsible. Even if the police works well, other government departments or organisations can hamper the process. Mediba: 'socially, we have a problem. Social services are fast asleep. I am accusing now, but that's necessary. If you see the people queuing outside here, they have small kids in their hands. When an unsupported woman gets assaulted, the social worker must help. Someone has to go to them first. Here, that's rare, people go straight to the police. Seldom do we see a letter of reference from a social worker. Some cases, such as domestic disputes, fall under the social workers, but people come here in huge numbers. They are told that their case doesn't need social workers.'

4.4 Omar Pillay: 'Some cops are so incompetent, we don't know what to do with them'

In the corridor to captain Pillay's office, a notice board is hanging full of posters that advertise loans and insurance arrangements, or offer help with financial problems. There must be a high demand in Khayelitsha.

Captain Pillay has worked for seven years at the Khayelitsha station and 15 years in the police corps. He can tell exactly who are the good cops at the station (and thus: who are the bad, lazy and corrupt cops). And yes, the cops sitting at the entrance of the station are not the most dedicated workaholics. According to Pillay it is a question of ability and morale: 'When you have no education, you are in a dead-end. We all want to get somewhere, but they can't. They can't achieve anything, have no goals. They are not even trying. They show no initiative. They sit in the vehicle, stand by the gate. That's the only thing they can do. They can't even take a statement, because they can't read and write. You can't sent them on patrol in a shopping area. If you put them there you will miss them. They go off the route, doing something else. There is nothing we can do with them. There is also a lack of discipline. People come late to work. That happens quite often. They come everyday, get paid, and do the minimum or nothing.'[55]

'The morale is low. The reason for this is that most people are uneducated. The majority has an education up to standard 4 to 8. They can't communicate to the community. The key is that we must train them, and this must be done continuously. Especially service training, how we can serve the people. But policemen must first be able to communicate, to read and write.' Too often, the police is not equal to its task. 'Money is a big problem, especially in logistics. We need vehicles and equipment to work. During the night, we have only two vehicles for the whole Khayelitsha area; the rest is

55 This picture is confirmed by the many complaints received by the ICD about a 'failure to perform his/her duty in a proper manner'. As Riaz Saloojee, head of the ICD in Cape Town, explained, this term points to 'little things' like not follow up with a report or not inform the victim properly.

used by policemen to get home. We get an average of 30 to 40 complaints a night.'

Like Mediba, Pillay is happy with the transformation process: 'As a service we are performing better, there is more understanding for the community. The community has become more reasonable, not demanding anymore. They help us a lot. Now the criminals are against us, then it was the whole community.' However, when asked further, Pillay admits that those are 'minimum changes': 'The trust of the community is not 100%. Maybe there are 30% who trust us. Those are the people who come to us. The other 70% are still against the police. But there is some improvement. We are changing, the community is changing.' Like Woodstock, Khayelitsha has its legacies from apartheid. 'Black members have problems with the white leadership within the station. The top section of about 15 people is white. There is some tension. The community does not like it either. I feel that a few blacks in the top structure will ease the tension and uplift the morale. People are more willing to work for someone who speaks their language.'

As most policemen, Pillay does not have the feeling that judicial measures are deterring people to accept bribes: 'There were only few convictions for corruption. Often it works the other way. People whose houses are searched open a case against the police for theft of money. In this way, they can be sure that there house will no longer be searched.'

4.5 Impressions from two police stations

The four interviews I have transmitted, are already valuable for one reason: each of them tells the same story. Besides those four, I have conducted many (mostly less formal) interviews, but they all came down to the same points: the police lacks adequate training and equipment, the earnings are too low, and there is a lack of discipline and a low morale within the police service. Everyone agreed that corruption is thriving, although no one admitted to be part of that.[56]

The usual justification for corruption is the low income level. For someone who is not satisfied with his salary - and this is very common in the police corps - two options are available: leave the corps or take bribes. Many regular visitors of the police pub in Woodstock were ex-cops. All mentioned money as their reason to change careers. The general impression is that other jobs are better paid. Those who stayed in the corps all agreed that it is easy to become corrupt. 'There is more money on the street', explained captain Schumacher, 'it is easy to get money. People offer it. What are you going to do when someone asks you to deliver some pills for 10,000 Rand?' It is easy to get corrupted, because it is offered so regularly. In this respect, the stories about corruption

56 Maybe this seems a simple point, but everyone condemned corrupt behavior. Within the corps, bribery is not widely accepted; a clear idea exists - at least towards the outside world - about corruption and that it is wrong.

reinforce its occurrence. Criminals almost expect that they can bribe their way out.

The powerlessness of the police in the face of crime can be summed up by the vehicle problems of the Woodstock police. Until this month, there was only one vehicle for the entire Woodstock area. If the Woodstock police had more vehicles, it could be much more effective. In the night of Friday of November 26th 21 reservists were waiting at the police station. They were willing to work, but only one vehicle was available. Every weekend they hope for some extra vehicles. The only vehicle the Woodstock police possessed, was blown up during the year. Five months later, in November, it was replaced by a new car. It is used by the Crime Prevention Unit, which patrols through the neighbourhood. Obviously, visible presence is an important goal. But the car does not have stickers that indicate that it is a police vehicle. There is no money for this.[57]

The stickers of the Woodstock police are symbolic for the problems all police stations struggle with: the lack of equipment, the lack of training, the lack of everything. However, it is clear that also major differences exist between the two stations. Many of the problems can be traced back to racial tensions and legacies of the apartheid era. In Woodstock the transformation process has brought anxiety and insecurity. Not all policemen are loyal to the new political leadership. So far, the transformation process is unsuccessful. Most policemen have no idea what this transformation entails. Asked about the difference between the force and the service, many policemen have no answer, or answer that it's all the same. Those who see a difference, complain about it. The policemen in Woodstock clearly see themselves as a force.[58] They feel not backed by the government with their 'fight' against corruption. They argue for instance that the ANC-government is punishing their area for voting NNP and DP. They feel insecure with the new working methods; after years of working in a certain way, they suddenly are not qualified to do the required police job.

The situation in Khayelitsha is completely different. The word 'transformation' is buzzing around. Sergeant Mediba is exemplary for those who follow the glad tiding of the new government. He has an idealism and enthusiasm that is absent amongst the cynical or resigned cops of Woodstock. However, there are also racial tensions. The police station of Khayelitsha has a 'mixed' membership. But, as captain Pillay pointed out, all senior officers are white or coloured. The general feeling amongst lower ranks is expressed in a letter to the *Grapevine*, the news magazine of the SAPS Western Cape. The writer, Ephraim Fikile Ncetu, complaints about the transformation process

57 So painting a vehicle turned out not as easy as captain McEwen suggested.

58 This is the case not only in words but also in deeds, as I experienced during a night shift with the Woodstock police. One of the search warrants was for a house of drugsbaron Staggie. The approach of the house already took place in an agressive style. When the inhabitants eventually opened the door, they were thrown on the floor and kicked at the back of their head. Even a small dog fell victim to the frustration of the policemen. It is easy to imagine where the many complaints of 'common assault' to the ICD come from (see ICD 1999).

at his station in Guguletu:

> 'The members at large, especially the shifts, do not know anything about this transformation. How can we go to transformation without transparency? At our station there is no participation management. Members are not even represented in station management. There is job reservation in our station. Certain group of colour is preferred to the other. Is it possible to go to transformation with obstacles at your station? (Ncetu 1999:10).

It is ironic that both population groups are complaining about discrimination in the application process, and it is evidence of the thorny situation after apartheid. Everyone has someone to blame. The officers in Woodstock point to the black government, the cops in Khayelitsha to the white leadership in the police corps. There is no unity in the police corps, and it is difficult to commit oneself to such an organisation. A sad example of this is the discord that surrounded the death of sergeant Richard Jezile after a robbery in Khayelitsha. The problem arose when provincial police commissioner Leo Wessels refused to provide a bus for colleagues who wanted to attend the funeral in the Eastern Cape.[59] A police union official commented:

> 'They do not care when a policeman dies. [..] Where is the Minister of Safety and Security? Where is our police commissioner? Why don't the senior white police management come to our funerals?' (Cape Times 5/10/99).

This shows that commitment to an organisation can be established from top to bottom, and the police leadership in this case have missed an opportunity to signal appreciation to their lower ranks - in effect, it did quite bluntly the opposite, and this is not forgotten in Khayelitsha.

Another legacy of apartheid is the low level of education amongst 'previously disadvantaged population groups'. In Khayelitsha, a significant amount of policemen do not have the necessary skills to do their job. In the first chapter, we have discussed how this can invite corruption. An average constable in Khayelitsha has standard six and earns about 1500 Rand a month. This is not enough for someone who supports a family; he needs some additional source of income. His lack of education implicates that there is not much chance of promotion; he is not even able to cope with all the tasks of a constable. In this situation, accepting bribes becomes reasonable. The constables who are sitting at the entrance of the Khayelitsha station easily fulfill Gambetta's requirements. They are visibly useless, have no other career options, and their financial situation brings a compelling justification: there are plenty of opportunities, and almost no incentives to refrain from accepting money.

At both stations the deepest problem seems to be the lack of morale. Policemen in Woodstock admitted that they worked happily for the same amount of money under apartheid. Many policemen feel they have no goal to strive for in the police corps. They do not see career prospects

59 The reason given for this refusal is that in the past buses provided for these purposes were often misused.

CHAPTER 5

Conclusions

Every organisation has its own vibe. It is often easy to see whether an organisation functions well or functions badly. It is not so easy to say what makes the difference. Sometimes it depends on personalities. Sergeant Mediba on his own made 'office A11' into an oasis of busyness in a sluggish environment. It can also depend on the structure of the organisation, the way people are given incentives to work for. What is clear is that the police corps is not a well-functioning organisation. Corruption can be seen as a symptom of this.

The previous chapters have made two things very clear: the enormous impact of apartheid on the present problems and, partly as a result of this, the bad condition of the police corps as an organisation. In conclusion, I will discuss these two problems separately, starting with the consequences of the transition from apartheid to democracy.

5.1 The transition from apartheid to democracy

One of the most important insights of the theory on corruption is the linking of corruption and change. A society in transition is particularly vulnerable for corruption. A partial explanation for this is the strong connection between corruption and the public interest. Political, economic, and social changes in a society put public and private interests under pressure, and redefine moral attitudes. The theoretical point made in the first chapter was that a definition of corruption depends on the particularities of specific societies. The public interest was defined as the equilibrium between political power and the moral consent of society. A clear and broadly supported concept of the public interest does not mean that corruption disappears, but it narrows the grey zone where corruption occurs, and the range of justifications used to bend the rules. When political power is shifting or contested, the public interest falls victim. The success of a new regime therefore depends to some extent on the way it succeeds in getting the civil service and civil society at large behind a redefined public interest.

We can translate this point easily to the South African context. South Africa is a divided society and, despite all efforts, it will remain so for many years. This culture conflict is set along historically determined, racial lines. This does not mean that cultural factors are most suitable in explaining corruption in the SAPS. Enough clarity exists about how to define corruption. The rules of

serve the people. The white policemen do not want to lose their status, but suddenly they have to aquire this status in a different way. Old routines have to make place for new ones. Policemen who are unwilling or unable to make this move, fall into the trap of anomie. Not having access to the means, they lose contact with the socially prescribed goals. In this vacuum, more private regarding goals easily get the upperhand. One of the policemen said that the loyalty of the old guard had to deal with two blows: first the new power dispensation, then the transformation process. The problem is not so much the change of rules, but the fact that the leadership is not aware of this problem. No effort is made to keep the white part of the corps on board. A united police corps can only become reality when all groups have a place in it. No government paper concerned with the transformation process has addressed this issue.[60]

From the other side, the picture looks equally alarming. Many black policemen do not feel to be fully part of the police corps. Their position could also be described as anomie, although in a different way. With the end of apartheid, the black and coloured people of South Africa got access to power. Black empowerment meant the appointment of many new policemen of 'previously disadvantaged groups'. An expectation of upward mobility developed, while the available means remained the same: due to the low level of education, most black policemen are not able to rise from the lower ranks. Unable to attain the socially prescribed goals, the black policemen fall into the same trap of anomie as their white colleagues. The racial question has an even sharper edge because the leadership of the police corps remained in white hands. This is a source of conflict between top and floor that was made tragically clear by the surroundings of the death of a black policeman in Khayelitsha.

These problems suggest that some effort should be directed to ethical and institutional measures, focusing on changing attitudes within the public service (training to improve the skills necessary for police work, the development of a working ethos, and an 'esprit the corps') and among the wider population (information campaigns to improve the support for and reputation of the police). At the moment, not much policy exists. Anti-corruption agencies are focused on detection and punishment more than on prevention. The vehicle for changing attitudes could have been the transformation process, but in practice this institutional reform has the opposite effect. The transformation of the police from force into service is much publicized, but did not amount to much in reality, and led to anxiety in the ranks of the old guard. This does not mean that the goals of the transformation process are not viable, only that this process should be cautious to accommodate the

60 See for example: Government (1995) Government (1997), Presidential Review Commission (1998), and MEC of Safety and Liason (2000).

members of the former police force. Those responsible for the transformation process have not shown an awareness of the bristles and sensitivities among the civil servants, and no policy maker has had the vision and courage to address these issues. Instead, leadership has been very unsupportive, throwing oil on the fire for those - on both sides - who are sceptic about the transformation process.

The problem of corruption is deeply entangled with the legacies of apartheid. However, it would be fruitless to conclude that government policy is failing in this regard. Two points should be made to put the problems of the political leadership in perspective. Firstly, a difference should be made between causes and justifications. The new power constellation does not cause white policemen to become corrupt but is used as an excuse. No policeman will argue that corruption is right, but the anxieties and uncertainties of the political equilibrium give them the space to become corrupt. To use Sherman's metaphor: they use it as a step in their moral career. There is no alternative to the democratic South Africa as it is - no competing public interest that is widely supported - but the fact that this new South Africa did not fully crystallize yet, and that white men are (or feel) not yet fully part of it, does give them both incentives and justification for not giving their full loyalty to the new regime. This difference between cause and justification is a necessary nuancing in explaining corruption. It is for this reason, that not a change of policy is recommended, but a better way of 'selling' this policy: transformation is inevitable, but this process should be cautious to include all population groups. Secondly, the racial problems are deeply embedded in South Africa's history. Moreover, there is little awareness of the importance of conciling racial tensions and mistrust. Even in the work of the Truth and Reconciliation Commission - that made a grand effort in dealing with South Africa's past - this was a neglected area. It is important to raise this awareness, and to see the connection with the functioning of the civil service in the effective pursuance of government. But it will take not years but generations to overcome the legacy of apartheid. Not solving this issue does not make the present regime a failure. As we will see in the next paragraph, more modest goals are at hand.

5.2 Esprit de corps

In the first chapter, we saw the close relationship of corruption with other types of misconduct. Basically, it blurs the line between right and wrong. A badly organised civil service invites corruption between its walls. Illegal law enforcement, even when its done solely for the public interest of catching a criminal, can easily shade into more corrupt activities. A bad working ethos can signal corruptibility. The more this insight was confronted with the practice of the South African Police

Service, the more urgent became the awareness of these interconnections. The poor condition of the bureaucracy, especially in the poorer areas, makes it difficult to perform even basic duties. Financial constraints are at the root of the low levels of education, equipment, and manning, and they make police work frustratingly difficult. The low salaries are an abundant source of dissatisfaction. Although discontent with the income level is far from unusual in South Africa, it is reasonable to conclude that the SAPS salaries are below reasonable standard, especially for the lower ranks. When the majority of policemen have other jobs to provide in basic needs, a highly undesirable situation comes into existence. It is not difficult to see how this challenges the loyalty of a policeman.

While carrots are lacking, sticks are not sufficient either. A fundamental motivation for corruption is the high financial incentives compared to the low incidence of detection and punishment (as perceived by the policemen - and that is the crucial matter). All anti-corruption agencies seem to be plagued by the same chronic problems: they are under-staffed, under-equipped, and under-funded. When this becomes structural, anti-corruption policy will lose its sting. Anti-corruption agencies also need extensive judicial powers and their independence should be guaranteed. It is unfortunate that these issues are still contested, as is shown in the debates about the Heath Commission. Making improvements in this area is the first step the government can undertake to show its commitment to fighting corruption, not only in words but also in deeds. For a government that takes the problem of corruption serious, the easiest of all tasks is to provide for well-resourced and empowered judicial structures. When this turns out to be too difficult, this points to a lack of political will, and no anti-corruption policy is effective without political backing.

However, in face of the reality of Woodstock and Khayelitsha, bringing control systems in place seems not sufficient. Anti-corruption policies should also reduce the underlying incentives to pay and receive bribes. Educational measures, institutional and legal reform, and the establishment of control systems are all necessary, 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.[61] This is something completely overlooked by the Parliamentary researcher of the Safety and Security Committee, who concludes that 'The only way to effectively fight corruption is to adopt a ZERO TOLERANCE attitude for corruption' (Briefing Committee 1999:25).

What is most compelling from the case studies is the demoralizing state at both stations. An unusual clear and direct government paper portrayed the morale in the police corps in terms of lack

61 Rose-Ackerman (1999:6) calls this the most fundamental lesson of corruption theory.

of enthusiasm, apathy, and a disempowering work ethic.[62] The general distrust towards the new government was described as anxious, de-motivated, and hostile. The case studies overwhelmingly confirmed those reports. The existence of a large group of incompetent and thoroughly passive policemen is even accepted to a certain degree.

Economic and political factors all have added to this situation. Policy makers have to deal with the economic environment as it is. It has been pointed out more than once that money is a fundamental problem. In this regard, it is tragic to see that so much money is not well spent. A simple calculation can show that it is better to have one hard working, loyal constable for a wage of 3000 Rand than a lazy, corrupt one for half the price. It is tragic to hear a policeman in Khayelitsha complain about lack of manpower, while the unemployed are sitting at the gate with their badges on. A more efficient police service works two ways: it prevents corruption and improves the working conditions.

According to Rose-Ackerman (1999:74) the only way is regorous reform:

> 'service delivery systems may be designed both to require few skills and to produce corrupt opportunities. Under such conditions, civil service reform must be thoroughgoing if there is to be any hope of success. [..] This may require unorthodox solutions. Reformers may need to take away work from already underutilized officials in order to reduce their access to bribes. As underemployed officials spend less time on public sector work, they are likely to get second jobs in the private sector. Once this happens, it may be easier to ease them out entirely. Structural changes in the operation of government should be combined with more conventional proposals to raise pay and improve working conditions.'

The constables at the entrance of the Khayelitsha police station are not willing to work. They are in a dead end: because they have no education, they lack the ability to do their job well, get a low income and have no advancement opportunities. Without advancement opportunities, they will never reach a sufficient income level. For them, it's only reasonable to use their position to their own advantage. The legal way will never work for them. Ben Plaatjie, inspector at the Khayelitsha police station, had a clear diagnosis: 'There are many corrupt policemen, because they don't earn enough. I don't think that's an excuse. But I do understand it. People need other sources of income to survive.' When corruption becomes a survival strategy for civil servants, it is difficult to see how any anti-corruption strategy can be successful without taking the level of income into account. Yet, in non of the concerned government papers a word is devoted to this problem.[63]

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62 See the Presidential Review Commission (1998), also quoted in chapter three.

63 See for example: Briefing Committee (1999), GCIS (1998), Government (1995) Government (1997), MEC of Safety and Liason (2000), Mpho Nawa & Stiaan van der Merwe (1999), Office of the executive deputy president addits (1998), Presidential Review Commission (1998), Public Service Commission (1999).

The point I want to make in this paper is as simple as inescapable. In order to fight corruption, there must be an alternative to being corrupt. If the government does not provide this alternative by empowering its employees, corruption will always remain a reasonable option. When you cannot be a good cop, it is easy to become a bad cop.

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Abstract