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UNDERSTANDING POLITICAL CORRUPTION IN POST-APARTHEID SOUTH AFRICA: THE GAUTENG EXPERIENCE (1994-2004)

GASTON KALOMBO

A thesis submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in fulfillment of the requirements for the degree of Doctor of Philosophy.

Johannesburg, October 2005

DECLARATION

I, the undersigned, hereby declare that this is my own original work, and that all fieldwork was undertaken by me. No part of this thesis has been submitted in the past, or is being submitted, or is to be submitted for a degree at any other university.

Gaston Kalombo
University of the Witwatersrand
Johannesburg

_____ _____

G. Kalombo Date

DEDICATION

I dedicate this study to my lovely wife Catherine for standing by me during trying times. She invested resources, time and energy so that our children could have a good education. She has been for us a constant pillar of strength and encouragement throughout the preparation of this work.

ACKNOWLEDGEMENTS

I am indebted to the many people who have at various levels, contributed to the completion of this work. I cannot acknowledge all of their contributions individually. However, I would like to thank, wholeheartedly, Professor Tom Lodge, my supervisor. From the inception of the study up to its final version, he has, persistently, made invaluable critics and constructive remarks. Without his help this research could not have been possible.

I am also grateful to the University of the Witwatersrand and in particular to the Department of Political Studies for partially supporting my research. Besides financial support, the Department provided me with a hospitable environment in form of space and modern facilities at the Graduate School of Humanities and Social Sciences where it was possible for me to pursue interdisciplinary research. Special thanks to Diana Sanderson for her attention in ensuring the upgrading of these facilities, as well as to all the staff at the "Grad' School", as we affectionately call it.

A special word of thanks to the many individuals, friends and organisations who have contributed and who were instrumental in the development of this project.

ABSTRACT

The objective of this study was to unveil the effectiveness of current strategies put in place to thwart the root causes of corruption and its damaging effects on economic growth and political development in the Gauteng Provincial Government. To achieve this purpose, this thesis looked at the incidence of political corruption in South Africa in general and Gauteng in particular, in an attempt to ascertain the implication of the political and historical legacy of corruption on democratic governance. This work is an attempt to raise awareness and understanding of the problem of corruption, more a step toward transparency and accountability. The research project is positioned within the qualitative paradigm at the preliminary stage to establish a historical background of political corruption. And within the quantitative research at the second stage that required establishing from the preliminary research a sizeable sample of (approximately 100) key individuals and people in the field of corruption to which detailed questionnaires were distributed.

The main findings as shown from the Gauteng experience were that in Gauteng, cases of corruption were widespread in almost all departments where public servants exploited state structures and used them to extract benefits for their own gains. However, the departments the most vulnerable to corrupt practices were those of Housing, Safety and Security, Transport and Public Works, Education, Welfare, Local Government and Health. As discovered, areas such as affirmative action, tendering or the expanded provision of benefits (e.g. in Housing, Welfare or Education) are areas that are vulnerable to corruption and are all associated with transformation/democratization projects. However, the incidence of corruption in the province can be explained by Gauteng's lack of a "traditional" culture base that may make leaders especially susceptible to acquisitive and individualistic forms of behaviour.

As a result corruption impacts negatively on the political process by undermining the legitimacy of the state and economically by impeding developmental strategies, as "corruption leads to loss of much needed revenue and human talent for development, distorts priorities for public policy, and shifts scarce resources away from the public interest … Political instability, corruption, and underdevelopment are mutually reinforcing" (Elliot: 2001:926).

In terms of anti-corruption measures, the study has found that Gauteng is on the right path, as anti-corruption measures applied in the province suit those applied at the national level, that in turn are in the same line with international practices. The study argues that while Gauteng anti-corruption measures have succeeded in reducing corruption levels, they have not stopped it, as new cases surface almost every week in the local press. Thus there is still room for improvement if the Gauteng government aims to succeed.

The researcher has recommended that there is a need for common guidelines and coordination strategies amongst internal departmental anti-corruption units that have been established and the initiation in each department of its own monitoring and evaluation capacity. This means the build-up and the improvement of internal audits and controls by higher authority applicable to both officialdom and the business sector. Finally the study assumes that many other examples of strategies to fight corruption could be provided, however, the ones provided are sufficient to argue the point that in many cases the fight against corruption cannot proceed independently from the reform of the state. In many ways it is the same fight.

The study's major conclusions concern those general assumptions about the relationship between democracy and good governance, which characterize certain theories concerning the causation of corruption, need to be revised. Even the most authoritarian systems, as was apartheid, were able to control the levels of corruption and keep it at an economically viable level. To this end, other mechanisms such as accounting standards and audits and direct accountability of leadership in government need to be strengthened alongside with the protection of whistleblowers. But the end result is that several factors associated with these mechanisms have highlighted the fact that transparency and the resulting exposure have increased opportunities for graft. In more democratic and open societies, besides greater civic engagement, the chance of closer monitoring and exposure of corrupt officials and politicians is higher than in no democratic society. Freedom of the press and of association leads public interest groups to expose abuses of power. While democracy seems to decrease corruption, both variables interact strongly with the level of transition. Hence the needs for more research on the actual effect of democratization in government departments that will serve the cause of anti-corruption campaign better.

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LIST OF ABBREVIATIONS:

AA : Affirmative Action
ACDP : African Christian Democratic Party
ACU : Anti-Corruption Unit
ANC : African National Congress
APNAC : African Parliamentarians Network Against Corruption
AU : African Union
BAC : Business Against Crime
BI : Business International
BPI : Bribe Payers Index
CASE : Community Agency for Social Enquiry
CAVT : Computer Audio Visual Technology
CBO : Community-Based Organisation
CCA : Country Corruption Assessment Report (South Africa)
CDU : Christian Democrats (Germany)
CEER : The Wall Street Journal – Central European Economic Review
CPI : Corruption Perceptions Index
CSC : Customer Support Centre
CTMM : City of Tshwane Metropolitan Municipality
DA : Democratic Alliance
DASA : Daimler Chrysler Aerospace South Africa
DET : Department of Education and Training
DG : Director General
DP : Democratic Party
DRC : Democratic Republic of Congo
EADS : European Aeronautic Defence and Space
EIA : Environmental Impact Assessments
EIU : The Economist Intelligence Unit
FA : Federal Alliance
FDI : Foreign Direct Investment
FF : Freedom Front

FH : Freedom House

FMS : Financial Management Systems

FPP : Fraud Prevention Project

GCA : Global Coalition for Africa

GDE : Gauteng Department of Education

GDH : Gauteng Department of Housing

GDP : Gross Domestic Product

GGP : Gross Geographical Product

GI : Gallup International

GPG : Gauteng Provincial Government

GPG : Gauteng Provincial Government

GPSC : Gauteng Provincial Service Commission

GSSC : Gauteng Shared Services Center

HOD : Head of Department

HSRC : Human Sciences Research Council

ICAC : Independent Commission Against Corruption

IDASA : Institute for Democracy in South Africa

IFP : Inkatha Freedom Party

IMD : Institute for Management Development,

IMF : International Monetary Fund

IOC : International Olympic Committee

ISS : Institute for Security Studies

IT : Information Technology

KPMG : Klynveld Peat Marwick Goerdeler (names of its principal founding members - whose initials form the name "KPMG.")

LHDA : Lesotho Highlands Development Authority

MEC : Member of the Executive Council

MP : Member of Parliament

MPL : Member of the Legislature

MTC : Metropolitan Trading Company

NACF : National Anti-Corruption Forum

NACU : National Anti-Corruption Unit

NATIS : National Traffic Information System

NCPS : National Crime Prevention Strategy

NGO : Non-Governmental Organisation

NNP : New National Party

NP : National Party

NPO : Non-Profit Organisation

NSW : New South Wales

OSEO : Office of Serious Economic Offenses

PAC : Pan-African Congress

PACU : Provincial Anti-Corruption Unit

PFMA : Public Finance Management Act

PRS : Political Risk Service

PSA : Public Service Act

PSC : Public Service Commission

PTB : Provincial Tender Board

PWV : Gauteng's name between 1993-1996 that meant Pretoria, Witwatersrand and Vereeniging.

RAU : Rand Afrikaans University

RDP : Reconstruction and Development Programme

SAFA : South African Football Association

SALDO : South African Land Development Organisation

SALGA : South African Local Government Association

SAMWU : South African Municipal Workers Union

SANDF : South African National Defence Force

SAPS : South African Police Service

SARS : South African Revenue Service

SCOPA : Standing Committee on Public Accounts

SIU : Heath Special Investigating Unit

SMS : Subsidy Management System

SMT : Strategic Management Team

SSC : Shared Services Center

TI : Transparency International

TI : Treasury Instructions

TI-SA : Transparency International South Africa

TPA : Transvaal Provincial Administration

TSA : Transparency South Africa

UDM : United Democratic Movement

WB/UB : University of Basel

WEF : World Economic Forum

Foreword

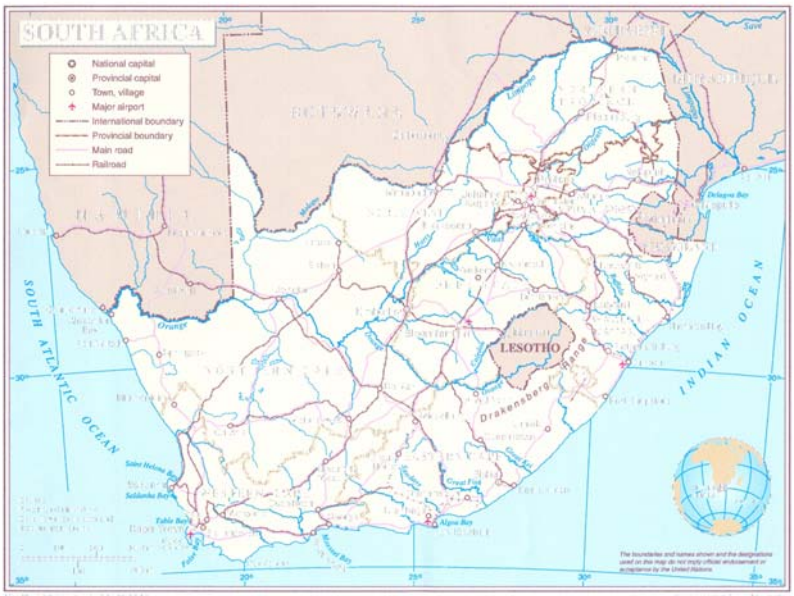
To understand political corruption one has to refer to Robert Payne's book *The Corrupt Society* (1975:175-184) to encounter the story about Lord Acton, who was born in Naples in 1834 and was a historian who regarded "power" as tainted with evil. He noted that once a class, a political party, or a church has obtained power, it becomes intolerant of the claims of other classes, other political parties, and other beliefs. More importantly, "among all the causes which degrade and demoralize men, power is the most constant and the most active". Then in 1887, in a letter addressed to the historian Mandell Creighon, Lord Acton struck out at the corruption phenomenon. This letter remains the *locus classicus* for the nineteenth-century study of corruption, in which he isolated the virus, identified it, and discovered that it was much dangerous, more prevalent, and more infectious than anyone had suspected.

Acton's statement *"power tends to corrupt and absolute power corrupts absolutely"* represents his central finding and as emphasized by Friedrich, "it touches the paradox of power and morals". Friedrich notes that "the meaning of Lord Acton is focused on the moral depravity which power is believed to cause in men: they no longer think about what is right action or conduct, but only about what is expedient action or conduct" (2001:16). As an aristocrat, Lord Acton based his study of history on direct observation of complex historical events. Ironically he was no stranger to corruption. He stood for parliament, won the election, and resigned a few months later when it was learned that his agent had been accused of bribery and corruption for stuffing the ballot boxes.

Lord Acton's "discovery" more than one century ago is still relevant today. In the 1990s, in both developed and developing countries, the corruption phenomenon became a central preoccupation of statemen and policy-makers. In all sectors of activities, accusations of corruption are rife with its devastating effects on both governments and corporate organizations resulting in governments falling, companies being declared bankrupt and prominent politicians and company CEOs losing their top positions and to contemplate another future. In extreme cases, corruption brings about the collapse of the fabric of society of the country as was the case in Haiti, former Zaire, Nigeria, Ghana, Kenya, and to some extent Zimbabwe, to mention a few examples. From this analysis, political corruption can be understood as an issue related to power and power relations.

Literature on corruption revolves around the issue of power and particularly the use of public power that should be distinct from the private. This implies the exercise of public functions by a public official who is in a position of responsibility and whose decisions or actions affect a specific public or the whole community. Any deviation from this responsibility will affect the community in one way or another, as public power should be exercised to the benefit of all and not of one or a clique. Any deviation becomes an act of abuse as far as the public sector is concerned. Officials can be anyone from the President and top political leadership down to the lowest state functionaries. As pointed out by Makumbe, regarding this point, "the key issue in understanding corruption" and in trying to distinguish it from other problems of power is namely the abuse of public power viewed as "the malevolent, unaccountable, dishonest exercising of public power" (1999:4).

Thus the problem of corruption seems to be a particular state-society relation considering the crucial role of the state, as reflected in most definitions of corruption. From this perspective, corruption is referred to as the behaviour conducive to private gain of someone who represents both the state and the public authority. This study serves as a response to a need to find adequate anti-corruption measures in the fight against public sector corruption in South Africa.


SOUTH AFRICA
National capital
Provincial capital
Town, village
Major airport
International boundary
Provincial boundary
Main road
Railroad
BOTSWANA
LESOTHO
Drakensberg
SOUTH ATLANTIC OCEAN
INDIAN OCEAN
Orange
Limpopo
Vaal
Fish
Great Fish
Algoa Bay
Table Bay
Saldanha Bay
Saint Helena Bay
Mossel Bay
Delagoa Bay
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

PART ONE

CONCEPTUAL AND PRACTICAL CONSIDERATIONS OF CORRUPTION

Chapter One

CONTEXTUALIZING THE CONCEPT

1.1 Introduction

Nowadays, reports of corruption are on the increase. Newspapers and news broadcasts remind us daily that corruption must be confronted as a matter of urgency, and that it is detrimental to both social and economic development, regardless of the state of a country's development. The subject remains too sensitive and tends to evoke a particular pattern of reactions. Current debates among political scientists worldwide often centre on the issue of corruption as a characteristic of non-Western countries. Bribery, extortion, fraud, kickbacks, and collusion have resulted in retarded economies, predator elites, and political instability. While no one can deny that the magnitude of its incidence is one of the foremost problems in the developing world, and a preeminent problem in Africa, corruption remains a universal phenomenon, as it has existed throughout history. It is not something that is exclusively, or even primarily, a problem of developing countries. Despite efforts in many parts of the world to contain it, corruption is still a prominent feature of everyday life.

Economic and social devastation that widespread corruption causes leads African countries to slide into deeper economic trouble, as corruption has a deleterious, often devastating effect on administrative performance, economic and political development. Corruption in Africa is not only a big blow to democratic efforts but also probably the biggest factor that holds back economic growth and undermines the democratic nature of the society. As a result, the institutions of governance obviously are laid bare to all the corrupting influences that distort good governance, public service and a sense of public morality. Needless to say, without free institutions of good governance open to public scrutiny and criticism, corruption cannot be defeated. Mismanagement, misuse of public funds for private profit and abuse of power by elected officials during their tenure in office will prevail.

The problem of political corruption has received considerable attention worldwide. Although its existence is acknowledged everywhere in the world and throughout history, it is obviously more common in some societies than in others and more common at some times in the evolution of a society than at other times. Recently, there has been a flurry of

empirical research on the causes and consequences of corruption. Some observers have argued that corruption can have positive effects, under certain circumstances, by giving firms and individuals a means of avoiding burdensome regulations and ineffective legal systems, for instance (Leff, 1964; Nye, 1967; Huntington, 1968). However, counter-arguments are widely accepted. A number of studies show that corruption leads to economic inefficiency and waste, because of its effect on the allocation of funds, on production and on consumption (Johnston, 1982; Kaufmann and Gray, 1998; Klitgaard, 1998; Rose-Ackerman, 1999; Mauro, 1998).

Therefore, corruption is generally inimical to development, for it has prompted the collapse of regimes in many African countries. Seen from this angle, corruption appears to be one of familiar features of Migdal's "soft state" (1988) though its incidences in developed countries are also well acknowledged. With the failure of developmental schemes of the 1970s in the third world the state lost its ability to perform the necessary public functions and corruption became a way of life as the state was "captured" by corrupt public officials at all levels. The looting of state property is systematic in some countries. The consequences are often disastrous and harmful for the concerned country. Bottelier points out, "recent econometric studies in several countries indicate that increases in corruption are associated with decreases in economic growth" (1998:3).

In South Africa, the first decade of democracy (1994-2004) has been characterized by a growing public outcry about allegations of corruption within government institutions. Allegations of corrupt practices in the country's public sector are made almost everyday in the local press and many people believe that no government institution can escape the widespread corruption that exists in every nook and cranny of their lives. This period coincides with the advent of democracy in the country, which was expected to lead to more transparency and accountability on the part of public officials in contrast to the old apartheid regime. But to the contrary, it has been reported that "corruption has stifled development efforts and plagued poverty alleviation strategies. In some provinces and local authorities, corruption has led to the slow implementation or disintegration of important services, such as pension payments, improvement of local infrastructure and the awarding of government subsidies" (Briggs, 1998:2).

A number of surveys conducted during 1996 and 1997 by IDASA confirm this perception. One survey published in February 1996 detailed popular beliefs about ethics and corruption in South Africa: 46% of the sample felt that government officials were engaged in corruption and only 6% believed there was clean government, while 41% thought that public corruption was increasing (POS Reports, No 3, Feb. 1996).

These new allegations and revelations of unethical behaviour by public officials are a sign of a profound malaise and with this has come the realization of the need to regulate such behaviour in order to stop the rot. But part of the problem with corruption is that despite the consensus on its devastating effects, the study of corruption has remained outside the scope of mainstream social science scholarship. Although there is the anti-corruption crusade of the regime of good governance that has been embraced by many international agencies such as the world Bank, the African Union, NEPAD and about twenty African states, the treatment of the subject is still left to the sensational lenses of journalists and civil society.

However, when corruption occurs, either in a corporate environment, or in a public sector of a country, it raises a number of questions and issues for corporate and public managers. The questions relate to *what* forms corruption takes, *who* is involved, and *why* it exists. The issues relate to *how* we cope and deal with corruption in general and within specific cultural and national contexts. The first three questions deal with understanding the underlying causes of the phenomenon and its manifestation in different government spheres. The last issue—how we cope and deal with corruption—seeks to identify the appropriate strategic response by the government to corruption.

1.2. Objectives of the Study

The objectives of this study are to unveil the effectiveness of current strategies put in place to uproot corruption and to emphasize its damaging effects on economic growth and political development in the Gauteng Provincial Government. To achieve this purpose, this thesis looks at the incidence of political corruption in South Africa in general and Gauteng in particular, in an attempt to ascertain the implication of the political and historical legacy of corruption on democratic governance. Is present-day corruption in

South Africa largely a legacy of the secretive authoritarian style of the apartheid government? Does democratisation make South Africa better protected against corruption? These questions entail an empirical analysis of the economic, political and socio-cultural factors that determine the perceived level of corruption in the country. A good understanding of the extent and nature of corruption is key to developing appropriate strategies for intervention.

There are mechanisms in place in the new South Africa, as a democratic entity, that are intended to guarantee the practice of good governance for a better life for all. Thus, the 1996 Constitution of the Republic (Act 108 of 1996) stipulates that Public Administration must be governed by the democratic values and principles enshrined in the Constitution, including a high standard of professional ethics that must be promoted and maintained as well. Efficient use of resources, accountability and transparency of public administration as a whole, good human-resource management and career-development practices, and maximization of human potential, must be cultivated. By the same token, since June 1997 the Code of Conduct for the Public Service has been promoted locally with a degree of success in raising ethical awareness but its disciplinary approach may not endear it to officials.

The fundamental problem on which the study focuses is the role played by the elite, both old and new in the abuse of power for personal gain in South Africa in general. It is a fact that the new order has experienced, on the one hand, a rise in ostentation, conspicuous consumption and, on the other hand, the emergence of new political and economic elites. More and more, critics contend that the lifestyles of these elites sometimes mean they live beyond their means and finance their personal budget deficits through corruption, undermining by so doing the gains that have been made since 1994. Therefore, the study will refer to the social dynamic and political context surrounding the incidence of the phenomenon during the old minority rule and today under the rule of the majority.

Meanwhile, it should be noted that the public sector in South Africa suffers from an ethical deficit and there is a malaise of greed, self-enrichment, entitlement and dishonesty. President Nelson Mandela acknowledged this state of affairs in his opening address to Parliament (5 February 1999):

> *"Our hope for the future depends on our resolution as a nation in dealing with the scourge of corruption. Success will require an acceptance that, in many respects, we are a sick society. It is perfectly correct to assert that all this was spawned by apartheid. No amount of self-induced amnesia will change this reality of history. But it is also a reality of the present that among the new cadres in various levels of government you find individuals who are as corrupt as - if not more than - those they found in government. When a leader in a provincial legislation siphons off resources meant to fund service by legislators to the people; when employees of a government institution, set up to help empower those who were excluded by apartheid, defraud it for their own enrichment, then we must accept that we are a sick society. This problem manifests itself in all areas of life".*

Faced with this moral decrepitude, what is needed is the promotion of a service that promotes public interests rather than private interests.

1.3. Focus of the Study

This study focuses on political corruption in the Gauteng provincial government (GPG) following the new dispensation in April 1994. A province comparatively (in a South African context) endowed with wealth and opportunities. The illustrative material of this study will be taken overwhelmingly from the experience of governance in Gauteng in the post-1994 for many reasons. First Gauteng emerges as one of the leading provinces in the country and South Africa's economic powerhouse. Another point favouring the choice of Gauteng as a case study is my own proximity to the material to be used for the completion of the study and the relative accessibility to personalities, press reporting, and media in general. But mainly, I must stress the economic importance of the province as a consideration influencing our selection of a case study. Therefore, my choice of Gauteng can be explained in different ways thanks to the prominent role played by the province both economically and politically in South Africa. A brief history is necessary.

1.4. The Choice of the Case Study

As everywhere in the country, Gauteng is an entity in transition. Thus the period under consideration symbolizes wthat we can identify as a transitional one, from the authoritarian control of apartheid that was challenged and destroyed through liberation struggle and political democratization to a free and nonracial society. Under such circumstances, when oppressive structures are being replaced by democratic ones and by legitimate and accountable institutions, the level of corruption – as is the case in transitional periods – will increase and reach a peak before it is reduced with increasing levels of democratic checks and balances. Thus, the period between 1994 and 2000 has been characterized by allegations of widespread corruption and political scandals in Gauteng before coming down after the second democratic elections of 1999. By this time, the implementation of almost all democratic institutions was finalized though this is a long process.

The demise of apartheid followed by the subsequent transformation of South Africa to democracy conveyed the need for more sound socio-economic and political information that should accompany the whole process and in so doing meet multiple and complex development challenges. This study is one aspect of this challenge.

Gauteng – meaning "place of gold" in SeSotho – is South Africa's smallest yet most dynamic and productive province. Covering a mere 1.4 % of the country's surface area (18,810 sq km) Gauteng with its more than eight million inhabitants is the second most populous province after KwaZulu/ Natal. It is the most cosmopolitan of South Africa's provinces – the most "rainbow" of the "rainbow nation".

The Gauteng province is situated in the north-eastern part of South Africa and was previously known as the PWV region as stated in the 1993 transitional constitution. Its boundaries are defined as "those that existed when the constitution took effect on 4th February 1997" (SA Institute of Race Relations, 1996/97 Survey: 533). South Africa's interim constitution created nine new provinces where there had previously been four. On 10 May 1994 the central government assumed the powers of the four former provinces (Transvaal, Orange Free State, Cape Province and Natal) and the homelands, leaving the

new provinces without any power. Powers would be allocated to the provinces once they had established new administrations that were capable of administering such powers.

The PWV region comprises the three urban areas of Pretoria (South Africa's capital city, where the emphasis is on government services), Johannesburg (the provincial commercial, financial and mining headquarters of South Africa) together with the rest of the Witwatersrand, and the southern Vereeniging-Vanderbijlpark industrial complex, known also as the "Vaal Triangle". The concentration of financial, industrial and mining activities can justifiably highlight the dominant economic role Gauteng is playing in shaping the economic landscape of the country as a whole.

The province is home to 70 % of the country's work force and is the vibrant business heart of Southern Africa. Since gold was discovered in 1886 on the Witwatersrand (literally, "ridge of the white water" in Afrikaans), the Gauteng region has been the engine that transformed South Africa from a pastoral society based primarily on agriculture to a modern industrial state. In terms of Gross Domestic Product (GDP)[1], the population (an estimated 8,02 million people in 2000), generates about 36% of the country's Gross Domestic Product and has an urbanization level of more than 89%. Figures from Central Statistical Services show that in 1994 the province contributed almost half (49,3%) of the state's total income from direct taxation. The province's Gross Geographical Product (GGP)[2] amounted to R103 900 million in 1991, while in 1992 the estimated GGP of about $40 000 compared very well with the GDPs of countries such as Ireland ($43 300 million), New Zealand ($41 300 million) and Chile ($41 200 million). According to Hall *et al*. (1994), in 1992 Gauteng had a larger economy than some of the richest countries in Africa, such as Egypt (GDP of $33 600 million) and Nigeria (GDP of $29 700 million). In per capita terms Gauteng's GGP is higher than those of all the other South African provinces and therefore is relatively well-off economically and reflects all the dynamics of the South African political economy. Further, Gauteng has the second lowest rate of unemployment after Western Cape and the lowest rate of poverty and illiteracy.

[1] The total market values of goods and services produced by workers and capital within country borders during a given period (usually 1 year).
[2] GDP of a region, here Gauteng.

Yet, despite its wealth and economic accomplishments, Gauteng has not escaped the social problems that plague urban and industrial centers around the country. Gauteng is still facing severe shortcomings. As highlighted by studies (Kok, 1998:3), poverty and inequality in the distribution of resources and opportunities are definitely encountered here. Poverty in Gauteng displays many of the same features as poverty elsewhere in South Africa: its burden is borne mostly by black residents and women. Moreover, distorted education, health and welfare systems are unable to cope with the demands of an increasing population; the formal economy has not grown sufficiently, nor in the right way; and apartheid urban development policies have resulted in a huge housing shortage and an uneven distribution in basic services and facilities.

Another study (G. Gotz and M. Shaw, 1996:217) describes how Gauteng, which has been seen as a symbol of hope for some relief from apartheid, is also very much a symptom of the apartheid disease. The reason can be found in the sudden collapse of apartheid which meant that Gauteng is faced with a *deluge* of socio-economic and settlement problems without the benefit of a slow build-up which may have allowed solutions to be sought even by sluggish bureaucracies (Schlemmer, 1998:28).

Subsequently, the new authorities have to cope with those historical inequalities. As a result, apartheid policies have left crucial distortions in the spatial structure of the province with the more affluent formerly “white” cities of Gauteng surrounded by belts of relatively impoverished townships and more than a hundred of informal settlements. According to Gotz and Shaw the sheer number of people who have reached out for the dream has meant that for most it has remained unattainable. The system condemned them to the margins of a relatively undeveloped economy; it refused to incorporate them as anything but labour of lower status in the service of the privileged (1996:217).

On the other hand, Gauteng, unlike most of South Africa’s other eight provinces, as noted by Lawrence Schlemmer, was not a former Boer republic like the Free State, nor a centre of colonial administration like the Western Cape or Kwa Zulu-Natal, nor does it have at its core any particular language or ethnic dominance. Gauteng is a modern construct. It holds the other provinces together and its historical roots reflect forces that made the nation-state of South Africa possible. As a province, it represents a series of bridges between the

disparate elements from which South Africa emerged (1998:23). Most observers of politics in Gauteng generally agree that political trends and styles in the province inevitably exert great influence on the rest of the country. Consequently, politics in South Africa cannot be properly understood without understanding the politics of Gauteng (Johnson and Schlemmer, 1996:247).

Accordingly, Gauteng, as a modern construct and unlike several other provinces, possesses a public administration that was created from scratch: it did not incorporate homeland administrations. Even the headquarters was moved from the old Transvaal Province in Pretoria to Johannesburg. Moreover, many of Gauteng's staff are newly recruited to the Public service. Therefore to a greater extent compared to other provinces one would not expect Gauteng to have inherited the corruption and habits of the apartheid era. Thus Gauteng is a "best case" scenario and an obvious choice for the study of corruption.

The inheritance of old habits is illustrated in a 1997 Report on the Provincial Administration of Gauteng following an investigation by a task team. The Report shows that with the implementation of the interim Constitution in 1993 and the Public Service Act in 1994, the Provincial Administration of Gauteng was established. The Administration inherited functions, assets, liabilities and personnel from the former RSA Public Service (National Departments and the Transvaal Provincial Administration (TPA), and the Administrations of the previous Houses of Representatives, Delegates and Assembly. Each of these components had their own corporate culture, legislation, procedures and policy measures regulating the administration processes.

In addition when the headquarters of the old TPA was transferred to the Provincial Administration of Gauteng new base in Johannesburg, there was a lack of uniform application in the relocation policy for staff. For instance, traveling allowances were paid to some staff, but not to others, and this created resentment among personnel; as the Report has found out. Finally in the period since the creation of the province, its managers have developed their administrative capacity and the Gauteng Provincial Administration has taken the national lead in putting many of its systems in place, so much that national departments and other provinces use its resources to assist them with their development.

It must be pointed out that under the provisions of the 1993 transitional constitution, each province elects its own legislature whose members hold office for five years. Executive authority is vested in a premier, who must implement provincial legislation, develop and implement provincial policy, and co-ordinate the different branches within the provincial government. The members of a provincial legislature must elect the premier at its first sitting after election, who holds office until a vacancy occurs or "the person next elected premier assumes office". Once elected the premier must appoint the provincial cabinet, known as the executive council from among the members of the provincial legislature. Members of the Executive Council (MECs) head the various government departments. A premier may be removed from office by a two-thirds majority of the provincial legislature for serious misconduct or violation of law or for inability to perform his functions. No person may hold office as premier for more than two terms. A provincial premier, together with his executive, must resign if the legislature in the province passes a motion of no confidence in the premier by a majority of its members.

In Gauteng the African National Congress (ANC) is by far the strongest party: in the 1994 elections, it won a clear majority (58%) of the legislative seats - 50 out of 86 – making Gauteng one of the seven provincial governments ruled by the ANC. The National Party (NP) won 24%, the Democratic Party (DP) and the Freedom Front (FF) 6% each, the Inkatha Freedom Party (IFP) 3%, and the African Christian Democratic Party (ACDP) and the Pan-African Congress (PAC) 1% each. At its inaugural meeting on 7 May 1994 in Johannesburg the PWV provincial legislature elected Mr Trevor Fowler (ANC) as its speaker and Tokyo Sexwale was sworn in as Premier of the PWV province, but chose to leave Public Service for the business sector in 1997 after three successful years in office. Dr Mathole Motshekga whose mandate was tarnished by several allegations of political corruption and mismanagement replaced him. In the 1999 elections, the ANC won again: gaining 50 out of 73 seats in the legislature. Motshekga failed to keep his position as Premier. Mbhazima Shilowa was elected to head an executive committee of ten members. The Democratic Party (DP), now Democratic Alliance (DA) with13 seats, and six other parties - New National Party (NNP), Inkatha Freedom Party (IFP), Freedom Front (FF), United Democratic Movement (UDM), Federal Alliance (FA), African Christian Democratic Party (ACDP) - represented the opposition.

The 2004 elections witnessed the African National Congress winning a landslide victory and achieving 70% of the vote in the national elections. At the provincial level, the ruling party made a clean sweep of all the provinces, including the Western Cape and KwaZulu-Natal, until then loyal constituencies for the New National Party (NNP) and the Inkatha Freedom Party (IFP) respectively. Everywhere in the provinces, there were new faces among premiers, except in Gauteng where the Premier Mbhazima Shilowa was the only incumbent to be retained, as he is seen to have succeeded in restoring stability after years of turmoil in the province. This would be his second term in office. The ANC won 68.4% of the vote and got the majority of the seats - 51 out of 73. The DA, the official opposition, got 15 seats, the IFP 2 seats while the ACDP, the Independent Democrats (ID), the PAC, the UDM and the VF+ secured 1 seat each. When Shilowa announced his cabinet, all MECs came from the ANC's ranks.

However, the promise of "a better life for all" through jobs and housing has attracted thousands of illegal immigrants as well as unskilled South Africans to the province, resulting in squatter camps and crime. Although it is the wealthiest and most urbanized province, there are hundreds of informal settlements that constitute important pockets of severe poverty and unemployment. Gauteng is tackling these problems with vigour – with additional resources provided by the business community. The provincial administration is generally given high marks for its investment-attracting, job-creating initiatives and for its careful control of its budget. The province employs some 130 000 public servants most of them in the service departments of education, health and welfare. As everywhere in the country in the aftermath of the 1994 elections, there have been problems of poor administration and financial mismanagement. The government has responded quickly and decisively to allegations of corruption and malfeasance, but corruption is still part of the provincial state apparatus and constitutes one of the public sector's great problems.

Gauteng's budget is the largest of the nine provinces and, like the other provinces, is heavily dependent on transfers from the national government, as reflected in the 1998/99 budget and 2002-2003, as well.

Table 1: 1998-1999 Budget:

Revenue	**Rm**	**Expenditure**	**Rm**
Total own revenue	978.5	Wages and salaries	8774.3
Transfer from national govt	14095.0	Other goods and services	6299.0
Total Revenue	**15073.5**	**Total Expenditure**	**15073.3**

Source: Gauteng Province, GEDA, 1998:55

Table 2: 2002-2003 Budget:

Revenue	**Rm**	**Expenditure**	**Rm**
Total provincial sourced	1 105.0	Education & Health	15120.0
Total national payments	21 693.0	Social services and other	7420.0
Total Provincial Revenue	**22 798.0**	**Total Prov. Expenditure**	**22 540.0**

Source: Gauteng Province, GEDA, 2002:58

Constitutionally, each province "is entitled to an equitable share of revenue raised nationally to enable it to provide basic services and perform the functions allocated to it", which means that the amount allocated to each province may change from year to year depending on national income and what is determined to be "equitable", as it is reflected in the tables above. The provincial equitable share for 1999/2000 for each province, according to the 1999/2000 Survey (p. 382), was calculated using a formula based on a province's demographic and economic profiles.

The formula was based on recommendations of the Financial and Fiscal Commission and the 1996 census results. The main factors of this formula include: an education share based on the size of the school-age population in the province; a health share based on the use of the public health system; a social security component, based on the size of the population to whom social security grants are made, including the elderly, the disabled, and children; a basic share determined according to a province's total population. However, the elements of this formula were not prescriptive. The provincial cabinet in each province proposed the amount budgeted for each function and the provincial legislature ultimately determined the provincial budget. The following table shows provincial equitable shares for the period 1998/99 and 1999/2000.

Table 3: Provincial equitable shares: 1998/99 - 1999/2000:

	1998/1999ه	1998/1999ط	1999/2000	1999/2000ه
Province	Rbn	Rbn	Rbn	Rbn
Gauteng	12.1	12.0	13.2	12.9

Source: 1999 Budget Review; ه = budgeted figures; ط = adjusted figures

Provincial own revenue refers to revenues that provinces collect for deposit into their own revenue accounts and over which they therefore have control. Examples are license fees, gambling taxes and the income from provincial roads. Currently these account for only 5% of provincial revenue, including Gauteng.

To summarize, Gauteng appears to be the place of all opportunities and the place to do business in South Africa. The province is the dynamo of the South African economy, contributing almost 40 per cent of the nation's GDP. The vast majority of new investment coming into South Africa is placed in Gauteng, mostly in the form of mergers and acquisitions. Like South Africa's, the Gauteng economy is currently in a state of transition – no longer dominated by the extractive minerals industry and agriculture, but based increasingly on the manufacturing and services industries. The United States has been the biggest single investor in Gauteng, as in the rest of South Africa since 1994 but the spread runs from Europe to the Far East.

According to *Business Map*, since 1994 there have been investments in Gauteng from France in the electronics, financial services and infrastructure sectors; from the UK in trade, mining and financial services, from Switzerland and Australia in mining and quarrying. "Investment South Africa" has facilitated investments of over R36 million in Gauteng, mostly in pharmaceuticals but also in financial services, agro-business and information technology. Gauteng's Investment Monitor shows major investments in property development, chemicals, manufacturing, banking and technology sourced from domestic corporations and from Italy, Denmark, Germany, United States, Malaysia and Australia.

For all these reasons Gauteng, in Kok's terms, is therefore, *a magnifying glass for South Africa as a whole* (1998:3).

Furthermore, until 1997, Gauteng was viewed as one of that province where the incidence of corruption was "statistically insignificant" (NP Corruption Barometer, 1994-1998:12). After 1997, this situation has changed. Afterward, an overview of the incidence of corruption in Gauteng shows that the province has been plagued by corruption in various departments. Some indices show that "corrupt practices, here, take place in the form of theft, bribes demanded, mismanagement, and poor treatment of the public by government officials. But fraud, nepotism and extortion have been pinpointed too" *(TI-SA,* 1997). According to the 1998 New National Party *Corruption Barometer, "*a total amount of between R161, 5 million and R356, 5 million was involved in corruption in Gauteng between July 1994 and June 1998" (1998:13).

During the past ten years, numerous sensational scandals have marked the history of Gauteng government. The multiplication of political scandals produced an increased sensitivity to the issue of corruption. The frequency and extent of these scandals brought corruption to light culminating in the 1997-1998 political upheavals caused by the Jessie Duarte's case, which led to the Moerane Commission of Enquiry into the alleged corruption and mismanagement in the Department of Public Safety and Security. This was followed by a series of investigations into the administration of housing subsidies in the Department of Housing. Both investigations constitute the two case studies of this thesis.

1.6. Structure of the Thesis

The thesis is divided into four parts and contains thirteen chapters. Part I, which contains six chapters, lays out the development problems posed by corruption and some analytical and definitional issues that arise from general discussions of corruption. Part II with a unique chapter provides the study's survey on societal attitudes fostering corruption in Gauteng. Part III consists of three chapters, which largely focus on the causes and consequences of corruption in Gauteng. It identifies root causes of corruption, which call for both institutional and societal reforms to address them. The fourth and final part assembles three chapters that design a legal framework for developing strategies to these problems and provide an overview of anti-corruption efforts in Gauteng to date, including the study's recommendations and general conclusions.

The first chapter sets out the general aims of the study, the focus and choice of the study and its structure. The outcome of the discussion clearly shows that corruption flourishes in the climate of unethical leadership and bad governance. Faced with the challenge it poses, the major objective of the study is to unearth the efficacy of anti-corruption measures, using Gauteng province as a case study. A key characteristic of the province is that its bureaucracy was created largely from scratch and hence might be considered less vulnerable to inherited official abuses derived from the apartheid era. In this sense, Gauteng emerges as a "best case" scenario for examining corruption.

The second chapter explores the methodology and sources used in this study to collect data. Besides the empirical approach that has been developed in studying corruption in Gauteng, two principal methods have been used to get information, namely, the qualitative historical investigation and the quantitative research. Econometric studies provided other sources of data identified in this thesis. In addition, the chapter is concerned with a brief treatment of the various ways in which corruption can be measured or evaluated statistically focussing on the econometric research and especially corruption indices such as the "Corruption Perceptions Index" and the "Bribe Payers Index", as well. The last section emphasizes the limitations of the study.

The third chapter supplies a fuller survey of the analytical approaches to corruption, beginning with a discussion of the problems of defining corruption. The thesis will follow "public office centred" notions of corruption by drawing upon Joseph Nye's broad conception of corruption as "behaviour which deviates from formal duties of a public role" for personal gain, an understanding of the term that accords closely with South African official usage. The discussion of definitions is followed by a review of the essential concepts associated with corruption, addressing the distinctions between political and bureaucratic corruption as well as between public office and private domain. The chapter rounds off with an overview of the extent to which corruption may be seen as a by-product of bureaucratic systems or rather a deviation from the normal functioning of bureaucracy.

Chapter 4 deals with causes of coruption or the structural factors contributing to corruption. The review addresses a wide range of the explanations that are commonly used to account for corruption. While the causes of corruption in South Africa seem to be related to the functioning of the bureaucracy, the same cannot be said in many African countries where existing clientelist networks or neo-patrimonialism between economic and political agents offten undermine the efficiency of the bureaucracy. This chapter also supplies an account over the expansion of a modern bureaucracy under a leadership styling itself on values and assumptions suposedly derived from pre-colonial social relations. In addition, it discusses a sensible range of the literary sources that characterises corruption as chiefly a problem that arises from the existence within single polities of contradictory cultural norms. Finally corruption is fairly prevalent in certain modern European democracies and was also a feature of the colonial regimes that presumably replaced patrimonial systems of government. Its occurrence is also expanding – or at least is attracting more international concern and attention.

Chapter 5 provides a wide range of development consequences in Africa where corruption negatively affects the development process at the administrative, economic, political, and social levels. By maping out the circumstances that promote corruption and the resulting consequences in African countries, this study aims to make South African policy makers aware of the deleterous effects of corruption from the experience of other countries on the continent.

Chapter 6 presents a causal typology of South African corruption to highlight the extent to which corrupt behaviour of the past can impact on current societal attitudes on the part of the elites. This is an illustrative chapter that emphasizes the role of the elites within a deteriorating situation and not simply corruption perceptions. It makes it easier to understand South African corruption: what its main causes appear to be, what kind of corruption it represents, what its effects may be, and whether it appears to be increasing or losing ground?

Chapter 7 addresses the study's empirical analysis that culminates in the organization of the survey, sampling procedures, data collection methods, location of research subjects before presenting the results of the survey, which will be used in the chapters that follow

to explain causes and consequences of corruption in Gauteng. Three different questionnaires were submitted to three separate groups: members of the legislature standing committees; business people undertaking government contracts, and people within civil society as well as local universities. The questionnaires adopted a standard format used widely elsewhere in comparable reaserch.

Chapter 8 applies both survey findings and analytical apparatus for explaining causes of corruption, so as to investigate the key locations for venal practices in Gauteng. The discussion revolves around institutional attributes that encourage corruption such as new regulatory environment that concerns itself with affirmative action in recruitment, procurement and tendering to promote black empowerment. Drawing upon official investigations to identify the main patterns of corruption and the degree to which these are checked by official sanctions, the chapter tackles a comprehensive assessment of each of the Gauteng's government departments, before accentuating socio-economic and cultural dimensions of corruption with poverty and inequality emerging as key factors of corruption.

Chapter 9 analyzes the findings of two Commissions of Inquiry that clearly show how bad the situation is in some provincial departments. Concerned departments here are those of Safety and Security and Housing where misconduct of elites resulted in a huge political scandal in the government, which deeply dented the image of the whole province. The waves of these scandals and the mounting number of cases of dubious behaviour during the mid-1990s and the beginning of 2000s have changed the nature of the problem. Corruption no longer appeared to be a marginal or exceptional problem but was seen as an endemic one. The causal model – "crime and punishment" and the "principal-agent" theory – developed earlier applied to these cases.

Chapter 10 carries on with the consequences of corruption on a large scale economically and politically. The negative consequences of corruption are felt throughout society, as corruption gives rise to a whole succession of social costs. Corruption poses a serious development challenge by undermining economic development in generating considerable distortions and inefficiency; and politically by undermining democracy and good governance in subverting formal processes. The effects of corruption in Gauteng emerge

to be costly – not perhaps as damaging as in poorer provinces, but nevertheless representing a considerable restriction on state capacity. Provincial corruption also imposed indirect costs – on public perceptions about the rule of law, about state effectiveness and social justice.

Chapter 11 sets out a legal framework to assist government develop strategic responses to public corruption. The framework identifies a range of institutional and societal reforms to address the causes of corruption. After presenting the inventory of possible initiatives, the chapter introduces a scheme for deciding what needs to be done and with what sort of political and economic support. Hence, combating corruption is part of the broader goal of creating more effective, fair and efficient government.

Chapter 12 contains an evaluation of Gauteng's anti-corruption initiatives and recommendations. The discussion evolves from preventive corruption reviewing relevant theory and international practices, enriched by a comprehensive survey of the various measures instituted by different departments.

Chapter 13 draws on general conclusions by arguing that causes of corruption in Gauteng can be linked to its democratization. It is most likely to occur in those official sites or those procedures most closely linked to democratic or transformation dimensions of government. Moreover, the absence of a traditional cultural base for many leaders may make them especially susceptible to acquisitive and individualistic forms of behaviour.

Chapter Two

METHODS, SOURCES AND MEASURE OF CORRUPTION

2.1. Introduction

To achieve its purpose, this thesis looks at two principal methods that are used to get information, namely, qualitative historical investigation and quantitative research, as the research focuses on the origins of political corruption in Gauteng.

Qualitative historical investigation is crucial at the preliminary stage, an exercise aimed at establishing a historical background of political corruption. This level of investigation provides an insight into how senior officials of both the apartheid state and the new administration were involved in dishonest practices resulting in large-scale misappropriation. It also helps to clarify those situations where actors' behaviour is discretionary. Data was collected via different sources of information including: documents (primary and secondary), archives, interviews and direct observation.

The quantitative stage of research entailed establishing from the preliminary research a sizeable sample of (approximately 100) key individuals and people in the field of corruption to which detailed questionnaires were distributed. The limited number of respondents was the result of budget constraints, but mainly of the targeted individuals' casual attitude in the sense that after accepting the questionnaire, they pulled out of the survey at the eleventh hour. Therefore, I decided to only work with consenting individuals or organisations. The retracting attitude justifies to some extent the secret nature of corruption that makes people reluctant to talk or to answer questions. I had to take this into account.

A crucial issue for this study was determining which category of respondents to survey: which category of public servants, which category in the private sector and which category within the academic institutions. The criteria used to identify organizations that were included in this research were developed through a process of consultation with the heads of department or their switchboard. After the stage of identification, identified organizations were than approached to participate in the survey. There were three questionnaires: one for selected departments in the provincial government, including 11

different Committees, known as "Standing Committees" at the Gauteng Legislature. These Committees deal with issues, which are either related to the work of a specific MEC, or issues that address internal matters. The Legislature's Committees are extremely important in the process of making new laws and amending old ones. The main reason why Committees are formed is to allow MPLs to specialize and gain competence in particular areas. The second questionnaire focussed on selected business people and in particular black empowerment companies doing business with the Gauteng government; and the last one was intended for academic institutions (the University of the Witwatersrand (Wits), the Rand Afrikaans University (RAU) and Pretoria University), along with the civil society.

2.2. Sources and Data

But how do we study political corruption in Gauteng? What are the potential sources of empirical data on corruption in Gauteng? My approach in studying corruption in Gauteng was empirical and as such was in the same vein with that of international literature on the topic. However, since corruption involves exchange of government property by government officials, it has attracted the attention of many economists. Rose-Ackerman, for instance, argues that “economics is a powerful tool for the analysis of corruption. Cultural differences and morality provide nuance and subtlety, but an economic approach is fundamental to understanding where corrupt incentives are the greatest and have the biggest impact” (1999:xi).

Importantly, research has shown that types and amounts of corruption not only vary among and within societies, but also these contrasts reflect political and economic influences, history, and culture, and in turn affect societies and their development in important ways (Johnston, 2001:865). In this vein, how can we measure corruption when simple definitions are so challenging? For, the problem is that conceptually it is not even clear what one would want to measure. It is very difficult to compare historic or cultural determinants of corruption among societies.

Because of corruption's illegality, its measurement is necessarily indirect and entails guesswork. Currently there are several corruption indices that are based on responses to

standardized surveys by business people, risk analysts, and the general public in a variety of countries.

During the 1990s, indeed, a number of quantitative studies were published based upon quite subjective and commercial indexes of aggregate country levels of corruption. One of these studies was that of Mauro (1995) who brought corruption into renewed field of economic growth studies among economists. Mauro used mainly data from a commercial organization, *Business International* (BI), which in 1980 made an extensive survey of a large number of commercial and political risk factors, including corruption, for 52 countries. The study was an econometric one of the effects of country corruption level on the growth rate, and the results indicated that there was indeed a significant negative impact.

Though unbundling the lines of causality may be difficult, we can, however, rely on these empirical studies that have acknowledged the considerable economic and social costs of corruption. A number of scholars (Andvig *et al.*, 2000:35; Lambsdorff, 1999:1) put emphasis on the significance of these studies - known as econometric research - that is a fairly new undertaking.

Econometric literature copes with the exploration of the causes of corruption. This new approach is based not only on empirical studies but also on corruption indexes and cross-country data that mainly focuses on determining causes and consequences of corruption at a fairly general level. Although it has a rather macro-directed orientation, it can also be used at sub national level. Drawing from these scholarly works we come up with several sources of data, as supplied by Lambsdorff (1999):

i. *The cross-country analyses*: in an attempt to determine the causes and consequences of corruption, academics such as Lambsdorff (1999) have concentrated lately on cross-country analyses, which are mostly based on professional studies of the degree of corruption in various countries. Such assessments are sometimes compiled by agencies to determine country risks and the data gathered is sold to investors.

ii. *Surveys*: these sources have been compiled in recent years, notably since the mid

1990s and have proved useful for investigations of corruption. A number of quantitative studies have been published based upon quite subjective and commercial indexes of aggregate country levels of corruption that have contributed to cross-country assessments of the extent of corruption. As such perceptions are commonly a good indicator of the real level of corruption, the data provided interact with various regressions data such as macroeconomic, political or social.

iii. *Court Cases of public officials*: Goel and Nelson (1998) and Fisman and Gatti (1999) have adopted this approach. They used the number of public officials convicted of abuse of public office in various states of the USA. They assumed that this might serve as an indicator for actual levels of corruption. Goel and Nelson (1998) related this variable to the real per capita total expenditures of the local government, arguing that state intervention and public spending give rise to rent-seeking activities and hence corruption. The authors report a significant, positive association between these variables, though the correlation might be explained differently. As governments increase their spending, the judiciary branch may also be allocated more funding, resulting in higher conviction rates, as proved in Singapore and Hong Kong. In this case, conviction rates are not an adequate indicator of the actual incidence of corruption, but rather, reflect the quality of the judiciary (1998:107-20).

iv. *The media*: with less academic rigor, the media has been engaged in formulating various correlations between perceived levels of corruption and human development, competitiveness, judicial quality, credit ratings or the spread of newspapers (see Galtung, 1997). Since many other explanatory variables are absent, remarks Lambsdorff, however, such correlations risk being misleading, in that they present spurious relationships (1999:1). However, according to Andvig *et al.* (2000:36), investigative journalists are in many ways in a better position to collect data than social scientists.

The public exposure of journalists gives them a larger supply of informants. This means that stories from the media are important sources of information also for social research on corruption when it comes to establishing facts, as proved by one of the leading researchers in the field of corruption, Alan Doig (1984). Nevertheless, due to their impressionistic nature, media sources present their evident biases when comparing corrupt transactions

across countries and across time. The bias created is likely to be serious also when it comes to empirical research and we cannot rely on second hand information. Thus, there is the need to restrict those data, which have been conducted with at least some sense of academic rigor.

v. *Corruption indices*: those often applied come from the Transparency International (TI) such as the Corruption Perception Index (CPI) and the Bribe Payers Index (BPI). These indices are a composite index including many other individual sources, i.e. the Political Risk Service (PRS), the Institute for Management Development (IMD), the World Bank and University of Basel (WB/UB) or the World Economic Forum (WEF) (see Lambsdorff, 1999) or an older source compiled by Business International (BI) as provided by Mauro (1995). But, today it is Transparency International's Corruption Perception Index (CPI) that is the most well known and most used both in research and in the public debate. Transparency International appears to be convinced that it has succeeded in constructing a successful index that is able to rank countries in a reliable way to the degree corruption is perceived to be a problem. For instance, the 1999 corruption index includes 99 countries and is based on 17 different polls and surveys conducted by 10 independent organizations, not by TI itself. Thus, the combination of several sources is the strength of the CPI, argues TI, because this improves the reliability of the index and reduces the possibility of misinterpreting the responses from individual countries, as observed by Lancaster and Montinola (1997).

What arises from these studies shows that ideally the data applied in research on corruption should be based on direct and first-hand observations of corrupt transactions made by unbiased observers who are familiar with the rules and routines in the sector under scrutiny. More aggregate numbers should then be constructed on the basis of such observations. As I found out during my investigations, these kind of empirical studies hardly exist. Corrupt acts are complex transactions taking place behind closed doors where independent researchers normally have no access, nor the appropriate social networks for picking up and checking data. Generally, they have to contend with indirect information.

All these approaches have been initiated in the course of this study by using professional studies as well as information drawn from my own survey, which was conducted between

2001 and 2003. These approaches form the study's core focus. They are an example of why professional studies have relied on perceptions of corruption as a better indication of real levels of corruption. To this material I added several official reports from the Auditor General, the Public Protector, the Special Investigating Unit, the Public Service Commission, the Department of Safety and Security, the Public Accounts Committee in the Gauteng Legislature, and of course, newspaper clippings.

2.3. Significance of Corruption Indices

Until recently, there were two ways to create patterns and analyses, as Andvig *et al.* have disclosed (2000:37). Researchers have to bring in information that is relatively unreliable, and then try to process it and make explicit the large and hardly determinable margins of error in the field. Or alternatively, they can decide to let the uncertain and imprecise information about patterns pass, and consider it as not amenable to serious research. The last strategy has been the dominant one.

Tanzi suggests that while there are no *direct* ways of measuring corruption, there are several indirect ways of getting information about its prevalence in a country or in an institution, Thus useful information can be obtained from (1998:21):

- Reports on corruption available from published sources including newspapers and the Internet.
- Case studies of corrupt agencies such as tax administrations, customs, police or some other institutions. Unfortunately, while there are many such studies, often the reports are internal and are kept confidential.
- Questionnaire-based surveys that can be related to a specific agency or to a whole country. These surveys – often used by the World Bank in its work in Africa and other places – measure perceptions of corruption rather than corruption per se. Countrywide surveys are available from:

- Global Competitiveness Report (Geneva)
- Political and Economic Risk Consultancy (Hong Kong)
- Transparency International (Berlin)
- Political Risk Services (Syracuse)

Other organizations include: Freedom House (FH), Gallup International (GI), The Economist Intelligence Unit (EIU), Institute of Management Development (IMD), International Working Group (developing the Crime Victim Survey), The Wall Street Journal – Central European Economic Review (CEER), University of Basel (WB/UB), and World Economic Forum (WEF). These organizations are partly non-profit development agencies, and partly consultancy companies specializing in strategic business information and market analysis.

Researchers and business people are now widely using the results obtained from these surveys from many countries. The Transparency International index is the most used for the assessment of the perception of corruption. However, it is worthy to point out that people have a tendency to confuse these indexes with actual measurements of corruption, as the indexes reflect perceptions and not objective and quantitative measures of actual corruption. Thus perceptions are subjective and based on differing experiences and comparisons. They may reflect the openness of corruption rather than its actual extent.

2.4. Perceptions of Corruption

In the Gauteng context, it can be pointed out that in the wake of the 1994 elections, the general perception held by the public as well as studies on political corruption in South Africa have shown that its incidence appears to be most concentrated in provincial governments.

Previously, Gauteng was seen as a province “clean of corruption” and as a model of probity and efficiency. This led the then Premier Tokyo Sexwale to claim, in the early 1997, “three corruption free years” for the province. However, between 1994 and 1997 it was widely thought that Gauteng, like other provinces, was plagued by corruption in various departments. A provincial-wide demand for an end to corrupt activities in government and business had reached unprecedented levels, according to IDASA’s surveys.

These public perceptions of pervasive corruption in the Gauteng Administration are supported by a wide range of documented facts: the simultaneous processes of transforming the public service, designing new political and social institutions and most importantly redistributing public resources and social assets have created fertile ground for corruption. Certainly, the period between 1994 and 1998 was characterized by financial and managerial problems in provincial governments, including Gauteng.

This led Paseka Ncholo, the Director General of Public Service Administration, to publish in August 1997 a Report on governance within the nine new provinces. The Report (see the *1997/98 Survey*: 484) revealed, among other things, the severity of problems encountered by provincial administrations. Gauteng, though relatively well functioning could not escape from some degree of difficulty in its governance. The problems identified in the Report included grossly inadequate financial, information and human resources management systems, chronic shortages of skilled staff, a lack of discipline, and the prevalence of fraud and theft in many departments.

Also openly questioned was the financial and capacity problems experienced by most provinces during that period and the sustainability of some of the provincial governments. An earlier auditor-General's Report on the accounts of the former Provincial Administration PWV for 1994/95 had already found out that deficiencies and shortcomings covering a broad spectrum of the provincial administration activities were indicative of weak internal control measures.

In another Report on provincial governments accounts for 1997/98, the Auditor-General, Mr. Henri Kluever, revealed that the management of public funds by the provinces was "a source of grave concern" (*1999/2000 Survey*:381). He quite clearly identified the factors that impacted on good governance in the provinces that included:

- late rendition of appropriation accounts;
- weaknesses in internal control systems;
- shortages of skilled financial staff;
- slow pace and level of co-operation with audit staff; and
- insufficient control over accounts and bank reconciliations.

Moreover, it was projected in November 1997, as indicated by the South African Institute of Race Relations (*Survey 1997/98:*485) that most provinces would overspend their budgets for the 1997/98 financial year. It was estimated that overall provincial over expenditure might total some R8bn – approximately 10% of the budgeted provincial allocation of R80.8bn. Projected overruns for Gauteng were R1.4bn.

The incapacity of the provinces to raise their own revenue, and their consequent dependence on the central fiscus, raised the issue of the role and powers of the provinces, and indeed whether they are performing a role which merits the resources allocated to them – or whether their functions should rather be basically administrative.

In Gauteng, Moleketi, the MEC for Finance and Economic Affairs, announced in August 1997, that a report from the provincial Auditor-General, Mr. Shauket Fakie, showed that the Gauteng government had incurred unauthorized expenditure of some R404m in the 1995/96 financial year. He described this as a "mockery of accountability" the process whereby the legislature's public accounts committee gave retrospective approval for expenditure if satisfied it was necessary (*Business Day*, 11August 1997). Moleketi vowed to impose real spending limitations on departments, which were forced to make "hard choices" on spending priorities. This followed his claims in early March 1997 to begin the 1997/98 financial year "on a clean state", after additional funds were received from the national fiscus (R1.6bn) and from the Limpopo Province (R38m), the latter to cover the costs of people from Limpopo who had been treated at Gauteng's medical institutions (SA Institute of Race Relations, *1997/98 Survey*).

Although views varied regarding the reasons behind financial difficulties in the provinces, observers believed, earlier in 1992 already, that the abolition of the homeland system – contrary to widespread expectation – should not be expected to yield an economic "dividend". This statement was echoed by the minister of Finance, Mr. Trevor Manuel, when in January 1998, he attributed provincial problems to the fact that "the government was now obliged to provide services for many more people out of a revenue base that had not grown in proportion. This was because, in particular, per capita government spending in the "independent" homelands had been less than that in the remainder of South Africa. The government was now seeking to provide equal services to the entire population and

resources had therefore to be stretched much further" (*1997/98 Survey*;485). Otherwise, reintegrating the ten homelands proved to cost more in equalizing public spending than it would save in dismantling ethnic bureaucracies, as warned by the chief executive of the South African Institute of Race Relations (*1997/98 Survey:* 486).

In the wake of these political developments, corruption was, in February 1997, identified by the International Finance Corporation – the private investment arm of the World Bank - as the most serious government-related constraint to doing business in South Africa (*1997/98 Survey:* 482). This led President Nelson Mandela to call for a campaign of "moral regeneration" and to finger-point "elements of the new administration that become as corrupt as the apartheid-era civil servants they had replaced". Several provinces took disciplinary steps against people implicated in misconduct. Some, like Gauteng, adopted austerity measures in their budgets.

Meanwhile emphasis should be put on the fact that in Gauteng, as was the case in several provinces ruled by the ANC, tensions were high within the ruling party due to the result of disputes over the leadership of the party at provincial level. In Gauteng, Mr. Tokyo Sexwale, the premier, announced in June 1997 his intentions to resign as provincial premier in January 1998 for a career in the private sector. For his replacement, there was a perception that the national leadership had attempted to impose its choice of leader on the province. After intensive and laborious negotiations, Dr Motshekga was elected as new premier, at a meeting of the ANC's provincial general council in September 1997. And when Motshekga took over as premier of Gauteng, allegations of corruption within the Gauteng Administration were rife.

Thus, IDASA's Public Opinion Survey reported the results of seven separate national surveys conducted between the 1994 and the 1999 elections. In its survey of South Africa's formative democratic culture in September – November 1995, it found that already, 46% of South Africans felt that "almost all" or "most" public officials were involved in corruption and there were strong provincial impacts on the belief about corruption. In 1995, 1997, 1998, IDASA used demographic analysis in order to assess public perception of official corruption. The demographic analysis also revealed a strong impact of political geography. This is true for the entire sample as well as among blacks

on the one hand, and among white, coloured and Indian respondents on the other hand. Moreover, these racial and ethnic differences contribute to some glaring geographic variations in this important element of the South African political culture. Those living in Limpopo and Gauteng (and to a lesser extent Northern Cape and Western Cape) hold consistently much more cynical and pessimistic attitudes about government dishonesty and corruption than other South Africans.

Table 4: Perceptions of Government Corruption *(by Province)*

	Gauteng	KZ/Nat	E.Cape	W.Cape	N.West	F.State	Limp.	Mplga	N.Cape
1995	54	44	41	42	37	25	73	36	52
1997	48	61	58	41	43	39	49	37	45
1998	53	71	68	46	46	54	36	32	66

Source: IDASA (1995 – 1998), p.7

Table 5: Perceptions of Corruption in Provincial Government (b*y Province*)

	Gauteng	KZ/Nat	E.Cape	W.Cape	N.West	F.State	Limp.	Mplga	N.Cape
1997	44	49	64	28	38	36	51	32	35
1998	51	64	63	30	47	54	56	35	48

Source: IDASA (1995-1998), p.7

At first glance, one would ask whether these perceptions- surveys - are telling us very much or not. If we were to understand the perceptions as an indicator of the real extent of corruption than according to the table, Gauteng administration would be more corrupt than say Mpumalanga. This is probably untrue. All that we can say is that public perceptions in Gauteng are more critical – this may prompt the Gauteng government to pay more attention to the problem.

According to IDASA, in general the highest levels of perceived corruption are located among respondents in KwaZulu Natal and the Eastern Cape. This is true both with regard to beliefs about public servants in general, as well as about provincial government. There is also some important shifts within provinces with regard to public perceptions of corruption (Limpopo where they have improved notably, and KwaZulu Natal and Eastern Cape where they have deteriorated significantly). Some plausible factors are:

1. the presence or absence of the legacy of homeland administrations from province to province;
2. the differing legacies of different homelands with regard to corruption;
3. the way in which governments in different provinces have communicated their strategies in fighting corruption to their respective electorates.

In 2000, the South African Afro Democracy Barometer survey found that 45% of South Africans thought that "most" or "almost all" government members of provincial government were involved in corruption and 46% had a negative perception of corruption in their local government councils. In terms of measuring perception of corruption throughout the different spheres of government, a survey conducted among experts in August – October 2000 by the Institute for Security Studies (ISS) found that 33% of the respondents of the perception of the involvement of government institutions in corruption predominantly condemned the provincial government.

Thus provincial government in general is perceived to be more corrupt than the national government. It is likely that, as argued by Lala Camerer, provincial and local government officials were seen to be more likely than others to be involved in corrupt practices, because they are at the interface of service delivery with citizens and private sector contractors. These officials often hold a monopoly over particular resources or services such as the issuing of licenses and are therefore in potential rent-seeking positions (2001:30).

In my research the Gauteng case can therefore be considered as a sort of a platform for the analysis of more general patterns of corruption in democratic systems. In terms of categories of corruption, it is arguable that forms of corruption vary among, and within societies. Theory tells us that these contrasts reflect political and economic influences, history, and culture, and in turn affect societies and their development in important ways. An overview of the incidence of corruption in Gauteng shows that the province is plagued by corruption in various departments. Some indices show that corrupt practices here take the form of theft, bribes demanded, mismanagement, and poor treatment of the public by

government officials. But fraud, nepotism and extortion have been pinpointed too (TI-SA, 1997).

Early studies have shown that between July 1994 and June 1998, the categories of corruption that were most prevalent in Gauteng were fraud, theft, maladministration, nepotism and bribery (*NP Corruption Barometer*, 1998:108).

The Gauteng choice is justified not only by the huge interest the corruption phenomenon has reached in the province, but also by the public exposure thanks to numerous commissions of inquiries in corruption and mismanagement. These commissions provide an enormous amount of material for the analysis of corruption in Gauteng. From data emerging from these inquiries it is possible to understand and to explain the Gauteng case.

But corruption scandals are not always a bad thing as they can play a catalyst role in generating reforms. This has been expressed by Rose-Ackerman who acclaims the positive role played by the media in these terms: "corruption scandals fueled by an independent press have spurred reform in a number of political systems and can then be a sign of a country's growing political maturity. They show that citizens are beginning to recognize the difference between the public and the private spheres and to complain when the border is crossed" (1999:225). It can be pointed out that the most frequent response to corruption by the provincial government was the appointment of internal or departmental commissions of inquiry, tasks teams or instituting departmental disciplinary procedures.

To understand corruption in the Gauteng provincial administration, this study asks: what are the root causes of corruption? Which factors or circumstances determine the size and incidence of corruption in such a democratic society? What are its potential causes and what are its effects on the economy of the province?

In Gauteng, the simultaneous processes of improving a market economy, which previously was a reserved white playground, transforming political and social institutions and redistributing social assets to the majority of its inhabitants have created fertile ground for corruption. The expansion of corruption in the first five years of transition coincided with significantly higher levels of poverty and inequality in large parts of the province. Thus

confronting corruption in Gauteng requires a more complex approach that highlights the diverse factors underlying the persistence of corruption and provides a foundation for tailoring strategies to the particular contours of the problem in the province. As emphasized by recent studies, an effective strategy for anticorruption must be based on an understanding of the root causes of different forms of corruption and their variation. Without it, policymakers run the risk of treating the symptoms without remedying the underlying conditions (The World Bank, September 2000: xix).

2.5. The Corruption Perceptions Index (CPI):

In line with the new undertaking, the most frequently applied indexes are those developed by *Transparency International,* sometimes in combination with indicators of democracy, press freedom, etc. The Corruption Perception Index (CPI) is the best well known and the most comprehensive quantitative indicator of cross-country corruption available both in research and in the public debate.

The demonstrable impact of these corruption perception indexes on the development process in Africa today is significantly negative for the whole region, as this affects business confidence and, in turn, investment behaviour. The index ranks countries on a scale from 10 to zero, according to the perceived level of corruption. A score of 10 represents a reputedly totally honest country, while a zero indicates that the country is perceived as completely corrupt. Table 6 indicates that we are perhaps dealing with very specific conceptions of corruption here, which may not take important cultural and normative variations into account.

Table 6: Corruption Perceptions Index (CPI): 1995-2004:

(*African Countries only***)**

COUNTRIES	1995	1998	2001	2002	2003	2004
Botswana	n.a	6.1	6.0	6.4	5.7	6.0
South Africa	**5.6**	**5.2**	**4.8**	**4.8**	**4.4**	**4.6**
Egypt	2.7	2.9	3.6	3.4	3.3	3.2
Uganda	n.a.	2.6	1.9	2.1	2.2	2.6
Cameroon	n.a.	1.4	2.0	2.2	1.8	2.1
Kenya	-	2.5	2.0	1.9	1.9	2.1
Tanzania	-	1.9	2.2	2.7	2.5	2.8
Nigeria	-	1.9	1.0	1.6	1.4	1.6
Ivory Cost	-	3.1	2.4	2.7	2.1	2.0
Senegal	-	3.3	2.9	3.1	3.2	3.0
Morocco	-	3.7	n.a	3.7	3.3	3.2
Malawi	-	4.1	3.2	2.9	2.8	2.8
Tunisia	-	5.0	5.3	4.8	4.9	5.0
Mauritius	-	5.0	4.5	4.5	4.4	4.1
Namibia	-	5.3	5.4	5.7	4.7	4.1
Zimbabwe	-	4.2	2.9	2.7	2.3	2.3
Ghana	-	n.a	3.4	3.9	3.3	3.6
Zambia	-	n.a	2.6	2.6	2.5	2.6
Ethiopia	-	-	-	3.5	2.5	2.3
Angola	-	-	-	1.7	1.8	2.0
Madagascar	-	-	-	1.7	2.6	3.1
Mali	-	-	-	-	3.0	3.2
Mozambique	-	-	-	-	2.7	2.8
Algeria	-	-	-	-	2.6	2.7
Gambia	-	-	-	-	2.5	2.8
Sudan	-	-	-	-	2.3	2.2
Congo (DRC)	-	-	-	-	2.2	2.0
Sierra Leone	-	-	-	-	2.2	2.3
Libya	-	-	-	-	2.1	2.5

Source: Transparency International (1995-2004).

The score relates to perceptions of the degree of corruption as seen by business people, risk analysts and the general public. It appears that corruption is perceived to be pervasive in Cameroon, Kenya and Nigeria, which are among the top corrupt countries in the world. Meanwhile South Africa's scorings have deteriorated with the score dropping from 5.6 in 1995 to 4.4 in 2003 and 4.6 in 2004. In the meantime Botswana emerges as the least corrupt country in Africa for the last ten years. These scores reflect perceived levels of corruption among politicians and public officials. Those countries that have scored less

than 3 out of 10 are prey to high level of corruption. Although there have been claims that corruption is endemic in developing countries only, this is definitely not the case.

Table 7: Corruption Perceptions Index: 1998 – 2004 (Selected Western countries only)

RANKING				COUNTRIES	SCORE			
1988	2001	2003	2004	Europe, USA, Japan	1988	2001	2003	2004
47	29	35	43	Italy	4.6	5.5	5.3	4.8
49	49	55	51	Czech Republic	4.8	3.9	3.9	4.2
50	42	50	49	Greece	4.9	4.2	4.3	4.3
53	31	40	42	Hungary	5.0	5.3	4.8	4.8
58	24	17	17	Belgium	5.4	6.6	7.6	7.5
61	21	21	24	Japan	5.8	7.1	7.0	6.9
62	22	23	23	Spain	6.1	7.0	6.9	7.1
64	25	25	27	Portugal	6.5	6.3	6.6	6.3
65	23	22	22	France	6.7	6.7	6.9	7.1
68	17	18	19	United States	7.5	7.6	7.5	7.5
69	15	13	13	Austria	7.5	7.8	8.0	8.4
71	20	16	15	Germany	7.9	7.4	7.7	8.2
10	81	87	95	Russia	2.4	2.3	2.7	2.8

Source: Transparency International

The *Corruption Perception Index (CPI)* displayed in Table 7, shows that corruption is by no means perceived to be a plague confined to the developing countries. Former Soviet Bloc countries in transition in Central and Eastern Europe have very low ranking, while a number of leading industrial countries have scores that highlight the serious corruption problems that they must address. Europe and North America have shown all too clearly that corruption is not a topic on which industrialized countries can moralize to anyone. There is a growing concern that some leading countries in Europe, America and Asia (Japan) covered by the survey clearly display this trend. In all these countries, not only

allegations of corruption have received more attention but also concerns about corruption are finally becoming part of policy-making for many governments in the world.

However, CPI ranking is especially unfavourable to Third World countries. Nigeria, Cameroon and Kenya top the list of the world's most corrupt nations. This is cause for concern and the situation is not getting any better. In fact, it may be getting worse, as Tom Nevin (2000) has stressed. TI has recently been reviewing the impact of the CPI and ways to improve the application of surveys to raise public understanding of corruption. One result was the inclusion of 99 countries in 1999, compared to 85 in 1998 and 52 in 1997.

Transparency International's annual CPI shows that Africa is still the region most affected by corruption. In the 2004 CPI, a full 106 out of 146 countries scored less than 5 on a scale of 10, meaning that corruption was perceived as a serious problem.

2.6. The Bribe Payers Index (BPI):

Politicians in Third World countries often view the CPI list, which is published every year, as a finger pointing exercise by the First World. To avoid looking at one side of the picture only, Transparency International created a Bribe Payers Index (BPI) in 1999. The BPI ranks 19 leading exporting countries in terms of the degree to which their corporations are perceived to be paying bribes in foreign countries. From the TI's new listing, it appears that bureaucratic officials in the former Soviet bloc, Asia, Latin America and Africa are the least trustworthy and most susceptible to bribes. As there are recipients of bribes to grease a commercial transaction, there must also be the providers.

"The data provides a disturbing picture of the degree to which leading exporting countries are perceived to be using corrupt practices", says TI chairman, Peter Eigen. The index undertaken in 14 leading emerging market economies shows that companies from many leading exporting nations are widely seen as using bribes to win business. The BPI reveals that on a scale of 0 – 10, where 10 represents a corrupt free exporting-country, the best score among 19 leading exporting countries was 8.3, while the worst score, representing a great propensity to use bribes, was 3.1.

Table 8: 1999-2002 TI Bribe Payers Index (BPI) ranking leading exporters.

RANKING		COUNTRY	SCORE	
1999	2002		1999	2002
1	2	Sweden	8.3	8.4
2	1	Australia	8.1	8.5
3	5	Canada	8.1	8.1
4	4	Austria	7.8	8.2
5	3	Switzerland	7.7	8.4
6	6	Netherlands	7.4	7.8
7	8	United Kingdom	7.1	6.9
8	7	Belgium	6.8	7.8
9	10	Germany	6.2	6.3
10	13	United States	6.2	5.3
11	9	Singapore	5.7	6.3
12	11	Spain	5.3	5.8
13	12	France	5.2	5.5
14	14	Japan	5.1	5.3
15	15	Malaysia	3.9	4.3
n.a.	16	Hong Kong	n.a.	4.3
16	17	Italy	3.7	4.1
17	19	Taiwan	3.5	3.8
18	18	South Korea	3.4	3.9
19*	20	China	3.1	3.5
n.a.	21	Russia	n.a.	3.2

Source: *African Business*, January 2000:21; and Transparency International 2003:267.

- *(including Hong Kong)

China was seen as having the greatest willingness to pay bribes abroad, followed by South Korea, Taiwan, Italy and Malaysia. Sweden, Australia and Canada achieved the most favourable results.

Frank Vogi, the TI's vice-chairman contends that the two indices - CPI and BPI - are closely inter-related as it is fashionable these days to be against corruption and to demand that countries clean up their houses before aid is granted. While the BPI is a distinct survey commissioned by TI, the CPI is a "poll of polls" and the two indices are created with different methodologies and are not directly comparable. Eigen concludes that "however, the BPI and CPI are two sides of the same coin: the former ranks the home countries of the payers of international bribes, the latter ranks countries in terms of degree to which they are perceived to be the homes of bribe-takers, the public officials who abuse their office for public gain *(African Business,* January, 2000:21).

In 2002, the TI published its second Bribe Payers Index (BPI) of leading exporting countries, a major survey that tracks corrupt practices among international businesses. Interviews were conducted with 835 private sector leaders in 15 major emerging market economies, including South Africa. About 55 people were interviewed in each country, ranging from top executives at major national and international companies, chartered accountants, foreign chambers of commerce, national and foreign commercial banks and senior partners at commercial law firms.

Within the 21 leading exporting economies, Russian and Chinese companies were perceived to bribe most frequently, and Australian, Swedish and Swiss companies least frequently. In a notable development, scores were found to have improved slightly since the 1999 survey: companies are marginally less likely to bribe now than three years ago. However, important exceptions to this trend were companies from Britain and the US, which are now perceived as slightly more likely to bribe than they were in 1999 (TI 2003:266). The US was ranked the most likely to use other means, such as diplomatic, political or financial pressure – even military as is the case with the Iraq War – to gain an unfair advantage, followed by France. South Africa featured high on these surveys as likely to accept bribes, as the arms deal procurement has demonstrated.

The consensus in anti-corruption circles is that politicians and public officials from the world's leading industrialized countries are ignoring the problem in their own backyards, while focusing on the high level of corruption in developing countries. An example of international corruption has been given by Lesotho where multinational companies have all been involved in building or tendering for aspects of a massive hydroelectric dam project. They have been charged with improperly paying millions of rands in foreign currency to intermediaries who, after taking a cut, deposited the balance into a secret Swiss bank account held in the name of the top executive of the dam project. Lesotho set an important regional precedent in the treatment accorded to international companies offering bribes.

The Lesotho corruption trial (TI 2003: 252, 257) that started in May 2000, ended in June 2002 with the conviction of Masupha Ephraim Sole, former CEO of the Lesotho Highlands Development Authority (LHDA), who was sentenced to 18 years in prison on bribery charges. Evidence confirmed that Sole's Swiss bank account had been credited with millions of rand from international consultancy firms involved in the dam construction project. Following this conviction, companies from Britain, Canada, France, Germany, Italy, South Africa and Switzerland were due to go on trial late in 2002. The Gauteng provincial Government subsequently announced its intentions of disqualifying all companies concerned – "if found guilty of bribery" - from bidding for contracts in the Blue IQ project with regard to the Rapid Rail Link.

This case had been seen as a rare example of a Western company being prosecuted for bribery under the national law of a developing country (TI 2003:73).

Whether in the public or private sphere, corruption results in the abuse and misuse of scarce resources that significantly affect an entire economy through multiple effects. Corruption is negatively associated with developmental objectives. Controlling or eradicating corruption, therefore, takes on even greater significance in the quest for development (Hope & Chikulo, 2000:1). Both recipients of bribes and providers are equally guilty of corrupt practices and should be prosecuted.

2.7. Limitations of the Study

Finally, one preliminary problem that deserves attention is that of evidence which must be faced but cannot be solved, as pointed out by McMullan (1970:319). From this viewpoint, arguments and statements about corruption cannot be demonstrated by factual or statistical evidence of the type normally acceptable as a basis for political or sociological generalization. There are plenty of reports, histories and trial records exemplifying corruption in different countries, but corruption is not a subject that can be investigated openly by means of questionnaires and interviews. Even if it was, in principle, possible to quantify the phenomenon, there would be no practical possibility of doing so. Despite this difficulty, we cannot refuse to discuss important topics simply because the best type of evidence is not available.

As shown by recent studies Tanzi (1998); (Lambsdorff (1999); Andvig *et al.* (2000), the construction of causal explanation of political corruption is hampered by the difficulty of measuring the frequency of corrupt exchanges. It is difficult to measure whether corruption is increasing or decreasing. Information about corruption is scarce and can be misleading. For many public officials, corruption remains such a sensitive subject that the inclination is to avoid to address it at all. I established in the course of the research that no government or non-profit agency keeps exact records on corrupt exchanges. Part of the problem with corruption is that it operates best under the cloak of secrecy.

Difficulties surrounding the study of corruption are even more serious for a crime that often has no visible victims. As we found out those who think to blow the whistle are afraid to go ahead as the potential risk of losing their jobs becomes quite high. In some cases, even money is used to pay for one's silence. Nowadays, there is an outcry demanding the protection of whistleblowers, as we will see later in this study. Besides whistle blowing, corrupt acts are sometimes discovered by chance. That is why the discovery of corrupt acts, as della Porta and Vannucci have contended, are influenced both by the investigative strategy of the state's repressive apparatuses, as well as by the degree of tolerance for illegal activities among certain social groups, or within public opinions at large (1999:24). Even recent experiments with indexes of corruption based on experts' perception are facing serious criticism in terms of their reliability.

In a methodological essay, entitled "What Cannot be Analyzed in Statistical Terms", corruption was cited as the classic example of an observable phenomenon that was not quantifiable since "there cannot be statistics on a phenomenon which by its very nature is concealed" (Frederik Galtung, 2001:224). But these assumptions have changed since the first publication in 1995 by Transparency International of its (TI) Corruption Perceptions Index (CPI) followed by a remarkable growth in empirical research on corruption, fuelled to a great extent by growing international interest in finding the means to curb it. This initiative has been bolstered by support and interest from multilateral organizations, foundations and researchers at universities in several countries. Most comparative empirical studies range from surveys and polls on a variety of aspects of corruption to recent secondary analysis of corruption data, and studies of public integrity and institutions.

To overcome these limitations, I made use of opinion surveys – which is now the most frequently used diagnostic tool in the assessment of corruption levels. Evidence from the survey indicates a wide range of viewpoints among Gauteng public officials, civil society, academics and business people. The survey also includes interrogations and collection of documents of important cases of corruption that occurred in Gauteng after the 1994 dispensation. According to Transparency International, survey samples include polling of the general population, the private sector and segments of public administrations (2001:224). Thus the introduction of these additional sources did not only give me the possibility of collecting new information, but it also allowed me to compare the functioning of different institutions charged with oversight of public administration.

One research shows that anthropological field methods are particularly fruitful and more valuable information on corruption practices can also be collected through interviews, and preferable informal interviews that can uncover the popular and local semiotics and ethics concerning corruption (Andvig *et al.,* 2000:68). Focus group discussions have also been fruitful in some situations. Case studies, whether of particular institution or specific interactions or episodes, are also fruitful. Finally, Blundo and Olivier de Sardan (2000) underline the significance of methodological triangulation: approaches and methods should be combined and used in parallel, for instance, interviews can be combined with

observations and newspaper reports or court hearing to substantiate and verify the findings. But prior to this probing, it is of the utmost importance to understand, "what is corruption"? How can it be defined in the South African context? To attempt answering this question will require raising some of the major problems encountered in the challenge to define corruption.

Chapter Three

UNDERSTANDING POLITICAL CORRUPTION

3.1. Introduction

This chapter supplies a critical discussion of the meaning of corruption. Although the concept of corruption is difficult to define and to measure precisely because of its secret nature, however, there is a comprehensive literature dedicated to defining it. Theobald states that, corruption, "like many other forms of behaviour when placed under the scrutiny of the social lens, proves to be an elusive and complex phenomenon: in fact the more one examines it the more difficult it becomes to separate from other forms of social exchange. The task of definition is not made easier by the fact that corruption, by its very nature, is inseparable from questions of public morality and morality in general" (Theobald, 1990:1).

But, most analysts who have discussed corruption have found it difficult to convey a clear sense of what is meant by the term that often leads to confusion as corruption comes in many forms that differ from one society to another. Thus, there is no one clear standard definition and the term has a multiplicity of meanings. All over the years, social scientists interested in corruption have defined it in a variety of ways.

Empirical evidence dating back from the 1970s clearly suggests that corruption cannot be isolated from its societal context. "Which norms are the ones that will be used to distinguish corrupt from non-corrupt acts?", ask Heidenheimer (2001:10). "Any attempt to analyze the concept of corruption, cautions Friedrich, must contend with the fact that in English and other languages the word *corruption* has a history of vastly different meanings and connotations" (2001:15).

Therefore, among the multitude of scholarly studies of corruption, there are as many proposed definitions of the concept as there are authors. This is why "this lack of an agreed definition of corruption is one reason a general theory of corruption never emerged" (Collier, 1999:2). Faced with this "definitional quagmire", in Johnston's terms (1994:3), scholars such as Lancaster and Montinola, have pointed out that these "problems

of definition … have thus far constrained most students of corruption to ideographic single case studies … the lack of cross-national empirical studies prevents a more complete understanding of general causes of political corruption" (1997:185). Nevertheless, before formulating any working definition of corruption that can serve as a tool to guide further study of the problem, let us discuss a range of issues that often crop up when trying to understand the concept.

3.2. The Quest for Definition

Since there is no unanimity in approach to defining corruption, one can merely note that the norms and specifics of one society do not always agree or correspond to the norms of another society. What emerges from this debate is that the term corruption is a relative concept. Like most activities, corruption is decidedly bounded on social, economic and political system and the historical experience of the country. What South Africans regard as legitimate, excusable or at least accepted business exchanges would be felonies in Congo or in Bosnia. This problem of normative evaluation has been illustrated by Arnold J. Heidenheimer (1970; 2002) who refers to this behaviour as "black", "gray" or "white" corruption" (2001:152):

- "Black corruption" indicates that in that setting that particular action is one, which a majority consensus of both elite and mass opinion would condemn and would want to see punished on grounds of principles. This behaviour is judged particularly corrupt and heinous if both public officials and the public judge it corrupt and both want it restricted. This is an extreme case of corruption such as "a public official involved in heroin trafficking", in "car hijackings" or in "children rapes" that this category in that both groups find the acts reprehensible and demand punishment for the culprit.
- "Gray corruption" indicates that some elements, usually elites, may want to see the action punished, others not, and the majority may well be ambivalent. This type is considered as the most difficult to define and to detect, and consequently is potentially most destructive to a political system organized along democratic principles. For instance, organized crime syndicates can succeed only by colluding with corrupt functionaries of the state in the criminal justice system. Such officials are easily

"bought" by syndicate members, who are able to amass huge profits, as the demand for their goods is high in a restricted market created by the illegality of their goods.

- "White corruption" signifies that the majority of both elite and mass opinion probably would not vigorously support an attempt to punish a form of corruption that they regard as tolerable. This implies that they attach less value to the maintenance of the values involved than they do to the costs that might be generated as the result of a change in rule enforcement. This is "petty" or "routine" corruption as members of the public bribe traffic officials to avoid arrest for speeding or another related offence.

3.3. Working Definitions

Generally, when we think of corruption what comes to mind are images of immorality, depravity, dishonesty, decay or alteration; images of something that is in the process of decay, disintegration, decomposition or putrefaction, or of someone morally depraved and wicked, open to dishonest practices, especially bribery. The term corruption comes from *corruptus* the past participle of the Latin verb *corrumpere,* to destroy or *rumpere (*as com-, *rumpere),* to break. "This implies that something is destroyed or badly broken. This something might be a moral or ethical code or, more often, an administrative rule or a law. The person who breaks it derives therefore from some recognizable benefit for him/herself, family, tribe, party or some other relevant group" (Hope, 2000:18).

This approach brings us close to the definition of corruption with which we shall primarily be concerned in this study; one that relates specifically to the sphere of government and administration, to the discharge of public duties. Heidenheimer refers to the Oxford English Dictionary that identifies political corruption as *"perversion or destruction of integrity in the discharge of public duties by bribery or favour; the use or existence of corrupt practices, especially bribery or fraud, in a state, public corporation, etc."* (2001:6).

Despite definitional ambiguities, most scholars agree that corruption in the public sector is broadly viewed as the "*use of public office for private gain*" (Gray & Kaufmann, 1998:7). This broad definition encompasses most of the illicit practices one finds within any single organization. Other definitions of corruption have been offered. For instance,

Heidenheimer (1970: 4-6; 2001:7-8) has identified usages that seek to define corruption in terms of one of three basic models or concepts, as follows:

1. The largest group of social science writers that include David H. Bayley, G. Myrdal and J.S. Nye, have followed the Oxford definition and relate their definitions of corruption essentially to concepts concerning the duties of the public office, and deviations from norms and regulations binding office holders or *public office-centered definitions.* In this context, "corruption, while being tied particularly to the act of bribery, is a general term covering misuse of authority as a result of considerations of personal gain, which need not to be monetary" (Heidenheimer, 2001:7).

2. Another group (J. Van Klaveren, N. Leff, Rose Ackerman) develops definitions that are primarily related to demand, supply, and exchange concepts derived from economic theory or *market-centered definitions.* They are based on theories of the market where office bearers regard the office as a business through which they must maximize their income. The office then becomes a "maximizing point" (Klaveren, 1970:39), and the size of the income is directly dependent on the market situation and the talents for finding the points of maximal gain on the public's demand curve.

3. A third group (James C. Scott, Friedrich) discusses corruption more with regard to the concept of the public interest or *public interest-centered definitions.* Writers here feel that the first set of definitions is too narrowly conceived and the second set too broadly conceived. They tend to maintain that the embattled concept of "public interest" is not only still useful but necessary to illustrate the essence of concepts like corruption. The point here is that corruption occurs when a public officer and power holder, charged with certain responsibilities, is induced by monetary and other rewards to take actions favourable to the provider of rewards and, hence, damage the public and its interests. A corrupt act, in this sense, violates responsibilities in the civil order since common interests are violated for special advantage in the sense of transgressing public duty and misusing public functions. Although this approach has been found unable to give one answer that everyone accepts due to its broadness and ambiguity, it may, however, raise important questions to consider in judging situations.

4. The fourth criterion, as underlined by Gardiner (2001:25, 32), defines corruption by *public opinion definitions*, by the people who are both the ultimate authorities in democratic nations and the ones who by their complacency and their collusion may contribute to corruption taking place or who by their vigilance and integrity may assist authorities in monitoring public officials. The picture is about how the people in a nation define corruption. Why should public opinion be used to define corruption? It should be noted that effective action against corruption would be difficult or impossible if public opinion does not correspond to the statute's definitions as public opinion may vary according to circumstances. The 'black", "gray" and "white" corruption illustration applies quite well to this approach.

Otherwise, in trying to come to grips with the concept of corruption, one becomes acutely aware that there are divergences regarding "corruption" as defined in the official laws of each country, "corruption" as it affects the public, and "corruption" as defined by public opinion.

This thesis' concern will mainly lie with actions specifically related to the sphere of government and administration. Therefore, the thesis's working definition of corruption will be centered on the *public office-centered approach,* related to public duties, and deviations from norms and regulations binding office holders, in a much broader sense. In this respect we refer to Nye's celebrated definition that identifies "corruption" as:

> *"behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close family', private clique) pecuniary or status gains, or violates rules against the exercise of certain types of private-regarding influence. This includes such behaviour as bribery (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reasons of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses" (Nye, 1970:566-567).*

From this perspective, corruption may relate to the misuse of authority or office for personal gain, which may not be monetary. Thus a public official is seen to be corrupt if he or she accepts "inducements" to do something that is his or her responsibility to do in

the first place, or if he or she does what he or she is supposed to do as duties associated with a public role because of private, pecuniary or status gain. In other words, corruption can be understood as "*improper and selfish exercise of power and influence attached to a public office or to the special position one occupies in public life*" (Santhanam Committee Report: 1964:5).

In South Africa, the word corruption is used to refer to a dishonest, bribable, fraudulent or dishonourable action by a political office-bearer, public official or other person. Every such corrupt action will be an unaccountable action. Thus it is obvious that "an accountable government and public administration will have to be uncorrupted" (Cloete, 1996:28). The *statutory definition* of corruption is contained in the *Prevention of Corruption Act, 1992 (Act* 94 of 1992) that defined corruption as *"the abuse of (public) power for illegitimate or illegal gain or profit"* (Country Corruption Assessment Report, April 2003:28). Nevertheless, the Report stipulates that there are four criteria, which have to be met:

1. There must be an offer and/ or receipt of a benefit;
2. The benefit must not be legally due;
3. It must be for a person holding office; and lastly,
4. The purpose, for which the benefit is given and/or received, must be to influence a person in the exercise of his/her power to do something or not to do something.

According to Bauer, former South African Auditor General Peter Wronsley underlined this viewpoint by assuming that "corruption is the abuse by the incumbent of a public office or position of his statutory or regulatory authority or discretionary power, whether by omission or commission, so as to improperly benefit himself and/or others" (2000:218).

Otherwise, anyone who "gives or offers to give any benefit" not "legally due" to any person who has any power or duty "by virtue of any employment" with the intention to influence or reward the person to "commit or omit to do any act in relation to such power or duty" is guilty of corruption (Republic of South Africa 1992:2-3).

Also declared to be guilty is anyone who has such power or duty by virtue of employment and "receives or attempts to receive" a benefit for committing or omitting to do any act in relation to such power or duty. Thus, it is clear, a corrupt act involves at least two parties, a "corrupter" on the one hand, and the "corruptee" on the other hand. It implies an exchange of some benefit that is not legally required in return for favourable treatment relating to the exercise of the powers or responsibilities of an office (Syed and Bruce, 1997:3). Examples of such deviant behaviour are "preference given to certain tenders, irregular granting of contracts, and deviations from laid down rules and procedures" (Bauer, 2000:219).

This definition of corruption in terms of Act 94 of 1992, as President Mbeki has pointed out, "is predicated mainly on the notion of inducement and seems to ignore the inherent conflict of interest between public and private interest" (1999:4). In other words, the benefit from corruptible behaviour by the public official does not necessarily have to be of a financial nature but can be related to the irregular advancement of the individual, family members or friends. What appears to be the most important aspect of corruption is that private gain was secured at public expense.

However, the new Prevention and Combating of Corrupt Activities Act no 12, 2004 provides a workable definition of corruption and reinstates the common law crime of bribery and extends the scope of the Act to all public officials, private persons and their agents. In terms of offences in respect of corrupt activities relating to public officers, the Act states:

> *"Is guilty of the offence of* corrupt activities relating to public officers*, any public officer who, directly or indirectly, accepts or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benfit of another person; or person who directly or indirectly, gives or agrees to give any gratification to a public officer, whether for the benfit of the public or for the benefit of another person inorder to act, personally or by influencing another person so to act, in a manner that amounts to the illegal, dishonest, unauthorized or misuse or selling of information … or the abuse of a position of authority … or any other unauthorized or improper inducement to do or not to do anything…."* (Act no 12, 2004, 28 April 2004).

The Act no 12, 2004 makes provision for new offences within the broad category of corruption.

All these approaches are better known *as formal and social.* Legal definitions are examples of *formal definitions.* Meny (1996:310), quoted in Syed and Bruce (1997:3), suggests that the "advantage of this approach is that it provides "safety and certainty" and gives a clear statement of what constitutes corruption". The problem here is that this approach excludes many forms of illicit behaviour that most of ordinary citizens would consider as corrupt. The requirement of two parties involvement, for example, rules out any activity such as theft, fraud, favouritism that an official may engage in alone, or at least without a "corrupter". While many of these acts may be identified as corrupt, they fall outside the strict legal definition.

Obviously, while the legal definition suffers from being too narrow, the *social approach* or *public opinion definitions* uses broad generalizations and principles. It places emphasis on morality, viewed as the "political" definition. The major problem with the social definition is that it is too vague as it depends on finding a consensus as to what is *integrity* or what qualifies as *morality.* The benefit of this approach however, as stressed by Talha Syed and David Bruce (1997:3) is that, it provides us with a way to evaluate more narrowly focused formal definitions. In addition, it can serve as a useful check, bringing to our attention major incongruencies between what members of the public view as corrupt and what any one definition identifies. Without such a check, any formal definition, which simply seeks clarity and, some measure of objectivity is in danger of sidestepping important ethical principles and values and thus becoming irrelevant.

Therefore, having worked through various components of a definition of corruption, we can now express our own. In this study, public sector corruption can be understood as: *"The privatization of government functions by people in position of trust for personal gains".*

This is a behaviour on the part of officials in the public sector, whether politicians or civil servants, whether policy-makers or administrators, through which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power

entrusted to them. This implies "the utilization of official positions or titles for personal or private gain, either on an individual or collective basis, at the expense of the public good, in violation of established rules and ethical considerations, and through the direct or indirect participation of one or more public officials whether they be politicians or bureaucrats" (Hope, 2000:18).

This definition clearly suits the Gauteng investigations as well as several other manifestations of abuse of power on the part of public officials as dealt with in this work. However, as Klitgaard has claimed, "definitions are not static. Societies' understanding of what counts as "corrupt" evolves. Over time societies have been able to make finer distinctions between "bribe" and allowable "reciprocity" or "transaction" - and have been more able to make these distinctions practically effective. And at any time in a society we are likely to find at least four different definitions of a bribe: "that of the more advanced moralists; that of the law as written; that of the law as in any degree enforced; that of common practice" (1988:23).

3.4. Forms of Corruption

Corruption can manifest, in one form or in another. But the forms that are the most identified and considered in corruption literature include bribery, embezzlement, fraud and extortion, perceived to be at the root of some basic varieties of corruption. This study refers to Andvig and Fjeldstad's typology (2000:14-18) of the forms of corruption one expects to find in a given administration:

1. Bribery: paying or receiving money or favours in a corrupt relationship to secure himself a personal benefit. A bribe is any amount of money paid to a civil servant who misuses his public power to distribute benefits to companies or individuals. These benefits or favours may include fraudulent acquisition of documents such as import/export licenses and quotas; large state contracts in civil engineering projects, construction works or defense supplies, etc. Bribery also comes under different forms according to the culture of the country and common names are kickbacks, gratuities, baksheesh, sweeteners, speed or grease money, and payoffs. In South Africa, the most used term is *cool drink* or *ukunyoba* in iXosa that often

involve the payment of *something* to a policeman to avoid a fine or to a public agent at the licensing department to jump the queue or at the Metropolitan Council to escape having your water and electricity cut off.

2. Embezzlement: is the theft of state assets by state agents who steal from the public institution where they are employed and from resources they are supposed to administer on behalf of the public. While legally not considered as corruption, embezzlement is nevertheless included in the broader definitions of corruption and does not involve what scholars call the "civilian" side. In Gauteng, events in the Health Department and the Department of Transport and Public Works concerning the theft of state properties – as pointed out in the course of this work - was not less than another form of embezzlement, a power abuse that cost millions to these departments. In many African countries, embezzlement is still a fundamental part of the resource extractive capacity of the ruling elite, as last developments in Congo-Kinshasa have shown with the looting and pillaging of economic resources by its elites. Also the nationalization of white farms in Zimbabwe and their redistribution to the members of the ruling families goes into this category.
3. Fraud: is the use of false representations, manipulation or distortion of information, facts and expertise by public officials to gain an unjust advantage. Fraud occurs when politicians and state agents take a share for "closing their eyes" on economic crimes, and more serious when they have an active role in it. Many cases of fraud were reported in Gauteng, as we will see.
4. Extortion: the use of force, threats or persistent demands by the state or its security services to extract money or other resources from individuals, groups and businesses. There is also what is labeled as 'informal" form of taxation. This is when "various state officials extract "under the table" fees and "gifts" from individual citizens as they approach the state as clients, customers, patients, school children, etc., as stated by Andvig and Fjeldstad (2000:17).
5. Favouritism: crudely put, it is the unfair favouring of one person or group at the expense of another. According to the corruption literature, favouritism is closely related to corruption insofar as it implies a corrupted (undemocratic, "privatized") *distribution* of resources. Otherwise, favouritism is the penchant of state officials and politicians, who have access to state resources and the power to decide upon the distribution of these, to give preferential treatment to certain people.

Clientelism and nepotism are the most known forms of corruption. *Clientelist* favouritism is the rather everyday proclivity of most people to favour their own kin (family, clan, tribe, ethnic, religious or regional group). Favouritism and cronyism is for instance to grant an office to a friend or a relative, regardless of merit. In South Africa, mainly whites view affirmative action policy as a discrimination against them to favour blacks. *Nepotism*: is when an office holder is giving preference to his proper kinfolk and family members (wife, brothers and sisters, children, nephews, cousins, in-laws, etc.) to secure positions in the state apparatus. Cases of nepotism were rife in the public service in Gauteng between 1996 and 1999, but after investigations there was not enough evidence to prove it.

3.5. Political Versus Bureaucratic Corruption

While this study's focus is on public sector corruption which incidence can have political implications, it is important to clarify the ambiguity that exists between bureaucratic and political corruption, as both are located within the institutions of government such as legislature, courts, bureaucracies and statutory bodies (parastatal corporations or commissions)

1. Political corruption is the use of state resources for personal use and/or political legitimation. The abuse of entrusted power by political leaders for private gain with the objective of increasing power or wealth. Similarly, it is useful to distinguish between "grand corruption," which involves corrupt politicians and policy-makers such as senior officials, cabinet ministers, and heads of state, and "petty corruption". *Grand corruption*[3], is located at the highest levels of political authority and the figures involved are significant. These officials establish and implement the laws in the name of the people but are corrupt themselves. Here are well and highly placed public figures who abuse their positions to extract huge bribes from national and international corporations. Sometimes they are involved in contract scams when dealing with procurement supplies if they are not busy embezzling and siphoning large amounts of money from public treasury into private bank

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[3] The expression "grand corruption" was first used by George Moody-Stuart in *The Good Business Guide to Bribery* (Berlin, Transparency International, 1994). He defined it as "the misuse of public power by heads of state, ministers, and top officials for private pecuniary profit."

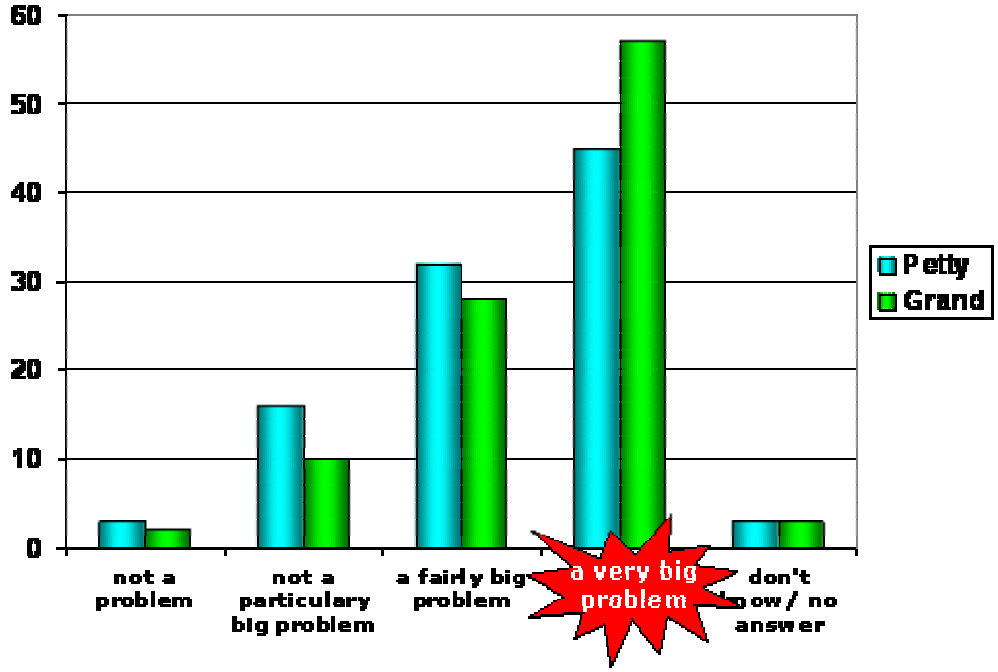
accounts. The ‘arms deal’ is the best-case scenario and to some extent the ‘floor-crossing policy’ in parliament that allows legislators to swap allegiance by crossing to another party for their sole and own benefit. This floor-crossing policy came after legislation has been tailored to benefit them.

2. Bureaucratic or administrative corruption is incidence of corrupt practices in the interaction between citizens and officials in the public service. But the interaction occurs at “low level” or “street level” known as *petty corruption*, at the implementation end of politics. This involves those who execute government policy or low-level officials such as agency bureaucrats, immigration and customs officials, policemen, etc. Petty corruption is what citizens will experience daily in their encounter with public administration and services like hospitals, schools, licensing department, taxing officials, and so on. One can understand why it is frequently referred to as “routine corruption”.

In addition, the TI Source Book suggests that “there are two quite separate categories of administrative corruption: the first occurs where, for example, services or contracts are provided “according-to-rule” and the second, where transactions are “against-the-rule”. In the first situation, an official is receiving private gain illegally for doing something, which he or she is ordinarily required to do by law. In the second situation, the bribe is paid to obtain services that the official is prohibited from providing. “According-to-rule” and “against-the-rule” corruption can occur at all levels of the government hierarchy and range in scale and impact from “grand corruption” to more ordinary, small scale varieties” (1996:1-2).

By way of illustration, the Global Corruption Barometer 2004 paints a picture of people around the world gravely concern about these forms of corruption in political life, as shown in Table 9.

Table 9: Petty vs. Grand Corruption



Source: Transparency International Global Corruption Barometer 2004

The general public believe that political or "grand corruption" is a more serious problem than "petty corruption". The TI Global Corruption Barometer 2004 rated "grand corruption" among the four most urgent problems, while "petty corruption" rated slightly lower. The other most urgent problems identified by the Barometer were unemployment and insecurity (3.5), followed with a score of 3.4 by poverty, high prices or inflation, and "grand" or "political corruption". Environmental problems, "petty" or "administrative corruption", and human rights violation come next with a score of 3. Anyway "grand corruption" was considered a very big problem by substantially more respondents around the world (57%) than those who said the same about "petty corruption".

This distinction shows clearly that the incentives underlying both corruptions are quite different and should be treated separately. Nevertheless, the significance of this separation can be understood in terms of analytic purposes only. Bureaucratic and political corruption can be treated as dimensions of the same phenomenon as demonstrated by numerous studies. From this perspective, scholars such as Theobald have concluded, "although administrative roles are more narrowly circumscribed than those of politicians,

nonetheless, it is clear that "all administrative roles have a political dimension". Subsequently, administrative and political corruptions are just different sides of the same coin" (1990:18). Theobald's viewpoint has been corroborated by Andvig and Fjeldstad's research (2000) that explains this ambiguity while adding the simultaneous incidence of both political and bureaucratic corruptions that tends to go along and to be mutually reinforcing. They assume that "political corruption is usually supported by widespread bureaucratic or *petty* corruption, in a pyramid of upward extraction. And corruption in high places is contagious to lower level officials, as these will follow the predatory examples of, or even take instruction from, their principals" ((2000:19).

It is thus difficult to understand why corruption occurs, without understanding the role of the state. Therefore, this study's conceptual definition of public sector corruption as the "*abuse of public power for private gain*" becomes clearer and more comprehensive.

3.6. Public Office versus Private Domain

The separation between political and bureaucratic corruption leads us to another separation: that between the public office and the private domain following the Weberian separation of politics and administration. As the incidence of political corruption is located within public institutions, it is therefore arguable that a conception of public office obviously depends upon the existence of a public domain, which is recognizably separate from the private sphere. For the purpose of the present review, it is important to put the discussion in perspective. One notes that government inquiries in South Africa have produced evidence of corruption by public officials as well as members of the private sector, making people aware that something was going wrong in the public service. Here as well elsewhere corruption within public offices is a serious problem in its own right and a symptom of deeper crises. In a recent survey of more than 150 high-ranking public officials and key members of civil society from more than 60 developing countries, the respondents ranked public sector corruption as the most severe impediment to development and growth in their countries (Gray & Kaufmann, 1998:7).

Recent research emphasizes the importance of the public office. It has been suggested that the public sector is a qualitatively different sphere of human affairs from the private

sector. The state and public officials are responsible for administering public resources on behalf of the entire society. Unlike the private sector, adult members of society have no choice but to pay taxes and rates in order to meet the salaries of the public officials who administer their resources (Colm Allan, 1999:2). In Africa especially, the public sector plays such a large and central role in the society, usually encompassing economic activities left to private firms in many nations of the industrialized West. Often there are few or no alternatives to the party or ruler in power (Klitgaard, 1988:10).

The management of such a big sector requires some degree of accountability and efficiency. This is reflected in some working definitions that we have employed in the core of this paper. That is why terms such as misappropriation, mismanagement and maladministration became key words in the study of political corruption. *Misappropriation* means taking (money) for a wrong or dishonest use, fraud, embezzlement or thieving. *Mismanagement* is the organization, the running or handling of something badly or wrongly. While *maladministration* is defined as acts of commission or omission that lead to a loss of public resources but don't result in private gain. In terms of Public Administration, all three concepts lead to unprofessional conduct, which implies incompetence and failure to comply with obligations under an Act or Regulation. This is the use of power for unauthorized purpose, otherwise, abuse of power.

Scrutinizing these definitions give us insight into the structural conditions which give rise to weak financial controls, poor management, and enable the maladministration of public resources. It is these structural conditions that facilitate individual acts of corruption on the part of public officials.

Generally speaking, many people in positions of trust have put their own interests first and the general interest of the country last. Some politicians and top businessmen continue to rob the country of its wealth by "confusing their pockets with the Treasury". As a result, the widespread failure to administer public resources in an effective and accountable manner has a more damaging impact on social well being than individual instances of corruption.

In terms of public office, despite the fact that the existence of bureaucratic forms of organization has been acknowledged in all areas of human activity, it is arguable that it is in the state apparatus where these forms first emerged. There is general agreement among scholars that any conception of public office is strongly influenced by Max Weber's ideal type or rational-legal bureaucracy.

Regardless of difficulties in developing countries to implement this model, as seen, Weber's bureaucracy has been described universally at all times as "ideal". Its main characteristics remain its hierarchical order constituted of corps of officials whose recruitment and promotion hang on criteria such as educational qualifications and professional experience; regularly salaried and graded according to rank and qualifications; and who are appointed to fixed jurisdictional areas governed by clearly laid down rules and procedures. Theobald (1990) stresses that, "the core characteristics of this type of bureaucracy are impartiality, impersonality and, above all the strict separation of incumbent and offices". Moreover, "the development of the nation state in the nineteenth century resulted in the consolidation of modern public administration; the appearance of the career public servant who allegedly makes decisions on the basis of neutral, universalistic criteria and scrupulously segregates public affairs from personal interests" (1990:2-3).

The South African public administration is based on the same type of bureaucracy, as evidenced by its history and its political environment. Not so incidentally, Weber's notion of bureaucracy was modeled on the Prussian idea of service in which the Junker class was conscripted into state service. The royal servants remained although they received fixed salaries, "the legitimate collectors of elastic and often very lucrative emoluments of office", which entitled them to the private appropriation of a certain share in the fees, collected both on behalf of the ruler and on behalf of the municipal and ecclesiastical treasuries within their jurisdictions (Rosenberg, 1958:103). They were rewarded by being exempt from taxes, which by contemporary standards, might be thought to be a form of corruption.

During the apartheid era, there were perceptions that the South African bureaucracy was relatively effective and comparatively efficient in contrast to other colonial

administrations in Africa. Scholarly studies (Lodge, 1998; Posel, 1999) show that white domination of the state during colonization and apartheid did not give opportunity to blacks to govern as elsewhere, may have hampered what Lodge portrays as "the persistence of old pre-industrial cultures of tribute" (1998:157). Perhaps the nature of the apartheid state justified these perceptions as expressed by Lodge in the same work: "as a fairly industrialized and extremely coercive state the apartheid order may have been less susceptible to many of the forms of political corruption analysts have associated with other postcolonial developing countries" (Lodge, 1998: 162). Posel notes, though, that after 1948 and particularly after 1960 "inefficiency and low productivity plunged to new depths" resulting in "complaints about lethargy and mediocrity in the civil service that spanned the job hierarchy" (1999:108).

To put this concern into perspective, Payne had pointed out before that, "by its very nature, every bureaucracy tends to become a conspiratorial organization. Every bureaucracy becomes a closed society demanding implicit loyalty from its members. Implanted in all members are the needs to serve the bureaucracy first and the public second. The bureaucracy's mistakes must be covered up, its black sheep removed as silently as possible" (1975:24). Posel calls this, "the quiescence of white civil servants", when referring to the apartheid bureaucracy. This is a familiar picture of bureaucracies in the African countries known as "neo-patrimonial states".

Subsequently, it is necessary, at all costs - to maintain the fiction that bureaucracy works only for the public interest and is not in the least concerned with the perpetuation and increase of its own powers. The power wielded by a bureaucracy is so great that the temptations of corruption must always exist. In South Africa, "the massive expansion of the apparatus of the state, the vast complexity of the apartheid system and the strongly administrative bias of much of apartheid legislation, all contributed to the enormous powers wielded by civil servants", as noted by Posel (1999:111). While this picture is "workable" in a dictatorship, it would be difficult to sustain it in a democratic state with its checks and balance systems.

Power generates corruption. Wherever men exercise power there is the presumption that some of them will be corrupted by it. The apartheid bureaucracy could not slip out of this

rule of the game: "*Power tends to corrupt, and absolute power corrupts absolutely*" (Lord Acton, 1887).

3.7. Deviationism:

There has been some debate over unethical practices in the public sector that have been seen as deviation from the norms of public offices. Analysts believe that one of the most difficult governmental problems to solve is unethical behaviour by public officers and employees. Arguably, bureaucratic roles in Max Weber's ideal type of rational-legal bureaucracy are commonly conceived in terms of a set of rules and procedures, which are precisely formulated so that non-compliance is immediately and unequivocally apparent. The problem of unethical practices in the public sector persists, however, and will continue as long as government leaders continue to tolerate and, even worse, contribute to the problem.

The most serious ethical problem involves public officers who exercise broad discretionary authority since opportunities to do favours in exchange for gifts and gratuities are manifold. However, explanations to this behaviour are given indicating that in fact, the vast body of literature on formal organizations clearly demonstrates that public officials exercise public duties that involve an element of discretion or flexibility in the interpretation of the Law. Indeed writers such as Theobald have argued that "without this area of discretion bureaucracies could not function; rigid adherence to the rules would rapidly bring administration to a standstill. Therefore to base one's conception of corruption on deviations from the norms of public office when such deviations are usual, if not necessary, is to invite confusion" (1990:4). Despite these objections, this trouble exists in the legislative, executive, and judicial branches of government in all political systems and at all levels: local, provincial and national, in both developed and developing countries.

Thus ethical problems are not limited to this type of blatant conduct only. The range of unethical and corrupt practices covers almost every aspect of the practice of government. Common corrupt practices that can be detected in any public administration include: public officers and employees doing favours for friends and relatives, stealing government

equipment and supplies, using public motor vehicles for private purposes, refusing to provide government information to citizens without justification, etc. Generally speaking, corrupt practices have the effect of poisoning the well of the public trust and confidence in any democratic form of government. They affect the work of government managers, supervisors, and their staffs. These tax-supported employees are charged with the day-to-day responsibility for collecting garbage, enforcing the law, paving and maintaining streets, regulating utilities, protecting the environment, zoning for land use, and a myriad of other visible and behind the-scenes services for which ordinary people pay.

Obviously, ethical problems, as Zimmerman (1994) held, "are associated with misfeasance and nonfeasance as well as malfeasance. The failure of a responsible officer to remove an incompetent public servant is a violation of the fiduciary duty of the officer. Similarly, holders of positions with no duties are sinecurists defrauding the taxpayers" (1994:vii). The countless consequences of such acts are those presented by Zimmerman who ascribes them to the ingenuity of the human mind. Therefore, as he notes, "if improper behaviour becomes common in a government, the burden placed on taxpayers will become a significant one. Such behaviour will undermine citizen support of the government, and public policies will be implemented without the cooperation or with the opposition of citizens. As a result, the effectiveness of the policies will be weakened and the costs of implementation increased" (Zimmerman: 1994:1).

Other scholars argue that there is no excuse for unethical behaviour in the practice of government. Fraud, waste, and abuse have no place in government, and their costs in reduced or poor quality services requires that we refuse to accept unethical conduct on the part of government officials at all levels (Steinberg and Austern: 1990:5).

3.8. The Expansion of Corruption

As the debate continues, it emerges so far that the question of how to stem corrupt behaviour is receiving serious international attention with several organizations such as the World Bank or Transparency International themselves being dedicated players. Such bodies emphasize the negative effects of corrupt practices on development and pledge to implement policies which sharpen the responses against corruption and reduce the

possibility of personal enrichment by corrupt officials. The International Monetary Fund, the OECD and the UNDP initiatives to curb corruption led to the development of particular anti-corruption programmes to assist countries in tackling the problem. At the beginning of the last decade of the twentieth century research on corruption was a small field. Nowadays, however, a large number of articles and reports are published on a regular basis and academics have brought to light a new flurry of empirical research on the causes and consequences of corruption.

But corruption is not a new game. It is an ancient problem. In China, at the times of the Shang dynasty (ca. 1766-1122 B.C.), there was an entirely different attitude toward the corruption of the state and the corruption of tyrannical rulers, as argued by Payne (1975). There, when the emperor became tyrannical, ruling in a purely arbitrary fashion and out of touch with the people, it was believed that the "Mandate of Heaven" had been removed from him and at such times it was the right and duty of the people to overthrow him and even to destroy him. The Mandate was granted to the emperor in trust and he retained it only so long as he ruled virtuously, in conformity with the wisdom of the ancient sage-kings. When he failed, he lost all the prerogatives of kingship and was regarded as corrupt (Payne, 1975:124). In India, two thousand years ago, Kautilya, a prime minister of an Indian king, discusses corruption in his *Arthashastra*, a treatise on public administration (Bardhan, 2002:321).

Today, many governments have made corruption explicitly a crime and the degree of attention paid to corruption is soaring. Likewise, the American Constitution made bribery one of two explicitly-mentioned crimes, which could lead to the impeachment of a US president. Corruption's new political significance led *The Financial Times* to proclaim the year 1995 as the "year of corruption". Why this sudden attention now when one knows that corruption has always been with us from the beginnings of times? Is it because with democracy there are high expectations today than in the past? Or is it because the media is now paying more attention to the phenomenon that always existed but was often ignored? There is no tailor-made answer to these questions due to the lack of reliable statistics and the inner nature of corruption itself.

However, it is interesting to emphasize the significance of several arguments advanced in the corruption literature that assume that corruption is simply attracting more attention now than in the past, as Tanzi has suggested (1998:4-5):

1. The end of the Cold War has halted the political hypocrisy that had made the rulers in some industrial countries ignore the political corruption that had mushroomed in particular countries, such as former Zaire, Nigeria or Ghana. As long as these countries remained in the right political camp, there was a tendency to overlook obvious cases of high-level corruption.
2. Perhaps because of lack of information, or reluctance to talk about it by those familiar with these countries, there was also a tendency not to focus on corruption in the centrally planned economies such as the Soviet Union. Those imitating them through highly regimented economic activities such as Nicaragua and Tanzania experienced a considerable quantity of corrupt practices. Donor countries also played down this problem in countries, which they assisted financially, even in the face of misuse or misappropriation of foreign aid.
3. The increase during the last decade in the number of countries with democratic governments and free media has created an environment in which discussion of corruption is no longer a taboo. In Russia, for instance, the media has responded with a vengeance to its newly acquired freedom.
4. Globalization has brought into frequent contacts individuals from countries with little corruption with those from countries where corruption is endemic, leading to the increase in the international attention paid to corruption.
5. The growing role that has been played by nongovernmental organizations, such as Transparency International, in publicizing the problem of corruption and in trying to create anti-corruption movements in many countries and empirical studies of corruption have contributed to a greater awareness of this problem.
6. The great reliance on the market in economic decisions has created an environment in which the pursuit of efficiency has acquired greater importance and where distortions attributed to corruption attracts more attention.

These entire hypotheses, though not exhaustive, illuminate the growth in reportage of the phenomenon that culminated in a peak in corruption activities in the last decade.

Meanwhile, we have to keep in mind that political corruption is a difficult topic to define and investigate empirically. As A.J. Heidenheimer has observed, "the phenomenon has been neither neatly measured nor illuminated by much highly visible scholarship. It belongs to a third category of political phenomena that has been subject to academic attention only occasionally. Most members of established academic disciplines have left the investigation of political corruption to journalists and other purely descriptive or impressionistic writers" (1970:v).

Even in a country like the USA it is surprising that political science, while developing a sizable literature on political corruption, has hardly made it a central topic of investigation. A number of American scholars concede that despite its frequent occurrence, governmental corruption has undergone surprisingly little systematic investigation (Peter de Leon, 1993:9).

In South Asia, Myrdal's account of the disinterest of Western scholars in the problem of corruption led him to call their attitudes an example of "diplomacy in research" and identified "the taboo on research" on corruption as, indeed, one of the most flagrant examples of this general bias (1970:230). Whereas Andreski argued that "the conspiracy of silence on the part of the great majority of European intellectuals, due to inverted racialism, prevents the dissemination of knowledge about this phenomenon" (Klitgaard, 1988:9).

Although the problem itself is not new, opportunities to work in this area have emerged only recently. Indeed, corruption is no longer a taboo topic, but one that policymakers, businesses, civil society organizations, media, and donors from all regions are confronting openly. Finally, to define corruption in a distinct country, one must understand the problem within the norms of that country. As Kpundeh underlines, "one of the major impediments to understanding bureaucratic fraud in African countries is the difficulty of defining the problem. Corruption is a heavily culture-laden concept tied directly to the predominant ethical values and social standards of each society" (1995:53).

After defining corruption and exploring the essential concepts associated with it, this study attempts to achieve its designed purpose by tackling the fundamental factors that mostly promote corruption.

Chapter Four

CORRUPTION KEY FACTORS

4.1. Introduction

This chapter is about a cause and effect relationship involved in cases of corruption. Athough the incidence of corruption in South Africa does not reach endemic proportions, as it is the case in many parts of Africa; nevertheless, new scandals and allegations of unethical behaviour by public officials are of great concern. What are the underlying factors that lead to corrupt practices and the circumstances that promote corruption in formal relationships in a country such as South Africa? Otherwise what are the causes of corruption? In what conditions does corruption occur and who are involved in it? As far as causality is concerned, the World Bank has established that "the causes of corruption are usually complex and rooted in a country's policies, bureaucratic traditions, political development and social history" (1998:2).

Many analysts have assumed that an understanding of the root causes of corruption may lead to ways to overcome it, or at least to curtail its practices and mitigate its effects to such a degree that it no longer poses a threat to orderly public life (Le Vine, 1975:79). Therefore, the key to understanding the incidence of corruption is to begin by taking a close look at laws and institutions and subsequently, the incentive structures that regulate the behaviour of market participants.

In addition, the chapter contains the causal model of corruption that provides a framework to help understand the causes of corruption before tackling the general typology of factors and circumstances contributing to corruption in South Africa, and analysing its main features in neo-patrimonial states in Africa. Its international dimensions, its expansion and its growing interests and attention in most countries and international agencies, including the Wolrd Bank, will form part of the conclusion to this chapter.

4.2. The Causal Model

Research on the origins of corruption worldwide confirms that corruption is rooted in poorly functioning institutions, as well as in policies that undermine free trade and competition (Rose-Ackerman (1999); Mauro (1995); Treisman (2000).

In an earlier discussion, Lambsdorff (1999:2) provides a comprehensive review of this literature that gives first insights into the causes of corruption and shows how empirical research on the causes of corruption is focused on political institutions, government regulations, legal systems, GDP-levels, salaries of public employees, gender, religion and other cultural determinants, poverty, as well as the role of colonialism and/*or apartheid.* However, the main problem that is often difficult to assess is whether corruption causes other variables or is itself the consequence of certain characteristics. But certain forms such as government involvement, poor institutions, inequality and absence of competition may all contribute to corruption.

Recent studies have shown that corruption and the effects of corruption will often feed back into the various phenomena that have been labeled "causes". Otherwise, the "causes" and "effects" of corruption are closely interrelated and can hardly be separated (Andvig *et al*., 2000:80, 91). These indicators and corruption are sometimes two sides of the same coin and could help to observe the correlations that have been reported, but as warned by Lambsdorff, one has to refrain from drawing iron-clad conclusions with respect to causalities (1999:2). Meanwhile, considering corruption as being caused by some factors otherwise independent of it, simplifies the empirical understanding and explanations of the phenomenon.

Therefore, in an attempt to explain the causes of corruption, we will refer to a conceptual framework based upon two models supported by economic analysis as drawn by Tugrul Gurgur and Anwar Shah (2000:4-6). Economists are using either Becker's "crime and punishment" model or Klitgaard's "principal - agent" theory.

According to Gurgur and Shah, these two models can be formulated as follows:

1. The first one puts more emphasis on an individual who compares the expected utilities of legal and illegal behaviour, where the latter involves some probability of detection and punishment. Fundamental propositions of this model are that the incidence of illegal behaviour is positively related to the potential gains from illegal activity and negatively related to the probability of conviction and the punishment. In Becker's framework gains from *legal activities* are explicitly defined, on the one hand as the government wage, promotion, and public pension. On the other hand, potential gains from *corrupt behaviour* are assumed to be a function of variables describing the size and scope of the public sector. The more government involvement in market operations, the more opportunities for corruption become evident through discretion on regulations and allocation of resources. The bigger the government is, the more it allows corrupt officials to discover and auction more profitable parts of the government. Hence the role of institutions of accountability that have been pictured as mechanism that leads to detection and punishment of offenders. While Becker limited these institutions to the judiciary, it seems now they can be extended to political institutions and civil society as well.

2. The second model or the principal-agent theory, used by leading scholars of the field such as Rose-Ackerman, Klitgaard or della Porta and Vannucci, treat corruption as an information problem on behalf of the "principal" who fails to control the "agent" properly. In this context the *citizens* who elect a politician are considered as the *principals* and the *politician* as the *agents*. The models primarily rely on the information problems in explaining the incidence of corruption. The monopoly power of officials and the degree of discretion they enjoy in exercising this power create formidable information problems in explaining the incidence of corruption. As a result, the principal-agent models heavily emphasize the importance of monitoring power of institutions and horizontal competition within the government as an antidote of corruption.

As one can conclude, there is little difference between the crime-and-punishment model and the principal-agent model in explaining corruption. In both models corruption is viewed as a function of two major sets of variables: opportunities for corruption and controlling power of institutions. The first set deals with a range of variables from the size

of government to state intervention in the economy. Government wage and remuneration practices belong to this category. Whereas the second one captures various institutions such as internal control mechanisms, judiciary, and political institutions, and civil society, as observed by Gurgur and Shah (2000:8). Thus these two models will help to provide further insight into the understanding of causes of corruption.

Nonetheless, it can be pointed out that while econometric studies provide useful empirical results in exploring causes of corruption, however, the regression results ought to be interpreted with some care, and should not be considered as substitute for historical analysis. According to Lancaster and Montinola (1997:185-206), in terms of analytical approach and methodology, comparative research on corruption should include three related tasks:

1. The provision of causal explanation of co-variation among cases and correlation between corruption and other variables. Otherwise, empirical surveys or case studies may be necessary.
2. The development of theoretical models that incorporate differences in context in order to illuminate causal relations. Cases studies may contribute to the understanding of certain aspects of corruption and thus, lay the foundation for new hypotheses
3. Empirical verification of theoretically derived models or regressions to estimate numerical values for coefficients in theoretical models. Lack of objective data reduces the value of empirical verifications. Consequently, step one and two in this approach become more important and can support theoretical models and improve our understanding of corruption.

In the same vein, "to understand the logic of corruption, it is necessary to analyse the relationship existing in the state between the *agent*, the person delegated to take decisions, and the *principal*, on whose behalf that agent acts" (della Porta and Vannucci, 1999:16). Consequently behind every corrupt exchange there are three subjects: principal, agent, and corrupter and the functioning of a democratic government cannot, in fact, be conceived outside this system of principal-agent relationships between electorate, elected officials, and bureaucrats.

In exploring governmental corruption causes functionalist writers have distinguished three categories of theoretical explanations: systemic, institutional, and individual. Scholars such as S. John Kpundeh and M. Johnston, highlight the importance of using all three explanations to analyze corruption since each explanation has several drawbacks. To base explanations of corruption solely on one of them is to take the easy way out (Kpundeh, 1995:6). Theoretical rationalizations of corruption may be explained within the scope of these recognizable categories:

1. Personalistic Explanations: Corruption is the work of people, and when individuals or small groups are found to have broken the rules governing public roles, it is tempting to search for causes in the personal qualities (real or imagined) of those involved. Personal or individual level analysis of corruption holds that corruption is simply a consequence of human nature as human beings are all subject to greed and can behave corruptly to rationally maximize their gain.

Bribes and extortion are typical examples seen among public servants. Individual explanations associate corruption with individuals who, provided with enough opportunities, will act corruptly. In this case, corruption may be motivated by conditions such as personal financial problems, especially indebtedness; a corporate climate conducive to corruption, for example the "everyone else is doing it syndrome"; disgruntlement and malice, for example officers who think they have been wronged may want to get even; rivalries and cooperation problems; low pay and perks; ego, and the "Robin Hood syndrome" - to redistribute wealth from the rich to the poor through fraud (Jones, 1993:2).

Other explanations include "excessive consumption of alcohol, extramarital activities, speculative losses, excessive gambling, "causes related to vanity", administrative disorganization and "the thirst for illicit enrichment" (Klitgaard, 1988:xi).

2. Institutional Explanations: Are useful as a framework to help describe corruption as a deep-seated problem, rather than merely as the workings of a few bad individuals. Most institutional corruption can be attributed to structural problems - ordinary matters of

administration such as inefficient auditing procedures or uncertain communications among sections of large organizations. Institutional fraud occurs when a pattern of private gain (in goods and funds) operates in a particular institution.

3. Systemic Explanations: Governments, as noted earlier, almost never act in isolation. Systemic explanations originate in the interaction between government and the public. The pressures, demands, and influence brought to bear upon government by interested individuals and groups are important forces in shaping actions and decisions. The demands of government rewards frequently exceed the supply, and routine decision-making processes are lengthy, costly and uncertain. This approach is the most comprehensive explanation because it regards corruption as a form of influence within the political system, rather than the failing of individuals and institutions. Thus, the causes of corruption may be classified in the same way: individual, institutional and systemic.

John Makumbe reduces these approaches to two dimensions for the abuse of public power must be seen in a wider perspective than that of the public sector only. The first dimension is the "behavioural" one or micro dimension of corruption, which refers to the behavioural aspects of corruption namely corrupt acts and attitudes that involve "individuals". The second one is the "structural" or "systemic" dimension of corruption that should be a reference to the social and economic structures and processes of corruption. It refers to "the culture" or "the way things are". This is how "the system" works or how "the system allows thing to happen, be that by design and /or by default (1999:4).

What is important with this approach, to quote from Johnston, is that "it shifts the focus of analysis from individual actions judged against external (and, at times, static) standards to the significance of officials and clients' conduct within an institutional and political approach" (1996:326). Such an approach gets us closer to our selection of the Gauteng provincial government where many departments are dealing with these corrupt practices. This is a framework of analysis that will be used to explain the effects of corruption on political institutions and political development.

However, functionalist studies of corruption have shown that the system and the individual are both involved in malfeasance. This perspective underlines the fact that any

analysis of political corruption must take into account the strong relationship between the roles of both the system and the individual. Scholars such as Peter de Leon believe that "both the individuals and the system are held at fault. However, it is primarily the system and its inherent rewards and choke points that sometimes urge the individual to act in unsanctioned manners. The system must, as a consequence, indeed be more responsible than the immediate perpetrators" (1993:45).

From a functionalist perspective, it might be emphasized that, in practice, individuals operate within a system and, by so doing, affect that system, just as the system dynamics affect individual behaviours. It explicitly implicates both the system and individual as culpable. As political corruption represents a problem of sufficient size and cost to warrant attentions, therefore, public policies need to be devised that will address the long-term reduction of the problem. In this period of global attention to government's failings, it is arguable that if only government officials were more honest, or if only the rules of government could keep them honest, government's performance would improve. It is true the public loss of faith in its governmental processes and leaders is calculated as part of the cost of corruption.

4.3. Key Factors Promoting Corruption

The causes of corruption are complex and may be traced to a breakdown in public-private sector relations. Literature on corruption shows that it comes in many forms and can involve: "the misuse of policy instruments - tariffs and credit, irrigation systems and housing policies, the enforcement of laws and rules regarding public safety, the observance of contracts, and the repayment of loans - or of simple procedures" (Klitgaard, 1988:xi).

Experience teaches that the incidence of corruption entails various mechanisms that go along with all corrupt exchanges and that clarify how corrupt deals, which are sealed in secrecy, are made. The involved parties have to identify each other as corrupt partners and find a way to do business. The corrupter makes the advance and the payment and the corruptee receives the payment and then the delivery of what each has promised without being caught. The rule of the game consists of delivering without being detected.

Jones (1993) describes *intent* and *opportunity,* as the two factors that facilitate fraud and corruption. The perpetrator must have *intent,* which may arise from personal or environmental factors. There must also be *opportunity* to undertake the fraudulent or corrupt act. Opportunity may arise by chance or may be created by careful planning and conniving.

In the same vein, Wilson (1989) has identified three theories, which explain opportunities for governmental corruption, as follows:

(1) A particular political ethos or style, which attaches a relatively low value to probity and impersonal efficiency and relatively high value to favours, "personal loyalty, and private gain" that can lead to corruption. There is the assumption that the poor may want help and not justice. Inherent in this are values that produce irresistible demands for favouritism, and thus corruption.

(2) The process of ordinary people facing extraordinary temptations. Thus, corruption is not the result of defects in character or cultural values, but is a consequence of a social system, which rewards people with power, wealth, and fame only if they are daring enough to seize them. The assumption is that public officials are human who can resist minor temptations if everyone else does and if someone is checking, but cannot be expected to be honest when everyone is stealing.

(3) Governments' work cannot be carried out without corruption. That is why they are constituted in such a way that all departments and units must be put together formally and constitutionally. In the example of the United States, the contention is that "what the founders have put asunder, the politicians must put together if anything is to be accomplished".

But as emphasized by Klaveren, "the root of corruption lies exclusively in the *appetitus divitiarum infinitus*, the insatiable avarice that is one of the human weaknesses against which battle was already waged by scholastics" (1970:40). For the World Bank (1999),

corruption is a symptom of institutional dysfunction, thriving where economic policies are poorly designed, education levels are low, civil society is underdeveloped and the accountability of public institutions is weak. Nevertheless, recent studies (Klitgaard *at el.,* (2000:86); Lambsdorff and Teksoz (2002:7-10), have highlighted the relevance of the mechanisms that make this "human weakness" work by underlining its wants. According to these scholars, corruption requires:

1. Seeking and finding corrupt partners and negotiating contracts. In this case as partners may cheat each other, there might be safeguard mechanisms against opportunistic behaviour such as "established degree of social embeddednes" that implies for instance being colleagues in a certain institution or network, family and kinship ties are all conditions that outlive the duration of deals.
2. Making payments and enforcing corrupt agreements. One of the parties gives a valuable asset to the other, which could be kept in the case of a non-performance of the deal. A most typical example is that public servants may ask for part of the bribe in advance before setting out to make the necessary arrangements for the services. This disallows the bribers from reneging, but it may then provide the public servant with a potential to behave opportunistically.
3. Delivering what is corruptly purchased or agreed upon; all done discreetly. Therefore a series of problems could block the way of realization of anticipated effects of corruption such as "a change of mind or a change of the person holding office" remaining a possibility. This represents a critical moment for the corrupter, who can no longer be sure that sums paid in the past will be acknowledged as before" (della Porta and Vannucci, 1999:42).

In short, as disclosed by Lambsdorff and Teksoz, "each stage of the process displays considerable risks of denunciation, forcing corrupt relationships to have a close nature vis-à-vis the outsiders. … Illegal and hidden by their nature, corrupt deals put the partners of such deals at the mercy of one another. Even long after the service in question is rendered, the partners remain in a binding relationship of mutual dependence, which can also serve as a basis for extortion or hush money" (2002:10).

Empirical evidence suggests that while the global dimension of corruption does not need to be proved anymore as no country is completely free of all corruption, however, conditions are pervasive in developing and transitional countries. This is not because of racial element or that people in these countries are different from people in the developed world but because the environment is ripened for it. Many reasons related to underdevelopment have been singled out to explain this state of affairs. Perhaps it may be the motivation to earn income that is extremely strong due to severe poverty; perhaps the absence of a strong sense of national interest or perhaps the weakness of social and governmental enforcement mechanisms and poor health policies. As pointed out by Gray and Kaufmann, "not only is motivation strong, but opportunities to engage in corruption are numerous" (1998:7).

In general terms, corruption arises from institutional attributes of the state and societal attitudes toward formal political processes. Institutional attributes that encourage corruption include wide authority of the state, which offers significant opportunities for corruption; minimal accountability, which reduces the cost of corrupt behavior; and perverse incentives in government employment, which induce self-serving rather than public-serving behavior. Societal attitudes fostering corruption include allegiance to personal loyalties over objective rules, low legitimacy of government, and dominance of a political party, such as the African National Congress (ANC), or ruling elite over political and economic processes.

Consequently, from an institutional perspective, corruption arises where public officials have wide authority, little accountability, and perverse incentives. This means the more activities public officials control or regulate, the more opportunities exist for corruption. Furthermore, the lower the probability of detection and punishment, the greater the risk that corruption will take place. In addition, the lower the salaries, the rewards for performance, the security of employment, and the professionalism in public service, the greater the incentives for public officials to pursue self-serving rather than public-serving ends.

From the economic viewpoint, since the ultimate source of rent-seeking behaviour is the availability of rents, corruption is likely to occur where restrictions and government intervention lead to the presence of excessive profits. In Klitgaard's terms, "a monopolist can charge a price higher than the price that would prevail in a competitive market. The extra earnings thereby obtained are called "monopoly rents". When the structure of the economy or the government encourages monopolies to exist, a number of people may strive to gain that monopoly" (1988:43).

Paolo Mauro notes that a key principle is that corruption can occur where rents exist - typically, as a result of government regulation - and public officials have discretion in allocating them. The shift from command economies to free market economies has created massive opportunities for the appropriation of rents (that is, excessive profits) and has often been accompanied by a change from a well-organized system of corruption to a more chaotic and deleterious one (1998:10). For Huntington, corruption is of course, one measure of the absence of effective political institutionalization. Public officials lack autonomy and coherence, and subordinate their institutional roles to exogenous demands (1968:59-71).

Correspondingly, one key feature in all provincial departments is the vast amount of discretionary power that is held by a variety of public officials that allows them to make decisions that affect the lives and businesses of members of the community. Discretionary decision-making is one area where there is often the potential for corrupt conduct to occur. According to Rose-Ackerman, "the distribution of valuable benefits and costs is generally under the control of public officials who possess discretionary power. Private individuals and firms who want favourable treatment may be willing to pay to obtain it. Corruption is a symptom that something has gone wrong in the management of the state apparatus" (1999:9).

As an institution, the kind of administration in Gauteng is susceptible to corruption, as generally is the case with most of institutions be they public, private or non-profit. For a better understanding of conditions or opportunities of corruption, this work refers to Klitgaard's (1988) famous formula:

"*C = M+D-A*" or Corruption (C) equals Monopoly power (M) plus Discretion by officials (D) minus Accountability (A).

Otherwise, corruption tends to be where "someone has monopoly power and the discretion to decide over a good or service and is not accountable to anyone whereby others can see what that person is deciding" (Klitgaard *et al*, 2000:27). In fact, "the problem with corruption lies in the lack of transparency and accountability on the part of public integrity systems" (TI Source Book, 1996:1). This formula provides guidance and offers a sound baseline for understanding the propensity toward corruption. It is applicable to both public and private sectors whatever the country.

It emerges from this framework that these structural factors are similar to those we have identified in South Africa, and that can significantly explain the prevalence of corruption. But any study of corruption cannot be undertaken without the prior understanding of the conditions under which it is occurring. As the boundaries of corruption are hard to define and depend on local laws and customs, our first task will consist in contextualizing the issue and in mapping out the origins of corruption in South Africa, and abroad.

4.4. The South African Perspective

In South Africa, the passage from authoritarian rule (colonialism and apartheid) to democracy includes vacuums of authority by the removal of authoritarian controls, conflicts of values and a new elite attempting to catch up with the old, decentralisation, privatisation and the opening of the economy to international participation (Camerer: 1996).

Corruption occurs in South Africa, "*when an employee forsakes his or her duty for benefit; puts personal interests above those of the people and ideals he or she is pledged to serve. In its simplest form corruption exists when any form of unearned compensation or benefit is given to a person for any act or omission related to his duty for which he receives a salary*" (Stefan Grobler, 1999).

However, the most common reasons identified by scholars (Camerer, 2001:43) as the main causes of corruption in the country's public sector are:

1) Weak checks and balances and mismanagement;
2) Greed and self-enrichment;
3) General decline in morals and ethics:
4) The recruitment process and affirmative action policy;
5) Socio-economic conditions, mainly poverty;
6) Other root causes of corruption originate from "criminogenic asymmetries[4]", which are "structural disjunctions, mismatches and inequalities in the spheres of politics, culture, the economy and the law (Passas, 1997:2)".

Evidence from current studies suggests that apart from the general framework invoked above, there are new sources of stimulation regarded as the root causes of corrupt behaviour in post 1994 South Africa, as reassessed by Lodge (1998:161). They are:

a) non-meritocratic processes of bureaucratic recruitment and promotion inherent in certain kinds of "affirmative action",

b) tendering principles which favour small businesses - and which require much more efficient administration if they are to be handled honestly,

c) increasing shortages of skilled manpower in the public service especially in its financial control systems,

d) a range of new sources of public finance, including foreign-derived development aid,

e) nepotism arising from political solidarity.

A telling illustration of the most important causes of corruption at all levels of government – either national, provincial or local is contained in Hubert's survey where individuals

[4] Asymmetries are criminogenic in that 1) they generate or strengthen the demand for illegal goods and services; 2) they generate incentives for particular actors to participate in illegal transactions; and 3) they reduce the ability of authorities to control illegal activities. Asymmetires are conducive to corruption both directly and indirectly through the creation of illegal markets that operate best with the collusion of authorities.

were asked to indicate the importance of 20 social, economic, political, organizational and individual factors, which are mentioned as causes of corruption in literature on the issue. While most of the 20 factors were considered to be important by the majority of the experts, more than 80% of the panel was convinced of the importance of the eight following causes:

1) Norms and values of individual politicians and civil servants (90%)
2) Lack of control, supervision, auditing (89%)
3) Strong interrelationships between business, politics, state (88%)
4) Lack of commitment by leadership (providing a bad example) (84%)
5) Misorganization and mismanagement (84%)
6) Government, state officials and organizations' values and norms (83%)
7) Increasing strength of organized crime (82%)
8) Public sector culture (values/norms) (82%).

Besides, a number of scholars have established a relationship between corruption and poverty. Although poverty is an underlying cause of corruption, it cannot be the only one, as it emerges from our analysis. As we found out, poor people are not corrupt. Those who are "stealing" are people in position of trust in government spheres. Otherwise, it would be hard to explain why rich and wealthy countries are plagued by corruption. Therefore, corruption is both a cause and a consequence of underdevelopment.

Dieter Frisch tackles this issue by explaining: "by diverting scarce resources to low or non-priorities, corruption is in large part responsible for the neglect of fundamental needs, particularly basic needs such as food, health, and education. Corruption therefore becomes the cause of underdevelopment and poverty in general... [The] result is a vicious cycle: corruption is the cause of underdevelopment and poverty; on its part, poverty contributes to an extension of corruption, for he who cannot honestly meet his basic needs may be constrained to resort to less honest means of subsistence. Therefore, corruption is both a cause and a consequence of underdevelopment" (The TI Source Book, 1996:2).

Furthermore, we are still witnessing in South Africa, a human tendency that highlights some feature of substantial appreciation for services rendered. "Unfortunately, in

Grobler's view, this tendency when metamorphosed in monetary form becomes the root of evil – especially if it is allowed to take the form of monetary payment. More often than not the compensation is concealed in many clever and innovative ways, but is not limited to money only" (1999:38). Among these services, the following fearures have been acknowledged: all expenses-paid holidays, free liquor and meals, free hunting/fishing trips, free invitations to sporting events (rugby, cricket), sexual favours (Gauteng Housing Department), excessive discounts or free services (see Yengeni's case), and undeserved benefits for friends, family or colleagues (see Duarte's case).

Quoting from the authors of *Corrupt Exchanges,* definitively, there is corruption when the following conditions are met (della Porta and Vannucci, 1999:17):

a. a secret violation of a contract that, implicitly, specifies a delegation of responsibility and the exercise of some discretionary power.
b. an agent who, against the interests or preferences of the principal acts in favour of a third party, from which he receives a reward.
c. the principal is the state, or better, the citizenry

At this stage of collusion, corruption become quite systematic, meaning that opportunities have been identified and relationships established, that, mechanisms for payment exist, and that deliveries are routinely made. It is worth noting that once the coalition is in place, it becomes difficult to detect and even more difficult to investigate the various ring members. As an illegal agreement between various role players, corruption is always covered. As stated by Klitgaard *at el*, "corruption prefers a stable, secretive environment" (2000:86).

The above conditions are clearly the reality of most departments in Gauteng. Several departments have been singled out, and mainly the Department of Safety and Security where the police are tasked with protecting citizens and their property and investigating crimes. Certain agents end up taking bribes to stop pursuing certain crimes or in order to lose a docket. There is also the case of the Licensing Department agents in Johannesburg who have the monopoly of issuing car documents and driving licences which are goods that are in much demand by people who do not necessarily qualify for them, such as

syndicates of car hijackers and other criminals. This situation creates a market and rent-seeking environment favourable to corrupt individuals. In Departments such as Housing and Public Works that control massive tenders which unscrupulous private sector companies may try to influence through corruption the risk of corrupt exchanges is high. In all these cases, public officials directly participate in and benefit from the operations of illegal markets.

These few cases show that the perceived corruption in public administration by bureaucrats and elected politicians has thus found significant confirmation. Through the analysis of these case studies, the exposure of what had been the "hidden face" of public power, as della Porta and Vannucci have expressed, demonstrates that the market for corruption has, for many years, represented the determining factor for a vast range of (frequently illegal) activities based on the appropriation of public resources by state functionaries, in collusion with other role players outside public administration (1999:13).

But a look at pre-bureaucratic systems and new states in Africa shows how traditional values based on "clientelist networks" between economic and political agents may undermine the functioning of African bureaucracies.

4.5. The African Patrimonialist Approach

Amidst the more recent calls for transparency, accountability and adherence to democratic principles and practices, at the time when unethical behaviour and practices appear to have increased significantly, there are many problems related to the process and content of socio-economic development and general service delivery in most Third World countries, as corruption is seen as "one of the foremost problems in the developing world" (Klitgaard: l988: x).

New African states were not only bureaucratic autocracies but also political and economic monopolies now lacking in accountability, transparency and the rule of law (Dia, 1993). The expansion of state activities within a rapidly increasing bureaucracy took place in an environment of weak supervision and in the midst of deteriorating social and economic

conditions. The result was the emergence of a politicized bureaucracy that began to engage in centralized economic decision-making and patrimonialism.

Otherwise, these states were characterized by patrimonial domination, one of the varieties of pre-bureaucratic systems. Under this system, a ruler could legitimately engage in a self- or family-centered distribution of the national income, but whether or not he tried to do so, no one could seek to challenge his decision-making as illegitimate or corrupt. For the patriarchal ruler knew no distinction between his authority over his household and that over the rest of his realm. He wielded his power at his own discretion, unencumbered by rules, insofar as he was not limited by tradition or by competing powers. The ruler's officials and officers were likewise unencumbered by any rules other than the changeable ones embodied in the ruler's instructions. If the officials diverted many resources to their private ends, they were not breaching any rules, unless these were embodied in atypically specific instructions from the ruler himself. In that case deviance constituted insubordination rather than corruption. Today these practices still exist in many African governments under one form or another. Clientelism, patron-client relationship are some forms of patrimonialism.

Undeniably, the post-independence governmental bureaucracy that emerged in most African countries contributed to patrimonial economic management and incentives, whereby clientelism in administrative decision-making replaced moral and political legitimacy, and political and personal loyalty and obedience were rewarded more than merit (Dia, 1996). This process, inevitably, led to a cooperative and institutionalized abuse of public office for private and personal gain (Hope, 2000:18). This is the case almost everywhere on the African continent where good governance is nothing but a pipe dream.

In these countries, poor quality, high costs, wastage, fraud and corruption characterize services, signs that they are governed badly. Nevertheless, in Africa, as well as in many other developing countries in the world, it may be wrong to label these states as corrupt for practices accepted within the norms of the society, which may have never internalized the values of a "Western" type of bureaucracy.

In addition, most social scientists are all aware of what corruption is even though they may differ on what its scope and effects are. From an African perspective, corruption is shown to be linked to the climate of unethical leadership and bad governance which have produced opportunities for it to become a problem of concern and to move to the top of the policy reform agenda in many countries on the continent. In terms of development, until recently, corruption has led to the distortion of policies and induced waste.

On the other hand, one can claim that the late 1990s have not been good years for Africa's surviving autocrats or for the shaky new democratic regimes that appeared in the early 1990s. For instance, in the post-Cold War society, corruption literature has shown that despite the fact that corruption has created a few millionaires, it has generally proven very detrimental to the living standards of most Africans. In September 2002, the African Union (AU) meeting in the Ethiopian capital Addis Ababa started putting in place new mechanisms to tackle widespread corruption, which, according to a new report[5] costs the continent about $148 billion annually. The report relates how corruption slows development by deterring investors, increasing the cost of goods by up to 20 percent and affecting poor people the most.

In Kenya, former president Daniel arap Moi's government was faced with a funding crisis when the International Monetary Fund (IMF) and the World Bank refused to tolerate the escalating levels of corruption in public office. In 1997 the IMF suspended a US$220 million structural adjustment facility to Kenya because of concern at Nairobi's failure to tackle corruption. In 2000, these key lenders reinstated a freeze on programme aid to Kenya after accusing arap Moi's regime of bad governance and fiscal indiscipline. Massive loss of public funds led to the government having to print more bank notes.

The newly elected President Mwai Kibaki (December 27 2002) along with Kenya's new Parliament pledged to tackle the ills, such as graft and poor management, that have driven Kenya's economy into doldrums. This move prompted Bretton Woods's institutions to promise in February 2003 that funding of the country could resume by the middle of 2003 if the new government took credible measures to fight corruption.

[5] Known as the "Draft African Convention on Preventing and Combating Corruption", agreed by African Union ministers meeting (Addis Ababa, 18-19 September 2002).

Similarly, the World Bank expressed concern at alleged corruption in Cote d'Ivoire, and planned to blacklist companies accused of corruption from its programmes. Both institutions are tightening their procurement guidelines, and the African Development Bank is beginning to follow suit.

In 1999, the Nigerian military regime's international credibility was further undermined as several new scandals emerged involving Sani Abacha's military cronies, family and business associates who sweept away about some $150 billion earned from oil sales alone over a period of 15 years. It is not for nothing that Nigeria has been labeled "gangster's paradise" by many observers. Here, "corruption is so much a way of life that evidence of it is thrown about with impunity because there is no rule of law. Public officials flaunt wealth they could never ordinarily afford at home and abroad", writes Rose Umoren (1999). Many have seen the pledge of "zero tolerance" of corruption from the new President Olusegun Obasanjo, as his litmus test.

The rapid collapse of Mobutu's long-term and decadent kleptocratic regime in the former Zaire was seen as a new liberation. Indeed, many researchers regard the post-independence regime of the late Mobutu as one of the most corrupt in Africa. He converted state institutions into instruments for his personal enrichment and that of his supporters. Ironically, Mobutu himself a beneficiary of the corrupt system which he had implemented in the country, acknowledged that corruption was a major economic and social problem in Zaire. Before his assassination, the Congolese were wondering whether they had not traded Mobutu for another "Mobutu" in the person of Laurent Kabila, who proved to be one of the most controversial leaders of our times on the continent. However, things did not improve after the takeover by his son Joseph Kabila. The looting of state resources by the "newcomers" is an ongoing affair. "Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating DRC conflict"[6].

In Zimbabwe, as the cost of living skyrocketed to unsustainable levels with prices of basic commodities beyond the reach of many, the scourge of corruption has taken root in most

[6] See the "UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC, United Nations, 28 October 2003.

spheres of society. The level of corruption in both the public and private sectors became so serious that some members of parliament, judges and civic organizations called for an investigation into various cases that threatened the continued viability of vital public institutions, notes *Business in Africa* (June 1999). Besides, donors closed their doors on further lending pending the resolution of the widely publicized standoff with the IMF, which froze a $193m balance of payment support. The World Bank, the European Union and the African Development Bank also withheld their support *(African Business,* January 2000). With a domestic debt estimated at nearly US$3bn, which, with a Treasury Bill rate of 58%, and costing more than US$1,5bn/year to service – 25% of GDP, economic implosion looks like a real possibility, notes Tony Hawkins *(Financial Mail,* July 7, 2000). During the last legislative and presidential elections, Mugabe led a violent and bloody campaign against members of the opposition and white farmers, in the name of land appropriation and restitution or redistribution, which claimed the loss of many human lives, to win the elections.

These few examples show that in most African countries and on several occasions, the wrong development decisions have been taken - resources squandered and very often, long-term indebtness incurred which the world's poorest will be expected to pay. Social, environmental and economic degradation are all aggravated by corruption, which erodes the very core of sustainable development. In his closing remarks during the meeting of the Global Coalition for Africa (GCA) in Washington D.C. in February 1999, the US Vice-President Gore expressed his concerns about the effects of corruption on development in these terms: "*corruption accelerates crime, hurts investments, stalls growth, bleeds the national budget, and – worst of all – undermines our faith in freedom*". He described corruption as an enemy of democracy – for "*democracy lives on trust, and corruption destroys our trust"* (*Business in Africa*, June 1999:19).

Nowadays, current debates among political scientists often center on the issue of corruption as a feature of the so-called developing nations in Africa, Asia and Latin America. When discussing the practical problem of the incidence of corruption in Africa, for instance, the analysis seems to be influenced by Eurocentric cultural prejudices mainly based on the "culture of corruption" that covers the whole of the political, judicial and administrative sectors in Africa, as Jean-François Médard points out (2001:379). While

this assumption was true with regard to some African post-independence states in the 1960s, the same cannot be said for today after the upsurge of global watchdog bodies such as Transparency International. It is wise to avoid generalizations, as most of African states are no longer "patrimonial". For instance, the World Economic Forum (WEF) that rates African countries for good governance placed Botswana first in a new survey (2003), pushing South Africa into fourth place. The study ranked 21 countries on the rule of law, impressions of corruption, and the enforcement of contracts. Botswana was ranked as the least corrupt and best in adhering to contracts and the rule of law (http://archive.mg.co.za, 13 June 2003).

Nonetheless, recent studies have shown that political, cultural and economic factors at once lie at the root of this multidimensional problem. For the sake of this study, attempts have been made to deeply understand its underlying causes by singling out one of the dimensions of the phenomenon. As Sadig Rasheed argues, "over time, the post-independence state in Africa has generally evolved as an undemocratic, autocratic and patrimonial entity. Being essentially an embodiment of and a vehicle executing the unquestioned will and whims of an unaccountable supreme ruler and ruling elite. It became an ideal breeding ground for the very forces making for unethical behaviour. Even with the transition to greater political liberalization, overt paternalism is a quality which the state has yet to effectively rid itself of" (1995:46).

It is in that context that the problem of political corruption in Africa in particular, and worldwide in general has received considerable attention. While it is increasingly recognized as a preeminent problem in developing nations, in Africa, systemic corruption has resulted in "retarded economies, predator elites and political instability", according to Klitgaard's *Controlling Corruption* (1988). Moreover, "systemic corruption generates economic costs by distorting incentives, political costs by undermining institutions, and social costs by redistributing wealth and power toward the undeserving" (Klitgaard *et al*, 2000:4)

Thus it can be pointed out that, from a Western point of view, the impression is often sustained that corruption tends to be more prevalent in developing countries. Observers such as Klitgaard have described the quasi-hypocritical attitude of Western writers as

tantamount to racism. Klitgaard noted that, "early writers, such as Max Weber (1904), Talcott Parsons (1958) or P.J Marshal and Glyndwyr Williams (1983)[7], on "the backward nations" and colonies sometimes emphasized corruption as a sign of the moral weakness, even inferiority, of the "natives" (1988:9). Their typical reactions were to point out apparent venality and lawlessness. Though the West can claim no monopoly on the abhorrence of bribery, nepotism, and official venality, some Western authors did use allegations of corruption as a blunt instrument to condemn Africans. In some cases they mistakenly classified as corrupt the manifestations of different mores and modes of socioeconomic organizations: in other cases they used corruption as an excuse for colonial occupation, notes Klitgaard.

Later authors - such as Gunnar Myrdal (1970) or Stanislav Andreski (1970) - have condemned the parochial and self- serving perspective of such Western writers as emblematic of imperialist thinking. But even in more recent times, Samuel Huntington (1979:318) has argued that, in Latin America, corruption tends to be more prevalent in "the mulatto countries", those with significant proportions of blacks. But Huntington attributes this not to race per se but the lower degree of social stratification in such countries (in this case, the "mulatto countries"). It is significant to note that contemporary scholars such as Heidenheimer (1970) have abundantly described the way Western societies developed techniques to contain the proclivities of officials to utilize the powers of their office for private-regarding purposes.

In these societies the acceptance by officials of favours for themselves, their families, or friends was viewed as instances of corruption because these officials infringe upon the principle of keeping their public and private accounts strictly separate. This separation of accounts is based upon the depersonalization implied in the rigid separation between the private household and the public office and upon the official's acceptance of formal, impersonal, legal norms as exclusive guides to the exercise of this powers. However, public offices in developing countries were characteristically not structured to force their incumbents to keep clearly distinct private and public accounts.

[7] See Klitgaard: Controlling Corruption (1998:8).

The concept of distinct private and public accounts in the study of corruption is a much-debated and somewhat disputed topic opposing the Western and the non-Western culture of office. The office in African traditional systems was subjected to what Heidenheimer has labeled "contradictory obligations" consisting in the formal rules of the "office" being based on family ties and not on prescribed universalistic norms for the administration of the law and government agency programs. Nepotistic practices were legal and remained a virtual mode of recruitment on the one hand. Comparatively, in Britain these practices would now "cause a sense of guilty in both giver and receiver", whereas in Africa "the sense of guilt on the part of the receiver would be mingled with a sense of family duty done" (Heidenheimer, 1970:182)

In another study David Apter came to same conclusions: "nepotism is considered a grave offense in Western bureaucratic practices, yet in African countries, providing jobs for members of one's family is socially compulsory. In African countries, there is the notion that people's identification and relationship with the state and its institutions are much weaker than identification and relationship with the family" (1963:6).

Otherwise, each member of the family expects reciprocity for the service provided. Therefore, a successful job for one is a gain for other relatives who see themselves employed already. One has the obligation to take care of family members because there is belief that neglecting one's family is morally unacceptable. Thus, generosity is one of the most appreciated human qualities by most African people and no one should deny it to fellow Africans. The end result is the development of relationships based on "connections", custom and power and may explain the aetiological connection between gift and bribe (Alatas, 1990).

In the context of postcolonial society, this situation creates in McMullan's terms "a clear disharmony between the government and the traditional society on which it is imposed and which it seeks to change" (1970:321). As observed by Heidenheimer (1970), middle and upper-echelon officials in these countries, especially those who have gone through periods of colonial tutelage, operate between a *suprastructure* of "Western" attitudes and values and an *infrastructure* of indigenous traditions and ethics. Suprastructure values stress technical expertise and impersonal rationality in the management of public affairs.

The infrastructure values emphasize reliance and obligation toward kinship, friendship, and other primary groups. Officials were most thoroughly immersed in suprastructure values during the tattered periods of colonial rule, whereas infrastructure values were rooted in advance.

The consequences of colonization on customary practices resulted in the quasi-nihilism of African values when it became possible for the colonizer to transform pre-colonial practices such as customary gift giving into bribery. In this regard, a writer such as Williams has pointed out that "the imposition of colonial rule disrupted but did not completely destroy established practices and attitudes. One important consequence of colonial rule was that new perspectives caused people to reassess established practices - what had been customary became illegal" (1978:45).

This clash of old customs and attitudes with the new forms of government contribute to the prevalence of corruption. The customary exchange of gifts is one example. An analysis of the development of public office morality in former colonies in Africa suggests that public-office morality has declined and that the incidence of corruption has increased during the postcolonial period after full independence was achieved. The fairness of linking independence to "increase of corruption" in this manner might well be challenged from the perspective of more functional modes of analyses, but it nevertheless constitutes an analytically important historical baseline.

The bottom line here is that "an act is presumably only corrupt if society condemns it as such and if the doer is afflicted with a sense of guilt when he does it; neither of this apply to a great deal of African nepotism" (Leys, 1970:32). It must be noted that kinship systems do not cause corruption. No traditional society encourages and condones corruption and other immoral conduct as a means to help a member. In this context, "a gift is not necessarily a bribe" for it depends on the circumstances and intent. So an act is only considered corrupt if the general public disapproves it.

These contradictory cultural norms can be also explained in terms of the notorious "Weberian ideal type" of patrimonial domination, which is opposed to the type of traditional domination. This contradiction emerges from the dilemma posed by the legal-

rational exercise of authority and the norms of loyalty and support for a bureaucracy based on familial and clientelist networks. It is understood that individuals seek out patrons as they move upward socially and materially; such individuals also come to accept ties of solidarity from their own clients viewed as fundamental to their security and continued advancement. These patron-client ties are termed by Richard Joseph "prebendal politics" (1987:55). A "prebend", in Max Weber understanding, is an office of state, typical of feudal Europe and China, which an individual procures either through examinations or as a reward for loyal service to a lord or ruler. While Joseph applies "prebendal politics" to Nigeria, it can be said that the model can be applied to other post-colonial states.

Describing these practices, Richard Joseph demonstrates that these two features of the system – prebendalism and clientelism – are mutually reinforcing: "To obtain and keep clients, one must gain a prebendal office; and to be sure that in the distribution of prebendal offices an individual or his kin have a reasonable chance of procuring one, clients must be gathered together to make their collective claims and to prove that the potential holder of prebendal office is a person of consequence whose co-optation would be rewarding to the "political entrepreneurs" (1987: 57). Yet, the weakness of a prebendal order, acknowledges Richard Joseph, is its fundamental instability in part attributable to the absence of a continuous authoritative force and a legitimizing ideology: "offices can be won and exploitated, but they can also be snatched away", either by a dissatisfied Chief or by rival contestants".

Jean-François Médard addresses similar questions and argues that corruption in Africa is closely associated with "neo-patrimonialism" and clientelism and that the basis for entrenched corruption in Africa is mainly due to the lack of distinction between public and private" (2001:379-80). Neo-patrimonialism is a patrimonial situation that covers the arbitrary power of the chief and does not function within a traditional framework. This is the case that is found in contemporary Africa, where the public and private sectors are formally differentiated, and where we can speak of corruption only when this distinction is not respected, in spite of the contradictions between traditional and modern cultural norms.

Finally, the significance of this study may be underlined by pointing out the fact that in most African countries, the genesis of rampant corruption may be found in the wake of independence when most African countries drifted from a bureaucratic administration that emphasized good governance to one that emphasized the sovereignty of politics. The passage from family-based, patrimonial, and neo-patrimonial economies to a capitalist one was intricate and dented beyond scholars thinking more than a decade ago. This transition has been labeled by Andvig and Fjeldstad "a period during which the societies may be stuck in low-trust, low-activity equilibria where the rationing of trust gives rise to networks where extensive corruption is an indicator of their existence" (2000:30).

Besides, the state in Africa is still playing a central role in the citizens' lives by mobilizing politics and by attempting to achieve broad goals of human dignity, prosperity and equity. The state, in most cases, is still seen in the context of primitive accumulation, while political parties became private armies - as the recent Zimbabwean case has shown - organized to fight electoral warfares in the quest for conquering the state and political power. Consequently, violations of human rights, pillaging of state resources and all forms of undemocratic government practices and actions are taking place with little or no restraining structures to counter them. The famous cases of all those millionaires in power, some of them, at the top of the hierarchy - explain the enthusiasm among young people to make a career in the public sector, especially entry to the training systems for the customs, police, inland revenue or any other authority with high potential for corruption. It is easy enough to find examples in Africa, with Mobutu's Zaire and Abacha's Nigeria merely the most extreme. Elsewhere, the use of political patronage to benefit a small number of presidential followers is all too commonplace. The written law may prohibit bribery, but every day procedures are often very different, and businesses are caught in the middle.

Another important issue that affects indicators of development and good governance in Africa is the paradox of state legitimacy and developmental capacity. Africa's weak average performance in comparison to their counterparts in the developing world is well documented. Pierre Englebert in his analysis of the determinants of state capacity maintains that "the strategies of power of domestic elites are framed by the degree of institutional resemblance, or historical legitimacy, of the postcolonial state. These strategies, in turn, affect policy choices and the quality of governance. African states

suffer on average from greater legitimacy deficits than other regions, and this contributes to the continent's generally weak economic performamce" (2000:71).

Englebert's account of the origins of neopatrimonialism in Africa offers more valuable insights into this phenomenon. Modern African leaders, by trying to get their countries out of the paradoxal situation they found themselves in, typically embarked on what Englebert identified as "two alternative paths": "they either tried to legitimate the state by forcing a new national identity upon their societies, or used its resources to create and sustain networks of support for their regime" (2000:97). In the first instance, referred to as the "revolutionary-centralizing trend", they dissociated from the customary source of power, attempted to launch revolutionary processes of national integration by imposing the new state on the lives and minds of their citizens. This was the era of "nation building".

However, failures of nation building led the African elites to a new strategy: to accommodate or domesticate power and allegiance by bringing closer their counterparts. In this strategic reversal, these leaders attempted to substitute the instrumental legitimacy of neopatrimonial policies for their lack of moral claim to rule, and resorted to clientelistic networks to prevent state fragmentation. This became the most frequent type of rule in Africa. These networks take place in the margins of the formal political system and provide foundations to the power of elites but not to the postcolonial state itself. Most Africanist scholars claim this to be the true root of African neopatrimonialism, as earlier described (see Mobutu, Abacha, Arap Moi, Mugabe…). The ultimate consequences of neopatrimonial rule are the low and steady deterioration of the quality of governance and generally the collapse of the formal state witnessed in Africa all over the last decades. .

But all governments are not equally corrupt, as the case of Botswana has shown. Botswana represents an African "best case". Several writers such as Kenneth Good (1997) or Pierre du Toit (1995) have suggested that particular features of Botswana administration limit corruption. Botswana is the only state in Africa to have maintained since the 1960s, continuous political freedom and regular national and local elections. There are several reasons that explain the uniqueness of the Botswana case, as suggested by John Holm (2000:288) and Kenneth Good:

a The country is relatively homogeneous in terms of ethnicity;

b The economy has grown at a steady rate for over thirty years;

c It has a relatively small population compared to most states in Africa;

d The extent of democratic accountability emerged over past decades. This last quality makes the difference between Botswana and other African states; and

e The political leadership came from a social group that had already, during the colonial period, accumulated capital as wealthy cattle ranchers; hence they had no need to use the state for their own private benefit.

4.6. International Dimensions

Contrary to the belief by Westerners in the effectiveness of the colonial state, it is notable that during colonization, violence and bad governance often marred African politics. Wraith and Simpkins portray Britain during the 1800s has having been a "corrupt society" before corruption was then quite remarkably eliminated. There was what Leys has labeled the "corruption of norms" when describing "the prevalence and the robustness" of the practices the Victorian reformers regarded as corrupt but according to the previously obtaining moral code these practices were not corrupt but indeed were actually quite right and desirable. For instance, the average landlord thought it quite natural, and to that extent desirable, that his tenants should use their votes on behalf of his favoured candidate and did not hesitate to put pressure on them to this end. Further, jobbery, sinecures, rotten boroughs, treating, and other colourful political practices of the period were practiced openly (2001:68). Before the reform movement, the use of public office for private gain was a recognized public practice in English history. Other illustrations of the "corruption of norms" of "good governance" included the practices of continuously giving gratuities to the British Administrative Officer during his visits to the village under the supervision of the local king in colonial Nigeria (Brownsberger: 1983:222).

Mamdani's *Citizen and Subject* has many good examples. Forced labour offers the most important illustration of the absence of a conception of good governance. In British East Africa during the 1950s, there are good examples of forced labour long after it was supposed to have been suppressed (1996:157, 164). Another example is Dan Jacobson's account of the colonial civil servant in Kenya during the 1920s who was engaged in

intense rivalry with an askari for the sexual favours of two under-age girls. The matter was covered up by the colonial authority and only came to light when an outsider blew the whistle in London. Thus "good governance" during colonial time is an exaggerated issue as these illustrations shoe, though they are not comprehensive.

As Gunnar Myrdal observes, Great Britain, Holland, and the Scandinavian countries where corruption is now quite limited, were all rife with it two hundred years ago and even later, indeed until the liberal interlude between Mercantilism and the modern welfare state (Heidenheimer, 1970:544). What is true is that corruption has been prevalent at various times in all cultures and is not the monopoly of particular cultures or regions. Not so many years ago, corruption flourished in the countries we now call "developed".

Donatella Della Porta and Yves Mény suggest in their book *Democracy and Corruption in Europe* (1997) that corruption remains strong in European democracies despite denial of its presence that *"*tended to mask the problem by a refusal to countenance it, corruption being non-existent or marginal*"*. Furthermore the two scholars argue, "European democracies viewed corruption as the lot of southern or developing societies while democracies, with sturdy bureaucratic traditions, experienced no more than the odd scandal to which no society can be altogether immune" (1997:2).

History tells of stories of the selling of offices in Europe. Under the conditions existing in sixteenth and seventeenth-century Europe, sale of public offices became the norm. In many parts of Europe the reemergence of a powerful merchant class and the growing importance of a highly developed money economy soon resulted in something like a "refeudalization" of large parts of the career officialdom. For in order to meet pressing financial demands, rulers adopted, to varying degrees, the practice of selling offices, which became objects of trade and exchange. The purchasers of these offices served in them as a matter of right, and thus the king was prevented from choosing his officials on the basis of their ability or reliability. Royal rulers during this period of absolutism were still not subject to any significant constitutional rules that limited their choice of alternative techniques for achieving the goals of the state. Today they would have run as much chance of being accused of corruption for selling judgeships. So it was widespread corruption in Elizabethan England. The present-day corruption scandals in most

economically and politically "advanced nations" show that the phenomenon is not something new.

However, the "1970s saw corruption and the related theme of patrimonialism moved to the forefront of the analysis of politics in the third world. The consensus has been that both phenomena, though by no means absent from developed countries, have become much more pervasive in the societies of Africa, Asia and Latin America" (Theobald, 1990:79).

Some forms of corrupt behaviour and corruption scandals in recent years have shaken the Western world and led to changes at the highest levels of the governments of the Netherlands, Germany, UK, Israel, Japan and the US. For instance, in Germany, the German parliament imposed in February 2000 a huge fine on former chancellor Helmut Kohl's conservative party, the Christian Democrats (CDU) for breaking campaign financing laws and hiding undeclared donations in Swiss banks. The CDU was asked to return more than R126 million in state campaign support because of widespread financial transgressions under Kohl. The fine was the biggest punishment in German history and half the amount of money parliament gave the CDU each year to run its operations and heavier than expected by the party that had run the country since the end of the Second World War.

In 1999, the world of sports through the Olympic movement was rocked by the greatest corruption episode in its history. In March 1999, the International Olympic Committee (IOC) expelled six members for accepting bribes during Salt Lake City's successful bid to stage the 2002 Winter Games. The ejected members were: Agustin Arroyo (Ecuador), Sergio Fantini (Chile), Zein El Abdin Gadir (Sudan), Jean Claude Ganga (Congo-Brazzaville), Lamine Keita (Mali) and Seiuli Wallwork (Samoa). This was a crisis that threatened the future of the Olympic movement. IOC president Juan Antonio Samaranch who ignored calls for his resignation lost his position during the 2001 elections.

In France, a Paris court in November 2003 convicted three former executives for mismanagement and misappropriating money from state-run oil company Elf and sentenced them to prison and heavily fined in one of the largest graft scandals ever to hit

France. Former Elf chairman Loik Le Floch-Prigent was fined €375 000 and €1 million for former director Alfred Sirven. Both were sentenced to five years in prison and Andre Tarallo, another executive known as Elf's "Mr. Africa" was sentenced to four years and fined €2 million.

But these examples are just the visible part of the iceberg and serve to illustrate that large bribes have been reported to have been paid to get foreign contracts or to get privileged access to markets or to particular benefits. This is what observers have called "transnational bribery", that is, an expanding phenomenon that has considerable power capable of undermining both economic growth and political stability (Cockcroft, 1995:73). Thus corruption is no longer the lot of developing countries.

Chronologically, the end of the 1980s witnessed the growing public recognition and discussion of the issue by various institutions including international aid organizations such as the World Bank, and its international development agencies.

4.7. The Role of the World Bank:

Among these international aid organizations, the evolving role of the World Bank deserves to be singled out as it impinges on its strategies in assisting countries in the fight against corruption.

While the Bank has always been concerned about the integrity of its operations, it did not explicitly talk about "corruption" as such in the context of its development strategies before the mid-1990s. What seems to us today an obvious economic issue was then considered too politically sensitive, or simply too political per se**,** and thus outside the limits of the Bank's non-political mandate. Even the vast majority of other bilateral and multilateral development agencies did not lend a helping hand to curb corruption. However the Bank did raise the issue of corruption in discreet but direct ways with certain governments.

In the 1980s, as the nature of the Bank's business evolved from "hard" infrastructure projects to policy frameworks (with the advent of adjustment lending), the Bank began to

help countries reform trade regimes, financial sectors and investment laws to help mitigate the effects of rent-seeking behavior. Increasingly it also began to address the need for institutional strengthening, public sector reform and good governance in its client countries. Landmark documents include the 1983 World Development Report on Public Management, the Africa Long Term Perspectives Study in 1989, and two Governance reports in the early 1990s.

As the 1990s progressed - with the end of the Cold War bringing increased openness within countries - global concerns about corruption intensified. In addition, evidence of how corruption undermines development also accumulated. It became clear that the Bank and its other partners in development would need to address the issue more directly than they had done in the past.

In 1996, in his second year as President of the World Bank, James D. Wolfensohn threw down the corruption gauntlet. During the Annual Meetings that year, Mr. Wolfensohn captured the world's attention when he vowed to fight the "cancer of corruption" that undermines development. Subsequently, the both 1996 and 1997 World Development Reports discussed corruption. In the summer of 1997 the Bank's procurement guidelines were amended to specifically address corruption in Bank projects. Most notably, in September 1997 the Board approved a comprehensive anti-corruption policy Framework for the Bank. Seminars and programs have been launched around the globe concerned with corruption and what to do about it.

In South Africa in general and in Gauteng in particular, one can note a new willingness among top public officials to discuss openly the challenges of corruption in the province. For the last decade there is now an abundant body of literature that includes academic books, media reports and journal articles that deal with the subject. The discussion of relevant materials related to the topic is an indication of the study contribution to a subject that not very long ago still was swept under the carpet. This is within the context of this growing international interest in corruption that the Gauteng experience is taking place

Having discussed corruption as abuse of power for private gain that involves a hidden exchange between the public agent and a briber, it is significant to note that in Africa the

abuse of power by the incumbents has reached endemic proportions in many states. Nowadays, the expansion of a modern bureaucracy under a leadership styling itself on values and assumptions derived from pre-bureaucratic or neo-patrimonial features shows how it is difficult to draw a line between private and public interest.

Chapter Five

THE EFFECTS OF CORRUPTION

5.1. Introduction

This chapter deals with the upshots of corruption in South Africa in general. What effects does corruption have on both political and economic systems? What lessons can South Africa learn from other African countries? The body of theoretical and empirical research that objectively addresses the economic impact of corruption has grown significantly in recent years since corruption has been identified as particularly a developmental problem.

There is general agreement that corruption has a deleterious, often devastating effect on administrative performance and economic and political development. It is one of the major obstacles to development, and its effects on development are disastrous, as we shall see. Scholars have pointed out "corruption impedes rather than promotes economic growth, stifles entrepreneurialism as well as squandering scarce national resources. And far from promoting political development, corruption leads to serious political decay in that it weakens administrative capacity and undermines democracy, stability and national integration" (Theobald, 1990:125).

Though corruption leads to a change for the worse, those involved are embarking on the destruction of values and resources. Yet more, corruption is not a "zero-sum game". There must be a third person that pays what the others share: a natural or legal person, or a larger and more complex entity such as the state, the nation or the community", argues Mamadou Koulibaly (2000:22). The one who is paying is the poor who is directly affected since corruption increases the price for public services, lowers its quality and often restricts poor people's access to key services.

As pointed out by Peter Eigen[8], "*corruption in large-scale public projects is a daunting obstacle to sustainable development, and results in a major loss of public funds needed for*

[8] Transparency International Chairman.

education, healthcare and poverty alleviation; both in developed and developing countries…Corruption robs countries of their potential" (TI CPI 2004).

5.2. The Costs of Corruption in South Africa

Although little research has been conducted in South Africa on the costs of corruption, both in terms of actual monetary value and trust in public institutions, the last study on corruption in the country[9] shows clearly how harmful corruption is. According to this report, corruption is costing South Africa's private sector up to 50 billion rands a year. It also poses a major challenge to provincial and local governments, undercutting their ability to deliver services to the poor. Almost 2 billion rands were lost in 2003 to corruption in social welfare, and the labour ministry may have lost as much as 1 billion rands. This led President Thabo Mbeki, to say corruption was a major hindrance to development: "It constrains our ability to fight poverty, negatively affects economic development, damages social values and undermines democracy and good governance."[10]

There is some evidence to suggest that in both developing and developed countries the prevalence of corruption provides strong inhibitions and obstacles to development. Not only are politicians and administrators affected by the prevalence of corruption, but also businessmen and, in fact, the whole population. Fundamentally, it undermines sustainable development and exacerbates inequality by affecting the poor disproportionately. For instance in terms of health performance, the World Health Report 2000 released by the World Health Organization in mid-June 2000 shows that Southern African countries have the worst performing health systems in the world and are the least likely to provide their citizens with a long and healthy life.

In this report, South Africa was among those countries that scored the lowest out of 191 countries. Although South Africa ranked 57th in terms of the amount of money spent on health, it was 182nd when it came to the effectiveness of its spending and ranked 142nd when it came to the fairness with which health resources were distributed. Overall, South

[9] The National Integrity Systems TI Country Study Report – South Africa 2005 released by TI and the Institute for Security Studies (ISS) on 21 March 2005.

[10] Mbeki's opening address in Pretoria at the second Anti-Corruption Summit, 22-23 March 2005.

Africa rated 175 out of the 191 countries surveyed, after Botswana 169th and before Swaziland 177th (*Sunday Times*, 25 June 2000). The disjuncture between expenditure and performance suggests that South African public health is an important field for corruption, waste and mismanagement.

It is worth nothing that corruption is as destructive to a society as the rush for *quick and easy money, which* makes fools of those who can work honestly and constructively. A recent study of corruption in Gauteng (Kalombo, 2005) shows that the consequences of government malpractices are deleterious as corruption is:

1. *siphoning away* a large chunk of public resources which could have been productively employed elsewhere in the economy, as was the case of Jessie Duarte who was found to have used state funds to take a friend on an overseas visit. There were millions of rands misappropriated in the Gauteng Housing and Land Affairs Department headed by Dan Mofokeng, as it is demonstrated in this study.
2. *undermining effectiveness and efficiency of the government*; for instance Duarte's department was plagued with factions and was under the control of inept political and administrative heads, giving a negative image to the whole Gauteng government. The same can be said about the appointment by the ANC national leadership of the Negota commission of inquiry to probe a string of allegations of maladministration and corruption against the Premier Motshekga. This resulted once again in a negative image of the government and ended up undermining its effectiveness and efficiency.
3. *reducing efficient mobilization of resources* and management of development activities; as people in top government positions devoted their time to respond to questions put to them by the investigative officers to help the numerous commissions of inquiry.
4. *directing gains from investment* in the industrial sector to conspicuous consumption; as demonstrated by the case of the late Mayor of Ekurhuleni metro, Bavumile Vilakazi who once was described as someone having completely "lost control of spending".

5. *generating allocative inefficiency* by permitting the least efficient contractor or most costly supplier with the highest ability to bribe those who award government contracts, as the Ndinzani's case[11] proved.

Recent studies underscore the significance of the costs of corruption in transition countries such as South Africa where corruption has large, adverse effects on private investment and economic growth. Dieter Frisch, has observed that "corruption raises the cost of goods and services; it increases the debt of a country (and carries with it recurring debt-servicing costs in the future); it leads to lowering of standards, as sub-standard goods are provided and inappropriate or unnecessary technology is acquired; and it results in project choices being made based more on capital (because it is more rewarding for the perpetrator of corruption) than on manpower, which would be the more useful for development" (T.I. Source Book, 1996:2).

Whatever reason, generally, corruption kills the development spirit. As Dieter Frisch has noted, by diverting scarce resources to less or non-priorities, corruption is on the larger part responsible for neglect of fundamental needs, particularly basic needs such as food, health and education. Corruption therefore becomes the cause of underdevelopment and poverty in general.

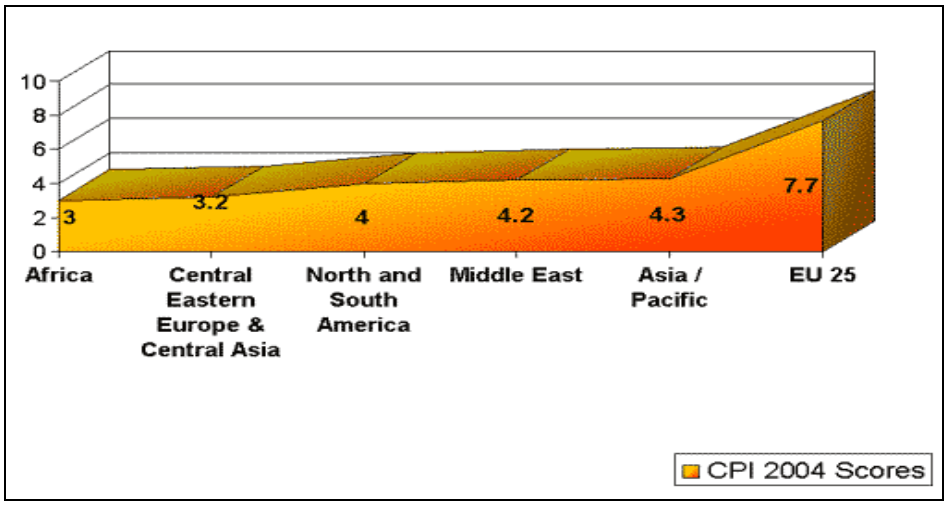
5.3. Lessons from Other African Countries

Corruption studies in Africa have demonstrated how evidence of the devastating impact of corruption on development is accumulating (World Bank, October 6, 1999). Although its incidence varies among African countries, ranging from rare (Botswana) to widespread (Ghana, Zimbabwe, Kenya) to systemic (Nigeria, former Zaire, Cameroon), the majority of the countries are in the range of widespread to systemic, as shown in Table 10. Where it is rare, it is relatively easy to detect and control. But, at the other extreme, where there is

[11] The Provincial Tender Board awarded a helicopter ambulance service to Ndinzani Aviation Services despite the fact that its chairman Peter Malungani was a member of the Board and that Ndinzani never existed before applications closed for the tender. This was a visible conflict of interests on the part of Malungani. The court ordered the Board to review its procedures after the Gauteng Tender Board had granted the tender to Ndinzani despite impropriety surrounding the award. Europ Assistance claimed among other things that its R7,9 million bid had been increased to R13 million without its knowledge. At the same time, Ndinzani's original bid was dropped from R21 million to R14 million.

systemic corruption, "the likelihood of detection and control is somewhat minimal as an incentive and further practices are put in place to perpetuate the system. In other words, institutions, rules, and norms of behaviour are adapted toward the ultimate goal of predatory gain" (Gray & Kaufmann, 1998:8).

Table 10: How serious is corruption a problem globally?



Source: Transparency International Corruption Perceptions Index 2004

Transparency International's 2004 Global Corruption Barometer, a survey of the general public that measures attitudes towards corruption, indicated that the poor are the group most affected by corruption. Half of low-income respondents believed petty corruption to be a very serious problem while only 38 per cent of high-income respondents agreed. The poor also reported the greatest impact of corruption on their personal and family lives.

In Africa, the extent and magnitude of this scourge is difficult to estimate, due to its illegality and the painstaking efforts the culprits take to conceal it. As seen, corruption is not a zero-sum game. Evidence from empirical cases in many countries on the continent - maybe with the exception of South Africa for a lot of features - highlights the deleterious effects on economic development and exposes the factors, which have combined to hamper efforts to combat corruption in the region. Among several factors – and to get in line with corruption scholars – this study has singled out inefficiency and waste; aggravation of the budget deficit problems; negative impact on foreign investors and

contraction and collapse of the economy, as underlined by Ayittey (2000:105-108), as follows:

1. Corruption breeds inefficiency and waste. In a corrupt system, state institutions decay and breakdown. Nobody cares because tenure of office and promotions are based not on competence and merit but on personal loyalty to the president, ethnicity, and, sycophancy. Institutions such as the civil service, the judiciary, parliament, and the police disintegrate and fail to function since they have all been perverted. For example contractors and suppliers fail to deliver. Who you are and how big a kickback you offer matters more than how well or efficiently you perform a job. As a result, work done is shoddy. The former Zaire is a worst-case scenario with roads poorly constructed and wash away at the first drop of rain. Telephones do not work, postal services are non-existent, and the entire communication system is in shambles and cost the country billions in lost output. The former president Mobutu was fraudulently using a satellite line until he got exposed a year before his ousting from power by Laurent Kabila. The educational system has sharply deteriorated. Hospitals lack basic suppliers and patients are often asked to bring their own bandages and blankets. When Mobutu fell ill, he flew to Europe for treatment. In short, the rot is not confined to one area but seeps into all areas of government institutional breakdown and the failure to provide the most basic essential services creates an environment inimical to development. The cost of doing business in such an environment increases enormously. Even though the state soaks up scarce resources, it fails to fulfill its role in facilitating economic growth or deliver essential services.

2. Corruption aggravates the budget deficit problem. In countries such as Sierra Leone, Ghana, Nigeria, Kenya, Tanzania, Uganda, Zimababwe and the Democratic Republic of Congo (former Zaire), expenditure figures are padded. Ghost workers proliferate government payrolls. The "ghost workers" are fake, retired, or dead persons whose names remain on the payroll for fraudulent officials to claim their wages. In one government departments in Sierra Leone, 75 per cent of the staff were found to be nonexistent (*West Africa*: 5-11 September 1988). In Ghana, tens of thousands of "ghost workers" were identified workers and do not show up for work regularly, partly because their salaries are so low that they need to work elsewhere to make ends meet. The

government began a campaign a few years ago to get rid of them, yet nothing happened because the government finally said that it lacked the money to fire the “ghost workers” (Pascal Zachary, 2004).

In Uganda, President Yoweri Museveni has ordered a clean up exercise of all payrolls in government institutions to get rid of “ghost workers” (*The Monitor*, Kampala, September 1, 2005). In Kenya, the government is considering a sweep of its civil service to track down "ghost workers". **“**Cleaning out these "ghost workers" would, along with tightened tax collection controls, help bring the deficit down from a predicted 62bn shillings to about 47bn shillings (£390m; $621m) for the year to June 2004”, said the Finance Minister David Mwiraria (*BBC News*, Friday, 18 July, 2003, 13:34 GMT). The Government of Tanzania has recently launched its’ integrated HR and Payroll systems covering about 280,000 public servants. This means that improvements towards more effective human resources and payroll management in order to reduce “ghost workers” (KPMG East Africa, 2001)

However, the problem of "ghost workers" is a widespread problem and is by no means confined to these countries. In DR Congo, “ghost soldiers” cost the Army 10 million US$ each month during the last two years of transition. There were 344,000 soldiers on the payroll, but 170,000 of them were identified as “ghosts”, and no one knows the destination of the 10 million (*Le Soft*, 14 June 2005). In June 2003, the main Zambian civil servants' union has called for a crackdown on what it says are more than 20,000 ghost workers, contributing to a budget over-run of 600bn kwacha (£80m; $132m). In 2001, the Nigerian civil service almost ground to a halt in a search for ghost workers - many of whom, local observers say, are back on the books. And in the Central African Republic, Prime Minister Abel Goumba has asked banks to make it easier for civil servants to open accounts, in the hope that cash payments can be scrapped to aid the removal of “ghosts” from the payroll (*BBC News*, Friday, 18 July, 2003, 13:34 GMT).

Revenue collectors are notoriously corrupt, pocketing part of the tax proceeds and waiving taxes if they receive large enough bribes. African budgets are chronically in deficit, which

is often financed by printing money. That in itself often aggravates inflationary conditions in the economy, occasioned by shortages and supply rigidities.

3. Corruption drives away foreign investors. Africa has remained a wilderness to foreign investors for a variety of reasons: weak currencies (except notably in extractive industries, where output is priced in dollars), exchange controls, a feeble local private sector, poor infrastructure, small domestic markets, stifling bureaucracy, political instability, an uncertain legal system, and corruption. According to reports, despite some elaborate investment codes and guarantees of profit repatriation, Africa "attracts less than 5 per cent of the direct investment going to the developing countries, an estimated US$2.5 billion or so in 1994" (the *Economist,* 12 August 1995:11). In 1995 when a record US$231 billion in foreign investment flowed into the Third World, Africa's share fell to a miserly 2.4 percent. Some international observers ask why should foreign investors be condemned when Africa's kleptocrats do not invest in their own countries? Herman Cohen, former U5 Assistant Secretary of State for African Affairs in the early 1990s remarked: "Over the last 10 years, Africans themselves have exported US$20 billion a year into bank accounts in Europe [and the US] buying real estate. So if Africans don't have confidence in their own continent, why should the rest of the world?" *(Africa Insider,* July 1994:4).

4. Corruption leads to economic contraction and collapse. Incapable of attracting foreign investment or spurring domestic investment, a corrupt government is also incapable of efficient economic management and of eliciting the sacrifices necessary for the development effort. Extractive like the colonial state when Africa's resources and wealth were plundered for the development of metropolitan European countries, today the predatory African states exploit and extract resources from the productive members of the society. These resources are then spent lavishly by the ruling elites on themselves or siphoned out of Africa. As a result, the economy limps along or contracts. The contraction is accelerated by large-scale capital flight out of the formal economy. People lose faith in the ability of the government to provide basic services (housing, health care, water and electricity), jobs, and to combat corruption. A growing sense of alienation and disaffection among the population as a whole sets in.

The Nigerian scholar Claude Ake was quoted as saying:

> *"Most African regimes have been so alienated and so violently repressive that their citizens see the State as enemies to be evaded, cheated and defeated if possible, but never as partners in development. The leaders have been so engrossed in coping with the hostilities, which their misrule and repression has unleashed that they are unable to take much interest in anything else including the pursuit of development. These conditions were not conducive to development and none has occurred. What has occurred is regression, as we all know only too well"* (Ayittey (2000:107).

Recent events in Zimbabwe, and in other parts of Africa *(*DRC and the Great Lakes region, Cameroon, Sierra Leone, Kenya, Angola, Zambia, Ivory Cost...) illustrate Ake's contention.

While the devastating effects of corruption on development in Africa are more a reality than a myth, the same cannot be said about South Africa, which finds itself in a class of its own. Indeed, for the past ten years, one of the things the new democratic South African government has focused attention on is corruption. The reasons for the government attention are first and foremost to avoid the repetition of what is witnessed in the rest of Africa as discussed above. It is arguable that while the corrupt act is inherently undemocratic, there is no simple correlation between levels of democracy and levels of corruption. Nonetheless, democratic regimes - like the one in South Africa - over the long run arguably engender more powerful antibodies against corruption than systems where political liberties are stifled. From evidence elsewhere it is established that a regime that has frequent elections, political competition, active and well-organized opposition forces, an independent legislature and judiciary, free media and liberty of expression is bound to generate more limits on the scope and frequency of corruption than one that does not have them.

However, it is also true that democratic systems also provide incentives and opportunities for corrupt behaviour, notably the enormous costs of mounting election campaigns, the capture of political parties by economic elites, the politicization of the state apparatus by elected officials and the desire of the latter to compensate for political uncertainty by building up a capital stake through corruption. These phenomena are particularly strong in

fledgling democracies where a procedural transition has not been accompanied by real or substantive democracy. Nonetheless, democracy is a necessary condition for eradicating corruption, even if the democracies themselves are not immune from it.

All these factors provide a framework against which to assess the successes of anti-corruption measures. General perception is that the competition between political actors will create public accountability, which will inhibit the embezzlement, favouritism and wastefulness that have ruined the political economy of many African countries, and led to gross public disenchantment.

5.4. Positive versus Negative Effects of Corruption

Is corruption a bad thing for society or organizations? Is it possible that, on balance, corruption might be useful rather than harmful? And how then may one have the will to speak of apologies for political corruption? Is corruption worth fighting at all? Let us now consider the effects of corruption by analyzing its normative nature. There is a large body of literature dealing with the effects corruption has on development as well as cures to fight it and scholars have fought intense battles to agree for a common definition. However, our review will be marked by the fierce debate between scholars that has evolved around the tonic and toxic effects of corruption on development.

As one can note, much of the social scientific literature on corruption consists of a debate over whether in general corruption helps or hinders development. Parties involved in this academic debate have been categorized in two groups: the *moralists and* the *revisionists.* The former are accused of attempting to see corruption as evil and of importing inappropriate, value-laden assumptions into their analyses. On the other hand, the *revisionists* having challenged the earlier assumption that the public consequences of corruption were overwhelmingly negative, share the belief that certain kinds of corruption may perform functions that are more or less beneficial from the perspective of the society at large as well as beneficial for the interests of those directly involved. Obviously, many of them have argued that corruption can play a positively useful role in developing countries.

Heidenheimer (1970:480-81) has identified three rather distinguishable conceptual frameworks that have influenced the literature and been evolved in it:

1. The first category is that of writers who have been inspired particularly by the structural-functional schools in sociology and anthropology and who perceive corruption as fulfilling a positive function, particularly with respect to social integration. Robert K. Merton appears to have had with his study, "Some Functions of the Political Machine" (1957), an enormous influence on students of political corruption. Merton's persuasive theoretical presentation has inspired many writers such as students of political development like David Bayley, Jose Abueva and James Scott. However, not all writers who attribute some positive functions to corruption should be considered "functionalists".

2. A second group of writers related more directly to the market-based definitions of corruption has ascribed positive functions to corruption as a regulatory instrument for the informal allocation of scarce licenses and services. Preeminent scholars of this school are V.O. Key who argued that corruption serves to regulate, control, "license" and keep within bounds certain practices like prostitution and gambling. Robert Tilman described bureaucratic black marketeering in the developing countries that serves the function of maintenance of government. While economists like N.H. Leff have suggested the utility and the role corruption can play in developing countries.

3. The third group is that of writers who are basically institutionalists and relate to the public-interest definition of corruption. They perceive corruption as fulfilling a useful function as the least of the evils that may become prevalent in political systems during periods characterized by political degeneration and the decay of political institutions. Samuel Huntington who believes in calling a "spade a spade", is one of the most outstanding theorist of this school. Nevertheless, as held by Carino, the revisionists' careful balancing of good and bad effects seems to be a recognition that everyone knows corruption is not really beneficial but positive effects should be acknowlegded so that one does not condemn a country completely (Klitgaard, 1988:30).

Moving from this perspective, Klitgaard stylizes three categories of arguments that corruption may, on occasion, be socially beneficial. They are the economist's reminder,

the political scientist's reminder, and the manager's reminder. To sum up, he comes to the conclusion that these three "reminders" have some common features. First, they refer to the benefits from specific corrupt acts, not from systematic corruption pervading many or most decisions. Second, the putative benefits depend upon the assumption that the corruption transgresses a wrong or inefficient economic policy, overcomes limitations in an imperfect political system, or gets around imperfections in organizational rules. In short, *if the prevailing system is bad, then corruption may be good* (1988:33).

But such blanket statements about the utility of corruption will not help in assessing the effects of corruption on particular instances. For the purposes of this study, it will be worthwhile to analyze the *emerging negative consensus* of scholarly studies on the subject. A review of particularly useful studies will help keep in perspective the damaging effects of corruption.

As evidenced by recent works on the topic in developing countries, it seems clear that the *harmful effects* of corruption greatly outweigh the occasional social benefits. Comprehensive empirical studies conducted in the mid-1970s in Asia have demonstrated that the contention that corruption may have some beneficial effects could be overstated. Studies of corruption in Philippines sponsored by the College of Public Administration of the University of the Philippines since the mid-1970s have revealed that "graft and corruption has strongly affected development efforts negatively, belying the so-called "revisionist hypothesis" prevalent in the West which considers corruption as either a necessary step in the development process or a means of speeding it up. Instead the research has found that corruption leads to the favouring of inefficient producers, the unfair and inequitable distribution of scarce public resources, and the leakage of revenue from government coffers to private hands. Less directly but no less perniciously, corruption leads to loss of confidence in government", as Ledivina Carino - quoted by Klitgaard (1988:37-38) - has stated.

Another comprehensive empirical work carried out in Hong Kong, Korea, Malaysia, Nepal, the Philippines, Singapore and Thailand and sponsored by the Canadian Foreign Aid Agency in the late 1970s has shown that the case studies documented socially harmful effects from corrupt activities, and the positive effects were seldom encountered. Again

Carino points out that a major negative effect of corruption is its role in displacing goals, as employees pursue their own pecuniary interests rather than the objective of the organization. Energies of the staff are then spent in pursuit of their corrupt business interests, leaving behind what is their expected primary work.

From the economic side, Susan Rose-Ackerman has argued that those economists who look favourably upon corruption generally have a limited point of view, a narrow definition of goodness and an oversimplified model of the corrupt marketplace (1978:95). Corruption leads to economic inefficiency and waste, because of its effect on the allocation of funds, on production, and on consumption. Robert Klitgaard notes: "corruption is one of the foremost problems in the developing world. As poor countries slide into deeper economic trouble, the economic and social devastation that widespread corruption causes cannot be evaded or excused" (1988:x). One should remember that the failure to bring under control corruption can threaten the viability of democratic institutions and market economies.

Furthermore, corruption can reduce economic growth by lowering incentives to invest (for both domestic and foreign entrepreneurs). Corruption can also be expected to reduce growth by lowering the quality of public infrastructure and services, decreasing tax revenue, causing talented people to engage in rent-seeking rather than productive activities, and distorting the composition of government expenditure. Corrupt politicians may be expected to spend more public resources on those items on which it is easier to exact large bribes and keep them secret - for example, items produced in markets where the degree of competition is low and items whose value is difficult to monitor. Thus these large effects suggest that policies to curb corruption could have significant payoffs. Therefore, there is no adequate evidence to the claim that corruption might be beneficial in the presence of a slow bureaucracy (Paulo Mauro, 1998:12).

In exposing the very bad side of corruption, a number of writers use the metaphor of disease to discuss it. Noonan, the author of *Bribes* and Klitgaard agree that, "next to tyranny, corruption is the great disease of government. Skilful surgeons need more than a single way of curing the disease" (Klitgaard, 1988:xv). Functionalists find that corruption reflects an ongoing, functioning part of the political system. Simcha Werner observes:

"the functionalists came to regard corruption as an inherent aspect of the normal growth-decay life cycle" (Peter de Leon, 1993:26). For Wraith and Simpkins, in Africa corruption flourishes as luxuriantly as the bush and the weeds which it so much resembles, taking the goodness from the soil and suffocating the growth of plants which have been carefully, and expensively, bred and tended (1963:12-13). In its introduction to African politics Richard Hodder-Williams sees corruption as a cancer, which is dysfunctional to the political and economic system (1984:111).

We think it is worthwhile, at this stage, to set to rest the academic debate on the general harmfulness of corruption. Nevertheless, the academic debate does not resolve the argument over whether in general, corruption is harmful or useful to development. "When we get down to cases, notes Klitgaard, we find less disagreement than the academic debate would indicate over the effects of corrupt acts. They are, for the most part, *bad.* Corruption is eating away at many developing societies, condemning their people to greater poverty and political subjection (1988:194). Nowadays, "corruption", has become a "large global industry" – in Kaufmann's terms - that costs nations as much as 1.500 billion US dollars a year, or five percent of the world economy (Kaufmann, 2004).

From this discussion, it appears that corruption is toxic with very few exceptions. There is little or no support left for the view that corruption has positive effects on development. Thus, in general, corruption is harmful to economic, political, and organizational development. But all forms of corruption are not equal. Some forms are more harmful than others. Some countries more corrupted than others. Having said that, the question, "What can be done to stop corruption?" finds its legitimacy, as it will be addressed in the third part of this research where a framework for strategies will be presented.

Chapter Six

SOUTH AFRICA: THE POLITICAL LEGACY

6.1. Introduction

This chapter is an assessment of the incidence of political corruption in South Africa in general. It is an attempt to ascertain the implications of the political and the historical legacy of corruption on democratic governance through the survey of selected case studies before and after 1994. The study uses these cases to demonstrate to what extent does political legacy within the country influence the behaviour of current political leaders. The main merit made is to argue that there is a link between past and current political corruption.

According to The World Factbook 2004, South Africa is a middle-income, emerging market with an abundant supply of natural resources; well-developed financial, legal, communications, energy, and transport sectors; a stock exchange that ranks among the 10 largest in the world; and a modern infrastructure supporting an efficient distribution of goods to major urban centres throughout the region. However, growth has not been strong enough to lower South Africa's high unemployment rate; and daunting economic problems remain from the apartheid era, especially poverty and lack of economic empowerment among the disadvantaged groups. High crime and HIV/AIDS infection rates also deter investment. South African economic policy is fiscally conservative, but pragmatic, focusing on targeting inflation and liberalizing trade as means to increase job growth and household income.

In South Africa, the perception exists that, not only have violent, interpersonal street crimes increased in recent years, but “white-collar crimes” and corruption, however

broadly or narrowly defined, are also rife in private and public institutions. And various reasons, mostly related to the corrupting nature of the apartheid regime are given for this status quo, as we shall see.

Many questions should be asked about both the accountability and the efficiency of a public official in order to understand the concept. How can one explain this behaviour? Why does corruption seem to be increasing just when the government is serious in combating it? Is it because there is more corruption now than before 1994?

Two assumptions on which the study is based show that: (1) There is a widespread belief that the incidence of corruption in South Africa is a legacy of an authoritarian past. The problem with apartheid indeed was that it was a political system based on the predominance of one race over another. It was an exclusive, authoritarian, secretive and dictatorial society where absolute power was in the hands of a white minority. As such, it was susceptible to bureaucratic venality as is the case with most authoritarian and secretive governments. Quoting from Van der Merwe[12], Briggs noted that: "when a society, economic system or political system [e.g., apartheid] operates in a way that allows for the abuse of power for the benefit of the few at the expense of the rest – including the environment and future generations – that system needs to be cited as corrupt as well" (Briggs, 1998:2).

(2) There is a strong belief that both democratization and transparency has made government less secret, more open to public scrutiny and more susceptible to strong criticism from opposition parties, the public and the media and that therefore, government is better protected against corruption. Ostensibly, this assumption seems reasonable. Experience has shown that lack of transparency and accountability in a system, whatever it is, is the beginning of all troubles. Today, transparency seems to be what Michel Camdessus[13] has called "the new global golden rule", as "the lack of transparency" is found to be at the origin of the recurring crises in the emerging markets and a pernicious feature of the "crony capitalism" that has plagued most of the countries in crisis (*Business Report*, May 18, 1999:12).

[12] Van der Merwe was the former chief executive of Transparency International- South Africa (T-SA).
[13] Michel Camdessus was the chief of the International Monetary Fund (IMF) at the time.

6.2. The Culture of Corruption

Perceptibly, the pre-94 incidence of corruption was noteworthy and went back a long way, as Professor Alf Stadler told the author during an interview with him (July 2000). He depicted a gloomy picture of what was happening at that time when there was what he called a "conspiracy of silence" about corruption. As a youth he knew the case of a Dutch immigrant, a respected citizen living in a good suburb and employed in the Public Works Department. He built a beautiful house in Bramley entirely with material stolen from his workplace. Everyone knew this, and no one seemed to think the less of him, let alone report him to the authorities. "This was the time where the culture of at least conniving in corrupt practices was widespread among whites", Stadler observed. "I do not think this situation to have changed too much now"[14].

On the other hand, Deborah Posel described how the " race and ethnicity of apartheid civil servants were deeply and powerfully inscribed in both their conditions and culture of work. Their habit of "collective quiescence" as workers was produced and reproduced in the paradoxical confluence of two different versions of the purpose and meaning of their work" (1999:118).

The problem of corruption in the new South Africa is perceived to be serious such that the government, in order to achieve good governance, has made it one of its priorities. The national government announced in May 1996 its National Crime Prevention Strategy (NCPS) that places corruption as a priority crime concern on its agenda. In order to root out corruption in government departments nationwide, the Heath Special Investigating Unit was instituted. In its 1997-1998 Annual Report, the Unit denounced the "real boom" in the sphere of corruption, maladministration and misappropriation of state funds and public assets. It expressed its concern about the gravity of the matter to the business sector in these terms:

[14] Professor Alf Stadler: Interview, July 2000.

> *"The unfortunate truth is that a shockingly large proportion of the South African community appears to regard public funds and assets as "fair game" for corrupt schemes. This attitude extends into other fields and when it comes to contracting with the State, invoicing the State for services, dealing with State property, dealing with blank State cheques, etc, members of the public and private concerns, often in collusion with State officials, plough into the State's resources, destroying substantial portions of the crop destined for the community at large. We are faced with a crisis, a national crisis, and a problem far more serious than what the ordinary man in the street perceives it to be. We have to accept the fact that South Africa has lost substantial assets over the years through corruption and maladministration"* (1998:5).

This alarming warning highlights the perception that corruption and dishonesty have become a feature of South African political and economic life, as indicated by many government inquiries such as the "White Commission" (1994), formerly known as the "Browde Commission", the Negota Commission (1998), the Moerane Commission (1998), the King Commission (2000) or the Joint Report on the Arms Deal dossier (2001) - that have produced evidence of corruption by public officials as well as members of the private sector, making people aware that something was going wrong in the public office. A number of surveys conducted by independent agencies from 1995 confirm that perception as well.

Apart from IDASA, there were other surveys published in the same period, such as the World Value Survey (1996) and Transparency International Corruption Perception index 1997 released in Johannesburg at the end of July 1997 that confirmed a growing perception among local public and foreign businessmen that official corruption in South Africa was widespread. It can be pointed out that surveys are about perceptions. And perceptions do not reflect the extent of corruption in any society. But as emphasized by Professor Wilmot James of IDASA, "popular perceptions are part of the political reality, and they highlight in striking fashion the challenge to government, its supporters, and its critics, in developing fair judgment of political officialdom" (Idasa: 1996).

Understandably, analysts view corruption in the South African context, "*as an act of wrongdoing, which typically involves unethical behaviour and illegality, and usually benefits accrue to either of the parties involved*". This generic definition, points out

Anthony Minnaar, embraces corrupt practices such as bribery, fraud, embezzlement, wrongfully influencing decisions and nepotism. All of these acts involve a breakdown of ethical behaviour and moral standards where the law is disregarded and not respected (Minnaar, 1999:4).

But, all these practices are not new in South Africa. It is arguable that, contrary to the assumption that during the white rule the public sector was free of corruption, evidence has shown that was not the case. Indeed, despite the massive expansion in the size and power of the bureaucracy, "its effectiveness was seriously eroded by emerging structural inefficiencies and skills that arose, in part, from the determination to keep vast categories of the workforce white and, if possible, Afrikaner", as expressed by Deborah Posel (1999:99).

Most documented studies of corruption show that political corruption has a long history in South Africa's politics where there is a *culture of corruption*, as noted by the Pickard Commission of Inquiry after investigating corruption and other irregularities in the Department of Development Aid. Studies have shown that "South Africa during the apartheid era provided an environment, which was structurally conducive to corruption where systems and habits shrouded in secrecy resulting in a lack of transparency and accountability advantageous to criminality. The pervasive and almost obsessive secrecy that came to surround the way in which people operated in society was infectious, spreading from the public into the private sector" (Camerer, 1996: 28).

In the South African public view, few will deny that the growing problem of corruption is the legacy of the old order. A series of features associated with that old order include the severe level of poverty among Blacks, the psychological destruction that apartheid imposed and the sense of moral disintegration that accompanied it, the very high level of crime and the corruption in the police force itself.

Comparative experience indicates that during the apartheid era official corruption at all levels was high, both in homeland administrations and in central departments of State. For many officials a mind-set of opportunism and a "get-rich—quick syndrome" became a feature of South African political life. Despite stringent controls in the civil service that

prevented bureaucrats from using their positions for financial benefits and self-enrichment, there was in the 1980s more evidence of political corruption within central government and homeland administrations as well. "In the last few years of apartheid", wrote Tom Lodge, "it was very easy for officials to behave dishonestly; millions of rands were spent on secret projects and skilled labour shortages led to a breakdown of control procedures, particularly in the homelands" (*The* S*tar*, September 3, 1996).

The problem with apartheid was that it was a political system based on the predominance of one race over other races that constituted the South African social, economic and political landscape. Absolute power was in the hands of a white minority that led to an exclusive, authoritarian, secretive and dictatorial society. As such, it was susceptible to bureaucratic venality as the case with most authoritarian and secretive governments. At that time, a lack of transparency and the opacity of the regime may explain the high level of dishonesty encountered within state departments where, as noted by Lodge, "secret budgets allowed senior security officials to misuse funds for private gain and by removing procurement from public scrutiny they created ample opportunities for bribery". More, "strategic" kinds of government expenditure did not have to be defended in public, whether they involved defense projects, propaganda exercises, or sanctions evasions and all these featured large-scale misappropriation of public resources" (1998:171.

In short, the incidence of all these corrupt practices in the old regime is a sign of a corrupt society where corruption was pervasive and although many cases came to court, only a few had been prosecuted. And when came the new dispensation in 1994, apartheid South Africa's lack of morals also infected the new administration. The political legacy was the continuation of this trend towards corruption. "It would be surprising if there was no significant political corruption in contemporary South Africa ... Given that much of the administration, is still run by the same people, it would be reasonable to expect the continuation of a certain amount of corruption" (Lodge, 1998:171).

1. Nowadays, a series of scandals - ranging from property scams to the alleged diversion of food parcels intended for the poor - have marked the political history of South Africa. The multiplication of political scandals produced an increased sensitivity to the issue of corruption. The frequency and extent of these scandals

brought corruption to light culminating in the 1997-1998 political upheavals caused by prominent people including Jessie Duarte and Dan Mofokeng cases.

6.3. Typology of Corruption in South Africa

Before 1994, most instances of corruption or misuse of public resources by public servants included both routine and grand corruption. Examples of corruption in most case studies included private enrichment such as nepotism, favouritism, ghosting, phonies' contracts, bribery, fraud, kickbacks and greed. The following typology of corruption practices in South Africa highlights the magnitude of the phenomenon and therefore reflects the past and the present in terms of officials' misbehaving.

6.3.1. Before 1994

Dishonest practices were located in a number of departments considered as strategic in the defence of apartheid ideals and its survival. The most documented included: the Department of Information that was hit in 1978 by a scandal involving senior officials who were using public funds to pay for holidays for their families, tax-free supplementary allowances, and properties registered in their own names. The Defence Department was described as "the mysterious world of covert operations", in Lodge's terms, where official secrecy and loose accounting employed in the funding of arms procurement and front companies led to excessive venality. Given the huge sums and the evidently rather trial exercises in which they were supposedly deployed it seems reasonable to argue that private enrichment constituted a fairly significant aspect of "covert operations", notes Lodge (1998:165).

1. State Departments:

According to a government report (the Pickard Commission) in the Department of Development Aid in 1991, it seems that official corruption at all levels during the last decades of apartheid contributed to the development of a *culture of corruption* whereby: "Public officials have developed a syndrome of a lack of enthusiasm to the extent sometimes of apathy and the huge amounts of money made available to the department

became too tempting to resist for some officials. Self-preservation and self-protection against criticism have become matters of primary importance even to the detriment of the very cause itself", as a 1991 government report revealed (Republic of South Africa, 1991:113, 147).

The Inquiry found dishonesty and abuse to be rife in the Department and cases of tender-fraud, favouritism, lack of accountability and an "all pervasive culture of corruption" as a result of the apartheid regime (Bauer, 2000:219). The report showed that the spreading out of the "culture of corruption" in the Department consisted of collusion between a number of public officials and a number of contractors, producers and developers in the private sector, resulting in abuse of power for personal gain to the detriment of the people they were supposed to serve.

After the release of the Pickard Report on 7 May 1992, despite the loss over the years of several of millions of rands through various forms of nepotism and fraud in a Department which administered about 11 percent of the government budget; despite all these wrongdoings and irregularities discovered in the Department, there was not enough action taken against the culprits. As a result, the Department of Development Aid was disbanded with its officials being redeployed to other state departments. And the decision taken by then President De Klerk for the disbanding of the department had nothing to do with irregularities and wrongdoings, but with a change of strategy on the part of the government of the day.

Another comparable case of irregularities and dishonesty was that of the Department of Education and Training (DET). This case suggests that corruption and incompetence were quite common. The Department was responsible for Black education in the townships. A Commission of Inquiry headed by Mrs. Justice E. van den Heever (also known as the Van den Heever Commission) was established in 1988 after numerous reports in the press of irregularities within the Department. As reported, "the Commission carried out a lengthy investigation into irregularities around book contracts, the sale of video equipment, and the arrangement of sending youths to youth camps run by friends and family of employees and found cases of fraud, bribery, kickbacks, nepotism, ghosting and a general lack of accountability" (Bauer, 2000:219).

The findings of the Commission of Inquiry were published in four reports, of which the second, third, and fourth report contained examples of cases of corruption. Regarding the issue of ultimate political responsibility, as in the case of the Department of Development Aid, government reaction was poor. The only reaction came from the Democratic Party, which complained about the fact that while "the revelations of illegality, corruption and incompetence were alarming, but equally disturbing was the unwillingness of the government and the Department to take tough and decisive action against those responsible…" (*The Cape Times*, 21 September 1990:5).

It emerges from these inquiries, as Bauer has found out that, "such action was possible because in South Africa the system functioned in such a way that people who are accused are allowed to continue at their posts, move to another department, or merely slide into retirement" (Bauer, 2000:227). The persistence of this culture of impunity is a matter of public concern nowadays as the Gauteng case will demonstrate. These facts show that the legacy of the past – as far as poverty and unemployment are concerned – still haunts the country as a whole, opening windows and doors for venality. The public sector perspective is justified by the fact that the abuse by the incumbent of his public office or position for private gain relates corruption to the abuse.

Besides location of corruption in several national departments, individuals also perpetrated acts of corruption, in their capacity as public representatives and were removed from public life due to corruption. They include:

- **Hennie Van Der Walt**: Schweizer-Reneke MP, he was sentenced in January 1988 to 10 years in prison (five years suspended) for 15 counts of theft of R800 000 in trust money. He perpetrated the crimes while deputy minister of co-operation and development.

- **Leon De Beer**: Hillbrow MP, he was jailed in 1989 for two years for 70 counts of electoral fraud. He served eight months. The charges arose from false change-of-address cards, and 12 special votes resulting in him leading Progressive Federal Party MP Alf Widman by 89 votes.

- **Peet De Pontes**: East London City MP. Resigned in 1989 and fined R35 000 in 1991 for fraud, theft, bribery, forgery and uttering. He defrauded a residence permit for controversial financier Vito Palazzolo, bribed a public servant and stole a government file.

- **Pietie Du Plessis**: a former cabinet minister received a nine-year jail sentence in 1993 for 17 counts of fraud involving R30 million. Served two years and eight months. Freed early because he was over 60, and ill. The judge cited his greed and the losses he inflicted on others.

2. Homeland Administrations:

Other well-documented cases were found in the homeland administrations, both "independent" and "self-governing" where political corruption on a major scale was rife, especially in Transkei, Kwandebele, Lebowa and Qwaqwa, among others. Almost everywhere, official inquiries discovered the same pattern of behaviour: sale of farms, firms and houses at very low prices to cabinet ministers and their friends and associates in the Transkei. Kickback amounting to a R1 million to officials from contractors for building work that had never been undertaken and Cabinet ministers appropriated discounts from the government's purchases of luxury cars in Kwandebele. And in Qwaqwa, a press report (*Sowetan*, 25 November 1993) showed there was a deal involving purchases of chemicals that had been authorized by Dr. G.L.Becker, Secretary for the Qwaqwa Department of Health, at a cost of about 60 percent of his Department's annual budget.

However, Bophutatswana offers a best example of corruption where the Skweyiya Commission in 1996 uncovered what Lodge has called "a carnival of misconduct" dating from 1978, beginning with former Bophutatswana President Mangope's issue of irregular tenders, his appropriation of state owned houses and farms, and his establishment of private businesses with public funds" (Lodge, 1998:169).

The Skweyiya Commission, which investigated mismanagement and corruption, recommended that Mangope be prosecuted for fraud, theft and contravening ex-change control regulations. As reported by the *Sunday Times* (March 21, 1999:13), Mangope, seen as one of the worst of the homeland leaders was convicted in 1998 on 90 counts of theft totaling R2.8 million in his 17 years rule. Most of the money was stolen from his own tribe, the Bahurutshe-Bo-Manyane. Judge Tom Mullins said Mangope had abused his tribe's trust and had used the money to fund his own "domestic and family expenditure, holidays and overseas trips". He was also convicted of fraudulently transferring R1.3 million to a covert bank account in Jersey in the Channel Islands. In another trial, he and others were accused of siphoning off R10.4 million of public funds to set up his political party, the Christian Democratic Party in 1995.

All these examples convey to instances of elite or grand corruption, carried out by senior officials resulting in large-scale abuse of power. But, petty or routine corruption was common too in both state departments and homeland administrations. It is significant to note that in the Bantustans, the power was mainly based on the old patrimonial features where the family, the clan or the tribe was still playing a prominent role. The demise of the apartheid state brought to an end the Bantustan regime in South Africa. Nevertheless the way these acts of corruption were carried out by the homeland leaders led Tom Lodge to argue: "these occurrences in the final years of apartheid may have represented behaviour motivated by the realization among officials that their powers and privileges were shortly to be curtailed, but there are other reports dating from earlier periods which suggest, as in the Transkei case, that graft was entrenched and routine in the highest echelons of homeland administrations through much of their history" (1998:169).

In short, the incidence of all these corrupt practices in the old regime is a sign of a corrupt society where corruption was pervasive and although many cases have come to court, only a few had been prosecuted. When came the new dispensation in 1994, apartheid South Africa's lack of morals infected the new administration. The political legacy was the continuation of this trend towards corruption. "It would be surprising if there was no significant political corruption in contemporary South Africa", wrote Tom Lodge, who added: "Given that much of the administration, is still run by the same people, it would be reasonable to expect the continuation of a certain amount of corruption" (1998:171).

6.3.2. Incidences in Post-1994 South Africa

Today's apparent increase of corruption in South Africa is a matter of public concern. There is no doubt, on the one hand that, this is the result of both democratization and transparency, while, on the other hand, the problem is the legacy of the old order, as seen. In contrast to the extremely coercive apartheid state, democratization has made government less secret, more open to public scrutiny and strong criticism from both opposition parties and media.

"Today corruption is the mark of South Africa", said one observer who describes with full details what constitute corrupt activities in the new South Africa: "From the officials at local levels who demand to be paid for what it is their duty to do, or for not doing it; e.g., in housing allocations, awarding of pensions and maintenance grants, access to water and other essential resources, issues of fake IDs and birth certificates, turning a blind eye to criminal activities; to the larger tax evasions, financial scams, gifts and entertainment to win political favours, contracts and licenses; the dishonesties that take place on a daily basis like playing for hours on the internet at your employer's expense, cheating on working time, customs, tax returns, television licenses; taking early retirement and going back to the same job on a consultancy or temporary basis, earning the same salary as before for a job, or a position as public representative, which one has relinquished; the price in trade or military agreements for "aid" (Duncan: 1995).

What Sheena Duncan said in her book and what she confirmed during an interview with her has been echoed by President Nelson Mandela who oncecomplained that corruption became prevalent in government administrations after 1994:

> *"Corruption is also unacceptably high, and what is ever more demoralizing is that we came into government with the intention of cleaning the civil service of corruption, but our own freedom fighters, some of them very top activists, also steal taxpayers' money"* (*Saturday Star*, April 17, 1999).

More importantly, corruption today has crossed the racial lines. A significant number of whites in South Africa in the late 1990s still believe that Black is synonymous with incapacity. White perceptions are that before 1994 there was good government under the white minority rule and that after 1994, the government is bad because it is associated with Blacks. According to Afrobarometer, "The perception that corruption is an important problem has been increasing steadily since 1994, when it was not even reported as an issue. It was first mentioned in 1995 by 2% (of respondents) and has now climbed to 13%. Whites are more concerned about this issue than other races, with 31% mentioning it, compared to 22% of Indians, 11% of Coloureds, and just 8% of Blacks" (*Briefing Paper* No.5, July 2003)

The reasoning is that, "it is quite normal for a white person to get wealthy. When the same applies to a black person, a lot of questions are raised concerning his background and the origin of his sudden wealth". They associate blackness with "non-merit" and corruption.

The intention, of course, reckons Kaizer Nyatsumba, is to create the impression that corruption is part and parcel of blackness: there is more corruption now in the public service, so the shop-logic goes, because the country is now black-ruled (*The Star*, 1 September, 1999:8). Those who hold this view have forgotten that since 1994, transparency, especially on the part of the government, has become one of the basic tenets on which our democracy is founded and is a good thing for the country as a whole. Openness means citizens now know much more about the exercise of power in the public service, and in the country generally, than was the case in the past.

Advocate Tim McNally goes on to say that "corruption depends on opportunity. Opportunity in turn, depends on power. Apartheid tended to limit the power base to white people. This tended to confine the problem of corruption to a relatively small percentage of the total population. Full democracy, with its accompanying aspects of affirmative action and black empowerment; has widened the opportunity pool to include, potentially, the entire population. It is inevitable that the number of people taking negative advantage of the new opportunities has grown proportionately" (2001:2).

As a result, in today's South Africa allegations of corrupt practices in the public sector are made almost everyday in the local press and many people believe that none of the government institutions escape the widespread corruption that "seeps into every nook and cranny of their lives". Accordingly, the question that may rise is that of the incidence of corruption in South Africa as well as the strategies to curb it. Hostages of the historical legacy of apartheid as South Africans are today; can one pretend that South Africans are living in a society free of corruption? Obviously the answer is no. In this case, what can be done to control it?

As far as these questions are concerning, one has to concede, as shown by my investigations in Gauteng that there are no reliable data of the level of corruption in any one society as there are no statistics on corruption. Therefore, analysts have cautioned about taking for granted all statements on corruption facts: "statements about its incidence are necessarily impressionistic, heavily influenced by its public profile … to the extent to which it is discussed in the press and is also a topic of everyday conversation. This raises the problem that more open societies – societies where there is a free press and political opposition is tolerated – may appear to be more corrupt than more authoritarian regimes" (Theobald, 1990:79). In South Africa, the openness of the society, which lies in a democratic constitution after the demise of apartheid, has sometimes given the impression that there is more corruption now than before.

So far, the current occurrence of corruption in government administration seems to be on the increase in all three tiers of government – central, provincial and local. Despite claims that since 1994 there has been little evidence of corruption at national government level certain notorious incidents have proved those claims wrong. For the sake of this study, this section will succinctly review some heavyweight cases in central government featuring senior officials using public funds for private gain or *elite* or *grand corruption*. Among those who took advantage of the new opportunities by making corruption work for them are some individuals from departments such as Welfare, Home Affairs, Correctional Service or Parliament. These departments seem to have been particularly affected by high level of corruption.

1. The Department Of Welfare and Population Development:

In June 2000, former National Party Welfare Minister Abe Williams was found guilty on 36 charges of theft and four of corruption; all dating back to his time as Welfare minister in the late apartheid-era House of Representatives. He kept the same position after the 1994 elections at the time of the Government of National Unity.

A three-year investigation by the Office of Serious Economic Offenses (OSEO) into a pensions scam in which Williams was allegedly implicated led to his resignation as Minister in 1996 when irregularities were found in the award of a R149 million contract to a company called NISEC to administer pension pay-outs. It was established that "he (Williams) has received money that he should not have received". ANC Western Cape Welfare MEC Ebrahim Rasool initiated the investigation.

The investigation, followed a forensic probe, conducted as part of the Rasool inquiry, which found serious fraud and corruption in social security units in the province involving junior clerks and senior management. "The probe also exposed weaknesses in the contract between the Welfare Department and NISEC, which was allowed to hold R100 million a month for 17 days before paying out old-age pensions and disability grants. As one should note, the company was allowed access to the interest accumulated before payments were made" (*The Star*, May 10, 1999).

After his trial, Williams was convicted and sentenced to an effective three years' imprisonment in June 2000 after being found guilty of corruption involving R240 112 and theft of R383 000 in donor funds. These charges related to bribes he took as Minister of Welfare and Population Development to ensure the purchase of computer software solely from a company known as UNIDATA, for a welfare literacy programme. He was also found guilty of accepting bribes from an Eastern Cape company, NISEC, to influence the extension of the Western Cape pension payout contract to the Eastern Cape.

The theft charges involved donations he had received for the upliftment of impoverished West Coast communities.

2. The Department Of Home Affairs:

After apartheid demise in 1994, the Department of Home Affairs became an attractive center for corrupt individuals due to its exclusive role in the handling of immigration matters. Immigration services all over the world have always been the target of asylum seekers and those in search of a better life in wealthier countries. The desire to find work in these countries makes documents such as birth certificates, work or study permits and identity documents very valuable. The obtainment of immigration documents invites attempts to manipulate the system, at all costs, for profit. The opportunity leads to all kind of operators trying to obtain, falsify and sell such papers to would-be immigration candidates.

Research in South Africa gives a detailed account of wealthy illegal migrants bribing officials in the Department of Home Affairs to "create a background" by entering fictitious names of parents, dates of birth and other details into the computer database for population registration. The illegal migrant then uses this same information on an application form for a late birth registration. Once their births have been registered they can legitimately apply for South African identity documents and eventually for a passport (*Mail & Guardian*, October 8 to 14, 1999:31).

But without the involvement and the connivance of government officials, public sector corruption would not take place. These officials are issuing fraudulent documents frequently by using false names and signatures to mislead police trying to track them down. A typical case was that of Home Affairs Director General Albert Sepatake Mokoena who found himself in the center of controversy following his involvement in corrupt practices in the Department of Home Affairs.

A summary account of the case is needed. On 7 March 1999, the *Sunday Times* revealed that corruption is rife at the Department's Gauteng headquarters in Harrison Street, Johannesburg, with officials loitering outside the building brazenly peddling false ID documents. Confronted with evidence of this, Mokoena instead found the *Sunday Times* investigation "malicious, untruthful and irresponsible" (March 14 1999:18). However, one should recall the promises Mokoena made when he took up office in 1997. During a Press conference in Johannesburg he disclosed his plans to transform this discredited department

into an institution that all South Africans could cherish: “We’ll have to put a lot of emphasis on human resources and ensure that we employ world-class customer care. People should remember that we have the collective responsibility of ensuring that we break with the past. This means that where we go wrong, people must come forward and demand attention”.

During the Public Sector Anti-corruption Conference held on 10-11 November 1998 in Parliament, Cape Town, Mokoena in his address as Director General of the Department of Home Affairs – and at the time as champion of an anti-corruption drive, emphasized the need for moral regeneration in South Africa and how corruption had to be rooted out of public office. As he pointed out, transparency, accountability and fairness are the cornerstones of government ethics and, when translated into operating norms, become decisive tools in the onslaught against corruption. “This is the point of departure in our sustained promotion of ethically induced conduct and a merciless onslaught against all manifestations of corruption temptations and practices throughout the department” (1999:51), he said.

But this strong statement seems to be just fine words, nothing else. Few months later after this statement, it was discovered that Mr. Mokoena was part of organized crime syndicates operating within the Department with “international underground connections”, in his own words. A *Sunday Times* investigation (March 28, 1999:5) revealed that Mokoena was running a private basket ball team, Mecer Soweto Panthers, from his Pretoria office in contravention of the Public Service Act and that:

a) He was linked to the fake ID scandal in the Department. As Home Affairs Director-General he dealt with final work permits applications. It was in this capacity he recruited and registered three foreign players in his team who were using illegal identity books to claim they were South Africans.

b) He sought a R543 000 sponsorship for the Panthers from Cenit, a computer company, while they had a three-year contract with Home Affairs. Cenit rejected his request. He secured a R250 000 sponsorship from Mecer, another computer company.

c) He stood accused of using state vehicles for personal reasons while he was not entitled to do so. Senior officials at Home Affairs claimed that for two years, Mokoena used Home Affairs vehicles to transport his basketball team in Gauteng. and to travel from his home at taxpayers' expenses.

Faced with all these accusations, it was not surprising for Mokoena, after only three weeks of *Sunday Times* exposé, that a full investigation was launched against him. In fact two investigations had been ordered into Mokoena's activities: one by the Public Service and Administration Department and another one by the Public Protector, who launched an investigation into the Home Affairs office in Harrison Street, Johannesburg and to probe Mokoena's basketball activities.

On 11 May 1999, a report by the Public Service and Administration recommended that Mokoena be suspended and face at least six criminal charges for alleged misconduct and misusing state property. According to the report, he was to be charged for allegedly performing remunerative work outside the Public Service without permission and for allegedly misusing state property and government facilities, and alleged misconduct regarding a sponsorship for his basketball team

Mokoena was later suspended as Director General in May 1999 on the instruction of former President Nelson Mandela after being charged with eight counts of misconduct. Despite what analysts call "newspaper stories", one realizes that Mokoena's suspension was a confirmation that allegations made by the *Sunday Times* against him proved to be true. Though Mokoena tried to dismiss these reports to be without foundation and saw himself as a victim of a smear campaign.

The findings were damning for Mokoena though he pleaded not guilty to all charges at an internal disciplinary hearing. The departmental inquiry found him guilty of abusing departmental facilities to benefit his private basketball team. The four charges, involving a conflict of interest in soliciting sponsorship from a computer company for his basketball team, abusing work facilities for private interests by posting the department's phone and fax numbers on his basketball team's Internet site, and improperly using government vehicles. The charges against Mokoena were found to be serious, as the presiding officer,

Puke Maserumule, pointed out: "Mokoena's conduct in this regard demonstrates a lack of responsibility and a gross abuse of his position and of state assets and resources"; and amounted to a "breach of the relationship of trust and confidence which underpins his employment relationship with the minister" (*Sowetan*, 10 September, 1999; *The Star*, 10 September, 1999).

As a result, Mokoena finally resigned on September 1999, before he could be fired by the Home Affairs Minister, citing the report's findings and recommendations as the reasons for his resignation he described it as a "constructive dismissal".

Mokoena's naïveté and lack of responsibility as Director General were displayed when he stated that he did not believe he needed to ask permission, as required by the Public Service Act, from the Minister to own the Panthers, because he had put this detail in his CV. Moreover, he did not believe that using the telephone and fax at taxpayers' expense to run his privately owned basketball team was a problem. Mokoena admitted that his office telephone and fax numbers were used to conduct the team's business. But he said he did not think this conflicted with his job as Director General (*Sunday Times*, March 21, 1999:1).

Such evasive statements contribute to the growing public perception that the Department of Home Affairs and, obviously, many other government and civil institutions are corrupt. Those in charge of these departments generally do not comply with the Public Service Act and other regulations and abuse the public trust and confidence. The abuse of power at Home Affairs is an ongoing business with the Department today embroiled in false passports and fictitious marriage scams and other corrupt practices, prompting the new Minister, Mapisa-Nqakula to launch a plan to review all home affairs policies and efficiency. Everyone believes that bad service characterized by long queues and corruption could soon be a thing of the past if the planned shake-up is successful.

After his dismissal, his former boss, Mangosuthu Buthelezi, rehired Mokoena this time as a special consultant for the Inkatha Freedom Party (IFP). In January 2002, Mokoena, despite his dodgy past was appointed the new Chief Executive Officer (CEO) for the South African Football Association (SAFA), a top managerial soccer post. Obviously, his

appointment sparked off fresh controversy, given that in 1999, he stepped down after being found guilty on charges of corruption and misconduct. SAFA, his new home, itself is no stranger to controversies and scandals. The last one features the match-fixing saga and corruption involving top referees, assistant referees and club leaders who were arrested and appeared in court on the charges during July 2004. The arrests were made in accordance with the Prevention and Combating of Corrupt Activities Act 2003, section 15, which addresses offences in respect of corrupt activities related to sport events. At SAFA, Mokoena immediately got entangled in another controversy after he announced the payment of bonuses amounting to R22, 5 million to three 2010 Soccer World Cup Bid bosses for bringing the World Cup home. What was interesting in this new account was that Mokoena himself admited that SAFA coffers were empty.

3. The Department Of Correctional Services:

The Correctional Services Department is another example of blatant corruption and maladministration where graft and fraudulent behaviour are so rife. Irregularities and dishonesty had been the order of the day with financial control being so lax that departmental senior officials could do what they wanted, and had also developed their own rules. There are a lot of stories in the Correctional Department but the story of Prison's boss Khulekani Sitole, who took over as Commissioner of Prisons in December 1996, seems to confirm the seriousness of all these allegations.

Khulekani Sitole was being investigated in 1998 for maladministration and mismanagement of funds and other irregularities within the Department. The Auditor General's report found that Comm. Sitole received two irregular "merit awards" of R54 646 each during March and December 1997 both authorized by former Minister Dr Sipo Mzimela. It was discovered that both awards should have been regarded as unauthorized.

Other allegations included that the Department used voluntary severance packages as a "tool to get rid of unwanted staff", and that Comm. Sitole spent 123 official and eight private days overseas at a total cost of R528 889 between May 1997 and December 1998.

A Parliament's Public Accounts Committee report effectively found Sitole:

a) to have used the state's money in a "wasteful and ill-advised manner";
b) had awarded himself and his senior management team generous merit awards with little justification;
c) displayed poor judgment that favoured himself at the expense of the public interest; and
d) showed a lack of understanding of his accountability to Parliament.
e) In addition, Sitole had misled it and Correctional Services Minister Ben Skosana over his involvement in a professional soccer team he was running from his office and had been involved in situations where there had been conflict of interests between his public position and his private interests.

It can be suggested that to measure the extent of corruption in the Department of Correctional Services, one should question the management practices that took place under Sitole's leadership. "The whole Department was in a rotten state", said one observer (*Sowetan*, March 6, 2000).

A *Sunday Times* investigation, as well as a massive government probe into the prison service implicated prisons boss Khulekani Sitole. At the heart of this investigation was a secret "jobs for pals" society called CORE – set up by Sitole just after his nomination as Commissioner of Prisons. According to *Sunday Times* (March 5, 2000:13), members of this powerful Broederbond-like group held secret meetings to ensure their family and friends, some with only a Grade 11 (Std 9) education, landed up getting plum jobs with whopping salaries. The group held meetings at Correctional Services headquarters in the Poyntons Building, Pretoria.

People earmarked as being "loyal" were regularly promoted and given merit awards for outstanding work. As unearthed by a government probe into prison services led by the Department of Public Service and Administration, the Public Service Commission and two experts from the United Kingdom on criminal justice matters, there were many dedicated prison staff who deplored the behaviour of their corrupt colleagues but were too intimidated to speak out. The role of the Public Service Commission was to review all

staff movements and merit awards over the Sitole's years to find out if some staff were victimized.

Members of CORE occupied positions where they were capable of "influencing" the awarding of Correctional Services tenders worth millions of rands for meat, chickens, prisoners and staff uniforms, the building of prisons and computer contracts. Thus CORE was a state within a state.

Meanwhile, the Parliament's Public Account Committee in its report, after a year-long investigation, found that Sitole had abused state assets, "should never hold high office and was unfit to hold high office in the Public Service". It recommended that Sitole be fired. Sitole offered to resign in a letter to President Thabo Mbeki on November 2, 1999, ahead of a decision by the Cabinet, which endorsed the recommendation of the Public Accounts Committee for him to be dismissed. Public Service and Administration Minister Geraldine Fraser-Moleketi announced his resignation without a golden handshake on November 3, 1999.

In its damning report, the Public Accounts Committee established that Sitole had:

a) Misled former Correctional Services Minister Dr Sipo Mzimela into giving him permission to run an amateur soccer team, Spartak FC, when the club was registered as a professional team;
b) Employed 24 players of the team in the Correctional Services Department;
c) Used his office to recruit players for the team before he had permission to run the club;
d) Contravened Public Service regulations by not getting permission for Correctional Services staff to receive additional income from the club;
e) Spent 131 days out of the country over a 20-month period, at a cost of more than R500, 000. This had detracted from his role and function as head of Department;
f) Overspent the Department's travel allowance by R150, 000 during 1997-1998;

g) Made it impossible for the Committee to assess whether the state had received value for money from the trips because he failed to provide detailed motivations and schedules;
h) Gave himself an irregular merit award of more than R100, 000. (He subsequently repaid the money); and
i) Approved several voluntary severance packages considered to be "inappropriate".

Sitole's general behaviour and attitude were found to be inconsistent with aspects of the Constitution, Public Service regulations, the Public Service Code of conduct and treasury instructions (*Sowetan*, November 4, 1999:2).

After Sitole's resignation for misconduct and corruption, a task force that had been joined by the elite Scorpions Police then launched a massive probe. Rampant corruption in the Department of Correctional Services was found to be rife leading to the dismissal of 35 prison officials, the conviction of 20 others in 1999 alone and disciplinary measures were taken against more than 160 officials following an investigation into 202 cases of corruption received by the Department. Earlier in 2000, an official was sentenced to 15 years' imprisonment for using the state computer system to enrich himself with a basic salary and service bonuses totaling R103 633,75, for which he did not qualify (*The Star, June* 1, 2000).

The Department's Anti-corruption Unit was established in 1997 with the objective of identifying malpractices and, advising top management on strategies to prevent corruption. The Unit had identified as major problems the assistance prison officials give to prisoners to help them escape; the irregular recruitment of officials; and theft of judicial files, prisoners' money and medical supplies. Other malpractices identified included the use of fraudulent qualifications, false claims, the misuse of medical aid benefits, money-lending schemes between officials and prisoners, and officials paying themselves backdated salaries.

Sitole's legacy is disturbing. The Jali Commission, which started in August 2002, was appointed by President Mbeki to investigate alleged corruption and maladministration,

violence and intimidation in the country's prisons. Not only did it come across the same practices, but also encountered actions such as drug-trafficking, crime syndicates, rape, criminal activities committed with the help of prison officials and the inability of managers to run the Department and prisons effectively.

Extraordinary evidence to the commission included videotape filmed by inmates of the Grootvlei prison, with the permission of the prison head, showing warders supplying prisoners with weapon, alcohol, drugs and a minor for sex. As put by analysts, "the picture that emerged was of a system riddled with murder, gangster networks reaching into the townships, fraud involving more than R40-million, jobs for pals and staff corruption including condoned escapes and recruitment scams. Judge Thabani Jali told Parliament that members of the prisons union Popcru conspired to make the Pietermaritzburg prison ungovernable in order to grab the jobs of white managers" (*Mail & Guardian*, 20 December 2002). The Jali Commission has already produced six interim reports with recommendations for the department to implement.

4. The Department of Defence:

The last five years in South African politics bear the marks of one of the most controversial deal known as "the arms deal" or the "yengenigate". This is a notorious case of misconduct and corruption originating from Parliament but with its ramifications deeply embedded in the Defence Department and involves prominent figures in the ruling party. This includes one who was regarded as South Africa's most powerful politicians, the former ANC's Chief Whip Tony Sithembiso Yengeni. He is the man who looked after the disciplinary matters of ANC MPs in Parliament and was the immediate past chairman of Parliament's Standing Committee on Defence. He was arrested on October 3, 2001, charged and released on bail following his appearance in the Cape Town Regional Court. The charge sheet linked the case directly to the controversial arms deal.

Yengeni was chairman of Parliament's Defence Portfolio Committee for the period September 1994 to January 1999, at the time the arms deal was being negotiated dating back to October 1996. It is thus important that the complexity of this case requires an explanation on the arms deal issue from the onset.

6.3.4.1. The Arms Deal:

The arms deal is a massive package, which initially involved the spending of billions of rands on purchasing defence equipment. The objective of the deal was to create 65 000 jobs, and to inject billions into the South Africa economy. Approved by Parliament in April 1998, the review led, after a process of selecting preferred bidders, to a government announcement in September 1999 to proceed with the purchase of a strategic arms package. The decision by the Cabinet came with the promise that R110 billion would be injected into the economy as a result of the arms procurement and more jobs would be created. The acquisition included different force design options as follows:

Table 11: The Arm Deals Package:

SANDF FORCE DESIGN	
SA AIR FORCE	
Fighters:	
Light Fighters	16
Medium Fighters	32
Helicopters:	
Combat Support Helicopters	12
Maritime Helicopters	5
Transport Helicopters	96
SA NAVY	
Submarines	4
Corvettes	4

Source: Joint Report into the Strategic Defence Procurement Packages, 14 November 2001:5.

Soon after the government announcement, South Africa, the region's economic powerhouse was plunged into a long running controversy over a R43 billion arms deal involving contractors from Germany, Italy, Sweden and the UK. According to observers, the deal was controversial from the outset, largely because of doubts over whether South Africa should be spending billions of rand on military hardware instead of on poverty alleviation and social upliftment. There were concurrent concerns about its cost and a

Department of Finance briefing to the Cabinet warned of possible adverse implications for the budget deficit. The concerns were about the deal being contaminated by corruption (2001/2002 Survey: 71).

Today, almost a decade after the deal was signed, the multibillion-rand reequipping programme for the South African National Defence Force (SANDF) is nevertheless beginning to deliver benefits for the country. But still, the programme is plagued by controversy, confusion, ignorance, ineptitude and downright misinformation and has become an embarrassment to the ruling party. Hitherto, all authority and responsibility for defence acquisition had been vested solely in ARMSCOR, whereas the present programme implies four separate Departments namely, Defence, Trade and Industry, Finance and Public Enterprises. Thus showing the scope of the oversight to which the programme had been subjected.

To make things worse, a political scandal erupted and overshadowed Government "utmost integrity" on what was seen as a seemingly transparent and scrupulously negotiated package and consequently its rejection of any wrongdoing in the arms deal when close links between foreign contractors and high-ranking government officials were exposed. Non-compliance with tender regulations, nepotism, conflict of interest, internal manipulation and lack of transparency came to the surface.

As far back as November 1999, the arms deal became the centre of controversy over the propriety of various aspects of the procurement. Allegations were dispatched to Judge Willem Heath, then head of the Special Investigating Unit by Patricia de Lille, then Pan Africanist Congress MP. De Lille blew the whistle in her efforts to enforce transparency and accountability on the part of government for its handling of the arms deal dossier. She compelled the government, which had earlier defended the deal as completely legitimate and flawless, to agree to high-level investigation. But her claim and pressure for the appointment of a commission of inquiry made no progress until a year later.

The issue took on another twist with the report of the Auditor-General in September 2000, which did not confirm corruption but stopped short of approving it as open and honest. The Auditor-General discovered "material deviations from generally accepted

procurement practice". But earlier in November 1998, the Defence Audit Center of the Office of the Auditor-General identified the procurement of the Strategic Defence Packages as a high-risk area from an audit point of view and decided on the need to perform a special review of the procurement process (Joint Report, 2001:5).

According to the Auditor-General in the 2001 Joint Report, the Special Review was the subject of hearings and deliberations of the Parliamentary Standing Committee on Public Accounts (SCOPA), which culminated in the fourteenth report of the committee. On 2 November 2000 the National Assembly adopted the SCOPA report which suggested that a meeting be convened with the Auditor-General, the Public Protector, the National Director of Public Prosecutions and the Heath Special Investigation Unit (SIU) to discuss the broad framework of an independent and expert forensic investigation into a number of issues, which were referred to in the Special Review, as well as other information in the possession of SCOPA (2001:6). On 13 November 2000, it was decided that the four agencies would conduct a joint investigation in order to combine skills, resources and legal mandates.

However, a powerful government reaction against the inclusion of the SIU led subsequently to the exclusion of the Unit from the inquiry by President Mbeki on the 19th January 2001 in his address to the nation. Consequently the SIU did not form part of the joint investigation. The exclusion of the SIU raised the question of why the government ignored the recommendation of its own Parliament's insistence to get the SIU involved in the probe? This exclusion was viewed by observers as a cover up operation aimed to protecting certain well-known senior officials allegedly involved in the deal. However, whatever the outcome of the investigations the arms deal scandal is seen as a public relations exercise for the ANC government's commitment to accountability. What IDASA has called "litmus test" of democratic accountability in South Africa (2001:1).

The problem now is the increasing uncertainty and anxiety about the final cost of the deal for the country. Initially it was estimated at R30 billion, then R43 billion, and 2001 projections have put the price at R66 billion. However, answering questions from the Portfolio Committee on Finance, Ramos, the Director-General of the Treasury and Andrew Donaldson, the Deputy Director-General of the Budget Office in the Treasury

explained how it works. They underlined the fact that the Cabinet had been kept fully briefed on the full costs of the deal but no one could have predicted the extent to which this would be affected by the rapid depreciation of the rand since then (*Business Report*, December 4, 2001:1).

As they stated during the meeting, the Cabinet approved the deal at a R30 billion, or $4,8 billion, contract price (1999 prices at an exchange rate of R6,25 to the dollar), of which R22,1 billion consisted of foreign supplies and R3,2 billion of local supplies. In the February 2001 Budget, the total cash flow cost of the programme was put at R30,3 billion because of the depreciation of the rand and inflation-related cost increases. Expenditure on the deal was expected to peak at R5, 8 billion in 2003/04, or about 2 percent of the overall budget. By this time the full cost of the programme was expected to be R43,8 billion over 12 years. They added that "a clear decision had been made from the beginning that the deals would be financed from within the Budget, so they could not affect deficit projections".

This is perhaps good news, but the handling of the arms deal by the government leaves the impression that it wants forcefully to hide something. The second Yengeni's trial - there had been one in the late 80s when he and 14 others ANC members were arrested, charged with terrorism and tried - could maybe be the occasion to spill out the beans.

6.3.4.2. The Yengeni Scandal:

The Yengeni affair began with his alleged non-compliance with Parliament’s code of conduct requiring members to disclose in writing (in the parliamentary register) all financial interests beyond their parliamentary salaries, including gifts valued at more than R350 and benefits of a material nature and their value. The allegation referred to the ethics committee for investigation by the Democratic Alliance (DA) was a follow-up to a *Sunday Times* news report that Mr. Yengeni had received a luxury 4x4 Mercedes-Benz from Daimler-Chrysler Aerospace.

The report showed that the car was registered and licensed in his name in October1998, but he started paying for it only in May 1999 after questions began to be asked about its

acquisition. At the time of the acquisition, Mr. Yengeni was the chairman of the Standing Committee on Defence. His purported benefactor Michel Woerfel was the managing director of EADS. At this stage, it is obvious that Mr. Yengeni was embedded in the controversy over the arms deal and this was not an isolated incident but the beginning of an ongoing probe that will become a full programme of events. The "Yengenigate" - as the case was known - began in fact in November 1999 when PAC MP Patricia de Lille forwarded allegations and documentation regarding government corruption in the arms deal to former Judge Willem Heath, then head of the so-called Heath Special Investigating Unit (SIU). The acquisition of a luxury car led to the whole swoop.

It is worth mentioning that Daimler-Chrysler Aerospace was incorporated into the European Aeronautic Defence and Space Company (EADS), a company that, in turn, was a partner in a consortium that won a contract to supply missile and radar technology for four corvettes as ordered by the Cabinet. In short the Yengeni's case is linked to allegations of widespread corruption in South Africa's R43 billion arms deal to buy navy corvettes, submarines, warplanes and helicopters. The controversy surrounding the deal has been damaging for the government, leaving irreparably the public with a negative impression on the whole deal. And the ANC's image, already dented at the time by other scandals such as the *Sarafina* debacle, Alan Boesak's case, the HIV/AIDS debate, Heath's forced removal from the probe on the arms deal, will be further tarnished.

On 3 October 2001, Yengeni was arrested, charged and appeared in Court. The charges against him, as well as European Aerospace Defence Systems official Michel Woerfel, as issued on the warrant of arrest that was echoed in full details in the local press, were corruption, alternatively fraud, forgery, and perjury (lying under oath). According to the National Directorate of Public Prosecution that issued the charges sheet:

i. *The Corruption charges* related to a R167 386 discount on a luxury 4x4 Mercedes Benz Yengeni allegedly obtained through an employee of European Aeronautic Defence and Space company (EADS), a company linked to the controversial arms deal. According to the Code of Conduct, all members of the National Assembly must record particulars of their registerable interests in the register of members' interests. Yengeni never declared any sponsorship, gift, hospitality or benefit

received from Daimler Chrysler Aerospace South Africa (DASA) or from its managing director Michael Woerfel. The only sponsorship or gift declared by Yengeni was a visit to an air show in Chile and a visit to the Daimler Benz plant in Brazil during March 1998, sponsored by Daimler Benz. The company had interests in the arms acquisition deal.

ii. *The forgery charge*s related to an agreement for the sale drafted in respect of the transaction. According to the charge sheet, Yengeni received the vehicle with the intention "to use his power or exercise his influence to influence the arms acquisition process in favour of Daimler Benz Aerospace AG or Daimler Chrysler Aerospace AG". He was also expected to facilitate introductions between his co-accused Michael Woerfel, now president of EADS, and other role-players in the arms deal. Daimler Chrysler is now part of EADS, which has a 33% share in REUTECH Radar Systems, the company that was awarded a R220 million contract to provide radars for the corvettes that form part of the arms acquisitions.

iii. *Fraud charges*: he faced charges of defrauding the company, as he was alleged to have pretended he would use his influence "when he had no intention to use his power or exercise his influence in that way".

iv. *Statutory Perjury*: was related to false evidence he gave to the Investigating Directorate of Special Operations when he was summoned to appear before it on June 29, 2001. According to *The Star* (October 4, 2001:19), a file memorandum signed by Woerfel and filed on the records of DASA indicated that the vehicle was damaged while being transported to Pretoria, that the vehicle would be sold off at residual value after rectification, and that there was no warranty. The sales price was R230 052, and payment was due on May 1 1999. He claimed to have paid a R50 000 deposit. The vehicle was registered in the name of Yengeni on October 22 1998. The agreement of sale was backdated to October 18 1998. The Prosecution, however, claimed that Yengeni paid R182 563, that the vehicle was not damaged, no deposit was paid and there was a warranty.

In terms of credibility, the investigators believed that the man then entrusted to whip all majority party MPs into line, "did wrongfully, unlawfully and corruptly" receive a benefit that was not legally due. "He is lying" (*Business Day*, October 4, 2001:3). However, while the ANC expressed its indignation on this matter, it recognized that the law, therefore, must take its course.

On October 4, 2001, Yengeni, who stood accused of fraud, corruption, forgery and statutory perjury, stepped down as Chief Whip of the ANC in Parliament. He became the second ANC parliamentary casualty of the arms deal. The other MP to have lost his position because of the arms deal was Andrew Feinstein who resigned at the end of August 2001 over the ANC's handling of the arms probe. Feinstein who was senior ANC member of the Standing Committee on Public Accounts (SCOPA), together with SCOPA IFP chairman, Dr Gavin Woods, led a campaign for a full investigation. Mr. Feinstein was removed by the ANC from his SCOPA post and replaced by Geoff Doidge.

While the outcome of this case which involves prominent ANC politicians remains uncertain until October 2005 (Tony Yengeni's appeal had yet to be heard, two years after sentencing), comparative experience has shown that in similar cases, the ANC stands accused of covering up, and being soft on corruption, particularly in instances whereby culprit officials are its own members. Observers are now wondering if the Presidency is starting to regret its hand-off approach to government. As underlined by Andrew Davidson (*Business Report*, October 5, 2001:2), "President Thabo Mbeki has managed to avoid angering whatever political alliances, deals and pals that he had accumulated in the journey to the top. South Africans are entitled to expect and demand more from the Presidency, especially when they are living in an environment littered with high-profile examples of corruption and crime with few illustrations that an effective plan exists to deal with it".

Further, there is too much speculations on the arms deal suggesting that Tony Yengeni may be a strategic sacrifice to shield more prominent figures and to protect the arms deal. The *Mail & Guardian* (October 5 to 11, 2001) reports that the late Defence minister Joe Modise and Army Procurement Chief Shamin "Chippy" Shaik top the list of key players. Shaik's brother, Shabir, a bidding contractor in the multi-billion rand arms procurement

deal was arrested in Durban for possession of classified government documents. He has since been granted bail while prosecution is still ongoing. Shabir was allegedly in possession of cabinet minutes in which the arms procurement was discussed, and also correspondence between the Departments of Public Enterprises and Defence. He was due to explain in court how as a bidding contractor competing with other contenders, he had acquired inside information. It was not difficult to find out that his brother "Chippy" was the head of acquisitions in the Department of Defence.

So far, Yengeni claimed his innocence to charges of corruption, fraud, forgery and perjury and firmly believing that his arrest, along with German businessman Michael Woerfel of European Aeronautic Defence Systems, and all charges as well, were related to the investigation on the arms procurement. European Aeronautic Defence Systems is the company that gave Yengeni the 4x4 vehicle discount and which also benefited from the arms deal. Yengeni protested his innocence with full-page advertisement in Sunday newspapers denying any wrongdoing.

Nevertheless, on 13 February 2003 he agreed to plead guilty to fraud in exchange for the corruption charges being dropped in terms of a plea bargain agreement with the state. He was convicted of failing to disclose to parliament, a 47% discount he negotiated on a Mercedes Benz 4x4, which he bought in 1998 and which became the cause of his troubles. On March 6 2003, he resigned from parliament under pressure from the ANC leadership, but not before the party suffered embarrassing publicity over his refusal to quit.

On 19 March 2003, Yengeni became the first MP in South African history to be charged with defrauding parliament. His responsibilities as an MP obliged him to adhere to a code of conduct. But he chose to give to parliament a wrong account about his 4x4 vehicle causing prejudice to that institution regarded by many as the symbol of democracy. He betrayed the trust placed in him as chairman of Parliament's joint standing committee on defence. By so doing he demeaned the parliament in the eyes of the public. As he said in court: *" the above misrepresentations were made with the intent to defraud parliament"*. He was sentenced to four years' imprisonment for defrauding parliament. He is out on bail of R10 000 that has been extended pending an appeal. All charges against Michael Woerfel of European Aeronautic Defence Systems had been withdrawn.

However, the arms deal controversy did not end with Yengeni's prison term, as he was not the only ANC official to be investigated. So far, as the probe progressed, there were new names coming to the surface. The "Arms Deal Dossier" saga, seen by many as a "trial by media", due to the constant media coverage of the matter, is now in the hands of the court and a judicial process has commenced and what the country is witnessing now is the restoration of the culture of justice. This was unthinkable during apartheid days. The only similitude is that this is happening in the Defence Department, once again. Yengeni was punished because he forgot or feigned to ignore that when he was sworn in as an MP he was asked to take an oath that he would uphold and respect the law. By lying he put himself above the law hoping to get away with it, damaged the reputation of parliament and hurt the core of South Africa's young democracy.

To sum up, one can argue that corruption persists despite new efforts to end it and the arms deal dossier undermines trust in government and its credibility. After the last development of the "spy allegations"[15], it is understood that the Scorpions' probe of Schabir Shaik could be extended to include Jacob Zuma who is also accused of accepting bribes solicited on his behalf by Shaik, currently on trial for fraud and corruption. Shaik was found guilty and convicted (2 June 2005) on two charges of corruption and one of fraud. He has been sentenced (8 June 2005) to an effective 15-year jail term and has applied for leave to appeal. In the meantime, Jacob Zuma lost his position as the country deputy president and has been charged (29 June 2005) by the Scorpions on two counts of corruption. The charges followed a finding by the Durban High Court of a "generally corrupt" relationship between Zuma and his financial adviser Schabir Shaik, during Shaik's fraud and corruption trial. President Thabo Mbeki then relieved Zuma of his position as deputy president in a special sitting of Parliament on 14 June 2005.

The most recent case is the multimillion-rand travel voucher scam known as "travelgate" that involves a significant number of MPs. Twenty-three lawmakers - most of them members of the governing African National Congress party - were accused of using vouchers intended for official travel to pay for luxury hotels, meals and car rentals. Five of

[15] Inquiry set up by President Thabo Mbebki to probe claims that Ngcuka was an apartheid spy and abused his position as National Director of Public Prosecutions. Also known as the "Hefer Commission" (Sept. 03-Jan.04)

them were convicted and fined in March 2005. They eventually resigned from Parliament (23 June 2005). They are Ruth Bhengu, Mildred Mpaka, Rhoda Joemat, Pamela Mnandi and Mavis Magazi. Altogether another 21 MPs or former MPs are facing fraud charges in connection with Travelgate, pending their trial on July 28 2005.

Finally, various scandals at the Department of Home Affairs ranging from officials taking bribes, to foreigners marrying South African women without their knowledge (Mahlangu: 2004) has tainted the idealism with which anti-apartheid heroes took power over a decade ago.

6.4. Chapter Synopsis

Many lessons emerge from this conceptual apparatus - the typology of South African corruption - that requires an assessment of the extent, forms, causes, and effects of corruption for the country as a whole. Such an assessment entails the need for a strategy that should fit the particular circumstances of the country, taking into account the nature of the corruption problem as well as the opportunities and constraints for addressing it.

What this thesis reveals is that corruption in South Africa can be understood as an extension of corrupt practices from the past into the present dispensation.. The extent of corruption provides the first step of the assessment. Its extent can range from sporadic, occurring in isolated intervals with no apparent order, to pervasive, permeating most government institutions or affecting most activities within a specific institution, as witnessed in some departments in Gauteng. Sporadic corruption occurs irregularly and therefore does not threaten the mechanisms of control nor the economy as such, and does not have the same corrosive effect on political and economic systems as pervasive corruption.

Though the incidence of sporadic corruption seems serious, it is not pervasive and not crippling, but it can seriously undermine morale and sap the economy of resources. In addition, corruption is more personalistic than institutional in the sense that personal or individual level analysis of corruption clearly shows that corruption is simply a

consequence of human nature, that is, human beings are generally subject to greed and can behave corruptly to rationally maximize their gain.

Determining the form of corruption is the second step of the assessment. In South Africa, corruption is both *petty* and *grand*. When it is petty, it involves lower-level officials and smaller resources while grand corruption operates at the highest levels of government with huge sums of money. As I found out in departments such as the Licencing Department or the regional office of the Department of Home Affairs in Gauteng, it can be organized and linked to organized crime (driving licences, certificate of registration for cars) or entrenched in patterns of patronage, or embedded in elite networks to make the system works. As a result, corruption entails unilateral abuses by government officials (e.g., embezzlement and nepotism) or links public and private actors (e.g., through bribery, extortion, and fraud).

From what I have observed in Gauteng, the types of administrative corruption that occurs simultaneously are “corruption according to the rule” and “corruption against the rule”. In the first situation, an official is privately and illegally receiving gains for doing something, which he or she is ordinarily required doing by law, as was the case with Mokoena, Sitole and Yengeni. In the second situation, the bribe is paid to obtain services which the offcial is prohibited from providing, like going on an official trip with a friend at the taxepayers’ expenses, as did Duarte.These two categories can occur at all levels of the government hierarchy and range in scale and impact from *grand corruption* to more ordinary, *routine corruption.*

Examining the causes of the different forms of corruption is the next analytical cut of the assessment, which generally raises a number of questions about institutional problems or societal attitudes that contribute to corruption in South Africa. Responding to these challenges posed by corruption provides an understanding of its causes. From an institutional perspective, corruption arises where public officials have wide authority, little accountability, and perverse incentives. This means the more activities public officials control or regulate, the more opportunities exist for corruption. Furthermore, the lower the probability of detection and punishment, the greater the risk that corruption will take

place. In addition, the lower the salaries, the rewards for performance, the security of employment, and the professionalism in public service, the greater the incentives for public officials to pursue self-serving rather than public-serving ends.

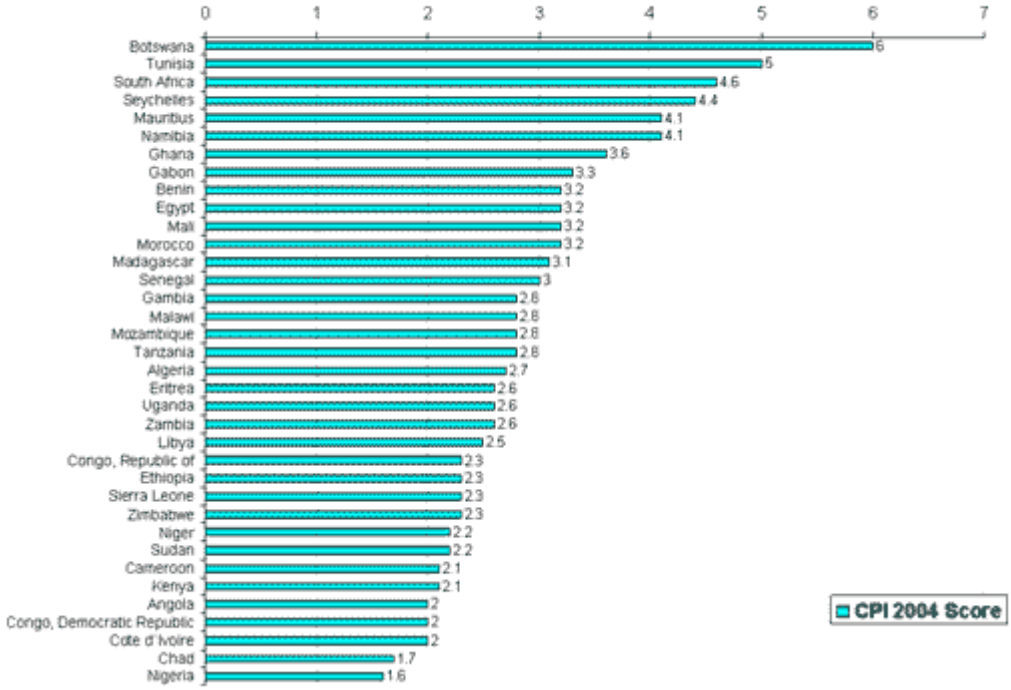
Moreover, it emerges from fieldwork that nepotism; erosion of ethics, non-meritocratic appointments and poverty came of as the most important factors that propel corruption in the public service in the country. Regarding poverty, no one can deny that this phenomenon has produced some of the most extreme cases of inequality in South Africa. As shown by studies, there were 18 million people in South Africa living below the poverty line in 1999; the MLL (Minimum Living Level) for an individual was R164, 20 per month, amounting to approximately R5, 30 per day, while the poverty line for a household was R353 per month in the same year (Graaff: 2003:7). Under such circumstances, individuals become vulnerable and easily subjected to exploitation and all kind of abuses including corruption, as this thesis has argued.

Finally, the last level of review deals with the costs of corruption. The detriment caused by unchecked corruption merit spending resources that could be invested in other development objectives, making corruption a serious development challenge. As it will be demonstrated later, societal damages inflicted by the phenomenon embrace every nook and cranny of the community.

Therefore, politically, corruption undermines democracy and good governance by subverting formal processes; in elections and in legislative bodies it reduces accountability and representation in policymaking. Economically, it undermines economic development by generating considerable distortions and inefficiency. In the private sector, it increases the cost of business through the price of illicit payments, the management cost of negotiating with officials, and the risk of breached agreements or detection. Corruption also generates economic distortions in the public sector by diverting public investment away from education and into capital projects where bribes and kickbacks are more plentiful. These distortions deter investment and reduce economic growth.

The effects of this unchecked corruption in South Africa suggest that those involved are embarking on the destruction of values and resources. Fundamentally, it undermines sustainable development and exacerbates inequality by affecting the poor disproportionately. Whatever reason, generally corruption kills the development spirit. By diverting scarce resources to less or non-priorities, corruption is on the larger part responsible for neglect of fundamental needs, particularly basic needs such as food, health and education.

Table 12: How does South Africa measure up in Africa in 2004?



Source: Transparency International Corruption Perceptions Index 2004

According to David Nussbaum[16], "Corruption permeates the lives of Africa's poor and vulnerable, making it impossible for millions to earn an honest living".

The corruption situation in developing countries is grave, but there are measures that can be taken to reverse this trend. Thus, a strategy to fight corruption proves to be central to

16 Chief Executive of Transparency International.

any anti-corruption measure. At the same time, strategy formulation requires taking a close look at the political will for anti-corruption reform in government and civil society.

The institutional perspective suggests that possible responses to the underlying causes of corruption include institutional reforms to:

(1) reducing the role of government in economic activities (to limit authority);
(2) strengthening transparency, oversight, and sanctions (to improve accountability);

(3) redesigning terms of employment in public service (to improve incentives), as well as societal reforms.

But this is not enough. These considerations suggest anti-corruption efforts should also address attitudes toward corruption by changing people's attitudes and mobilizing political will for sustained anti-corruption interventions. Most generally, such efforts need to raise awareness about the costs of corruption for the country's political and economic development. This implies convincing the public that corruption is an extremely damaging pattern of interaction for society as a whole, and that the collective damages over time outweigh any possible short-term personal benefits.

The vital lesson to draw from this assessment is that in South Africa, corruption practices seem to be increasing, as shown in Table 12, which contains the TI Corruption Perceptions Index 2004 of Africa. In the coming chapters we will see in what government institutions corruption is concentrated and why.

Concluding Remarks

In this first part, the thesis has explored the concept of political corruption by contextualizing the phenomenon into domestic, regional and international dimensions. The subject emerges to be quite old and must be dealt with in its particular context. The contextualization of this multidisciplinary concept prompted the study to open definitional

doors as corruption manifests itself in different facets, different forms and consists of a variety of definitions ranging from legal to public opinion. For instance, what is perceived as corrupt in South Africa is venerated in Botswana. There is a general consensus among analysts that "corruption" is a contested concept due to variations in definitions among nations. The thesis has therefore defined corruption as "*the abuse of public power by public officials for personal advantage"*. Otherwise, corruption is a privatization of state assets by a political clique.

Finally, we have seen the implications of the political and the historical legacy of corruption on democratic governance. The manifestation of all these cases is an indication that political corruption must be taken seriously. While the apartheid system was conducive to corruption due to its secretive nature, no one can understand how these incidences still occur in a democratic society where transparency and openness should be the order of the day. But if we look at the political legacy of the country, some issues such as corruption become more understandable, as I found out that there is a *culture of corruption* in South Africa, as discovered by the Pickard Commission when probing the Department of Development Aid in 1991.

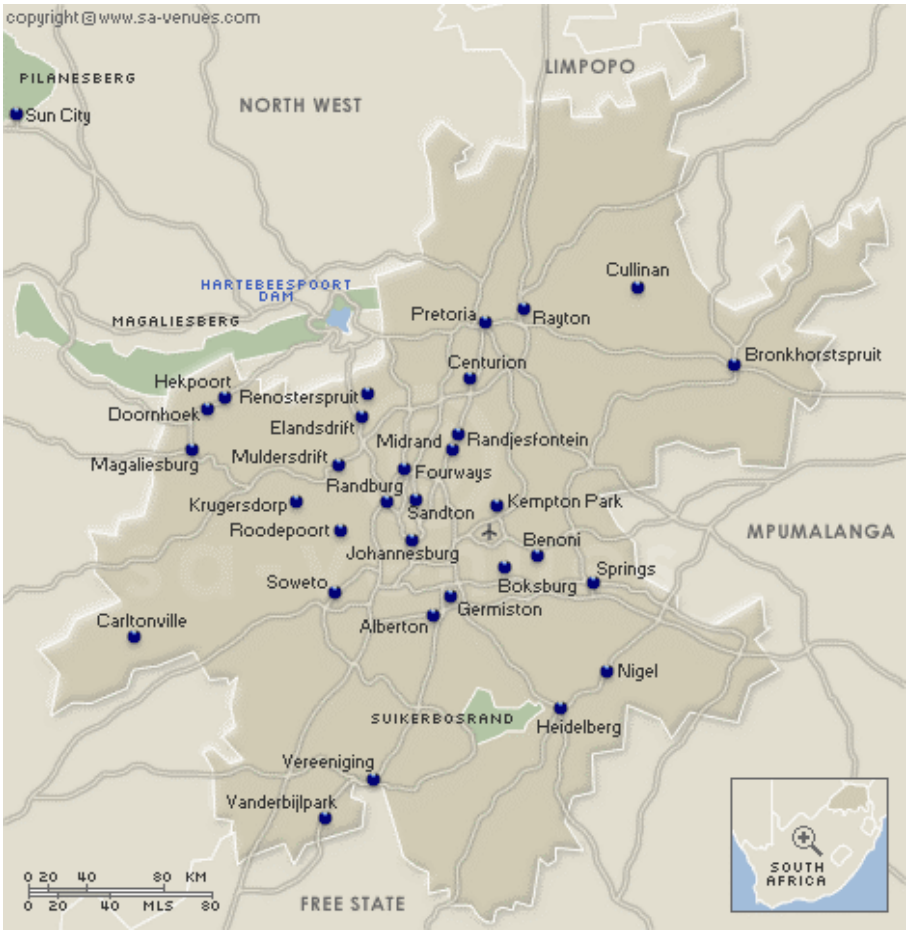
It appears that once again, prominent people in power are using unscrupulous businesses to enrich themselves and the arms deal is an example of this in South Africa of today. However, Peter Honey observes that: "it also spotlights a clear case where public officials – of both the old and new regimes – made money out of private schemes while serving in government" (2002:36). And Albert Mokoena, Sitole and Tony Yengeni are such a prototype of this new generation of leaders, without mentioning Duarte and Mofokeng. These few cases, and not the least, show that the perceived corruption in public administration by bureaucrats and elected politicians has thus found significant confirmation.

In this particular context, corruption in Gauteng can be explained through historically entrenched institutional and personal features. After reviewing its underlying causes and effects, are the strategies put in place to combat it adequate? In the chapters that follow we begin to investigate in more details the Gauteng corruption experience. The second part of this study undertakes our empirical case, while the third part - with its subsequent

chapters - essentially deals with justification of corruption determinants and the extent of its effects in Gauteng, before probing in the fourth and last part of the study the provincial anti-corruption strategies and checking out how effective they are.

PART TWO
EMPIRICAL ANALYSIS OF THE GAUTENG CASE

GAUTENG'S MAP



Chapter Seven

RESEARCH DESIGN

7.1. 1ntroduction

The aim of this chapter is to draw the research design and methodology adopted in this study. Research design and methodology are important tools as they are central to any research project. This is the planning of scientific enquiry, which provides the glue that

holds the research project together. A design is used to structure the research, to show how all of the major parts of the research project - the samples, measures, treatments and methods of assignment - work together to try to address the central research questions.

The chapter provides the objectives of the survey, which outlines the intention of the researcher. It also outlines the following aspects: the organization of the survey, the study's sampling procedures and data collection methods and location of research subjects before presenting the results of the survey.

7.2. Objectives of the Survey

The objectives of the survey were to:

- Identify eventual causes and effects of corruption in the Gauteng government by drawing new data from public officials, notably those who are dealing on a daily basis with cases of corruption and misconduct in the public sector, including members of the Gauteng Legislature.
- Have Gauteng public officials, the civil society, black business people, as new comers, and scholars from a range of academic institutions in the province indicate what they believe was the extent of corruption in provincial departments and to detect potential corruption resistance mechanisms.

However, it was not the intention of the survey to conduct a comprehensive measurement of the phenomenon. Instead, it focuses on identifying causes and effects of corruption, as the first step in drawing effective strategies to increase corruption resistance in the province.

7.3. Organization of the Survey

The questionnaire was based on existing standards (see Kpundeh, 1995) for similar surveys. Detailed information was requested under the main heading regarding corruption perceptions including its sources and incidence; its extent, causes, effects and how the

government is dealing with it. Therefore, extensive pretesting was not required as the questionnaire was based on existing standards used in corruption literature.

A systematic random probability sample of more than 100 officials, academics, business and civil society was drawn from provincial government officials, selected academics institutions, black business and non-government organizations in the field of corruption. Screening questions were asked by means of a telephone to determine whether the personnel from choosen organizations qualified as a sample element: “Can I send you a questionnaire on corruption in the public sector”? If the answer was “yes”, thereafter, the questionnaire with instruction was sent to the appropriate organization, firstly by fax or e-mail and secondly by hand.

The decision to do the survey by hand was due to the fact that, it was easy for me to go to the sample element, not only for the interview, but also to directly observe the environment. The first two approaches (fax and e-mail) did not yield good results since only 30 sample subjects returned their completed questions after one year, nine of which were not acceptable due to errors. At a late stage we continued with questionnaires between April and July 2003 mostly with sample subjects who had not responded. The meeting with them was to find out whether they were willing to be interviewed for the completion of their questionnaires or not.

Therefore, more than 100 people were approached for interviews between May 2001 and June 2003 as part of our survey on the causes and consequences of corruption and on the possible strategies that could be adopted for the prevention of corruption in Gauteng. The survey targeted people dealing with cases of corruption in the Public Service and those involved in preventing or combating it such as the watchdog bodies including the parliament, or Transparency South Africa (TSA). But first of all, request letters were addressed to the members of the Executive Council (MECs) requesting access to the departmental database of cases involving public sector corruption investigated and/or under investigation. Seven departments (64%) responded to the request and four (36%) did not respond. This exercise was meant to identify the way that actual and potential corruption is managed within a department. Unfortunately, such data did not exist,

according to the responding departments. And this gave me insight into what to expect and presented the main obstacle I had to encounter during my investigation.

In this survey, we established that factors such as weak checks and balances, mismanagement, greed and self-enrichment, general decline in morals and ethics, legacy of apartheid, and socio-economic conditions were the most common reasons given as the main causes of corruption in the provincial government. All these factors entail the three clusters of corruption causes, namely the combination of economic, political and social variables, or personal, institutional and systemic.

7.4. Response Rates

At the second stage, an original sample comprised 102 individuals representing a diverse range of activities including the public sector (Gauteng Anti-Corruption Unit within the Department of Finance and Economic Affairs, the provincial Public Service Commission, Housing Department: the only Department that accepted to participate in the survey), Gauteng Legislature (Chairpersons of Standing Committees and provincial leaders of political parties), civil society (Black Sash, Idasa, Transparency South Africa (TSA), CASE and the Institute for Security Studies (ISS), academic institutions (University of the Witwatersrand, Rand Afrikaans University, Pretoria University) and the private sector particularly business people from the black economic empowerment companies doing business with the Gauteng government; having in mind the opacity of the procurement system in the public service. Procurement is an area in which corruption is always a threat because contracting is "where the money is", to quote Klitgaard *et al*. (2000:117).

Regarding academic institutions, we decided to survey senior lecturers from four departments within each university: the departments of Political Studies, History, Anthropology and Sociology, due to the way corruption has been seen as a particular state-society relationship and its "multi-disciplinary" character. Department of Anthropology at the Rand Afrikaans University pulled out at the eleventh-hour. An average of 4 academics were randomly selected from each department to respond to the survey. The reason behind this is that corruption is viewed as a complex and multifaceted

phenomenon with multiple causes and effects as it takes on various forms and functions in different contexts.

Table 13: Types of Organizations and Response Rates

Organizations	No. Sent	No. Returned	Response Rate (%)
Provincial Departments:			
• Finance & Economic Affairs	6	5	83
• Housing & Land Affairs	20	18	90
• Public Service Commission	2	1	50
Gauteng Legislature:			
• Committees	11	5	45
• Political Parties	6	4	67
Academic Institutions:			
• Wits University	14	12	86
• RAU University	12	9	75
• Pretoria University	15	13	87
Civil Society:			
• ISS	1	1	100
• IDASA	2	1	50
• BLACK SASH	1	1	100
• TSA	1	0	00
Black Business:	11	2	18
TOTAL:	102	72	70,5

According to researchers, corruption has been studied as a problem of politic, economic, cultural or moral underdevelopment, and mostly as something in between, ranging from universal theoretical modeling to detailed descriptions of single corruption scandals. The complex nature of corruption has made most observers agree that it pervades many societies and that there are no quick-fix solutions to it (Andvig *et al.*, 2000:9).

In view of the variety of organizations I approached, the basis of my sampling resulted in 130 surveys being sent. Of these, 102 were accepted and 72 completed surveys were returned, giving an overall response rate of 70,5%. This is a relatively workable sample as it is more representative in terms of the variety of organizations and the range of legislation under which they operate. However, we cannot know how those who did not respond would have differed from those who did respond. Nonetheless, perceptions are subjective given the fact that different groups, for example academics and political parties, will have different, but equally valid perceptions on particular issues. Despite this limitation, the quality of the data collected was quite impressive.

This reality brings to mind Lala Camerer's Expert Panel Survey in which she made 3 789 contacts only to obtain 154 successful contacts. Globally, I made 130 contacts, 102 were successful and obtained 72 completed reports. Fieldwork was a real challenge, as I was often required to track down respondents. The main problem was to get an appointment with senior public officials or managers of black empowerment companies without enduring hostile behaviour on the part of switchboard or reception employees. Sometimes, it was a very frustrating experience. Despite these shortcomings, it is the view of the study that this survey was crucial for future evaluations on corruption, its causes, effects and control in Gauteng. Nonetheless, a systemic exploration of the root causes of corruption in Gauteng is not available and therefore, the results from this study must be seen as tentative and subject to further scrutiny. In the following sections this study tries to contribute through this survey to the still underdeveloped field of South African corruption studies.

7.5. Presentation of the Results

The study does not quantify existing corruption. Instead it explores perceptions of potential opportunities for corruption and highlights corruption-related issues facing Gauteng Administration. The findings emphasize the need for all departments to have in place corruption prevention strategies and to identify the types of high-risk functions they are performing, monitoring and effectively dealing with.

The survey asked a variety of questions about perceptions for what respondents thought was the source, the instance and the extent of corruption in Gauteng, what was the most important cause of corruption and the ranking for the root causes of corruption in Gauteng, what they thought about bribes, nepotism, dishonesty and corrupt officials, what could be the consequences and if the government was doing enough in combating corruption and how they rated the Gauteng administration.

7.5.1. <u>Sources</u>:

The majority of respondents (50%) assumed they had heard of the corruption in government in Gauteng from Media: print, radio, TV and newspapers reports, and several other sources (24%) including:

- Whistleblowers (government officials or members of the public)
- The Anti-Corruption hotline within the Department of Finance and Economic Affairs
- Commissions of Inquiry set up by various departments/councils
- Land and Housing Department (see RDP houses)
- Auditor-General Reports

13% were uncertain of their sources and 10% had never heard of government corruption in Gauteng, while 11% had no clue.

Table 14: Sources of Corruption

Sources	Media	Public officials	Uncertain	None	Total
Academic Inst.	23	5	4	1	33
Business	-	1	1	-	2
NGOs	2	1	-	-	3
Legislature	3	5	-	-	8
Public servants	8	4	4	7	23
Total	36	16	9	8	69
%	50	22	13	11	100

Q.: *From which sources did you hear about government corruption in Gauteng?*

7.5.2. Instances:

About cases of instance of corruption, 49% of respondents referred to some specific infamous corruption cases related to political scandals including:

- Jessie Duarte's case
- Ekurhuleni's former mayor, Bavumile Vilakazi who spent R400 000 on his inauguration party and R560 000 on a fancy car, all at the expense of poor taxpayers.
- Housing Department: Housing Board regarding subsidies and contracts; irregularities in the allocation of RDP houses and queue jumping in the provincial Housing Department waiting list.
- Department of Welfare: social grants fraud.
- Gauteng Tourism Agency: appointment of senior officials. Concerning this allegation, we tried to get an appointment with some senior officials but our efforts were not successful.
- Arms deal
- Selling of dockets by members of the Police and traffic officers taking bribes in order not to issue tickets.
- Misuse of vehicles and fraud (overtime).
- Nepotism and ghost workers.

Meanwhile 50% of respondents had no opinion with one respondent fearing that the disclosure of confidential information could lead to a breach of privilege with their clients or a violation of human rights for the public servant.

Table 15: Instances of Corruption

Instances	Housing	Traffic	Dockets	Tender	Nepotism	Loc.Gov.	Fraud	None	Total
Academic Inst	6	3	2	1	1	1	4	16	34
Business	-	-	-	1	-	-	-	1	2
NGOs	1	-	-	-	-	1	-	1	3
Legislature	4	-	-	-	1	1	2	1	9
Pub. Servants	6	-	-	-	-	-	-	17	23
Total	17	3	2	2	2	3	6	36	71
Average %	24	4	3	3	3	4	8	50	100

Q.: *Can you refer to any specific instance of corruption in the provincial government?*

7.5.3. Extent:

10% of the respondents thought it was very serious, 54% believed that the extent of corruption in Gauteng was serious, while 24% thought it was not very serious, 7% found it to be definitely not serious against 4% who had no opinion. What is interesting here is the fact that while organizations differed in their descriptions, their approach to corruption was apparent. While the vast majority of organizations expressed their concern about the extent of corruption in the Gauteng government, the breakdown of the matter sector by sector presents quite exciting patterns:

While businesses and non governmental organizations (NGOs) almost share the same opinion (serious (60%) and not very serious (40%), it is quite a different versions of events for the other sectors. In the Legislature, while the opposition parties (NNP, DA, ACDP and UDM) found the extent of corruption to be serious (57%), the ANC thought that it was not very serious (43%). Respondents (72%) from the Housing Department that was shaken by corruption and mismanagement for decades believed that the extent of corruption was serious in the province. For the Anti-Corruption Unit in the Department of Finance, corruption was definitely not very serious (60%) while 32% of academics

thought that it was not very serious, but 50% of them viewed the extent of corruption as serious.

On the question regarding the extent of corruption before and after apartheid, the majority of NGOs' respondents argued that the level remained the same before and after. Those from the legislature are divided between very much and not very much but overall, 29% of respondents believed that there is not less or more corruption now than during the old apartheid system with a tendency to remain the same. 24% thought that there was not very much corruption now than yesteryear; 11% found that it is very much now; 10% believed it is less; not at all for 7% and the same level for 6%. This question was not asked to business people, as most of them were not in business before 1994.

Asked whether corruption was increasing, decreasing or remained at the same level, academics and legislators came together to express their concerns about the question, which implied two different systems: one closed (apartheid) and one open (democracy). First of all, there is no measure of corruption because of the unavailability of documented cases and lack of "historical exposure", as put by a Wits sociology lecturer. Secondly, the level is difficult to determine because the exposure of corruption goes with democracy and this may be the reason for hearing about more cases. Moreover, legislators - and especially the ANC caucus - believed that as the new South Africa inherited a rotten system, it will take time to put in place any ethics and institutions to detect and deal with corruption and to defeat the evil practice of corruption. Its level is fluctuating but being dealt with better than in the past. Corruption is being exposed due to the general transparency, which forms part of the new system introduced since 1994. Finally, with the current situation (post 1994), it would be difficult for anyone to affirm or refute either way. In terms of public perception it may appear that corruption is now on the increase and this may negate the open society versus the closed one prior to 1994.

Nonetheless, our survey shows that 41% of respondents thought the level was the same for both systems; for 24% it is increasing; 22% do not know; 12% assumed that it was decreasing (12%). This question was not asked to business people, as most of them were newcomers in the business. The same question was dropped for housing respondents as

they felt that the lack of database before and after 1994 made it difficult to measure corruption.

Table 16: Extent of Corruption

Extent	Very serious	Serious	Not very serious	Definitely not serious	None	Total
Legislature		5	4		1	10
Pub. Servants	6	14	-	3	-	23
Academic Inst.	1	17	11	2	2	33
Business	-	1	1	-	-	2
NGOs	-	2	1	-	-	3
Total	7	39	17	5	3	71
Average %	10	54	24	7	4	100

Q.: *what is the actual extent of corruption in Gauteng?*

7.5.4. Causes:

Poor and lax management have been singled out as the principal causes of corruption in the Gauteng public sector with 32% of respondents "strongly agreeing" and 53% "agreeing" that this created an environment in which corruption can fester. This gives us 85% agreeing, while 10% (7% "disagreed", 3% "strongly disagreed") disagreed and 3% did not have an opinion.

Table 17: Causes of Corruption

Causes	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	Total
Business	-	2	-	-	-	2
NGOs	3	-	-	-	-	3
Legislature	3	6	-	-	-	9
Anti-Cor. U.	1	2	1	1	-	5
Housing	5	12	1	-	-	18
Academics	11	16	3	1	2	33
Total	23	38	5	2	2	70
%	32	53	7	3	3	100

Question: "*The extent of corruption in Gauteng is largely the result of poor and lax management and a lack of control within the administrative system that create an environment in which corruption can fester." Do you agree or disagree? (Strongly Agree – Agree – Disagree – Strongly disagree – Don't know).*

7.5.5. Root causes:

Public servants from Legislature, Public Service Commission, Anti-Corruption Unit and Housing Department were asked to rank from the most important factor they think to be a root cause of corruption in the public service in Gauteng to the least most important. A significant proportion of respondents felt that nepotism was the most important root cause that propels corruption in Gauteng, followed by poverty, apartheid, low levels of education, clientelism and affirmative action among government officials.

Academics, business people and NGOs were asked to state what could be the root causes of corruption in the public service in Gauteng. All categories of respondents emphasized the importance of human determinants and were unanimous about greed as the top cause of corruption. Greed was followed by poor systems, the lack of control and poor checks and balances, lack of accountability, absence of ethics, maladministration, apartheid, incompetence and institutional capacity, privatization and the nature of politics. In addition, historians from both Pretoria University and RAU pointed out the history of dispossession, inadequate culture of service, officials insufficiently trained, lack of commitment to a corrupt-free environment and bad example set by public figures such as Alan Boesak, Winnie Mandela, Tony Yengeni and in Gauteng's Jessie Duarte and Dan Mofokeng.

Table 18: Roots Causes of Corruption

Roots Causes	Education	Poverty	A. Action	Clientelism	Apartheid	Nepotism
Total	34	34	34	34	34	34
Business	2	0	0	2	1	2
Legislature	8	8	7	8	8	7
Anti-Corr. Unit	3	3	3	4	3	3
Housing	4	7	6	3	5	8
Total	17	18	16	17	17	20
Rank	4	2	6	5	3	1

Question: "*What are the roots causes of corruption in Gauteng? Choose among the following factors and rank from the most important to the last important causes that you think propel corruption in the public sector*".

7.5.6. Attitude toward corruption:

This section refers only to public servants (Legislature, Housing and Finance Departments and PSC); those who might have been experiencing alleged acts of corruption on a daily basis. Therefore, concerning feelings about Gauteng officials accepting bribes from members of public, a reassuring 91% felt it was very harmful against 9% who felt the act was somewhat harmful. About officials providing job for unqualified family members (nepotism), 94% of respondents felt it was very harmful and 3% thought it was somewhat harmful and other 3% judged the act not harmful at all. About dishonesty in both public and private sectors, 56% believed that it was about the same in both sectors; 38% found that it was more widespread in politics than in private sector; against 9% who had no opinion.

Table 19: Attitude Towards Corruption

	Bribes			**Nepotism**		
Bribes & Nepotism	Very Harm	Some Harm	Not Harm.	Very Harm	Some Harm	Not Har
Legislature	9	-	-	9	-	-
Public Servants	20	3	-	21	1	1
Total	29	3	-	30	1	1
%	91	9	-	94	3	3

Q.: *How do you feel about Gauteng government officials accepting bribes from public members?/ How do you feel about someone who provides a job for an unqualified family member?*

7.5.7. Proportion:

Asked about the proportion of government officials being perceived to be corrupt, the majority of all respondents (29%) believed that only a few who hold important positions are corrupt, 28% thought that it was quite a significant number at all levels, followed by 8% who believed that it was only a tiny insignificant minority; 4% argued that it was mainly senior officials with most junior provincial positions; 4% claimed that was mainly junior officials with senior provincial positions and finally, it came as surprise that 21% expressed no opinion.

However, the margin between those who believed there were “few top positions” involved and those who thought “all levels” were involved in corruption was too close to call. Thus,

while the majority (67%) of those respondents "inside" the government (Housing, Anti-Corruption Unit, Legislators) believed there were only "few top positions" involved, the majority (50%) of those respondents "outside" the government (Academics, NGOs, Business) thought this was happening at "all levels". Nevertheless, 45% of "insiders" felt this was happening at "all levels" against 33% of "outsiders" who believed this involved only "few top positions".

Table 20: Proportion of Officials Involved

Proportion	Tiny insignificant minority	Few top positions	All levels	Junior officials	Senior officials	Don't know	Total
Business	-	1	-	-	-	1	2
NGOs	-	-	1	1	-	1	3
Legislature	2	5	2	-	-	-	9
AntiCor.Unit	2	1	-	-	-	2	5
Housing	1	8	7	1	1	-	18
Academics	1	6	10	1	2	11	33
Total	6	21	20	3	3	15	68
%	8	29	28	4	4	21	100

Q.: *How many officials in Gauteng government do you think are involved in corruption?/ Only a tiny insignificant minority/Only a few but – they hold important positions/Quite a significant number at all levels/Mainly junior officials with senior provincial positions /Mainly senior officials with most junior provincial positions.*

7.5.8. Fighting Corruption:

In terms of commitment to combat corruption, there is a mixed message for government with most respondents 48% (33% agreed, 15% strongly agreed) agreeing that the Gauteng government was doing enough, 36% disagreed, 10% strongly disagreed and 4% were uncertain. Opposition parties and academics thought the government is not doing enough in combating corruption, they are trying their outmost best yet it is going to take time to reach the target. As emphasized by a RAU political science lecturer: "We do hear of people being identified and arrested, but very little of convictions and dismissals. Instead people get suspensions with pay and benefits".

The disclosure of assets by people running for public office got almost an unanimous decision with 57% strongly agreeing, 26% agreeing, 4% strongly disagreeing, 7% disagreeing and 1,3% without opinion. Trust and confidence in commissions of inquiry were seen as a great deal by 22%, a fair amount (40%), not very much (24%) and none at all (10%).

Table 21: Controlling Corruption

Combating	Strongly agree	Agree	Disagree	Strongly disagree	Uncertain	Total
Business	-	1	1	-	-	2
NGOs	-	1	2	-	-	3
Legislature	4	1	2	2	-	9
Anti. Cor.Unit	2	2	-	-	1	5
Housing	5	9	2	2	-	18
Academics	-	10	19	3	2	34
Total	11	24	26	7	3	71
%	15	33	36	10	4	100

Q.: *Do you think the government is doing enough in combating corruption by maintaining transparency and accountability?/Strongly agree /Agree /Disagree/ Strongly disagree /Uncertain.*

Table 22: Disclosing of Assets

Assets	Strongly agree	Agree	Disagree	Strongly disagree	Uncertain	Total
Business	2	-	-	-	-	2
NGOs	2	1	-	-	-	3
Legislature	8	-	-	1	-	9
Anti. Cor.Unit	2	2	1	-	-	5
Housing	8	5	4	-	1	18
Academics	19	11	-	2	2	34
Total	41	19	5	3	3	71
%	57	26	7	4	4	100

Q.*: How do you feel about the Gauteng Legislature passing a law that people running for public office should publicly disclose their entire assets?/Strongly agree/ Agree/ Disagree/ Strongly disagree/ Uncertain.*

Table 23: Confidence in Commissions of Inquiry

Commissions	A great deal	A fair amount	Not very much	None at all	Total
Business	-	-	2	-	2
NGOs	1	2	-	-	3
Legislature	4	3	2	-	9
Anti. Cor.Unit	4	-	-	1	5
Housing	4	8	5	1	18
Academics	3	16	8	5	34
Total	16	29	17	7	71
%	22	40	24	10	100

Q.: *How much trust and confidence do you have in commissions of inquiry that investigate politicians after major corruption scandals?/A great deal/A fair amount/Not very much/None at all.*

In addition, most respondents from civil society and academic institutions thought that due to the global dimension of corruption, regional and international cooperation is essential to counter corruption. There is a tendency for more action because different strategies and measures from different countries can be implemented to combat the phenomenon.

Though international cooperation is central, however it cannot be restricted to cooperation between state institutions. In South Africa in general, government has to clean its own house before looking at the international picture. Corruption here is not yet of international proportion. It is highly domestic.

These two categories of respondents (civil society and academics) believed that there was a need for ethical standards, leadership and especially political will for the adoption of appropriate policies and allocation of resources. These exist already. What is needed is the will by politicians to confront corruption when and where it manifests itself. While all these factors are a crucial component, accounting standards and audits, strongly enforced, are critical. More, direct accountability of leadership in government and the involvement of civil society is the issue.

Regarding the whistle blowing issue, they thought that whistleblowers should be protected with regard to their important role, as often, they are the only way corruption is uncovered. However, while whistleblowers are extremely useful at present, they are fundamentally insufficient as a permanent solution. The role of whistleblowers could be enhanced if the mechanisms ensuring their safety are effective and reliable. In terms of democracy, they saw democracy and the role of the law as an impediment to the incidence of corruption. While democracy is a good thing to happen in this country, it seems that even criminals are being protected in terms of " human rights" paving the way for more incidences of corruption to take place. Action needs to be taken to strengthen and develop capacity and to punish offenders. But this issue is more to do with cultural standards coupled with political will and vision.

7.5.9. <u>Rating</u>:

Asked to rate the Gauteng provincial management, a small minority of respondents felt that it was excellent (3%); but for the majority of respondents it was fair (43%) and good (36%), while poor (10%) and 4% did not have any opinion.

Table 24: Ratings

Ratings	Excellent	Good	Fair	Poor	Total
Business	-	-	2	-	2
NGOs	-	-	2	1	3
Legislature	-	5	4	-	9
Anti. Cor.Unit	-	4	1	-	5
Housing	1	7	8	2	18
Academics	1	11	15	5	34
Total	2	27	32	8	71
%	3	38	44	11	100

Q.: *How do you rate the Gauteng management in terms of fighting corruption?/Excellent /Good /Fair/ Poor.*

7.6. Key Findings

This research provides a framework of corruption-related issues facing Gauteng government and highlights the diversity of respondents in terms of occupational area. The findings include corruption causality issues as well as the way the Gauteng administration has managed to control it. The findings present a broad picture of the current administration and how they have succeeded to manage corruption risks. However, one of the key findings for the survey is that 85% of respondents agreed that institutional determinants are the principal and the most important causes that propel corruption in the public sector, while its roots lie in nepotism, which is understood as favouritism shown to relatives or close friends by those in power (as by giving them jobs); followed by poverty and clientelism far before levels of education, apartheid and affirmative action.

Although respondents generally believed that the province is well administered, they also indicated that the government must remain vigilant in monitoring and continue to review all sensitive functions they believe are posing a risk to management practices. Respondents referred to some specific infamous corruption cases related to political scandals including: Jessie Duarte's case, which will be dealt with in due course. The case of Ekurhuleni's former mayor, Bavumile Vilakazi, the Housing Department scandal regarding subsidies and contracts; irregularities in the allocation of RDP houses and queue jumping in the provincial Housing Department waiting list, as this is one of our case studies. In the Department of Welfare, there were incidences of social grants fraud. The Arms deal scandal. The selling of dockets by members of the Police and traffic officers taking bribes to not issue tickets. The misuse of vehicles and fraud (overtime) in the

department of Transport and finally nepotism and the presence of ghost workers in almost all departments are among prominent cases of corruption in Gauteng.

Table 25: Key Findings:

Findings	Legislature	Public Servants	Academic Instit.	Business	NGOs	Total %
Sources						
Media	3	8	23	-	2	50
Public officials	5	4	5	1	1	22
Uncertain	-	4	4	1	-	13
None	-	7	1	-	-	11
Instances						
Housing	4	6	6	-	1	24
Traffic	-	-	3	-	-	4
Dockets	-	-	2	-	-	3
Tender	-	-	1	1	-	3
Nepotism	1	-	1	-	-	3
Local gov.	1	-	1	-	1	4
Fraud	2	-	4	-	-	8
None	1	17	16	1	1	50
Extent						
Very serious	-	6	1	-	-	10
Serious	5	14	17	1	2	54
Not very serious	4	-	11	1	1	24
Definitely not ser.	-	3	2	-	-	7
None	1	-	2	-	-	4
Causes						
Strongly agree	3	6	11	-	3	32
Agree	6	14	16	2	-	53
Disagree	-	2	3	-	-	7
Strongly disagree	-	1	1	-	-	3
Don't know	-	-	2	-	-	3
Root causes						(Rank)
Education	8	7	-	2	-	4
Poverty	8	10	-	0	-	2
Affirmative Action	7	9	-	0	-	6
Clientelism	8	7	-	2	-	5
Apartheid	8	8	-	1	-	3
Nepotism	7	11	-	2	-	1
Bribes						
Very harmful	9	20	-	-	-	91
Somewhat harm.	-	3	-	-	-	9
Not harmful	-	-	-	-	-	0

Nepotism						
Very harmful	9	21	-	-	-	94
Somewhat harm.	-	1	-	-	-	3
Not harmful	-	1	-	-	-	3
Proportion						
Tiny ins. minority	2	3	1	-	-	8
Few top positions	5	9	6	1	-	29
All levels	2	7	10	-	1	28
Junior officials	-	1	1	-	1	4
Senior officials	-	1	2	-	-	4
Don't know	-	2	11	1	1	21
Assets						
Strongly agree	8	10	19	2	2	57
Agree	-	7	11	-	1	26
Disagree	-	5	-	-	-	7
Strongly disagree	1	-	2	-	-	4
Uncertain	-	1	2	-	-	4
Commissions						
A great deal	4	8	3	-	1	22
A fair amount	3	8	16	-	2	40
Not very much	2	5	8	2	-	24
None at all	-	2	5	-	-	10
Controlling						
Strongly agree	4	7	-	-	-	15
Agree	1	11	10	1	1	33
Disagree	2	2	19	1	2	36
Strongly disagree	2	2	3	-	-	7
Uncertain	-	1	2	-	-	4
Ratings						
Excellent	-	1	1	-	-	3
Good	5	11	11	-	-	38
Fair	4	9	15	2	2	44
Poor	-	2	5	-	1	11

The continuous corruption scandals in government spheres are merely strengthening my resolve to assume that this is the duty of any responsible government to build sustainable strategies in concerned departments such as Housing, Transport and Public Works, not to mention Education or Safety and Security. This study has detected potential corruption resistance mechanisms within the Gauteng administration, though there is still room for

improvement, as those departments not referred to in our strategic section have still much to do to improve their anti-corruption measures.

7.7. Reliability of the Results:

Properly conducted sample surveys yield useful estimates but not exact values. Errors may arise from sampling, non-response, reporting and processing. However, secondary sources such as archival information help to validate our data. The purpose of this chapter was to present and analyse the empirical data that were acquired through interview and questionnaires.

The next part undertakes to empirically explain the study outcomes.

PART THREE
DETERMINANTS AND OUTCOMES OF CORRUPTION IN GAUTENG: 1994-2004

Chapter Eight

EXPLAINING CAUSALITY: THE INTERPLAY OF THE THREE CLUSTERS OF CORRUPTION

8.1. Introduction

While the analysis in the previous chapter may help in identifying the domestic sources of corruption, it does not address the role of international key contributors to the corruption phenomenon such as foreign business bribery, the role of the State sovereignty and the granting of asylum to corrupt leaders. Based on the results of this study, this chapter presents an empirical analysis about the politico-economic and socio-cultural factors that determine the perceived level of corruption on a micro-level basis. It is a common belief that incentives and opportunities of generating corruption are strongly linked with political institutions; therefore, the empirical analysis on determinants of corruption includes many institutional factors among the potential causes of corruption. By focussing on the micro level this study clearly shows that the level of research analysis is globally shifting away from comparing countries to the study of regions or groups within a country. The micro-level approach help to build a more comprehensive picture of how corruption operates in a province endowed with opportunities. Therefore, to remain within the scope of this research, the assessment focuses only on the causes of corruption from the domestic front.

For instance, what institutional problems or societal attitudes contribute to corruption in South Africa? How do these institutional and attitudinal problems vary across institutions and provinces within the country? For example, is the issue of wide government authority problematic in all areas or just in certain activities?

While the conclusions of this study are preliminary, they, nevertheless, suggest an understanding of causes and effects that can provide guidance to the policies, procedures, and codes of conduct needed to prevent breaches in ethics. The need to understand and deal effectively with varying levels of both the practice and acceptance of corruption will become increasingly important, as such understanding can also help government, national agencies and non-governmental organizations in developing their own strategies for moving toward an environment that is freer of corruption at the organizational as well as

the national level. This provides a robust set of data on which to build strong strategies. Such knowledge can also help reduce levels of corruption in the province in designing the best approach to communicate and enforce ethical standards in ways that recognize local norms and customs.

8.2. The Interplay of the Clusters

Clearly, there is a common concern with a dependent variable such as corruption, which is a broad concept that covers an assortment of phenomena ranging from petty to grand corruption. At times corruption indicators can be inconsistent or unreliable or affected by our own biases. Their reliability relies therefore on the diversity of the sources of our data that reflect this heterogeneity. Thus conclusions about *causes* arising from the survey represent *hypotheses* that we can study with tests.

Accordingly, the causes of corruption may be explained by a combination of three clusters: economic, political, cultural and social variables. Otherwise, the two major sets of variables we identified as opportunities for corruption and controlling powers of institutions. From respondents' responses the relevant factors causing corruption in Gauteng have been grouped in three categories: intervention of the state in the economy that generates opportunities for corruption, controlling powers of institutions or institutions of accountability and finally the social and bureaucratic culture of the society. In terms of government corruption, literature on corruption distinguishes between direct and indirect causes of corruption that appropriately explain the scenario in Gauteng. On the one hand, direct factors that promote corruption are: regulations and authorizations, taxation system and spending decisions or procurement, including the financing of political parties, which is not part of our discussion. On the other hand lie indirect factors identified as the quality of bureaucracy or administrative capacity, institutional controls, recruitment and "affirmative action" policy, level of public sector wages and the penalty system. Both direct and indirect factors have been summarized as follows:

As this study establishes, the analysis of the interaction of the cluster shows that as the level of perceived corruption increases, the level of development of a country decreases

and the cultural characteristics tend to be more significant. The awareness of the dramatic effects of corruption on a country's development leads to investigate why corruption exists and what makes it so differently widespread among societies.

Table 26: Factors impacting on administrative corruption

1. Payment:
   - Salary
   - Fringe benefits, pensions, allowances, other financial incentives
2. Monitoring:
   a. Internal: when internal, the control deals with:
   - Supervision and control systems
   - Standards of performance for employees
   - Recruitment and selection procedures for personnel
   - Rules and procedures for tax collection and reporting

   a. External: control deals with:
   - General auditor's independence and capacity
   - Law and order tradition, checks and balances
   - Information made available to the public (e.g. newspapers, media)
   - The judiciary system (proving cases in court).
3. Statutory penalty:
   - The size of penalty (amount of fine, confiscation of wealth, prison sentence).
   - Administrative sanctions.
4. Public sector regulations:
   - Governmental regulations (e.g. Licences, fees, etc.)
   - The tax laws and regulations (including tax bases, collection procedures and transparency).
   - Statutory tax rates.
5. Other factors:
   - The bureaucratic structure
   - Education of civil servants
   - Political and administrative leadership
   - Cultural determinants
   - Development aid organizations.

Source: Andvig, *et al*. (2000:108).

When looking at the study's results as well as relevant empirical contributions on corruption determinants, one should note that the abuse of power thrives in Gauteng for a number of reasons that I believe contribute to its incidence:

8.3. The Role of the State in the Economy

These are administrative or institutional factors as corruption arises from the activities of the State that lead to monopoly and discretionary power. Good administration brings about bureaucracy quality. Bad administration leads to mismanagement, maladministration and corruption, thus paving the way to poor services and delaying tactics in terms of delivery. But prior to the analysis of these factors, it is significant to underline the weight of state intervention in the economy. Evidence from empirical research (Gurgur and Shah, 2000) suggests that a country characterized by large government involvement is likely to encounter corruption. Since government has the authority to redistribute resources and rents in the economy, the authority can be used for personal gains. Government officials may refuse the authorizations for new investments, delay the paperwork for import permits, use safety standards as an excuse to close down businesses, give different meanings to economic regulations to turn down foreign exchange or bank credit requests, and so on. Otherwise the more government intervenes in the operation of markets, the more opportunities for corruption appears through discretion on regulations and allocation of resources. Therefore an open economy reduces the level of available rents, which in turn leads to a reduction in the amount of corruption in the economy. Accordingly it is usually the scope of government activities, not the size of government that affects the incidence of corruption.

8.3.1. Regulations and Authorizations:

Do public sector regulations impact on the incidence of corruption? As argued before, corruption is closely associated with the activities of the State and especially with monopoly and discretionary power. The bottom line is that the more government intervenes in the economy, the more there is likely to be room for discretionary interpretation of regulations and distribution of resources by public servants. Therefore, *should we abolish the State to abolish corruption,* asked Gary Becker, a Nobel Laureate in Economics? The response is no, of course! We cannot function without a State, thanks to the many functions it must perform. It has been documented that the least corrupt countries such as Finland, Denmark, Sweden or Canada, possess an extensive public service. In the meantime, corruption seems to have increased in countries like China, Russia, Uganda or Tanzania, which have gone through economic liberalization and

privatization. Empirical evidence indicates that it is not the size of the public sector, but the way the public sector works that are of importance for the level of corruption (Tanzi, 1998; Andvig, *et al*., 2000). So the problem cannot simply be addressed by just reducing the size of the State.

The role of the State is so important than even the World Bank, which is not known for advocating state intervention took the role of the state as its theme in the 1997 Report. Regarding that role, the 1997 World Bank Development Report argues that States need strong institutions to meet people's needs effectively. In that Report, notes Madeleine Wackernagel (1997:5), emphasis was put on a two-pronged strategy: matching the state's role to its capability and improving those capabilities by reinvigorating public institutions. Therefore, when governments try to do too much with too little, they can end up doing more harm than good. Thus the state must refocus its role on what it does best: performing the public tasks not provided by markets and voluntary groups. And public institutions must be strengthened to enhance the state's capabilities.

The Report points to a survey of local entrepreneurs in 69 countries that illustrates the link between credibility and investment and firms were asked to rank indicators on a scale from one (extreme problems) to six (no problem). The results show sub-Saharan Africa and the Commonwealth of Independent States faring worst because states were failing in their core functions of ensuring law and order, protecting property, and applying rules and policies predictably. Finally, concludes Wackernagel, for the State to play its full role and to enhance its capability, the Report suggests that three mechanisms would apply: effective rules and restraints; greater competitive pressure; and increased citizen voice and partnership. Therefore, there is a need for improving the state's effectiveness and avoiding by doing so to plummet into corruption trap, as each country's institutional and political framework demands different strategies.

In a provincial administration such as Gauteng the way the government operates and carries out its functions is very important. It can exercise its role through various instruments. Some of these lend themselves more easily to acts of corruption because particular aspects of government activities create fertile ground for corruption. The government does it through the use of many rules or regulations. For instance, licences,

permits and authorizations of various sorts are required to engage, or to continue to be engaged, in many activities. Opening a shop and keeping it open, borrowing money, investing, driving or owning a car, building a house, getting birth, marriage or death certificates, getting a passport and so on require specific documents or authorizations.

The existence of these regulations and authorizations gives a kind of monopoly power to the officials who must authorize or inspect the activities. This also leads to frequent contacts between members of the public and civil servants and requires enormous amounts of time to be spent by citizens in acquiring these permits. These officials may refuse to effect the authorizations or may simply sit on a decision for months. Subsequently, they can use their public power to extract bribes from those who need the authorizations or permits. The question one is compelled to ask is whether corruption is caused by extensive regulations or is the regulations caused by corruption. In response, some scholars argue that extensive public sector regulations are the result of a deliberate strategy by civil servants to increase their clients' willingness to pay bribes (Myrdal, 1968; Rose-Ackerman, 1978; Tanzi, 1998). By assuming that bureaucrats are driven by rational, self-serving motives, the logical presumption is that they will seek even more ways to create bribe-producing delays. In South Africa, a recent study has shown that state and local government institutions are weak and often under the control of rent-seeking politicians (Rubinfeld, 1997).

In Gauteng, some individuals in the Licence Department become middlemen or facilitators for obtaining these permits. In most of the cases, the regulations are non transparent or are even publicly available and that an authorization can be made only from a specific office or individual. Thus the lack of competition in the granting of these authorizations gives the bureaucrats a great amount of power and a good opportunity to extract bribes. Government officials can use tactics to benefit from their monopoly power and administrative discretion by extracting bribes from those that need the authorizations or permits to engage in activities.

Likewise, Lambsdorff positively associated corruption with government regulations. He also measures the degree to which the government regulations are vague and lax, on the other hand. In both cases, it seems that policy intervention causes corruption. Other

studies that have focused on corruption see it as a cause for policy distortions. But it is quite often the case that policy distortions and corruption are just two sides of the same coin. Lambsdorff ended up concluding that disregarding this problem a correlation between political distortions and corruption is an important result, clearly giving direction to policy reform (1999:3).

A report on the provincial Administration of Gauteng (1997:4-5) highlights the confusion that was created by vague and lax regulations. For instance, there was a lack of clarity in the respective roles of the politicians and Heads of Department (HODs). Prior to the formal appointment of HODs when the province was established, the MEC's initially performed the dual functions of political and administrative leadership. As a result, there was administrative interference by the MEC's in managerial activities. The MEC's were unable to assert their policy priorities on the departments leaving the staff being unclear about the role of the MEC in setting the policy direction for the activities of his/her department. More, there was a lack of clarity about who HODs were accountable to between the DG and the respective MEC. The province was lacking a clear policy, which defined these relationships, and enabled the DG [and the MEC] to hold the HODs accountable.

From this, it is easy to understand in which environment public servants were working in between 1994 and 1999. However, while systems of monitoring and coordinating cabinet decision-making are in the process of being developed, these systems are still inadequate to enable effective implementation of decisions. For example, on 26 July 2001 an Auditor-General 2001 Report on the financial statements in the Office of the Premier of Gauteng for the year ended 31 March 2001, points to the internal audit and audit committee. The Report underlines the fact that no internal audit work had been done during the 2000-2001 financial year. Furthermore, no effective audit committee had functioned during the 2000-2001 financial year. This is contrary to section 38 (1) (a) (ii) of the Public Service Act, which requires that the department should institute and maintain a system of internal audit under the control and direction of an audit committee. Despite claims by management of the Gauteng Provincial Government to have established five audit committees for the departments, the Report shows that during the audit it was found that no checking was done to ensure compliance with laws and regulations.

The weakness in this area was of serious concern prompting the Auditor-General on 5 October 2001 to observe that:

> *"During the audit process various issues were raised related to a lack of proper internal control systems. This involved mainly issues such as non-compliance with control procedures, lack of timeous and adequate management information, ineffective internal audit, limited risk management processes and a lack of early warning systems. As a result:*
>
> - *It provides an environment conducive to fraud and corruption*
> - *It has a significant impact on effective and efficient service delivery*
> - *It has an impact on the extent, nature and time frame of the audit and ultimately on the cost of the audit" (2001:2).*

Thus, the need for improvements in this area that can be achieved over time should result in a positive impact on financial management in the Province.

8.3.2. Recruitment and Affirmative Action

Another contentious variable in terms of causality is the hiring of personnel. The quality of the bureaucracy can be found in what many years ago Max Weber (1947) had described as an "ideal bureaucracy", known as "Western bureaucratic administration". This system is based on: "a regular system of appointment and promotion on the basis of free contract; clearly defined spheres of competence, subject to impersonal rules; a rational ordering of relations of superiority and inferiority; technical training as a regular requirement; and fixed salaries, typically paid in money" (Richard Joseph, 1987:64).

Given the fact that nowadays most bureaucracies have sinned and lost their "genuine ideal" through corrupt acts, Weber's "ideal bureaucracy" is now a pious vow, for most bureaucracies are no longer ideal. The "myth of absolute efficiency and incorruptibility" enjoyed by the administration of the Prussian state is today only wishful thinking. In any case modern approaches to public administration show that accountability, decentralization and business style operations, in various ways challenge Weberian precepts.

Other analysts such as Andvig and Fjeldstad support de Sardan's view that Weberian informed definition of corruption is "*too narrow and excessively concerned with the illegality of such practices, defined from a modern, Western point of view*". They are militating in favour of what de Sardan calls "corruption complex" to include practices beyond corruption in the strict sense of the word. This includes some broader political debates on legitimacy, representation and participation that entail the role of the civil society but also models from social anthropology and sociology on reciprocity and networks, and on clientelism and nepotism, and other embezzlement and misappropriation to explain the causes of corruption (Andvig and Fjeldstad: 2000: 52, 66).

A recent study by Rauch and Evans (1997) on the degree to which civil servants' recruitment and promotions are merit-based for 35 developing countries indicates that the less are recruitment and promotion based on merit, the higher is the extent of corruption. Further, absence of politically motivated hiring, patronage, and nepotism, and clear rules on promotions and hiring all contribute to the quality of a bureaucracy (Tanzi, 1998:16). In other words, applications of employment and advancement along meritocratic principles have a strong negative impact on corruption levels.

In South Africa in general, and in Gauteng in particular, recruitment and promotions are based on the values and principles contained in the Constitution regarding values and principles of public administration. The core of this new policy is entrenched in the Public Service Act, 1994 (PSA) and the Public Service Regulations that set out the mandatory requirements and guidance on the steps to be taken by national and provincial administrations in implementing it. The new policy provides the new framework that addresses inequalities and historical imbalances of the past that ravaged the country as a whole. This led to the marginalization of millions of people as they were overpowered by legislation and regulations. This new policy has been called "affirmative action" through which past injustices should be improved by transforming the public service and empowering those who have been historically disadvantaged by unfair discrimination. 31% of respondents believed that affirmative action was one of the root causes of corruption in the province. Therefore, political history is an indicator of the impact of

Affirmation Action policy on South African politics in the past and today and it will be unfair not to discuss it in-depth.

Affirmative Action is an anti-discrimination measure that is reinforced by legislation for the removal of all forms of discrimination, formal and informal, and all obstacles to equality of opportunity. It finds it roots in the American discourse of the early 1960s and was first introduced by President JF Kennedy in 1961 and legislated for the first time in the US by president LB Johnson in 1965. In South Africa, its roots could be found in the aftermath of the Union in 1910 when Afrikaners came to power. As Franklin Sonn has written, "the Afrikaner's history proves that there is a direct link between the possession of political power and socio-economic upliftment" (Charl Adams, 1993:7).

Deborah Posel described how the Civil Service was "afrikanerized" during the 1950s: "The expansion of the civil service was closely associated with efforts to change its ethnic composition and political leanings. With the energetic help of the Afrikaner Broederbond, the National Party introduced what amounted to a tacit policy of affirmative action for white Afrikaners. Afrikaners were actively recruited for positions of influence in as many social, political and economic organizations as possible. This included – perhaps most importantly - colonizing the state. English-speakers who were already civil servants were discouraged, or more forcibly prevented, from holding office – particularly those in powerful or prominent positions. And Afrikaans-speaking people formed a growing proportion of new appointees" (1999:104).

Once in power the Afrikaners used the State apparatus to edict a bulk of discriminatory legislation in order to uplift the living of the "poor whites". In reality as many studies have shown, the Industrial Conciliation Act of 1924 was passed as Affirmative Action for whites against cheaper black labour, followed by legislation providing for Job Reservation or "job colour bars", the Apprenticeship Act of 1994 which gave control of entry to the trades to the whites unions. The Native Building Workers Act of 1951 prohibited blacks from doing skilled construction in white urban areas. This is Affirmative Action that contributed to the rise of Afrikaner business. For instance, the first act of the Reddingsdaadbond of the 1940s was to pressurize government to promote Afrikaner business ownership. As a result, Franklin Sonn contends, "the plain nepotism based on

Afrikaner chauvinism, which represents the most extreme form of Affirmative Action, was strongly propagated throughout. Economic nepotism and the taking over of power changed matters for the Afrikaners" (1993:7). A look at the following figures, as presented by Sonn, gives us an illustration of the Afrikaners use of the State apparatus:

1. In 1952 about 80% of the employees of the South African Railways and Harbours and 68% of the employees of the Post Office were Afrikaners. At the same time there were no fewer than twenty-two public corporations with the government deliberately appointing National Party Afrikaners to key positions to ensure the advancement of apartheid. The interest of the public sector grew by 50% in the period 1946 to 1976.

2. By 1968 there were twice as many Afrikaners in the public sector than in 1948. In 1979 35% of economically active Afrikaners were in the public service and in 1978 about 90% of the approximately 150 key positions in the public sector were held by Afrikaners (1993:7).

In terms of wages, scholars have compared the size of income between blacks and whites. In 1975, O'Meara calculated approximately that "if the real income of whites against blacks in industry in 1947-48 was taken at 100, the index of real white salaries rose by more than 10% in the first five years of NP rule. During the same period the income of blacks decreased by 50%. By 1960 the real income of whites stood at 130" (1975:71).

The result of these inequalities was the marginalization of blacks not only from political power but also from economic participation that impacted on stability and long term development. Subsequently, as observed by Eli Louw (see Adams, 1993:153), inequality engendered other problems such as:

a) A very unequal distribution of and wealth between white and black communities.
b) Massive unemployment and poverty among blacks.
c) An over-reliance on white males in skilled occupations.
d) Shortcomings regarding the educational system, which reduces equality of opportunity for blacks.

The exclusion and incapacitation of blacks from mainstream economic life was not only maintained but encouraged as well. Wiseman Nkulu (1993) for example, stressed that "successive governments used legislation to inhibit the economic advancement of blacks and state budgetary allocations to promote the development of whites through better education, health facilities and housing. Blacks access to jobs and to economic resources – land, capital and technology – was severely restricted through a plethora of laws and regulations" (see Adams, 1993:11).

The white Affirmative Action was characterized by nepotism or "bond". As pointed out by Sonn, "in this significant shift the Broederbond played a very important role leading some observers to declare "the growth of State capitalism in South Africa since 1948 has also been the growth of Afrikaner capitalism" (Adams, 1993:7). However, instead of crying vengeance in reverse or retribution and recrimination, Mandela in a statement in 1991, rose to the occasion and promised that Affirmative Action will be introduced to redress "imbalances created by apartheid" and that there will be no abuse or shameless nepotism. " Nor are we saying that just as the white skin was a passport to privilege in the past, so a black skin should be the basis of privilege in the future. Affirmative Action must be rooted in principles of justice and equity" (Mandela, 1991).

In the New South Africa, according to the White Paper (1998:8) on Affirmative Action, one of the post-1994 Government's foremost tasks has been to transform the Public Service into an efficient and effective instrument capable of delivering equitable services to all citizens and of driving the country's economic and social development. This comes after a long period of unfair discrimination and division on the basis of race and gender and the exclusion of people with disabilities. As a result, the Public Service lacked legitimacy and credibility in the eyes of the majority of South Africans. Therefore, the restoration of legitimacy and credibility became one of the keys to the transformation process through the development of a broadly representative Public Service. Consequently, Affirmative Action policies were introduced for the first time in 1994 to bring into the administrative heart of government, people from those groups who had been marginalized and systematically discriminated against by the apartheid state. Thus the focus was on the field of human resource management and the "target group" comprised

black people that refers to Africans, Coloured and Indians; women, and people with disabilities.

Nowadays, Affirmative Action has focused solely on the employment, development and promotion of the disadvantaged group. As anticipated by Thea Wingrove, "it redresses imbalances. It identifies positions that have previously been inaccessible to the disadvantaged group and launches special recruitment drives for these groups as well as engaging in training and development" (1993:5). For that purpose, the White Paper defined Affirmative Action:

> *" as the additional corrective steps which must be taken in order that those who have been historically disadvantaged by unfair discrimination are able to derive full benefit from an equitable employment environment"* (1998:9).

However, as a non-meritocratic system of recruitment or promotion, the implementation of the AA policies was of great concern among all communities and was hampered by shortcomings and subjective allegations over its credibility. This concern could be justified on two grounds. Firstly, to white people it has been seen as a form of discrimination and an economic threat. Whites perceived themselves as being vulnerable in the face of the impending restructuring of political power relationships. As argued by Hugo (1998), *"white South Africans associate the demise of white supremacy with a sense of threat and vulnerability"* and these fears of change were more pronounced among Afrikaners, the occupational group than among other white groups. Secondly, to others, the disadvantaged camp, it represents hope for real socio-economic change and economic opportunity and a better future.

Indeed, for many whites, AA is nothing else than a form of discrimination. Where blacks were previously discriminated against on racial lines, is the discrimination not now in their backyard? Is black empowerment not simply apartheid in reverse? In answering these questions there is general consensus among writers that "most affirmative action programmes in fact aim to achieve equality among people of different races, gender, or other groups; their aim is to overcome discrimination and to achieve equality" (see Pierre Hugo (1992), Duncan Innes (1993), Adèle Thomas (1996), Blade Nzimande and

Mpumelelo Sikhosana (1996). A report on AA in South Africa states, "avoidance of tokenism should be the rule because AA does not undermine merit-based recruitment or promotion. More, it is a fundamental error to equate AA with the preferential treatment of underserved persons, and such an approach is offensive towards people from relevant target groups" (Price Waterhouse, 1996:4).

This point of view underlines Innes' explanation of what he thinks about "tokenism" 1993:15), especially when a black person is appointed to a senior position without preparation and lacking requisite skills to take responsibility:

> "*tokenism is another serious drawback which sometimes accompanies affirmative action programmes. It usually occurs when a company or organization is very keen to promote blacks into prominent positions within the organization in order to achieve a "window-dressing" – to look good in the eyes of either the international community or black consumers, for example… But in reality, while the post still carries a grand-sounding title, it has been stripped of all its decision-making powers, to ensure that the new incumbent cannot inflict too much damage on the organization*."

This led Innes to warn against this form of affirmative action that he found to be "particularly pernicious because it degrades the black incumbent in the eyes of his/her colleagues and subordinates, who quickly become aware of the changes the post has undergone. Furthermore, this experience is eventually humiliating for the incumbent as well, since he or she becomes a symbol of ridicule within the organization" (1993:15). Thus, for affirmative action to have any chance of succeeding, tokenism must be avoided at all costs.

Secondly, to those who have hope of a real change, notably the target group, the implementation of AA did not come without some knocks. The White Paper (1998:25) reports on some distorted ways of applying AA whose effect was to boost some groups of the target group at the expense of others, thereby perpetuating their disadvantaged status. For instance, within some National Departments and Provincial Administrations there was a tendency to recruit one group of women at the expense of others as the requirement to affirm *women* was used to affirm white women only at the expense of African, Indian and

Coloured women. There too was a practice that has evolved in some instances to promote one group among the broad group, “black people”, while ignoring the others. In such situation “black” is wrongfully interpreted as Coloured only, or African only or Indian only when it is an inclusive term for African, Indian and Coloured people. Persons with disabilities suffer in similar ways.

Another illustration comes from Adèle Thomas (1996:56) who calls these distorted ways “some South Africanisms” consisting of events that are particular to South African landscape. She explains how affirmative action programmes, in many cases, are perpetuating an ethnic conflict and subsequently historically so-called Coloured and Asians in the country were the more favoured groups among the disadvantaged. Consequently, some organizations have introduced affirmative action programmes, which specifically exclude these groups in favour of the majority “black” or “African group”. Furthermore, discrimination against women, both by black and white males, still widely exists and this issue has not yet, received the attention, which it warrants, as Thomas argues. In this regard, it is arguable that such policies are not only unwise but are a misrepresentation of government policy and need to be stopped where they occur and strongly monitored and the target group as a whole needs to benefit directly from affirmative action according to their disadvantaged status.

As reactions to this situation, individuals from the target group have to face hostility on the job where they are often stigmatized as “token appointees” and are seen to be unworthy of their jobs. Such hostility, notes the White Paper, has cast a slur on many if not all members of these groups despite their levels of competence, capacity, and qualifications and even when they are better at their jobs than anyone else. As a result, many individuals from this group prefer not to be associated with Affirmative Action. Therefore, the implementation of Affirmative Action in both the old and new system moves us far away from Weber’s “ideal bureaucracy”. An absolute contradiction to Weber’s principle when one thinks of the “economic nepotism” of the apartheid era and today’s “comradeship” within the ruling party.

In Gauteng new political classes that ascended to power in the aftermath of the 1994 elections tended to move away from what was the apartheid system. It is the rise and

triumph of those new groups or individuals – in opposition to the oppressive old regime – that opened the door to yet another context for the mushrooming of political corruption. Transformation was the name of the game for the newcomers. The "new men" are coming from the African National Congress (ANC), now the ruling party, which won the 1994 elections and took power from White rulers. The change in the leadership of this liberation movement was comprehensive.

The new elite comprise of three types of people: first, there was the group coming from Roben Island's prisoners, such as the likes of Tokyo Sexwale, former premier who quit in 1997 and was replaced by Dr Mathole Motshekga. Secondly, there was the growing number of those coming from exile the likes of Jabu Moleketi, the capable Gauteng MEC for Finance and Economic Affairs. And the last group was that of trade unionists and other freedom fighters who resisted from inside South Africa such as the premier of Gauteng Mbhazima Shilowa, Khabisi Mosunkutu, MEC Transports and Public Works and former MP (1994-1999) or the Johannesburg executive mayor, Amos Masondo; activists such as Mary Metcalfe, MEC Agriculture, Environment and Land Affairs, Ignatius Jacobs, MEC Education and former MEC Welfare and Population, Angelina Motshekga, MEC Social Services and Population Development, to mention but a few.

As elaborated in early studies on political systems, the period of bureaucratic transition generally brings about structural fragmentation or conflict in the public service between the "new men" in power and the older public servants. After the demise of apartheid and the takeover by the ANC in Gauteng, it became obvious that the conservatism of the apartheid bureaucracy stood in sharp contrast to the dynamism of the "new men" in office bent on rapid transformation of the South African polity in general through "Affirmative Action" according to the vision of the ANC leadership. Affirmative Action commenced in the public service in 1994, under special provisions contained in the Public Service Staff Code. This was intended as an interim measure until the introduction of the White Paper on Affirmative Action in May 1998.

The White Paper on the Transformation of the Public Service supported by the White Paper on Affirmative Action in the public service provides guidelines to departments in terms of race, gender and disability for achievement by the end of 1999. The requirement

for the attainment of representativeness in the public service is that within four years from 1995 all departments' establishments must endeavour to be at least 50% black at management level; at least 30% of new recruits to the middle and senior management echelons should be women and within ten years, people with disabilities should comprise at least 2% of public service personnel.

As a result, older public servants, whites especially, trained and experienced, became both unenthusiastic and recalcitrant about putting the new program into effect. But it was inevitable that when the rule of the white minority ended, and when positions became available in new structures of administration, the posts were rapidly filled by representatives of the new ruling party. Accordingly, the brain drain mainly on the part of white bureaucrats began, despite the obstructive tactics of the old bureaucracy in an attempt to hold onto top positions. In the growing administrative structures, the politically faithful rather than the technocrats or professional bureaucrats increasingly filled these positions. As put by Charlotte Bauer, "[*White emigrants are] fed-up ... with the insecurities of no longer holding the trump card in the new order"* (*Cape Times*, 19 April 1999).

Excerpts from a recent study on the brain drain phenomenon in South Africa provide evidence on the extent of the problem. Johann van Rooyen analyses in his new book entitled "*The New Great Trek"* (2001) all the trends related to South African emigration and especially the scope of South Africa's exodus and its costs to the economy.

Regarding the scope, van Rooyen argues that thousands of predominantly white, young, skilled South Africans of all persuasions, regions and professions are leaving the country each year to settle in mainly Australia, New Zealand, Britain, the USA and Canada. Official statistics suggest that just more than 8 200 people had emigrated from South Africa during 1998, but due to an under-reporting of between one-half and two-thirds, the unofficial total will have been between 16 000 and 25 000. These latest emigrants joined the 550 000 emigrants who have officially left since 1995, in addition to the 500 000 to one million emigrants who may have left the country unofficially during this period.

Affirmative Action is one of the reasons those people are leaving, but there are other reasons that may be singled out as emphasized by van Rooyen:

> *"...South African emigrants are motivated by a number of typical `push` factors and these are countered by many `pull` factors. The typical emigrant will list various `push` factors in order of importance, among which will be uncertainty about the future, falling standards, the economy, affirmative action and bleak job prospects, and loss of faith in the ANC-led government, but most importantly, ... , he or she will list violent crime as the real reason for wanting to emigrate. Surveys indicate that 60% of emigrants regard crime as the major reason for leaving South Africa, while 19% cite concern for their children's education. A total of 15% of emigrants said that they were looking for a better quality of life, 14% wanted better prospects in general, 20% were concerned about healthcare, and 10% cited the government, the economy and affirmative action as reasons for emigrating..."*

In terms of loss, van Rooyen found out that "the real significance of this exodus can be found primarily not so much in the sheer size of the exodus, even though it is large by any standard, but in the fact that these emigrants represent a huge loss of human capital - they are mostly professionals and their skills and ability to create wealth and jobs cannot be replaced overnight, if at all". Professor Haroon Bhorat from the University of Cape Town's school of economics believes this trend has a negative effect on our national development. He said that "the country faces a severe skills shortage and that in this context; the outflow of that scarce resource - skilled workers - is a cause for concern" (www.mnet.co.za/CarteBlanche/default.asp). Furthermore, the Human Sciences Research Council (HSRC) traced the movements of graduates and found that close on 20 percent of South African graduates are living abroad - a fact that costs the South African Receiver of Revenue R20-billion per year.

In conclusion, it should be argued that even though the brain drain is not a recent phenomenon, it has caused much concern in South Africa over the last few years. South Africa is losing more skilled people every year, even much more than the Central Statistical Services data indicates. It may be coincidental but during the period between 1994 and 1998 in Gauteng, I witnessed unprofessional behaviour such as uncontrolled expenditures, free wheeling state enterprises, and an entrepreneurial ethic that permitted wholesale trade in public resources. These trends are common in Africa during transitional periods such as a change of government from dictatorship to democracy. In addition these

new opportunities gave easy entry to a variety of outside promoters, salesmen, and brokers who offered a dazzling array of "supplier credits", equipment, projects, and benefits to enhance the status of an agency or line the pockets of its managers, as observed by Le Vine in Ghana's case (1975:96).

In such circumstances, opportunities for political corruption are rife: office holders became individual political entrepreneurs, each at his own level, operating according to whatever personal techniques he could develop and whatever political resources he could control. This was - and still is - the case within the Gauteng Licence Department, the Housing Department, the Department of Education, the traffic Police, the Department of Safety and Security and particularly the Hillbrow police station, not to mention the Department of Local Government, as some cases of misconduct raised in this study suggest.

The Public Service Regulations require the development and implementation of an affirmative action programme that contains the following:

• Numeric and time-bound targets for achieving representativeness,

• Annual statistics on the appointment, training and promotion within each grade of each occupational category of persons historically disadvantaged (PSR, III, D.2).

In line with the Affirmative Action policy, the following table describes changes in the composition of employees represented in terms of race, gender and persons with disabilities in the Gauteng government as follows in July 2000:

Table 27: Distribution of persons employed in the Gauteng Government:

African			Coloured			Indian			White			Total		
M	F	D	M	F	D	M	F	D	M	F	D	M	F	D
26529	51124	64	1480	3198	4	987	1627	-	7637	21277	49	36633	77226	117

Source: The State of Representativeness in the Public Service, July 2000:18
Key: M = Male; F = Female; D = Persons with Disabilities

This means the overall total of persons employed in the Gauteng Administration in 2000 was 113 976 representing 68% of Africans (M=23,2% and F=44,8%); 25,3% of Whites (M=6,7% and F=18,6%); 4% of Coloured (M=1,29% and F=2,80%), 2,28% of Indians (M=0,86 and F=1,42%) and 0,1% of disabled people. Despite this broad representativeness, transformation of the public sector has only been partly achieved with regard to the three target groups in terms of current regulations. As pointed out by the Public Service Commission (PSC), transforming a scattered and disparate public service based on racist values and organized around self-interest has been a profound challenge since the democratization process started in the early 1990s and became formalized after the first democratic election in 1994 (Report on the State of the Public Service 2001:9).

However, despite the controversy surrounding the AA policy which is seen as a blatant favour shaped for the upliftment of blacks in the workplace, a number of analysts believe there is room for improvement. As Professor Tom Lodge argues:

> *"affirmative action criteria can undoubtedly be combined with meritocratic considerations in making appointments, but this does not seem to be happening consistently. The exodus of skilled personnel from the public service as well as the appointment of under-qualified people to middle-management positions at a time when public service tasks have become increasingly complicated, has increased bureaucratic inefficiency and hence increased the incentives to bypass official procedures illegally. This may be a short-term problem, though. The proliferation of public-sector professional training institutions suggests that the supply of adequately trained job-seekers should soon outstrip demand", (2002:150).*

To conclude, it is worth to point out that after ten years in power, the "Affirmative Action products" or the newcomers are relatively doing well, although there are poor performers among them. The country in general and Gauteng in particular, is well-run, despite the high level of crime and poverty; the economy is strong compared to other African countries and it is difficult to draw a demarcation between the new black management and the old white management. The "tokenism" noted at the beginning of affirmative action during the first term of the present government at all levels had given the impression that affirmative action - due to the lack of training and requisite skills on the part of black

incumbent - and corruption were the two faces of the same coin. Corruption is still there in the province – see the Housing case study - but AA cannot be pointed at as its only root cause. The lack of a database regarding AA cases is of great concern, rendering difficult any diagnosis of these cases. This constitutes the weakness of this factor in explaining causality. I cannot consider AA policy as the origin of all dismissals of corrupt public servants in Gauteng Administration. The institutional set-up of the bureaucracy also impacts on the incidence of corruption. And the lack of meritocratic recruitment and promotion as well as the absence of professional training has been found to be associated with corruption.

8.3.3. Tax and Procurement Regulations

The burden of high taxes and procurement regulations are major problem areas. Regarding taxation, scholars such as Tanzi (1998) have emphasized the fact that taxes based on clear laws and not requiring contact between taxpayers and tax inspectors are much less likely to lead to acts of corruption. However, when the laws are difficult to understand and can be interpreted differently so that taxpayers need assistance in complying with them, when the payment of taxes requires frequent contacts between taxpayers and tax administrators or when the administration procedures (for example, the criteria for the selection of taxpayers for audits) lack transparency and are not closely monitored within the tax or customs administrations, then corruption is likely to be a major problem in tax and customs administrations, as we shall see in the next chapter.

Focusing on procurement, my investigations found that the majority of business people claimed that procurement spending, that is the purchase of goods and services on the part of the government is another area affected by corruption. Indeed, this may be related to electricity, water, public housing, access to educational and health facilities, access to public land, and so on, as expressed by observers. Even access to some forms of pension, such as for disability, fall into this category because individuals who get them have paid less in contributions to the pension funds over time than the pension they get once their disability status is approved. Evidence in some countries has shown that disability pensions have been a fertile ground for corruption. In some countries, some individuals

benefited enormously when they were able to get access to large amounts of credit or foreign exchange at below market prices (Tanzi, 1998:13).

In Gauteng, because of the limited supply of goods and services, rationing or queuing becomes unavoidable, as it is the case in the Department of Welfare where excess demand is created and decisions have to be made to apportion the limited supply. These decisions are often made by public employees who find themselves in positions where they have discretion over important decisions. In these situations corruption and often high-level or political corruption can play a major role. A net of tender boards has been set up at provincial and national level and a procedure for inviting and evaluating tenders.

However, an audit conducted by the Ncholo task team (1997) in the old Department of Corporate Services - now the Premier's Office – revealed that the tendering system did not allow solutions to be requested, but products only. The Department's view was that the tendering system was faulty and this meant that the best practice was often ignored. Similarly in the implementation of projects there was poor definition of the costs, time and resource requirements in tenders. In the meantime, the Auditor-General noted that there was non-compliance with tender procedures in the Department of Finance and Economic Affairs for the year ended 31 March 1997. For instance, contract numbers in respect of certain expenses could not be furnished to the Office. The Department was unable to justify two monthly payments of R20 452 it said was connected to cleaning services. This amounted to approximately R400 000 for the 1996-97 financial year. Only proposals, indicating the date of tender submissions, were supplied as evidence. In the absence of evidence substantiating that tender procedures have been complied with and that the respective contracts have been signed, these payment were considered by the Auditor-General's Office as possible unauthorized expenditure.

In its 2000/2001 Annual Report, the department of Finance acknowledged that the management of the tenders had been quite a challenge which needed to be addressed so as to improve the quality of service it provided to other departments. To this end, the Tender Board's focus that year was to deal with companies with a clear message that government will not tolerate the abuse of its policies for the benefit of the few unintended beneficiaries. From this perspective, let us have a look at the administration of

procurement in Gauteng, in accordance with the official procurement policy as provided by the Provincial Tender Board Act, 1994 (Act No2, of 1994) and Finance Department's regulations.

8.3.3.1. Procurement Administration in Gauteng:

8.3.3.1.1. Objectives:

The objectives of Procurement Administration are to:

- Manage and support the provincial procurement process and provide a procurement administration service to government;
- Ensure compliance to the provincial procurement policy;
- Create a policy environment conducive to maintaining a high standard of quality and efficiency, whilst ensuring value for money and the promotion of sustainable employment generation;
- Empower disadvantaged communities, women and the disabled through the promotion of small, medium and micro-enterprises and those controlled by persons from previously disadvantaged backgrounds. In 2001, of the R658 million tenders approved by the Tender Board, 53% was awarded to Small and Medium and Micro Enterprises/Previously Disadvantaged Individuals.
- Simplify the procurement system and ensuring that access to, and knowledge of, the tendering process and opportunities is enhanced.

Procurement Administration has offered the following services to the public:

- Advertising, dissemination, receiving and closing of tenders;
- Processing of tenders that fall outside the departmental delegations;
- Arranging for and servicing Tender Board meetings;
- Coordinating and administering term contracts for all line departments;
- Conducting public workshops, and giving advise on the tender process;
- Conducting training for line departments on amendments to procurement policy;
- Conducting ad hoc investigations on compliance issues; and
- Preparing reports on specific tender investigations, an aspect of the tendering process and general reports as and when they are required.

General tenders invited by the Office of the Provincial Tender Board and provincial Departments are subject to the Provincial Tender Board's General Conditions and Procedures. It is of vital importance that prospective tenders study this document thoroughly in order to be fully acquainted with all the terms and conditions contained therein. Tender procedures are as follows:

8.3.3.1.2. <u>Tender Procedures</u>:

a) <u>Procedure for calling tenders using the revised delegated authority</u>:
Section 5(1)(b) of the Tender Board Act (Act no.2 of 1994) empowers the Gauteng Tender Board to call for tenders. Therefore it follows that the responsibility for drawing up tender documents also rests with the Provincial Tender Board. However the physical action has been delegated to various bodies, namely, Line Departments in respect of tenders that they invite in terms of delegated powers. The Office of the Tender Board (Procurement Administration), in all other cases including tenders for general period contracts, specific period contracts. The financial limits for the delegated powers have been increased from R12 500 to R100 000 and from R120 000 to R1 million.

b) <u>Departmental Tenders</u> (from R101 000 to R1 million):
The financial limits for departmental tenders has been increased from R120 000 to R1 million, Line Departments are required to follow the procedure as per GT 37 (User Manual) specifications. The specifications should be written in an open manner without mentioning brand names, to ensure maximum participation by any person/entity, without barrier of brand names or around a particular company. Thereafter the specifications must be submitted to the ICT (Internal Tender Committees) for approval. If approved the tender is advertised.

c) <u>Advertising Tenders</u>:
All tenders for the Gauteng Province must be advertised in the Government Tender Bulletin, and the three local newspapers, namely *Sowetan, The Star and Beeld*. Tenders should be advertised for 28 days. If a shortened period is required, Line departments

should approach Procurement Administration (Office of the Tender Board). The adverts should be done through the Government Printer in Pretoria.

d)Issuing of Tender Documents:

The approved tender documents begin with the prefix "GT" and these documents are available in an electronic format from Procurement Administration. Whenever, issuing tender documents include the specifications, declaration affidavit and special conditions. A record of those who collect tenders is maintained, i.e. name of company, contact person, address and telephone or cellular or e-mail. With regard to documents, it should be noted that specific standard forms are used to compile a tender document. These forms vary depending on whether the requirement is to supply goods/services to the Government or to purchase goods from the Government. A tender document will usually consists of the following:

- Covering page of the official tender document that must be signed in ink by the tenderer.
- GT 6: Important conditions. These conditions are supplementary to the GT 36 conditions and contain important information, which must be scrutinized thoroughly. Any substantial deviation from these conditions may invalidate a tender.
- GT 7: Description and quantity of requirement. Price and delivery period to be indicated by tenderer. A variety of GT 7 are used, depending on the type of commodity required.
- GT 8: Provision is made on this form for the tenderer to indicate the name and address of his business and to sign the document in ink. By signing this form the tenderer confirms that he/she is familiar with the contents of GT 36 and fully acquainted with all the terms and conditions contained therein. It also contains several undertakings, which form the basis of a valid offer that, if accepted by the province, will result in abiding State contract. Failure to sign this document in ink may invalidate the tender.
- GT 10: Questionnaire. A reply must be given for every question whether it is relevant or not. The questionnaire serves as an instrument used by the province to evaluate offers and tenders, i.e. it can be assessed whether the tender is the agent

for the product offered, what levels of stock are carried, where the stock is carried, etc…

- GT 11: Preference certificate. Preference is awarded in order to promote local manufacture and for this reason a preference certificate is included in the tender document.
- GT 12: Declaration of interest. In order to ensure that all tenderers receive fair and equal treatment, it is necessary that this form be completed. All tenders received must be evaluated and adjudicated objectively without favouritism and without acting to the detriment of any person.
- Specification: All offers made are evaluated for compliance against information furnished on the specification. Should a tender document make reference to a specification, then tenderers must ensure that the relevant specification is attached to the tender document. The specification will contain all the information and requirements to which the product must comply.
- Special conditions: will *inter alia* be applicable on requirements such as perishable provisions, fresh and processed meat, kitchen refuse, lead and tin products, electric and telephone cable, building and auctioneering services, etc… Special conditions provided for in the tender document must be studied with care as any deviation there from may result in the disqualification of a tender. Should any of the special conditions be in conflict with the conditions contained in GT 36, the special conditions will then take precedence.
- Enterprise Declaration Affidavit: To enable the provincial Tender Board to know the owners/directors of company or joint venture partners. To determine as to whether a company is constituted by individuals with previously disadvantaged status or not. To verify as to whether a company is an SMME or not and shareholding equity for two companies to form a joint venue.

e) Tender Closing Time:

In the interests of good order and in order to maintain confidence in the system, it is essential that a definite cut-off time is set and it should be strictly observed. Paragraph 16.2 of GT 36 sets the cut-off as 11:00 on the day indicated in the tender document. Late tenders are not accepted.

f) Opening of Tenders:

Tenders should be opened in public as soon as practicable after the closing time. Usually only names are read out, if so requested at the time of opening of tenders. There are specific provisions that deal with reading out of prices for building, civil, mechanical and electrical categories. However, Departments can read out prices for other categories as well if capacity is available to do so.

g)Considerations of Tenders:

All tenders duly admitted are taken into consideration by the ITC (Internal Tender Committees). The manner in which tenders must be submitted is prescribed in paragraph 20 and 21 of GT 36. It should be stated clearly that price is not the only determining factor, as there are other socio-economic objectives to be considered, e.g. preferences, transfer of skills, etc…

h)Acceptance of Tenders:

Successful tenderers are advised of the acceptance of their tenders by registered mail of the original copy, and by electronic format, to minimize delays. This is a line department function for both delegated and the successful tenderer. Departments are required to enter into a contract with the successful tenderer, as per the attached model contract document, which is guideline to line departments.

i) Publishing of Tender Results:

The results of the successful tenderer should be published in the Government Tender Bulletin, and the following information should be published: 1. Name. 2. Price and delivery basis. 3. Brand name of the product or manufacturer's name. 4. Where applicable, preference percentage claimed.

j) Additional Information:

Tender documents are not available for perusal by the public, but at the written request of a tenderer or interested party, the particulars as listed above can be provided. It must be borne in mind that the tender documents should be filed properly, and departments can use their abbreviated names like FEA100GP (Finance and Economic Affairs) for their tender numbers.

However, it should be noted that the Gauteng Tender Board Act came to an end at the end of March 2002. In accordance with the Public Finance Management Act (PFMA) the decision regarding procurement now lies with the Accounting Officer. The driving force behind this decision is the implementation of the Public Finance Management Act (PFMA) that forces provincial departments to submit timeously their quarterly reports. As a result, in preparing for the implementation of procurement reform, the Provincial Tender Board Act was abolished with effect from 26 March 2002. With effect from April 2002 the Gauteng Shared Services Centre (GSSC) will play the role in driving strategic procurement initiatives of the Province and managing the full supply chain to optimize Gauteng's purchasing power. Treasury is in the process of accrediting departmental acquisitions councils and procurement units. The Provincial Treasury took over temporary responsibility for Corporate IT (Informatics) from the Office of the Premier; this unit is destined for the GSSC (see Annual Report 2001/2002:13, 26).

Quality service delivery and good governance justify the motive behind the GPG's innovative Shared Service Centre ("SCC"). The first initiative of its kind in South Africa, the SSC combines the provincial administration's internal support functions, namely Finance, Human Resources, Procurement and Information Technology, into a single organizational unit providing these as core functions. This means that scarce resources are optimally utilized and departments can concentrate on delivering core services to the people of Gauteng. Finally, the Directorate recommended, and the Board approved, the centralization of the administration of the security tenders and contracts as a separate project, and a full time senior staff member was seconded to manage this function.

8.3.3.1.3. <u>Lack of Transparency</u>:

Nevertheless, a close look at procurement processes raises some important questions concerning its effectiveness and affordability. Are the procurement processes adequately implemented? Are they themselves a source of corruption? Are they being well adhered to? Are they too difficult and complex to maintain? While the public procurement process looks effective in law, the same cannot be said in practice, especially at the provincial

level where conflicts of interests are rarely declared. No one can exclude the possibility of corrupt influences given the way procurement is organized in practice, and particularly when procurement to larger public projects is concerned.

A study on fiscal transparency and participation in the budget process in South Africa (Folscher, 1999: 24) shows that:

(1) Current procurement processes are unnecessarily complex and non-transparent, rendering them inefficient and creating opportunity for corruption.
(2) Current regulations are not always observed in practice, leading towards inconsistent application and corruption. The Auditor General's report covering the 1997/98 financial year noted several instances of non-adherence to procurement procedures across all votes and provinces. The reasons ranged from ignorance of, to deliberately ignoring the rules and regulations.
(3) Current procedures are costly; adding unnecessary cost to the price of the resource purchased, and should be streamlined.
(4) While calling for national legislation to ensure fair, equitable and cost-effective procurement systems across the public sector, the Constitution does not, however, say which agency should take responsibility. Given the complexity and inflexibility of the current rules and regulations, some provinces, including Gauteng, have in the meantime proceeded to draft their own regulations. For instance at provincial level, with regard to the early warning systems, provinces have instituted different systems to control over-expenditure. The measures range from ceilings on certain types of expenditure, to regular provision of cash flow statements and projections; regular review meetings; treasury approval for all spending commitments and even a virtual banking system in the case of Gauteng. But many of these measures were only implemented in the recent past and their effectiveness remains untested.

Subsequently, shortcomings of this policy lead to its reformulation that ended up with it being amended. This comes with new regulations in terms of the Public Finance Management Act of 1999 known as the "Framework for Supply Chain Management". According to new regulations, the Supply Chain Management applies to all national and provincial departments and trading entities, constitutional institutions and public entities

as listed in Schedules 3A and 3C of the PFMA. This Framework took effect on 5 December 2003 and serves as a formal requirement to accounting officers/authorities to ensure the implementation of the "Supply Chain Management" process as an integral part of their financial systems (see *National Treasury*, December 2003).

As other organs of state replicated the procurement reform measures in the national sphere of government, very divergent interpretations of government's procurement objectives and strategies became prevalent. Hence the need to issue a single legislative framework to guide uniformity in procurement reform initiatives at all levels of government. There was also the need to replace the outdated and inefficient procurement and provisioning practices in government with a supply chain management function and a systematic competitive procedure for the appointment of consultants. Therefore, the repealing of the tender board legislation is an affirmative answer to questions raised at the beginning of this section.

In terms of public procurement in Gauteng, half the respondents in the survey from the business sector thought that there was sometimes some form of collusion between the buying side (tenderers or contractors) and the selling side (responsible officials). They said there was a lot of corruption involved. In order to get a tender one should at least know someone in the Provincial Tender Board or make payments to officials. Concerning affirmative procurement, respondents felt they were not satisfied with it. The reason for dissatisfaction was that affirmative procurement was only in writing and not in practice. Tender requirements are too high for small businesses to meet. As a result, small businesses lacked interest in applying as they knew they would not meet all the requirements. This in turn resulted in so-called white companies being awarded tenders.

An investigation into this matter by a task team found that the Provincial Tender Board changed specifications set by the departments without reference to the originators. Departments experiencing problems with tender procedures included the Department of Agriculture; the Department of Health where poor specifications were written for a tender for helicopter ambulances resulting in specifications being adjusted after the tender had been published. This caused problems with a number of tenderers who contested the award of the tender. For instance, the lack of transparency and incompetence in the

awarding of tenders emerged when the Provincial Tender Board awarded a helicopter ambulance service to Ndinzani Aviation Services. Vuyo Mvoko reported in *Business Day* (14 May 1997) that Europ Assistance, a medical services company had instituted court action applying for the award of the tender to Ndinzani to be set aside because it had offered a low price and that Ndinzani never existed before applications closed for the tender. Furthermore, Europ Assistance accused a tender board official of tempering with its prices and also pointed out that Ndinzani chairman Peter Malungani was a member of the Board. Complaints about the handling of the tender led to an investigation by the Auditor-General who asked the Board to suspend the implementation of the tender pending the outcome of the investigation. The Health Department had recommended to the Board that Europ Assistance be given the tender.

However, the Gauteng Finance and Economic Affairs MEC Jabu Moleketi stated that, "in his final report, the Auditor-General exonerated the Tender Board's recommendation and adjudication of the tender". This opened the way for the Board to award the tender to Ndinzani despite a visible conflict of interests on the part of Malungani, even if he had declared his interest in the tender and despite the fact that Ndinzani did not exist at the time of the first closing date of October 1996. Moleketi said: "the date was extended to February 1997 due to the Board's own internal administration problems". For many observers, this was blatant incompetence on the part of the Board.

As a result, the Pretoria High Court on 10 June 1997 threw out this Tender Board contract, which the Board had recently awarded, to one of its own members in violation of the provisions of the Tender Board Act. His bid was R7 m higher than a competitor's. Melanie Ann Feris of *The Star* (11 June 1997) remarks that: "the urgent interdict sought by Europ Assistance medical services company, which offered the service for R7, 9 m, was not opposed by Gauteng Premier Tokyo Sexwale and Gauteng MEC for Health Amos Masondo. The court ordered that Europ Assistance retain the contract for a further three months … and the Board to review its procedures".

In the Department of Housing, the tender process created problems because of the time taken to obtain approval as well as the awarding of tenders to emerging contractors. The tenders were more expansive and impacted on the department's budget. In the Department

of Transport, Roads and Public Works, there were delays caused by tender procedures, especially since tender delegations were withdrawn (*The Provincial Administration of Gauteng*, 1997 Report).

In the old Department of Corporate Services that had been absorbed by the Office of the Premier in 1999, the task team discovered that the tendering system did not allow solutions to be requested but only products. For the Department, it was the tendering system that was at fault and this meant that the best practice was often ignored. Similarly in the implementation of projects there was poor definition of the costs, time and resources required in tenders. Despite a good relationship between the Provincial Tender Board and Corporate Informatics, there were problems around this. The problem was that of accessing training for Information Technology (IT): by the time the tender was approved the training has become outdated and no longer useful.

In all these cases, concerns were that the procurement policy was not clear, inconsistently applied and ignored. Poor procurement control was noted as a serious concern, as observed by Alta Folscher (1999:26).

Another example of promoting unfair and nontransparent dealings in terms of provincial contracts came to light when the Standing Committee on Public Accounts (SCOPA) – exercising its oversight role – tabled on 21 June 2002 the Report of the Auditor-General on the performance Audit of the Acquisition and Utilization of Consultants at the Departments of Housing and Land Affairs, Education, Finance and Economic Affairs, as well as Health at the Gauteng Provincial Administration. The Report focused also on the control and monitoring of the execution of functions and the outcome of consultancy services. In assessing the overall state of affairs, the Auditor-General's key findings contained in the Report, identified and documented certain examples of "deficient management measures" and notably:

- Proper planning – which includes, *inter alia*, a sufficient needs analysis, the identification of milestones, the determination of tasks to be performed by the consultant and finalizing the responsibilities of departments prior to tenders being awarded – did not always take place.

- Contracts were not always drawn up between the parties concerned, contract periods were extended without the necessary prior approval and consultants were appointed without the approval of the Provincial Tender Board.
- Consultants were appointed despite there being vacancies on the establishment. This had a negative impact on the affirmative action appointments as well as on the budgetary process.
- Although the establishment of a department made provision for project management directorates to manage housing delivery projects, the department had appointed consultants as project managers of 4 projects since 1997. The consultants earned an amount of R10 million over a period of 3 years without the necessary capacity being built at the department.
- Contracts of consultants who had been appointed as far back as 1995 and 1997 to the amount of R22 million were extended by a department until 2000 without tenders being invited and thus not always complying with the requirements of competitiveness and transparency.
- The payment of consultants for work performed was not controlled and monitored for reasonableness resulting in overpayments with regard to traveling claims.

Most of SCOPA's recommendations were based on the Auditor-General's findings with a specific proposal – among others – that all consultants should be appointed through a tendering process to:

- identify the best consultant for the job;
- promote cost-effectiveness through competitive pricing;
- promote equity and fairness in the procurement of services;
- preserve the highest standards of integrity; and
- promote transparency and prevent corruption.

But can corruption be prevented in the procurement system? The lack of transparency in the process as we have seen in the above examples means that corruption will always be in the system for a long time. Past experience showed that in the context of public procurement (see *Green Paper on Public Sector Procurement Reform in South Africa*, 1997:103), corruption usually comprises fraudulent behaviour by persons concerned with the procurement process leading to losses for an organ of State. Usually, there is some

form of collusion between the buying and the selling side: responsible officials on the public procurement side request or are induced to accept favours from tenderers or contractors. Such practices are often, but not always, criminal; they are always immoral and improper in terms of good procurement practice. Fraudulent actions are sometimes confined to one side of the procurement transaction, such as when tenderers collude to "rig" tenders or when officials misappropriate public property, or assets.

There are many types of procurement corruption that have been identified and that are affecting tender process:

a. Corrupt actions within organs of State may include:
    - preparing slanted specifications
    - approving inappropriate tenders
    - tampering with tenders
    - breaching confidentiality
    - taking bribes
    - lax control administration
    - use of position to obtain a private benefit.

b. Corrupt actions by suppliers/service providers/contractors may include:
    - collusion
    - influencing the choice of procurement method and technical standards
    - inciting breaks of confidentiality
    - influencing the work of evaluators
    - offering bribes
    - over or under invoicing
    - "fast pay" action
    - inaccurate disclosures

To sum up, it can be underlined that corruption in tender acquisition turns up to be part of the game as highlighted by Transparency International in its Bribes Payer Index (BPI) of 2002. The BPI is a deliberate manifestation of corruption by global corporations from industrialized nations that bribe government officials in developing countries to win tenders or to buy business permits. The BPI is a survey, as seen earlier, to find which corporations were most likely to bribe their way into markets of developing countries.

South Africa featured high on these surveys as likely to accept bribes, as evidence from the arms deal procurement shows. In July 1999, the new Premier of Gauteng Mbhazima Shilowa made a public admission that bribes were being paid for tenders. He was addressing black businessmen and was quoted as saying: "*White business people lobby. They hustle for tenders. That's what you must do. Yes, sometimes some of them do pay bribes – but the point is they hustle for business"* (*Sunday Times,* July 18 1999).

Therefore, as one can note, the size of government spending, transfer payments and subsidies, the procedure used in allocating the expenditure or selecting investment projects constitute sources of rents and corruption. Further, corrupt tax officials may use high tax rates and complex tax regulations to collect bribes, in exchange for alleviating tax burdens of taxpayers. The repealing of the tender board and its replacement by a single framework at all government spheres is an indication of the inevitability of corruption in Gauteng procurement policy due to shortcomings as those displayed in this section that needed to be addressed. The "Framework for Supply Chain Management" came at the right moment. It remains to be seen how it will cope to achieve the ideals of good governance and to address eventual deficiencies in supply chain management.

The Gauteng arrangement supplies some food for thought to an empirical research that suggests that, "participation of government to the economy through state-owned enterprises, active industrial policies, restrictive trade and exchange regimes, price and interest rate controls, excessive regulations, and complex tax systems are all associated with higher corruption" (Gurgur and Shah, 2000:7). Thus it appears that competition and transparency serve to combat corruption to some extent, but are not enough. Other measures however – such as those suggested in the strategies' section of this thesis - need to be instituted to minimize corruption.

8.4. Institutions of Democracy or Accountability

In the political field in democratic societies, the parliament, and most importantly parliament committees, monitor government operations. However partisan preferences and the lack of resources prevent an adequate oversight of government that may lead to tension between the executive and the legislature. Besides parliament oversight, there are

rules of conduct and administration laws designing the operations of the government, such as procedures on public procurement and selecting private firms for contracting. These constraints may be more difficult even for democratic officials who may resist reforms that expose them to public scrutiny and criticism. These limits include the balance of power between the legislative and executive branches. From this perspective, this section will deal with two elements that have been singled out in our attempt to explain causality: monitoring and punishment.

8.4.1. Internal Controls Mechanisms:

Most respondents in the survey felt that poor systems and weak checks and balances create an environment conducive to corruption. This is characterized by a lack of transparency, extensive regulations, impunity and poor/lack of monitoring. It should be stressed that public accountability is necessary for the control of corruption, especially with a dominant party like the ANC that is sure to win the vote.

What impacts do controls and monitoring have on the agent's performance? There is the probability of being detected and punished. The implementation of monitoring policies is sensitive to strategic behaviour from the parties involved. Tanzi argues that this is really the first line of defense. Honest and efficient supervisors, good auditing offices and clear rules on ethical behaviour should be able to discourage or discover corrupt activities. Good and transparent procedures should make it easier for these offices to exercise their controls (1998:19).

In the struggle against corruption, various institutional control mechanisms have been evaluated, like parliamentary control, executive control, internal bureaucratic control and audit and watchdog bodies. In South Africa and Gauteng in particular, special agencies and anti-corruption commissions have been created expressly charged with the responsibility of following reports on corruption. But patron-client relationships in bureaucracy undermine the effectiveness of internal controls especially the lack of independence from the political establishment. One has in mind the gloomy history of the Heath Special Investigating Unit. Wha is more when senior officials and politicians trigger the corruption, internal monitoring bodies to lose their organizational purpose and become

lame ducks. Once the process becomes politicized their effectiveness is reduced and generally they do not have the power to impose penalties and their reports may not have any following by other institutions. Thus the existence of these controls reflects to a large extent the attitude of the political body toward corruption. Otherwise, lack of effective controls facilitates corruption and monitoring systems may also be part of the corruption structures within public institutions.

Monitoring can be internal or external as shown in the Table 25. When internal, the control deals with:

- Supervision and control systems
- Standards of performance for employees
- Recruitment and selection procedures for personnel
- Rules and procedures for tax collection and reporting

And when external, it deals with:

- General auditor's independence and capacity
- Law and order tradition, checks and balances
- Information made available to the public (e.g. newspapers, media)
- The judiciary system (proving cases in court).

Generally the most effective controls are those that exist inside institutions.

In Gauteng, obviously, the best instrument of control remains the Legislature in its role of providing, sustaining and overseeing the executive. In short, it must be emphasized that the provincial legislature provides and sustains the Gauteng executive through the operation of accountable or responsible government. As reported by Christina Murray and Lia Nijzink (2002:5-6), the Legislature creates the executive by choosing the provincial Premier. He is chosen by a majority of the Legislature for a five year term of office and, at least in theory, remains in office only so long as they maintain this confidence. The source of executive power lies with the Legislature.

As a result, this system of representative government allows those who are elected to represent the people that put them in power. Those elected are expected to oversee the way government implements policy and spends tax revenue, rendering by the fact the

executive accountable to them. Accordingly, "oversight" and "accountability" as stated by Murray and Nijzink, are two sides of the same coin – the accountability of the executive to the Legislature is enforced when the Legislature exercises oversight over it and scrutinizes executive action (2002:87).

In South Africa, the role and responsibilities of the Legislature are organized by the Constitution. It obliges legislatures to establish systems that enable them both to ensure that government is accountable to them and to maintain oversight of government action:

Constitution Section 114 (2):
A provincial legislature must provide for mechanisms: (a) to ensure that all provincial executive organs of State in the province are accountable to it; and (b) to maintain oversight of (i) the exercise of provincial executive authority in the province including the implementation of legislation, and (ii) provincial organs of State.

Constitution Section 133 (2):
Members of the Executive Council (MECs) of a province are accountable collectively and individually to the legislature for the exercise of their powers and the performance of their functions.

To be accountable, note Murray and Nijzink (2002:88), means an obligation to answer, to give an account of action taken by the executive of one's assigned responsibilities. Political accountability is required by the Constitution. Four elements are necessary for accountability to work:

a) Persons who have the power to make decisions and to put them into effect
b) Objectives or standards that are to be attained by those persons
c) An authority to whom the decision maker is answerable
d) Some means of calling those responsible for decisions to account.

As defined by the Auditor-General, accountability is a relationship based on the obligation to demonstrate and take responsibility for performance in the light of agreed expectations (2001:7).

Therefore, it is the duty of the MPLs, as provincial democratically elected representatives, to make sure that people who work for the provincial Cabinet explain their actions. This includes the MECs, the Premier and the Heads of Departments. It emerges from this setup that the power to call the Premier and other people who work for the government to account for their actions is very important. It is one way that the provincial Legislature can keep a check on what the provincial government is doing, and make sure that it is in line with what the people need and want. But the relationship is not always good between the executive and the legislature and this can give rise to serious problems. The stumbling block remains the lack of available information to identify the problem adequately. In most instances, the executive does not provide enough information of its plans for legislation for the Legislature to establish a reliable timetable.

However, the Premier of Gauteng has been on record claiming that the relationship is as strong as ever and that the Legislature's role of oversight over the Executive is cherished by all and is fully complied with by all departments (2000/2001 Annual Report:2). Despite this claim, evidence shows that there is relatively little interaction between provincial executive and Legislature. For instance, I witnessed that during the "sitting of the House", verbal exchanges between MECs and MPLs tend often to turn stormy when the Premier or the MEC is questioned before the House. Also, while some MECs are not attending the "sitting", those attending leave the House just after being questioned without waiting for the end of the proceedings. At the end the Legislature is almost an empty House when the Speaker announces the closing of the ongoing session. As observed by Murray and Nijzink, the Legislature would simply not be doing its job properly if the two institutions always agreed (2002:81).

The Auditor-General in his 2001 Report acknowledged this state of affairs when he observed that "until now, the executive has been submitting responses to the legislature within a short period, and these have been referred to the Standing Committee on Public Accounts. However, the quality of the responses is often poor in terms of completeness and appropriateness. This could be due to a lack of criteria, in terms of which the responses can be standardized"(2001:8).

In addition the Auditor-General identified the factors that significantly hamper the accountability processes at different levels of government:

a) Constraints in financial management capacity at the auditee had material effects on the audit.
b) Late submission/finalization of financial reports (including prior year).
c) Financials records incomplete or not supportive of financial statements. Audit committees did not work effectively in processing audit reports or plans.
d) Auditees had difficulties interpreting requirements of recent legislation.
e) Other factors including non-existence of audit committees, and the availability of senior management during critical stages of the audit process (2001:16-17).

As reported by Murray and Nijzink (2002:109), oversight often requires the analysis of complicated and inaccessible information as South Africa is still struggling with its huge transformation agenda and relatively poor information systems. Members simply could not carry this workload alone. Hence the need for properly qualified and skilled researchers. In Gauteng, researchers are developing a framework that will allow members to hold government to account for outcomes as opposed to outputs. Gauteng's goal is to establish dedicated databases in every policy area so that members can see immediately what is happening in terms of policy development, financial inputs, service outputs and social outcomes. The framework, conclude these two authors, will set out reporting cycles and will use data and criteria from sources other than the department itself to measure outcomes properly.

It should be emphasized that in an effort to strengthen accountability within the Legislature, an important policy of the Gauteng Legislature is based on the impartiality of its personnel. All staff employed by the Legislature must be non-partisan in their approach to the MPLs from the various political parties. For instance, even though a staff member may support a party, he or she may not give special treatment to an MPL belonging to that party or express political views at his /her place of work. This is crucial to ensure, not only a smooth running of the Legislature, but also that all parties are treated equally by the staff of the Legislature

Finally, the oversight function is to ensure that there are adequate alternative mechanisms in place so that problems are recognized and brought to the attention of the legislature in a speedy manner. Therefore, a number of institutions have been established with the single goal of aiding Legislature in its oversight role, notably the Auditor-General, the Public Protector, the Human Rights Commission and the Special Investigating Unit.

For effective government, the executive needs to be able to drive the legislature. This implies the leading role of the government as an indispensable instrument for economic development, resource redistribution and welfare. One notes that in conventional political science; the causes of corruption are believed to be deficiencies in the political system, and in particular in the "democratic deficit". In this perspective, corruption is understood to be caused by political systems that are deficient in democratic power-sharing formulas, checks and balances, accountable and transparent institutions and procedures of the formal and ideal system of democratic governance (Doig and Theobald: 2000).

The goal of the monitoring policy is to identify and report fraud in the institution. Supervisors should be able to monitor the activities of their subordinates. If corrupt agents are caught they are fired. But what if the size of the penalty is insignificant given the fact that its characteristics vary from country to country? Unfortunately, I found that in many departments these checks are almost non-existent so that outsiders, including the media, mostly discover corruption by chance or through the reporting.

In the Office of the Premier in Gauteng, mechanisms of accountability and monitoring are in place, as stated in its 2001/2002 Annual Report. According to the Report (p.7-8), there are a number of processes in the Office of the Premier that ensure effective delivery. The following mechanisms are in place to monitor effective performance and delivery:

a) Performance agreements signed by all senior staff from the level of director upwards
b) Regular management committee meetings to discuss strategic issues and to monitor operations
c) Internal Audit conducted by the Gauteng Audit Services

d) Periodic risk management assessments to ensure that all the required checks and balances are in place
e) Annual audit by the Auditor General
f) Monthly and quarterly financial reports to Treasury
g) Regular presentations to Standing Committees in the Legislature.

However, during the same period, a Report of the Auditor-General (2001:2) on Auditing and Financial Management Matters in the Public Sector at all levels of government put an emphasis on governmental areas that require improvement. Concerning the control environment, the Auditor-General found out during the audit process that various issues were raised which related to lack of proper internal control systems. This involved mainly issues such as non-compliance with control procedures, lack of timeous and adequate management information, ineffective internal auditing, limited risk management processes and a lack of early warning systems. This weakness is of serious concern for the following reasons:

a) It provides an environment conductive to fraud and corruption.
b) It has a significant impact on effective and efficient service delivery.
c) It has an impact on the extent, nature and time frame of the audit and ultimately on the cost of the audit.

If only improvements in this area could be achieved over time, it would result in a positive impact on financial management in the public service.

Time is what the Gauteng Government needs in its search for a better life for all, as implicitly acknowledged by the Premier in his 2001/2002 Report when he said:

> *"The implementation of internal controls and the establishment of a Risk Management Committee is an ongoing process that was implemented throughout the Office of the Premier. All managers entrusted with state assets and resources are required to manage them efficiently and effectively. The appointed risk management team, which consists of members of all programmes within the Office of the Premier, will focus on identification of all areas of risk management within the Office of the Premier and will be fully implemented in the next financial year.*

> *The risk management team will also ensure the implementation of fraud prevention measures and will work with all major role players including the Audit Committee, Auditor General and Internal Auditors to achieve its objectives"* (p.18).

Thus it appears that in Gauteng, corruption in government may be the result of dysfunctional public institutions that lead to weak internal controls and systems and mismanagement.

8.4.2. Statutory Penalty

Penalty also plays a significant role in terms of causality. As seen above, the agent's decision whether to behave honestly or corruptly depends on the anticipated costs of the decision with two variables mattering: first the probability of being detected and second, the size of the penalty. A credible judiciary proves to be of great meaning, given the probability that the perpetrator of a crime would be caught and punished. In this case, the penalty imposed will determine the probability that criminal or illegal acts would take place.

A well-known analyst of crime prevention, Gary Becker (1968), demonstrates that theoretically, increasing the penalties on those who get caught can reduce corruption. This analysis implies that the penalty structure existing in the country is an important factor in determining the extent of corruption: higher penalties may reduce the number of acts of corruption, but they may lead to demands for higher bribes on the corrupt acts that still take place. For instance, in China the death penalty is applied in certain incidences of corruption, while in South Africa, the main risk is loss of the job for the culprit, as in Jessie Duarte's case.

The fact is that in the real world relatively few people are punished for acts of corruption, despite the extent of the phenomenon. Thus, there seems to be a wide gap between the penalties specified in the laws and regulations and the penalties that are effectively imposed. Commonly, effective penalties tend to be more lenient than the statutory ones. The administrative procedures followed before a public employee is punished for acts of

corruption are slow and cumbersome. The probability that those who commit crimes would be caught leads to the role of institutional controls. What does matter, as empirical evidence has revealed elsewhere, is the existence of an independent, impartial and informed judiciary that has a central role in reviewing actions taken by the government and public officials because enforcing the rule of law requires a strong independent and responsible judiciary, investigative and auditing bodies, and legitimate access to the society. An effective judiciary is a significant element of anti-corruption efforts (Gurgur and Shah, 2000:10).

In Gauteng, as is the case elsewhere in the country, existing legislation on corruption matters is poor and complex and in many instances corrupt acts are classified as fraud or theft in order to proceed with prosecution. It was difficult during investigations to find any database or consolidated statistics on corruption practices in any department. Absence of statistics, poor information and lack of a clear legislation on corruption seriously hamper anti-corruption measures. This lack of information management in terms of corruption has been highlighted by a recent study on corruption in South Africa when it noted:

> *"information from law enforcement and criminal justice agencies about corruption cases is difficult to collect. Many of the problems emanate from the corruption offence as defined by the Corruption Act of 1992 which, most of the experts agree, was inadequate to provide for effective investigation and prosecution cases"* (Country Corruption Assessment (CCA) Report: 2003:4).

However, a study by the Public Service Commission on dismissals from the Public Service resulting from misconduct between 1996-1998 is an indication of attempts made by some agencies to keep valuable database available. This study reveals that, of 2247 disciplinary cases in the Public Service, 1077 were finalized. Almost 90% of those officials were found guilty and 238 were dismissed. Of the finalized cases, 281 were corruption-related. Some 43% (102) of the individuals dismissed, were dismissed for corruption related offences. Only 9 individuals were dismissed for bribery, demonstrating the difficulty of proving that bribery took place (CCA Report, 2003:72).

In order to consolidate the legislative framework, the focus is now on the Prevention of Corruption Bill, which contains clear definitions and wider range of corruption offences to be enacted and enforced for better management of the phenomenon.

To sum up, it is quite arguable that all those factors that have been analyzed, notably checks and balances including control and punishment have an impact on the incidence of corruption and the majority of the respondents in this study confirmed this. These factors hamper the role that penalties actually play in Gauteng, especially when corruption is partly politically motivated, as were Jessie Duarte and Dan Mofokeng cases, as we will see when exploring provincial case studies.

Table 28: Misconduct and discipline (2001-2002 and 2002-2003):

Outcome of disciplinary hearings 2001/02	Number	% of total	Outcome of disciplinary hearings 2002/03	Number	% of total
Verbal warning	4	100	Verbal warning	0	0
Written warning	0	0	Written warning	2	100
Final written warning	0	0	Final written warning	0	0
Not guilty	0	0	Not guilty	0	0
Case withdrawn	0	0	Case withdrawn	0	0
Dismissal	1	100	Dismissal	0	0
TOTAL	5	2,66%	TOTAL	2	100

Source: Premier Annual Report 2001/02:46; 2002/03:16.

The table 28 summarizes the outcome of disciplinary hearings conducted within the Office of the Premier for the financial years 2001/2002 and 2002/2003. Some lessons can be learnt from these tables. Firstly, this is an indication that misconduct in this department may be under control as far as these figures are concerned. In this case it is clear that Gauteng government has subscribed to internal best practice principles of equitable and fair labour practices. In the office of the Premier, 5 civil servants were disciplined in 2001/02 and there was one dismissal. There were no disciplinary hearings in 2002/03 when 2 officials were disciplined. Secondly, some acts of corruption may still go unpunished so that uncertainty prevails on the treatment of individuals accused of corruption that may lead to the perception that penalties are applied selectively or arbitrary. This attitude may lead to tolerance of small acts of corruption that can in time encourage bigger acts. It is therefore incumbent upon provincial managers to ensure that all public servants comply with all provisions of the Public Service Act and adhere to the Public Service Code of Conduct.

8.4.3. <u>The quality of bureaucracy or institutional capacity</u>:

The majority of NGOs and academics respondents think that the lack or absence of a civil service work ethic in the province leads to institutional incapacity that provides opportunities for corruption to thrive. According to S.A. Fakie, the Auditor-General, *"one of the burning issues in government is the lack of capacity. Capacity refers to the availability of human resources at operational and managerial levels to implement legislation and the policies of government and to manage the implementation process in an economic, efficient and effective manner"* (Report 2001:3). This observation has been confirmed by many performance, regularity and forensic audit reports issued by his office. Furthermore, any constraints on capacity, which hamper service delivery, should be discussed in the annual reports of departments, agencies and municipalities, as he said.

It should be emphasized here that, every administration is run according to a set of rules that tell agents what they should do, what they must do, and what they have the right to do. As demonstrated by the "constructivist theory of rules" (Michael W. Collier, 1999:9), *"when agents fail to follow rules, other supporting rules bring consequences. In light of their material circumstances, agents follow or disregard rules in order to achieve their*

goals. Therefore, institutions are simply patterns of stable rules and structure a stable pattern of rules, institutions, and their unintended consequences".

As a complex institution, political corruption consists of a constantly changing mix of three different types of rules that perform distinct functions identified by Collier (1999:9) as:

1. *general instruction rules* that delineate the *principles, beliefs, or norms* that inform agents of the purpose of the particular institution, telling them what they *should do*.
2. *directives rules* that repeat and elaborate what the instruction rule principles have to say. They tell agents what they *must do*. For their effectiveness, directives rules must be supported by other rules (i.e., sanctions) that stipulate the consequence if an agent does not follow a particular directive rule.
3. *commitment rules* that create *roles* for agents – the unintended consequences of supporting the instruction rule principles, beliefs, or norms. They tell agents what they have a *right* or *duty* to do and give some of them well defined powers, while assuring other agents that those powers will not be abused.

These types of rules result in distinct forms of rule or methods that govern society. And a rule's strength is determined by how frequently agents follow the rule. One of these rules is 'the boundaries between public and private spheres" in Johnston's terms (1994:17) that had been described by Noonan as follows:

"the notion of fidelity in office, as old as Cicero [106-43 BC], is inextricably bound to the concept of public interest distinct from the private advantage. It is beyond debate that officials of the government are relied upon to act for the public interest distinct from private advantage" (1984:704).

Shumer (1979) has found out while analyzing Machiavelli that:

"one dimension of [Machiavelli's] political corruption is the privatization both of the average citizen and those in office. In the corrupt state, men locate their values wholly

within the private sphere and they use the public sphere to promote private interests" (Shumer, 1979:9).

In short, agents must carry out their duties in a manner transcending personal interests. "To not separate private from public spheres, argues Collier, presents government officials with almost unlimited opportunities for corruption" (1999:11).

This has been emphasized by number of respondents from the Gauteng Legislature who stressed that ignorance of Public Service by the new comers and the creation of "comfort zones" by the old class are among other things cause of corruption. Public servants lack a sense of purpose and commitment to their responsibilities and believe they should exploit their positions for personal gain.

According to the PSC, despite political commitment to opening up the public service to greater scrutiny, it remains uncommunicative and opaque. The capacity of the public sector urgently needs its capacity built in a number of levels: this will require a real commitment to improvement rather than mere formalism (PSC Half Yearly Report, October 2000:3-4).

In this section emphasis will be put on the key role played by the media in ensuring that the ruling elite is accountabile as most of our cases come to the fore through the media (newspaper clippings). Therefore, an independent investigative media is often the primary conduit for information regarding elite misconduct. "In this context", notes Bettina Peters, "the contribution made by journalists is clear: by providing the public with timely and accurate information on the affairs of government, business and special interests, the media can shape the climate of democratic debate and help the establishment and maintenance of good government" (2003:44).

8.4.3. The Gauteng Bureaucracy

In Gauteng, this study established that cases of corruption were prevalent in some departments where public servants exploited state structures to extract benefits for their own enjoyment.

8.4.3.1. <u>The Office Of The Premier</u>:

While Tokyo Sexwale managed to leave office on a clean slate, despite the "matric scandal", the same cannot be said of his successor, Dr Mathole Motshekga. His premiership was overshadowed by tensions and infighting along with maladministration and corruption that almost paralyzed the provincial government. The majority of the big political scandals occurred after his take over: the Jesse Duarte scandal and Dan Mofokeng mismanagement that caused the ongoing scandal in the granting of low-cost housing subsidies in the Housing department, both of which are case studies. Other features of this administration included the chaotic financial situation in some departments due to lack of fiscal discipline and poor financial management exemplified by unauthorized expenditure that has been uncovered by the Auditor-General's office.

In May 1998, irregularities, including mismanagement, nepotism and dishonesty, were reported in the office of the Premier. Allegations included claims by the Democratic Party (DP) of two employees frequently drunk on duty, misappropriation of public funds by a former director of legal services and the appointment of senior staff. The then provincial director-general Lulamile Mbete, who, however, dismissed allegations of widespread wrongdoing as "cheap politicking and gossip mongering", acknowledged these irregularities. In fact, Mbete confirmed the drunkenness case and said there were two employees with "drinking problems" and they had been "assisted in accordance with the department statutory responsibility".

The misappropriation case involved Joseph Sedumedi, who misused R30 000 only and not R200 000 as claimed. Eventually he was suspended and then fired and the case was sent to courts for criminal charges. Another employee, Noel Ndlovu was accused of spending R2 000 on an unauthorized liquor bill but resigned before disciplinary action could be taken against him. To the Director-General, who was reacting to "sensitive information" on irregularities that was handed to the Heath Unit in the early January 1999 by Peter Leon, the DP leader in Gauteng, "the irregularities in the Premier's Office were distorted" (*Business Day*, 12 January 1999). However, his own evidence proved that there was no distortion.

The appointment of senior staff was, what *Corruption Barometer* has called "hair-raising" (1998:110-11). For instance, the appointment of Fikile Magubane as chief director after a senior interviewing panel had rejected her for "lacking in analytical and strategic thinking about issues". The most striking case was that of the appointment by the Premier of his driver, Derrick Mangadi, as his assistant private secretary with a salary of about R110 000 a year. This while the advertised position called for a three-year university degree and relevant work experience – of which Mr Mangadi apparently had none. Another appointment was that of a friend of the Premier's wife, Ms Phuma Shabalala, as acting director of protocol and intergovernmental relations, over the heads of two serving deputy directors in his office.

Further claims of corruption in Gauteng in the Office of the Premier were brought to light by the DP in March 1999 in a letter claiming the need for the eradication of irregularities to avoid transforming the hope for efficient and effective delivery into a mere myth. The letter namely denounced 13 officials in the Premier's Office who were being employed without the relevant qualifications. Another eight officials at senior management level had "questionable qualifications" because of their levels of incompetence and poor management skills. Many of them, including the secretaries of senior officials, were serving in responsible positions. The matter was of such gravity and sensitivity that it led the Heath Unit to launch a probe. But after a meeting between the Unit, the Premier Motshekga and MECs to discuss 26 allegations of fraud and corruption involving State assets, it had been decided that while the Unit was still looking at some of the original 26 cases, most of the allegations involving the Premier's Office fell outside the ambit of the Unit and were matters for "internal discipline".

As a result of this meeting, an anti-corruption committee chaired by Motshekga was created. Later, a "wrap-up report" on the reported number of cases materialized. Some reports were "fallacious, some were interesting but not specific, and others were specific and right", as pointed out by Roland Hunter, a senior official in the Finance Department (*The Star*, 2 February 1999). I tried to get these reports from the Office of the Premier, but the Deputy Director in charge of Labour and Human Resources Management, told me there was no way we could get "confidential information". Speaking at a Masakhane award function in Pretoria on 9 February 1999, Premier Motshekga admitted that "we are

not saying there is no corruption, but we are not saying that the whole government is corrupt. There are just some rotten individuals". Later in February 1999, the Gauteng Anti-fraud hotline set up on 18 March 1998 at the provincial department of Finance and Economic Affairs was moved to the Premier's Office.

There is general consensus that Gauteng is unquestionably in better hands now than under Motshekga who was blamed for administrative weakness and factionalism. Nevertheless, one of his allies, former Local Government MEC Sicelo Shiceka who failed to make Shilowa's cabinet found himself appointed as Chairperson of the Safety and Community Liaison Standing Committee in the Legislature. Despite being accused of grossly mismanagement of his department and failing to honour the Code of Ethics he signed. These allegations were investigated only after the DP requested that former Gauteng Premier Mathole Motshekga conduct a full investigation into Shiceka's activities following the resignation of the Head of Department, Silas Mbedzi. Irregularities were found within the department and opposition parties saw his new appointment as "compensation". Shilowa also took the blame when he failed to react and turned a blind eye to the case of the Housing MEC, Paul Mashatile who obtained in June 1997 an advance of some R34 000 on his salary for an alleged study trip to Australia, while he was still MEC for Public Transport and Roads. He never took the trip, but started repaying the money only in 1999 at a minimal rate of R2 883 per month – enjoying in effect a two-year interest free loan from Gauteng's taxpayers, noted Peter Leon, DP leader in Gauteng (*The Star*, 10 November 1999).

Subsequently, "transformation can only begin when the Gauteng government is prepared to take concrete steps towards the total eradication of corruption within its various departments. Unfortunately, inept officials and politicians seem to be rewarded rather than punished for their incompetence", suggested Peter Leon. The above cases are illustrations of people who are supposed to clamp down on corruption perpetuating it while preaching about it.

8.4.3.2. <u>The Department Of Education</u> (GDE):

The Department of Education is hampered by *the lack of capacity*, as often expressed by Kader Asmal, the then Minister of Education. Contrary to appearances, the following

instances confirm that there are cracks in the department's structures as highlighted by continuing problems encountered that have to be solved. These include:

a) The 1997 investigation in the "capacity" of the Provincial Administration of Gauteng to deliver services conducted by the Dr Ncholo team came out with an alarming report on the Department of Education in Gauteng. According to this Report that made the front page of leading Gauteng newspapers, an investigation undertaken by Douglas and Velcich indicated that there were major problems with the financial control systems used in the central region. This may well be the case for the entire department that did not have adequately qualified and skilled financial managers, yet they have to administer a budget of more than R5 billion.

The complexity and lack of clarity of policies was another problem revealed by the Report. Indeed, "a number of policies which were determined nationally had to be implemented by the department. Many of these policies did not emanate from the department. The National Department set stringent time frames for the implementation of policies and the department felt overwhelmed, because once they implemented the policies they became unworkable for the department and many policies had financial implications which the national department apparently, does not take into account in their policy formulation" (1997:21). As a result, it was not sure whether teacher education was a provincial or a national competency. Consequently, the absence of national norms and standards has sometimes left the department to function in a vacuum. The department had to backtrack because there was no guidance from the national department.

A Report of the Auditor-General for the year ended 31 March 1997 draw a gloomy picture on financial matters. An audit revealed that there were no proper management systems to either monitor accounts or maintain adequate internal checking and control measures. For instance, permanent as well as temporary employees with no banking details resulted in hand payments, which were necessarily more exposed to possible irregularities and incorrect payments. It was found that there was a serious lack of internal checking and control at the North Regional Office during the financial period under review: the batch register was not checked and signed by the responsible officials which could result in unauthorized or incorrect information in the systems. Payments made were copies of

invoices that had not been certified as not previously paid and invoices did not always clearly indicate whether or when stock had been received. Unauthorized purchases due to stock obtained outside of the State Tender Board directives did exist. The following documentation was not available on files: itinerary forms, summary of log sheets and claim forms, printouts of calculations in respect of capital cost, cash payments, installments and allowances and fuel claims.

Therefore, due to incomplete information on files it could not be determined whether journeys had in fact been approved prior to departure, that those official trips were in fact more than ten working days and that a minimum of 1550 kilometers had been traveled. Furthermore, it could not be established that private kilometers did not exceed 30%. This list is not exhaustive.

Because of the significance of the matters discussed above, the Auditor-General did not express an opinion on the financial statements of the GDE for the year ended 31 March 1997 (September 1999:87-90).

b) Another scandal, seen by observers as one of the most striking problems of 1996 took place during the matriculation examinations. 1996 will be remembered as “the year of the cheats” for those 112 200 candidates who wrote their Matric exams that year. The following is a general survey of the whole saga.

Reports of chaos were received after the first day of Matric examinations in Gauteng from all sources (GDE, media, political parties). A number of irregularities including allegations of a lack of security, teachers collecting papers without showing the proper identification, the wrong papers being delivered to schools, people making photocopies of papers and mainly the leak of Matric exam papers, had been discovered, leaving students and parents in total disbelief and heartache. During the whole week, there were reports of widespread sale of matriculation exam papers.

This led the GDE to appoint an independent commission of inquiry into a number of irregularities discovered during the Matric examinations. According to Education MEC Mary Metcalfe, “the theft of matriculation papers from the GDE was a matter of enormous

public concern". ESKOM Human Resources Chief Executive Bongani Khumalo led the investigating team and its mission was to:

a) Inquire into the preparation of the examinations with special focus on security arrangements;
b) Inquire into the adequacy of the steps taken to protect the integrity of the examination; and
c) Make recommendations on the necessary actions to ensure such a situation does not arise again.

Opinions varied from one group to another with regard to the causes of the scandal. For students and parents the whole messy business was the result of weak security and controls. For Education officials, it was a "transitional problem" resulting from structural changes from the old system to the new. While there was cheating in previous years, this was the first year in which the Department conducted the examination as a whole in a unified way and all pupils wrote the same Matric, as stated by Mr Maseko, Gauteng Education Superintendent-general. The message was clear: because of this, the chances of cheating and irregularities were more pronounced.

The disclosure of the findings came from the GDE which revealed that 16 percent of the province's examination centers were suspected of irregularities with a total of 1413 candidates suspected of being involved in cheating during the examination of (*The Citizen*; *The Star*, 24 December 1996). 1144 pupils were found guilty of cheating in Matric exams and 110 schools were implicated in irregularities. Offences identified by the Department included the buying of stolen exam papers and model-answer memoranda by some 336 candidates, and copying from smuggled crib notes by 1077 others. But, in the meantime, Education officials were trying to minimize the debacle with Maseko maintaining that "reports of widespread leakage had not been confirmed by the findings of a special investigating team. Only a very small percentage (3,6%) of candidates has been involved in any form of examination irregularity". Of 1585 pupils called to appear before hearings into exams irregularities, 1144 were found guilty and 441 were cleared of wrongdoing, he said.

In addition, the Khumalo Commission found seven senior education officials guilty of gross incompetence in the organization of the examinations and slammed the security and computer systems in place at the time. Only a Pretoria teacher was sentenced to a year in jail after being found guilty of selling some leaked papers: math, biology and accounting (*The Star*, 4 November 1997). As the GDE announced the implementation of the recommendations by the Khumalo Commission on how to improve examinations, the findings have been withheld from the public. Meanwhile, the Public Protector Selby Baqwa found in a separate investigation that seven of the papers leaked nationally were from Gauteng. These were biblical studies, both English first and second language, computer studies, accounting, biology and geography. Finally 5 280 out of a total of 518 000 matrics across the country were found guilty of cheating.

The 1996 Matric debacle can be seen today as a conspiracy of silence for corrupt exchanges between officials, teachers and pupils that created what an observer called "a roaring trade buying and selling of papers and answer memoranda" (Jacqui Reeves, 1997). This is an indicator of the extent of the moral decay and corruption that is sneaking into the society. Collusion between government employees and the public in corrupt acts does not improve good governance, but weakens state credibility. As a result, such acts inevitably, if unchecked, can have serious implications such as the decline in standards and credibility that could make South African academic qualifications worthless. But in all fairness, it does seem that the 1996 matric cheating was checked.

c) Another problem was that of fraud. It was revealed that during the same period, fraud amounting to millions of rands was discovered and 96 officials of the Gauteng Department of Education had been reported for fraud and other forms of corruption and practices (*Corruption Barometer*, 1994-98:112). As a result, a "fulltime internal fraud unit" was formed to investigate fraudulent activities in the department and especially to root out "ghost workers" that cost millions (*Mail & Guardian*, 28 August 1997; *The Sunday Independent*, 31 August 1997). However, in 2001, a massive scandal on the awarding of fraudulent tenders amounting to more than R10 million to bogus companies was uncovered involving senior departmental officials with interests in those bogus companies (*City Press*, 16 September 2001).

However, the origins of fraud could be dated back to the old regime. As noted by Dr Ncholo report:

> *"the department has inherited a lot of problems in terms of fraud at a regional office level as well as at head office level. They had uncovered that some fraud dated back to about 6-7 years. A independent auditing firm, discovered, while investigating the department, a fraudulent network in the Personnel and Finance sections working in conjunction with teachers. Fraudulent claims were detected in the Provisioning section as well"* (1997:23).

In addition, a report showed there was a case of ex-employees who owed the province more than R16 million, an amount that would cover all capital works planned by the Department for the 1998/99 budget. One of the identified causes of debts often arise from broken contractual agreements, as explained by the Director of administration, finance and buildings at the GDE: "when the contract is broken some form of compensation has to be paid to the department which is often a large source of the debts. Incomplete, faulty or late information passed on to the GDE's salaries section could result in an employee being overpaid" (*The Star*, 31 August 1998). These excess payments had to be reclaimed from the staff and could take some time to secure. It is important to note that these type of debts exist in many other departments. But there are no records to provide details of debts owed by individual departments.

This had been confirmed by an Auditor-General Report (1996/97) that underlined amongst other problems that of:

- personnel members who received salary from two departments,
- personnel members who received salary from two different provinces, and
- those with outstanding debts that have not been accounted for.

d) The long-lasting problem of *lack of capacity* was also evident in a 2002 report released by the Minister for Education, Kader Asmal, when the GDE underspent in the 2001/02 financial year at least R248 million. Gauteng was part of under-achieving 3 provincial education departments with underspending in the previous financial year being even worse than in 2000/01 where the amount was estimated at R127 million. The provinces that have shown a level of expenditure outside the permissible 2% are Eastern Cape (3.1%), Free

State (3.3%) and Gauteng (3.3%). What is more striking is the fact that in the three provinces the level of under-expenditure could be as high as 20% of the non-personnel expenditure (2002 Report, Department of Education).

According to the Report, some of the reasons that may have led to this poor performance could derive from the *lack of capacity* to manage and administer the budget, delays associated with the process of procuring goods and services, and positions that remain vacant over long periods in the provincial departments where about 40% of posts remain vacant. To improve the situation, departments were recommended to ensure the appointment of Chief Financial Officers who would monitor and advise them on the utilization of their allocations. The delay, points out the Report, on the part of provincial departments in appointing these officials may have been one reason for the under expenditure, which would be indicative of *lack of capacity* in skilled officials to manage and administer the budgets. However, suggests the Report, the slow response of some of the provincial departments of education has indicated one of two possibilities, either there is a *lack of capacity* to develop the required plans or the provincial departments do not regard the request as government's priority (see Report 2002:10-11; 51-54).

What is more striking is the fact that, in May 1997, the Ncholo team recommended to the GDE to put into place adequate financial controls as a matter of urgency. Consideration should be given to the appointment of a Financial Manager. More, the Department needed to pay special attention to putting administrative systems in place, which would facilitate its timeous and smooth functioning. Nevertheless, the problems of *lack of capacity* along with that of technical skill in the GDE were so serious that they were raised as issues in the Department of Finance and Economic Affairs. Aspects such as the overspending by R454 million, and the failure of closure of books on time for 1996 by the GDE were indicated as some of the problems.

Introducing his budget speech on 5 June 2001, Ignatius Jacobs, Education MEC, revealed the commitment of his department to taking disciplinary actions against educators and officials who failed learners and the entire education fraternity by taking strong steps and action in the name of effective governance. Therefore, more than 102 teachers were dismissed from Gauteng schools for misconduct in 2000. In May 2001, a school principal

was fired for sexually harassing a colleague at a Johannesburg school. A Thokoza teacher was suspended at the same time for allegedly threatening to fail a pupil when she refused to continue with their sexual relationship. Other strong actions included: charges against 256 teachers for misconduct and 231 being finalized. Of the finalized cases, 83 teachers were dismissed, 57 were fined between R1 000 and R6 000, 42 were warned, five were suspended, 23 were acquitted and charges against 17 were withdrawn. An additional 22 were fired for absconding from work. Concerning officials in the administration section of the department other than teachers, 127 were charged with misconduct and 39 were dismissed. 14 were demoted in the same period. With regard to past irregularities, education authorities may have set the correct tone by ensuring that the culprits responsible for unethical behaviour were prosecuted and flushed out of the system. The integrity of the whole process depends on it.

On the other hand, delivering the Department's progress report on November 15 2001 in the Gauteng Legislature, the Gauteng Education MEC announced that his department had developed a fraud prevention plan to bring about change in employees' attitudes towards corruption. Thus, a fraud prevention operational committee was established from June 30 2001 with the aim to steer and take responsibility for the Fraud Prevention Project (FPP) as well as to ensure effective project implementation, management and maintenance.

On 21 June 2002, a statement from the GDE confirmed its commissioning of an audit of the Independent Schools to probe claims that the department was inconsistent in subsidizing them. Consequently the department instituted a forensic investigation into matters raised and in order to take appropriate action in instances that include professional negligence that caused overpayments, fraud and probable systemic faults.

This declaration of good will shortly would be followed by the suspension on 28 January 2003, of a senior manager and two senior officials of the Gauteng West District in the wake of allegations of fraud and corruption against them. The three officials were suspended with immediate effect, pending the outcome of the investigation. In a statement the Department said this formed part of the Department's strategy to rid itself of fraud and corrupt practices in the Public Service. Besides internal disciplinary processes, the case was handed over to the SAPS to investigate criminal charges. In the meantime, the

department would immediately appoint an acting senior manager for the Gauteng West District. Finally, as acknowledged by Minister Kader Asmal:

> *"the management and administration of financial resources has improved and should continue to improve as weaknesses discussed above are addressed. All the challenges referred to can be addressed if provincial departments ensure that the necessary human resource capacity and skills are improved" (Report 2002:55).*

8.4.3.3. The Department Of Health:

Answering questions in the Provincial Legislature on 5 October 1995 from JB Bloom of DP who had wondered about instances of corruption or misdirection of funds that had been uncovered, Health MEC Amos Masondo – later Johannesburg Executive Mayor[17] - replied that "to date no single allegation of fraud was picked up". And at the question of what monitoring and review mechanisms were in place? His response was: "monitoring is done by functionaries and members of civil society, where possible on a monthly basis. Project committees monitor stock levels and submit complaints to the provincial office", (*Hansard* no 113, 1995:323).

Unfortunately, the 1997 Report of the Auditor-General on the province's financial statement for the 1996/97 financial year revealed that with regard to personnel expenditure an audit at various hospitals showed a lack of evidence to ensure the existence of employees and the proper amounts paid. Unauthorized expenditure amounted to R382 172 118,32 followed by excess in grant-in-aid to an institution of R165 500,68. Furthermore, as previously reported, audits conducted at various hospitals and institutions again revealed deficiencies and shortcomings in the system of internal checking and control. In general a large percentage of errors due to the non-compliance with Provincial Treasury Instructions, regulations and legislation could be ascribed to the lack of internal checking and control (see pp. 71-73).

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[17] Councillor Masondo was appointed the city's first executive mayor on December 5, 2000, when Johannesburg became a unity. He leads a 10-person mayoral committee - essentially a city-level "cabinet".

According to the report the total amount involved in unauthorized expenditure was close to half a billion: R431 496 950. The report shows that the department of Health toped the list with R328 337 619 of unauthorized expenditure. In addition, an amount of R42 337 936 disappeared as a result of thefts and other losses from the provincial administration that included unrecovered hospital fees and claims of alleged negligent treatment of patients.

On the other hand, property worth more than R216 000 was stolen from the Gauteng Department of Health's office in 1998. Details of the thefts released by the Health MEC showed goods worth R79 000, mainly computers, were stolen from the head office in Johannesburg. Items worth R53 000, including a R10 000 photocopying machine, a printer and three computers, were stolen from the Hilbrow offices. A bar fridge, a microwave oven, a TV set, clocks and electric kettles were stolen from the West Rand offices, and a switchboard machine, microwave oven and fax machine from the central Wits Region offices (*The Star*, December 7, 1998).

In its 1998 Annual Report, the department singled out numerous challenges, many not unique to the health services. These included (1998:21):

a) Legacy of little training and development, particularly in response to a dynamic service organization,
b) Problems with discipline and mechanism to deal with transgressions speedily,
c) Lack of career management,
d) Lack of personnel delegated functions to enable managers to manage effectively and efficiently,
e) Lack of mechanism to retain skilled staff,
f) Lack of literacy skills for lesser skilled employees,
g) Procedures and processes not geared towards efficiency, poor morale of staff, particularly in period of massive transformation.

All these problems led to the appointment of the commission of inquiry by Premier Mathole Motshekga in May 1999 into practices in provincial hospitals following his visit to the Chris Hani Baragwanath Hospital after a spate of thefts and attacks were reported. The commission was to investigate (Provincial Gazette Extraordinary, 5 May 1999:2).

1. Whether any officials of the Provincial Department of Health contravened the provisions of any Act, regulation or relevant policy in the performance of their duties and functions with regard to the provision of health care to patients and handling of other persons at provincial hospitals.
2. Whether any official/person employed at any provincial hospital contravened any provisions of any Act, regulation or relevant policy with regard to the performance of their duties in the handling of patients at any provincial hospital.
3. Whether patients at any provincial hospital are treated with the required standard of service in line with the applicable legislation, regulations or relevant policies.
4. The causes and extent of the poor treatment of patients and customers at provincial hospitals.
5. Whether any official or persons employed at hospitals have been negligent or indolent in the treatment and handling of patients and/or have committed any act or acts of misconduct in terms of the applicable legislation.
6. Determine managerial responsibility and accountability for the findings.

Released on 19 October 1999 by Gauteng Health MEC Dr Gwen Ramokgopa, the 71-page report dealt comprehensively with issues identified following investigation by the commission. The commission's key recommendations focused on the strengthening and review of management structures, efficient budget management and health-care ethics, as well as the "hospitality side of patient care". Management of hospitals' budgets, unreasonable waiting times, shortages of linen, conduct of professional and support staff, catering, forced reliance on family care, security and being turned away at pharmacies and some casualty sections were some of the problems that were highlighted. With regard to management, the report addressed some salient issues such as: managers' and supervisors' responsibilities, access to policy and regulation, filling of vacant posts, working hours and staff morale.

The commission appealed to hospital management to use patient complaints as a tool to measure perceptions of service quality and identified a complex web of factors which led to poor standards of health care in hospitals that included: a lack of equipment, inappropriate facilities, lack of medical officers, lack of nursing staff, low staff morale,

lack of managerial training, budgetary constraints, lack of decentralization, lack of incentives, poor information systems and inadequate support services. The commission had described other factors such as absenteeism and corruption as having an impact on the department's financial viability.

Besides administrative and inadequate financial management capacity in the Department of Health, the Ncholo team highlighted the problem of tender. Thus, poor specifications were written for the tender on helicopter ambulances. This resulted in specifications being adjusted after the tender had been published, therefore causing problems with a number of tenderers who contested the award of the tender (1997:16).

Another critical issue brought to light by the MEC was that of pending claims and out-of-court settlements. Responding to a question by the DA in the Legislature, Ramokgopa revealed that between 1998 and 2000, 71 malpractice claims totaling R42 million were lodged against the Department and Gauteng provincial hospitals had to fork out this amount. Only 10 cases were so far settled for R220 000 (Hugo Hagen, 2000:8; Mawande Jubasi, 2000:6).

While most of these problems continue, there is room for improvement to redress the remaining backlogs such as misconduct cases. As stated by the MEC on 31 May 2001 in her Budget Speech for the 2001/2002 financial year, *"systems are being strengthened to send a very strong message of zero tolerance to those few with deviant, negligent and ill-disciplined behaviour"*. Figures given by the MEC show that contrary to past years habits due to poor regulations and lack of law enforcement, now penalties have been imposed on those found guilty of wrong-doing: as a result, in the year 2000, 21 public servants have been dismissed, 43 charged with fraud, 77 charged with theft, 13 suspended and 6 professional negligence cases have been dealt with (2001:2).

In January 2003, the Gauteng Health department dismissed Edith Zambo, head of the Yusuf Dadoo hospital in Krugersdorp. The dismissal followed the discovery of financial irregularities at the hospital (Sabcnews.com, February 01, 2003). This was followed by the announcement by the Department that "steps had been taken to help eliminate fraud from the health care system. And in collaboration with the Gauteng Shared Service Centre,

almost 20 forensic investigations have been conducted. The message is clear that fraud and corruption will not be tolerated. 54 employees have been dismissed during 2002 as proof of the department endeavours to wipe out fraud, corruption and professional negligence from the system" (Budget Speech, 5 June 2003).

In another development, a statement released June 19, 2003 by the MEC showed that 33 employees had been convicted and sentenced to imprisonment of between two months and three years since 2000. Many of the convicted employees, all from Johannesburg Hospital, had stolen medicine, linen, food and surgical instruments. The value of the stolen goods had "substantially plummeted" from more than R1, 6 million in 2001 to R264 258 in 2002. The MEC said the convictions were an indication that the department's zero tolerance approach to fighting thefts was working. "More suspects are being apprehended now following the implementation of the Fraud Prevention Plan, and the improvement of the disciplinary system". In the most recent court case, in March 2002, she added, an employee was sentenced to a fine of R300 or 60 days imprisonment, suspended for five years. Nine employees were then suspended, with pay, pending investigations into allegations of theft.

8.4.3.4. Department of Safety and Security:

The Police Service in the Province is more accountable to the National Department than to the provincial one. At the creation of the Province, this situation generated a lot of problems that impacted negatively on good governance within the provincial department. The significance of acts of corruption within the Police Service indicates gross abuse of power and seems to be the result of poor management, as shown by the Jesse Duarte case. As revealed by a recent study, South Africans in general still believe there is a lot of corruption, and that it is a common occurrence, with the Police toping the list in malfeasance (TI Global Barometer Survey, July 2003). But explaining Police corruption, Tom Lodge (2002:133) believes that "the situation may have worsened since 1994 as a consequence, perhaps, of demoralization and disloyalty to the new government". He gave some figures showing that in 1998, 10 000 policemen (out of a national force of 140 000) were under investigation for charges of bribery, theft, fraud and involvement in crime syndicates.

Those acts that occur within a body entitled to create a safe and secure environment for all led to the creation of an Anti-Corruption Unit on 1 January 1996. As stated by its Director and the Commanding Officer of the Unit, SF Globler, *"the Anti-Corruption Unit of the South African Service was formed to deal with corruption within the ranks of the Service itself, as the prevention of corruption was then neglected – may be due to the fact that prevention was not seen as important as the arrest of the offenders…. And from 1996, corruption has been defined as a National Priority within the South African Police Service"* (SAPS Report on Anti-Corruption Unit 1996-1998).

The Unit came into being with only offices in Pretoria and Johannesburg. It then consisted of the National Head Office (referred to as NACU) and nine Provincial Anti-Corruption Units (referred to as PACU). Only the commanders in each of the Provinces were appointed, each being responsible for his own development. Globler described the current level of corruption within the overall criminal justice system as the factor most negatively influencing efforts to substantially improve safety and security in South Africa. Corruption in all its forms, he said, seriously undermines not only public confidence in the Government and the Public Service, but also in government-driven crime prevention strategies (SAPS Report on Anti-Corruption Unit 1996-1998).

In Gauteng, this task became more difficult with the transformation of the Department into a new component. The Ncholo Report (1997:29) shows that the lack of communication and understanding by the rank and file police members about the role and function of the Department incapacitated and hampered its performance. The MEC and the HOD had no power over the operational arm of the Police Service in the Province. The HOD experienced a lack of defined lines of accountability, that is to say the National Secretariat, the provincial Director-General and the MEC. The department experienced a problem with the low ranks of its officials as compared to the police with whom they should interact. The police was refusing to interact with officials on levels lower than themselves. The lack of staff impacted negatively on the functioning of the Department and the lack of skills was manifested in various areas – Human Resources Management, Finance, Finance Management System, Personnel and computer literacy. The lack of financial control by the Director of Support Services created some tensions within the Department. Consequently, there was a lack of discipline in the Department as a result of

the weak decision-making by the HOD. For instance, there was a general abuse of vehicles: unauthorized passengers; unauthorized trips; unauthorized use of vehicles between home and workstation. The Report concluded that the monitoring of decisions taken at the MEC meeting was weak because the responsibility for issues was not directed via the HOD, but was fragmented. As recommendations, the Department was asked to develop an effective communication strategy to inform the police and the civil society of its role and function and that the MEC Committee should be more structured to ensure that staff are held accountable for their performance.

This kind of atmosphere creates an environment that is always fertile and conducive to mismanagement, maladministration and corruption. This is perhaps what explains the general behaviour of former MEC Jesse Duarte that should be put into this context.

It is arguable that, apart from mismanagement and maladministration, one of the key issues experienced by the Department is that of missing dockets involving Justice officials and members of the SAPS. Collusion between these two bodies is a sign of moral decay that highlights the corruption, which is wreaking havoc in South Africa's criminal system in general, and in Gauteng in particular. Every month hundred of dockets go missing from courts all over the country. There are many examples to illustrate this case.

On 10 May 1997, Sasha Jensen reported in the *Saturday Star*, how hundred of courts dockets and crucial court exhibits were stolen in one fell swoop while on their way from the Gauteng Attorney-General's Office to a Johannesburg court – effectively halting the criminal procedures they were to be used in. It was difficult for the Police to ascertain whether the heist was purely for the vehicle, or a syndicate after the dockets. After a long investigation she found out that there were serious levels of corruption within the justice system and the Police as confirmed by the Attorney-General of Pretoria, the Deputy Attorney-General of Johannesburg, the SAPS Anti-Corruption Unit, the National Task Team, the Transvaal Lawyers Association and individual lawyers. What was striking to note was the fact that there were no official statistics available from the Ministry of Justice, the SAPS and the legal bodies in the Transvaal, on how many dockets were stolen, unaccounted for or missing. In Cape Town, 600 dockets were declared missing while in transit between courts and police stations.

According to Jensen, in Johannesburg it is cheaper to buy a docket which can be stolen and go missing for R1 000. Accountability and monitoring become difficult because "there are too many people, too many courts, too many lawyers, police and prosecutors" dealing with dockets. No docket, no hearing. The prosecutor will ask for postponement so that the docket can be found. After several postponements, a case is struck from the court register, costing the State millions of rands in fees. This is the main reason why syndicate members and gangsters are not arrested because there are elements in the criminal justice system who manipulate cases to achieve results.

Jensen concluded the investigation by some figures provided by the former head of the Anti-Corruption Unit Steff Grobbelaar that showed that the problem was serious and the situation extremely worrying: 1 250 police members were involved in illegal practices reported in some 1 412 dockets opened against certain officers. The lack of statistics made it difficult to know how many of these were docket-theft (or tampering) related cases. Other figures came from the Transvaal Lawyers Association with 33 attorneys barred during 1996, 5 in 1997 with 14 cases under investigation for crimes of corruption, bringing an official figure of 0,6% of corrupt attorneys, compared to the Police, of whom 1,30% were corrupt.

To corroborate this investigation, I did single out the case of John Vorster Square constable, Mutle Mogale, who found himself in much trouble in early July 1997 when he tried to get out of the burglary charges he thought he was facing. Jensen described how he was caught red-handed by SAPS Anti-Corruption Unit officers along with a corrupt fellow policeman from whom he had just allegedly bought his case docket for R2 000. Mogale had been charged earlier in 1997 for housebreaking and theft. Unfortunately, what he did not know was that the burglary case against him had been dropped and the docket closed ((*Saturday Star*, 12 July 1997).

Another hotbed was the Hillbrow police station in Johannesburg that was the theater of all kinds of activities between 1994 and 1999, where up to five dockets containing vital court evidence went missing each day. On one weekend, 85 dockets went missing. A docket was sold for R500 or more depending on the importance of the case. However, as reported

by newspapers (*Saturday Star*, October 16, 1999:7), the arrival of a new superintendent Vincent Mtengo sensitively reduced the docket theft just by keeping the original documents under lock and key. As seen above, the hard copies are vital for court cases. When dockets disappear, suspects cannot be prosecuted. But this did not stop the theft of dockets for criminal elements will always find a way to get what they want.

In the same vein, several other reports highlighted the bad state of policing in the Gauteng Department of Safety and Security making the public wonder if the terms of "law" and "enforcement" still existed in the vocabulary of SAPS in Gauteng. Among them was an interim report compiled by the Mackenzie group and former MEC Duarte's own secretariat in June 1997 that showed serious shortcomings in policing in the province. For instance, the tendency by Johannesburg police not to give consideration to corruption in the crime intelligence services, to organized crime syndicates or to violence against children was of great concern.

Another report called "threat analysis" on the state of policing in Gauteng presented by provincial police commissioner Sharma Maharaj during Deputy President Thabo Mbeki's visit to the province highlighted the trend of Police involvement in criminal activities. Compiled by the provincial organized crime unit between January and April 1997, the audited report revealed that the investigation of 327 dockets by the SAPS Anticorruption Unit, resulted in the arrest of 73 government officials, 67 of whom were police officers. Furthermore, a total of 6 132 cases involving police officials were being adjudicated. Out of 432 cases finalized, only 53 police members were convicted of offences. 456 members were found not guilty or not prosecuted at all. More than 400 other police officials were suspended between January and April 1997 (*Business Day*, 21 July 1997).

The regular exposure of criminal activities among police officers both by the media and senior police officials proved to be beneficial to the whole community thanks to the anti-corruption drive initiated by the ACU since its creation within the police services. More and more arrests were made between 1996 and 1998 as shown in the table below that provides an overview of dockets received, members involved, arrested, convicted and acquitted in Gauteng during the same period.

Table 29: Dockets received and members involved: July 1996-June 1998:

YEAR	DOCKETS RECEIVED	MEMBERS INVOLVED	MEMBERS ARRESTED	MEMBERS CONVICTED	MEMBERS ACQUITTED
1996 TO 1998	559	561	359	64	141

Source: SAPS Anti-Corruption Unit 1998/1999.

In addition, it should be noted that at John Vorster Square only in Johannesburg, 50 policemen were convicted of serious crimes during the first ten months of 1997 and more than 380 were under investigation for crimes ranging from reckless driving and assault to rape, armed robbery, murder and corruption. At the end of 1997, a statement by the MEC Duarte disclosed that more than 700 Gauteng policemen were awaiting trial for a range of crimes including arms dealing with gangsters, aiding in prison escapes, theft and corruption. To justify this trend, the MEC put the blame on "chronically high" rate of absenteeism at the province's police station due to overwork, the lack of enthusiasm and management controls, as well as "endemic racism" (*Business Day*, 11 December 1997). At Cleveland, Sergeant M. Koto, who had 14 years' service with the police, was suspended early in February 1998, fined R5 000 or eighteen months' imprisonment, with a further 18 months conditionally suspended for tearing up a shoplifting docket and throwing it in a public municipal refuse.

The never-ending vanishing dockets saga continued to make the first page of Gauteng newspapers during the entire first term of the ANC-led government. There were documented stories of complaints over both corrupt policemen and court officials on bribes taken to lose dockets or plan to burn crime dockets after receiving a pay-off of R10 000. But in most cases the culprits ended up either in jail or being suspended from the courts or SAPS ranks. The *Sowetan* reported the story of more than 350 case files destroyed or lost in 1999. Police attributed the theft of dockets from police offices or from the directorate of public prosecutions offices to an element of corruption among its members (*Sowetan*, 27 Mach 2000).

In March 2001, the arrest and prosecution of seven policemen on various charges of theft and corruption made the headlines and had been seen by observers as the police management's zero tolerance approach and total commitment to root out corruption in the

service. According to *Sapa* (March 23, 2001), bail of R5 000 each was granted to police spokesperson Superintendent Richard Luhvengo, Captain DJ Graggs from the Hercules visible policing unit in Pretoria, and Inspector Tefo from the Johannesburg vehicle safeguard unit. The other four, Inspector Janjie, Inspector FS Mahlanga and Sergeant MP Mashalale – all from the Soweto public order policing unit, and Sergeant MD Makae from the Johannesburg vehicle safeguarding unit were not granted bail. In a public statement, the then acting Provincial Commissioner, Mpumelelo Landu said the arrests of the seven members had been a breakthrough in police efforts to end police involvement in crime and collaboration with criminals. Landu added that the fact that their colleagues arrested the members was encouraging and proved the SAPS had the capacity to deal effectively with criminal elements within its own ranks. This case came as a shock to the new Gauteng Safety and Liaison MEC Nomvula Mokonyane, who, in an interview with Kaya FM Radio on Tuesday the night of 27 March 2001, found it distressing that police had played a role in contributing to criminal activities in the province. "The scenario where junior policemen arrested their senior colleagues has brought shame and embarrassment to the police", she said. This brought the figures of criminal elements within SAPS to 16 in the same week that followed these arrests.

But, it is observable that amid this sea of corruption and malaise, there were incentives for swift action being taken against policemen accused of neglecting their duties. As many as 238 crooked Gauteng police officials were exposed in 2001. It was reassuring to see that there were mechanisms, in the form of Anti-Corruption unit, in place to weed out the rotten apples. It is an indication that the Police is committed and determined to sweep out corruption within its ranks. Another example of this commitment was given, when an officer was arrested by his fellow officers and then handed over to the Gauteng SA Police Services following his involvement in an armed robbery, together with other suspects, of a Taiwanese tourist on July 5, 2002. In a public statement on 18 July 2002, Gauteng Safety and Liaison MEC, congratulated the Johannesburg Metro police and the SAPS for their swift action in arresting the officer. She went ahead to warn "all those members who are involved in crime and corruption to know that they will be dealt with without any favours" (www.gpg.gov.za).

Nationwide, the following table shows clearly that there has been a dramatic increase in the reporting of corruption. This, observes the SAPS Annual Report 2001-2002, is mainly attributable to greater success in the investigative process owing to improved training and investigative techniques. The table offers the big pictures of enquiries received nationally and members convicted for the period 1996 to 2001.

In addition and according to the SAPS Annual Report 2002-2003, over the period 1 April 2002 to 31 March 2003, altogether 872 police members were suspended as a result of their alleged involvement in corruption. Of these members, 833 were suspended without pay and 39 were suspended with pay. Between 1 January 2001 and 31 December 2002, a total of 2 370 corruption-related cases were investigated, of which 1 332 resulted in criminal prosecution and 641 in internal disciplinary hearings.

Table 30: Enquiries received and members convicted: 1996 –2001

YEAR	NUMBER OF ENQUIRIES RECEIVED	NUMBER OF ARRESTS OR CHARGES	NUMBER OF CONVICTIONS
1996	2 300	249	30
1997	3 100	429	78
1998	3 779	475	128
1999	4 618	844	147
2000	6 974	1 048	193
2001	4 275	592	138

Source: SAPS Annual Report 2001-2002

This good performance can be attributed to good results obtained by the SAPS Anti-Corruption Unit since its inception in 1996. In its seven-year existence, the unit dealt with investigations of all allegations of corruption and related aspects in the SAPS; identification and report on dysfunctions, and mainly co-ordination of all anti-corruption investigations in the SAPS. For instance, between 1997 and 1998, many projects took place all over the country and notably “Operation Clean Deal” during which police officers involved in an Organized Crime syndicate along with syndicate members operating in stolen vehicles in the Gauteng province were arrested. The syndicate concentrated on theft of motor vehicles, corruption, fraud, defeating the ends of justice

and receiving stolen property. During the period of 8 months, 16 persons were arrested, 85 dockets were registered and R6m worth of exhibits were confiscated (SAPS Anti-Corruption Unit, 1998/1999).

The success of the Unit was evident in the increase of the number of allegations reported. This has been illustrated in Table 29 that shows that from 1996 to the end of 2001, the Unit had received a total of 20 779 allegations of police corruption, 3 045 police members were arrested and 576 were convicted. As suggested by a recent study the large discrepancy between the numbers of allegations received and the conviction rate can be explained away by a number of factors including:

a) capacity constraints of the unit to respond adequately to all the allegations received;
b) the large number of witnesses who remained anonymous and provided insufficient information; and
c) the flawed Anti-Corruption Act of 1992 which repealed the common law offence of bribery and provided inordinately difficult legal requirements to prove corruption (Newham and Gomomo, 2003:3).

Despite its performance, the ACU which investigated about 1000 cases a year in its seven-years existence was officially closed down in October 2002. Its members were transferred to organized crime units or detective branches. The closure had been finalized at the end of December 2002 although with criticism from its members who did not understand, as most South Africans, why the Unit had to be closed? The reasons given by the SAPS left everyone stunned: the bottom line of the move was "a reorganization intended to pool resources and make the SAPS more efficient". To the distressed members the message was clear: "the investigation of corruption is the duty of each and every member of the service and not a certain sector of the South African Police Service" (*Sunday Times,* October 20, 2002).

Observers expressed their concerns by pointing out that "many years of international experience in tackling police corruption would suggest that a better decision would have been to identify the shortcomings of the ACU, and ensure the necessary changes to make

it a stronger and more effective unit than it had been before" (Newham and Gomomo, 2003:8). But it is still too early to draw hasty conclusions and to say whether the restructuring of the ACU will improve the fight against corruption in the police forces. Given the amazing number of complaints received by the ACU, to argue that "police corruption had reached endemic proportions in South Africa" cannot be seen as an overstatement, but a reflection of dishonesty and disloyalty on the part of members of the police force, not only in Gauteng, but countrywide as well.

Meanwhile, as confirmed by recent reports (see *SA Corruption Briefing*, September 2003), the Gauteng Safety and Liaison Department is investigating more than 736 cases of corruption involving members of the SA Police Service. The now disbanded anti-corruption unit previously handled the investigations. The organized crime unit through an integrated and holistic approach is now dealing them with. The skills of the anti-corruption unit members are preserved within the organized crime units. Crime intelligence members are also involved in the activities of the organized crime unit. For the period April to June 2003, 66 suspects had been arrested for alleged corruption. This included both members of the SAPS and civilians who allegedly bribed them. The Department through its monitoring and evaluation directorate had prioritized cases of corruption received from members of the public and were sending them to the provincial commissioner for quick intervention and further investigation.

8.4.3.5. The Department Of Transport:

The Department of Public Transport, Roads and Public Works was among those in turmoil due to the ongoing process of transformation, from the onset shortly after the establishment of the new government. During its investigation, the Ncholo team came across serious shortcomings in the Department and notably:

a) excessive centralization of the administrative system resulting in service components to have a tendency to regulate instead of delivering service to line departments;
b) existence of fears and lack of trust between old and new people in the Department;
c) shortage of trained technical and professional staff that affected service delivery, with large number of vacancies, especially at a supervisory level;

d) existence of a serious backlog regarding road maintenance, due to lack of funding and delays caused by tender procedures since the withdrawal of tender delegations.

But, it was the issuing of licences and roadworthy certificates along with reports of bribery and corruption involving Johannesburg traffic officials that put the whole department in the spotlight.. The licence department made headlines in the media and there were concordant reports from independent sources pointing at the lack of supervision that turned vehicle and licence testing stations into cesspools of corruption. This followed reports of widespread corruption in the Johannesburg licence department where forgeries were used to "launder" vehicles and bogus documents allowed stolen and hijacked cars to be licensed. Duplication of registrations was a common problem not limited to Gauteng only. Everywhere in the country licensing authorities and police were struggling to control car thieves fraudulently obtaining genuine registration papers for stolen cars.

While it was easy to blame licensing authorities for the poor handling of the matter, it can be assumed that the lack of equipment and other means to check every application was an impediment on clamping down on culprits. But despite the implementation of far-reaching methods to get rid of this rampant fraud, as noted by observers, licensing officers would detect up to 80 forged documents every month giving the impression to be under siege or under the "control" of crime syndicates. Such was the extent of the phenomenon that Gauteng legislators debated the possibility of army intervention with a view to untie the "Gordian knot" (*Corruption Barometer*, 1994-1998:111).

Another type of corruption was the collusion between corrupt driving-school owners and licensing department officials. A two-week investigation by Jacqui Reeves of the *Saturday Star*, revealed that even the most inexperienced drivers could buy both learners' and drivers' licences – within a week – for a total of R1 420. And at no stage would there be written or oral tests. The existence of this type of corruption had been confirmed by licensing authorities who, in the aftermath of the investigation, decided to suspend oral tests with immediate effect, until the extent of the corruption was ascertained (*Saturday Star*, 15 March 1997). As we have seen, this case revealed serious structural flaws in the system, characterized by poorly trained staff, a lack of sufficient control and time-saving

practices that made the system works. The Department of Home Affairs in Pretoria confirmed the issuing of fake licences to over 1000 people in Gauteng in 1996.

As a result, to combat licence fraud, Johannesburg's traffic authority scrapped oral tests for learner drivers and replaced them with a new computer-based testing system. Furthermore, in May 1997, 517 people, including officials of Home Affairs, were arrested in connection with the fraudulent issuing of drivers' licences. 445 ended up in convictions and sentenced to six months in prison or fined R1 500. Besides, 5000 illegal licences were under investigation and more arrests were expected. Nationwide, it had been discovered that a complex web of corrupt officials in licensing departments had issued more than 1,3 million licence numbers that proved to be duplicates of legally registered vehicles.

But in December 1997, the person behind the successful anti-corruption campaign in the department, acting head of licensing Gerrie Gerneke found himself suspended on allegations of racism. An internal investigation, which cleared him of the charges, was rejected by the South African Municipal Workers Union (Samwu). Consequently, "labour disputes, racial tensions and widespread corruption plunged once again the Johannesburg vehicle licensing department into near-anarchy – destroying the successes the department achieved during 1997 in stamping out corruption" (*Saturday Star*, 31 January 1998).

However, observers believe that the labour strife was nothing but the determination of corrupt officials to continue their fraudulent transactions. Indeed, the minute he left, things became worse than ever with the return of anarchy. For insurance, reports of hijacking syndicates registering stolen vehicles for resale, mass thefts of blank vehicle registration forms and the registration of "ghost vehicles" scams all resurfaced. Gerneke was reinstated in May 1998 after his suspension was declared unfounded by the Independent Mediation Service. This came "just on time to prevent the department to be turned into a 'permanent happy hour' for car thieves, conmen and crooked employees", as Deborah Fino wrote in *Business Day (*18 June 1998).

Furthermore, what happened in this department during Gerneke's suspension was not very different from what many people had seen and heard of the "route of Africa" or "banana republic", synonymous with erratic power supply, coups d'état, rebellions, clientelism and

malfunctioning bureaucracies in general resulting in crippling disorder, followed by public administration decline and collapse. The Johannesburg licensing department became a case with its image of mafia-like administration, corruption and indiscipline. And the senior management from the Transport Department were nowhere to be seen. It emerged from that worrying situation that what was needed was reforms to root out corrupt officials. While Gerneke's return did not stop corruption, nevertheless, it succeeded in reducing its incidence and in restoring a sense of dignity and discipline that were missing for a while and the tracking of culprit officials went ahead with the new proceeding.

In March 1999, the Johannesburg licensing department confirmed that more than 30 fake ID books had been found on people trying to obtain duplicate documentation for stolen or hijacked vehicles. This was the result of collusion between the public and agents from Home Affairs and Licence Department in Johannesburg operating outside these government offices. Between November 1998 and March 1999, two staff members from the Licence Department were suspended for corruption and fraud, while eight others were dismissed on similar charges since 1997 (*Sunday Times,* March 14 1999:6). Besides, during an interview with *Sowetan* on 6 July 1999, Mr Gerneke revealed that the Johannesburg traffic department confiscated about 10 fraudulent car registration forms weekly from syndicates involving departmental employees and the public. As a result, he said, three staff members, including a top official were suspended *(Sowetan*, 7 July 1999).

In order to assess the situation after a lot of allegations involving several employees in corruption, the new MEC for Public Transport, Roads and Works Mr Khabisi Mosunkutu and the one for Planning and Local Government, Mr. Trevor Fowler decided to embark on an extensive tour of all local traffic departments and to throw their weight into the fight and send a clear message that corruption will not be tolerated by the government. I will come back to the outcome of that tour and other strategies to stop corruption in the Department in the appropriate section.

Subsequently, the ensuing collusion between the Johannesburg licensing department and the Department of Transport brought about the discovery through the National Traffic Information System (Natis) of huge scams which involved the issuing of illegal roadworthy certificates, implicating staff of licensing department. There were arrests in

Sandton, Roodepoort and Johannesburg licensing departments where more than 30 people got arrested (Sandton: 16, Roodepoort: 4, Johannesburg: 12). Numerous cases of bribery and corruption in the traffic department got exposed in local media along with the list of names of those found guilty of fraud and corruption (*The Star*, 3 August 2000).

Another massive driver's licence scam that cut across three provinces (North West, Mpumalanga and Gauteng) had been uncovered and more than 1 200 fake former Bophuthatswana documents had been identified as having been acquired fraudulently (*The Citizen*.9 November 2000). Finally, a report released earlier in March 2001 by the Automobile Association (AA) showed that 75% of traffic officers nationally accept bribes. The establishment of the Metro Police was seen as the solution to clean governance and zero tolerance of corruption within the new force, but has it delivered? It seems no, as several complaints already were pouring in, after only 3 weeks of the launching of the new Metro Police in April 2001. In his budget speech delivered in the Legislature on 22 May 2001, MEC Mosunkutu promised that his department would crack the whip on fraud and corruption and all efforts would be made to ensure clean governance in the future. This would be done in partnership with Business Against Crime (BAC), the Department of Safety and Liaison and the Department of Justice, as we shall see later.

The 2001 Annual Report showed that the Department of Transport was committed to certain priorities for the next five years of government, including "fraud awareness and anti-corruption drive". To achieve this goal, the Department would continue to focus on rooting out corruption and fraud within the departmental processes such as motor vehicle registration, licensing, roadworthy certificates, GG vehicle misuse, and financial related areas (14 November 2001:120). Besides, between 2001 and 2002, 18 arrests were made and 45 people apprehended during inspections at various driving schools, as revealed by a departmental public statement on 11 September 2002.

Finally, under the leadership of MEC Khabisi Mosunkutu, the Department of Transport was transformed from one bending under widespread allegations of fraud and corruption and lacking supervision between 1996 and 1998 to one that became a role model in combating corruption. It sensitively succeeded in reducing corrupt behaviour by restoring discipline within the department and instilling a sense of dignity to all staff members,

resulting in the department winning numerous awards including the prestigious Premier's Awards for delivering on government commitments in 2002, and to have its strategies in the fight against corruption and fraud approved and adopted by the central government with the aim to implement it throughout the country (Budget Speech, 3 June 2003).

8.4.3.6. The Department Of Local Government:

From 1994 to 1999, this Department made regular headlines in the media and was the talk of the City, especially in Johannesburg, where scandals and allegations of fraud, theft and corruption were very frequent, costing ratepayers millions of rands a year. It was reported in January 1995 that fraud and theft relating to the disappearance of computer equipment purchased for the city council along with allegations of widespread corruption and theft amounting to an estimated R400 million at the Johannesburg fresh produce market in City Deep and other illegal activities that were threatening and affecting service delivery.

All these irregularities were exposed by various reports conducted not only by the Auditor General's office but also by independent investigators as well. At the produce market, there was a general consensus about serious flaws in the market that had been corroborated by the Auditor General's report dated February 9, 1996 that revealed that fraud and corruption at the market was the result of a lack of controls and systems. The report further pointed to security weaknesses regarding bar coding and access to the market's computer system. And the Council was accused of covering up the vast extent of fraud and corruption at the market. In another report regarding the functioning of local government structures and public sector entities, the Auditor General disclosed the lack of financial discipline in most substructures, especially the Johannesburg Western metropolitan substructure where irregular payments of more than R800 000 to suppliers had been made between June and August 1995.

The Ncholo Report highlighted these practices by pointing out that the tender process created problems for the Department because of the time taken to obtain approval as well as the awarding of tenders to emerging contractors. The tenders were more expensive and impacted on the Department's budget. One of the challenges that was faced by the Department was that of the decentralization and development of Human Resources as revealed by this report. The department lacked expertise in the areas of labour relations

and other human resources matters. There was a serious lack of human resource development that needed urgent attention, as there were no funds available for training bursaries. As a result, the shortage of trained technical and professional staff as well as the fact that qualified people could not register with professional bodies affected recruitment and service delivery.

Under such circumstances, corruption continued unabated as shown by several internal or external commissions of inquiry. In April 1997, a legal commission of inquiry was appointed to investigate alleged embezzlement of funds and the illegal sale of land – amounting to millions of rands – by four Gauteng municipalities, notably Kruisfontein, Orange Farm, Benoni and Krugersdorp councils. For instance, in Orange Farm, the Auditor General's report showed that the accumulated deficit from July 1989 to December 1994 was R8, 2 million. Many irregularities had been found in funds for Orange Farm which included receipt books with omissions; no proper control of staff appointments and resignations and salary increases effected without authorization.

In the Greater Johannesburg Metro Council, four senior officials, including two department heads were suspended with immediate effect when the Council had uncovered a fraud scam involving R17 million in its vehicle workshops. The scam was uncovered following a full forensic audit ordered by the council after the release of an auditor's report in December 1998. The fraud allegedly, as reported by Anna Cox of *The Star* (1 February 1999), happened in the department that runs the council's fleet of emergency vehicles, including safety, ambulance, traffic and fire vehicles. Between 1996 and 1998, the officials fraudulently ordered vehicle parts that were never put on the vehicles sent in for repairs. The forensic auditor discovered that five tyres were ordered for the same vehicle three times in one day with different job cards. Another vehicle had three gearboxes ordered for it in three months. Vehicles were written off while they were still in working condition as unserviceable and beyond repair, and then sold; there was the sending of vehicles to gearbox and engine repair companies where the work was not done but the council was still charged and there was the staff's disregard of the council's tender process to favour friends or family. A forensic auditor who went undercover at the department as a computer programmer spent six months downloading the evidence.

In the meantime, a damning Auditor-General's Report on the 1997-1998 financial year shows that the accounting systems of at least 10 municipalities was in such a shambles that the Auditor-General was not able to express an audit opinion. The Auditor-General identified ineffective billing systems and inefficient credit-control mechanisms as major weaknesses of Gauteng Local Government structures, according to the Provincial Legislature Public Accounts Committee in its address to the Legislature on the above-mentioned Report. The Public Accounts Committee also expressed its concerns about the lack of financial management capacity and the political will to tackle the problem. The truth was that councils were losing millions to fraud, large-scale corruption and theft by officials in various council departments.

The South African Local Government Association (SALGA) uncovered another scandal of rampant fraud and corruption in municipal pension funds (*The Star*, August 30, 1999). SALGA launched an investigation into 30 pension funds for employees of municipalities after allegations of irregularities in the management of the funds, with an estimated asset base of R30 billion, came to the fore. Clearly, corruption had contributed to the financial mess, which most municipalities faced. Moreover, municipal employees raised irregularities and loopholes in the retirement funds for many years, but attempts and calls to create a national fund fell on deaf ears.

However, a comprehensive departmental Annual Report for the year 2000/2001 played down the seriousness of the situation and tried to explain it in an historical perspective. According to the Annual Report, the financial year 2000/2001 represented a paradigm shift in the democratic system, particularly in the sphere of local government. The 2000 local government elections saw the demise of the Local Government Transitional Act of 1993, which included the establishment of new Gauteng municipalities with brand new boundaries. The department had to define and tighten the meaning of its mission and vision. Then in line with its constitutional responsibility and the program of government it sought to define programs and projects to achieve its contributions, which were defined by the government. This meant changing focus from the old TPA type of work where the department was seen as the broad custodian of local government and administration and "big brother", when it came to issues of planning where the provincial departments were supposed to plan for the municipality and also enforce what was acceptable in terms of

planning and broad local government management. This meant that the department had to learn a new role and adapt as a matter of urgency to make sure that it made its mark within the province, so that its role of leading the municipal transformation and broad change could not be lost in the process.

The new phase of local government ushered in a new era and presented historic opportunity for participatory democracy. Yet, as acknowledged by the MEC, there were still a lot of challenges with regard to transformation and consolidation of local government structures, systems and developmental mandates. Furthermore, any organization that finds itself in the middle of transformation and is also experiencing a change in leadership is bound to encounter major ructions and instability. It is however, interesting that this Department was able to experience profound changes with very minimum disruptions albeit facing internal and external challenges. Concerning the question of the high staff turn over, the 2000/2001 report found that it had always been a source of concern although in most cases staff would migrate to other departments provincially and nationally due to promotional opportunities or municipalities given their much needed skills and knowledge. As a result, there were too many vacancies at all levels including the management echelon. It should be pointed out that the vacant post of the head of department was only filled in January 2000, which paved way for the subsequent appointment of the post of Chief Director and other important positions. The result of this state of affairs implied that staff morale was subsequently affected due to the fact that most managers had to act in other capacities.

Finally, the report claimed that, despite these changes and challenges there had been a dramatic turnaround and positive tangible results both within the departmental operations and in managing its constitutional responsibilities with regard to monitoring and supporting municipalities in Gauteng.

Despite assurance from the MEC on the improvement of service delivery, revenue collection and the financial sustainability, shortcomings still persisted as revealed by the Auditor General with regard to internal audit and audit committee, for instance. His report for the year ended 31 March 2001 gave an idea about the lack of respect of the Public Finance Management Act, 1999, Section 38 (1)(a)(ii) that required that the department

should have and maintain a system of internal audit under the control and direction of an audit committee. Due to lack of internal audit work done during the 2000-2001 financial year, no reliance could be placed on their work. Furthermore, no effective audit committee had functioned during the 2000-2001 financial year rendering it impossible for the Auditor General to place reliance on the internal audit.

In addition, the situation was even worse for Johannesburg where the billing system and its call centre were still in a shambles four years after the publication of that Auditor General's damning report (*The Star*, January 24, 2002). In the appropriate section we will see which improvements have been undertaken with respect to its programs and projects.

8.4.3.7. The Department Of Housing:

Among all Gauteng departments, the most challenging appears to be the Department of Housing. For instance, it emerged from the Ncholo Report of 1997 that there was a lack of guidance from the central provincial administration regarding matters of discipline/misconduct. To improve service delivery and good governance, it had been recommended that the province should address the handling of discipline/misconduct matters to enable departments to finalize these matters expeditiously. Considering the seriousness of mismanagement and the ensuing corruption that plagued this department, it may be remarked that this is a best case scenario for a study of corruption. That is why it was listed as our second case study along with Jessie Duarte's case.

From our investigation, it emerged that a multitude of complaints regarding alleged irregularities in the affairs of the Gauteng Department of Housing were received from various individuals, various civic associations, political parties and concerned resident groups and employees of the Department. Therefore, a multi-disciplinary investigating team comprising the Office of the Public Protector, the Auditor General, the then Heath Special Investigating Unit and the Director of Public Prosecutions was established. The multi-disciplinary approach of the investigation and the establishment of the crack team of senior investigators was to ensure that fraudulent activities involving millions of tax payers monies had to be brought to an end. The investigation kicked off in May 1999.

For the Public Protector (28 September 2000), all the allegations were found to be without substance, but when one looks at his findings and recommendations, one is bound to ask questions. This led opposition parties, including the New National Party (NNP) and especially the Democratic Alliance (DA) to question the Public Protector's loyalty. Despite the fact that the Public Protector has an exhaustive portfolio, his office seems to be geared towards mere investigation and lacks any real power to implement corrective measures, but tends to issue a standard report declaring government offices fraud free, wrote Hermène Koorts, MPL, DA spokesperson on Finance in Gauteng (*Sowetan*, February 6 2002). In Mofokeng's case, it seems there was enough evidence to support cases of misconduct and corruption, as shown by a 10-month investigation headed by former police commissioner George Fivaz.

According to the Office of the Public Protector, from investigations into irregularities pertaining to the Protea South Project Linked Housing Subsidy Scheme, and the Vlakfontein/Hammanskraal Project Linked Housing Subsidy, the Public Protector came to the conclusion that:

a. There was a lack of proper control measures in the Department regarding control and safeguarding of vital documentation, such as contracts.
b. The participation of members of a Provincial Housing Development Board in the lodging of an application and/or claims for payments by a developer to the Board can create a perception of impropriety, even though the interest of such a member may have been declared and he/she excused him/herself from meetings of the Board when the development concerned was discussed.
c. There appeared to be a lack of proper liaison between the Gauteng Housing Board and the Department regarding proposed housing projects and compliance with the legislative and other prescripts pertaining to the approval, implementation and administration of such projects.
d. There appeared to be a lack of training of the officials of the Department and the members of the Gauteng Housing Board regarding the provisions of the legislation and other prescripts relevant to housing matters.
e. In the case of the projects referred to in this Report, there had been substantial non-compliance with the provisions of the Implementation Manual, to the detriment of

the interests of the State and the communities affected by these projects. There had also been an alarming lack of control by the Department of these projects, which resulted in substantial overpayments being made to developers.

The Public Protector's recommendations included the following:

a. That the Head of Department, in consultation with the Auditor-General and / or the Heath Special Investigating Unit, take urgent steps to recover money that was unduly paid to developers involved in the two housing subsidy projects mentioned above.
b. That the Head of the Department, in consultation with the Gauteng MEC responsible for housing, the Office of the Auditor-General and the Heath Special Investigating Unit, establish a departmental investigating body to investigate the housing development projects administered by the Department since 1995, with a view to determining whether or not there was proper compliance with the provisions of the relevant legislation and other prescripts, and if not, that appropriate remedial steps be taken and the Head of Department advised on what to do to prevent a recurrence of similar incidents.

To understand better what happened in the Housing Department from 1997 to the events of 2002, our second case study focuses on investigations in the Housing Department.

To sum up, it can be argued that the occurrence of corruption in the Gauteng Administration is an indication of the tendency of many civil servants to promote their self-interest at the expense of carrying out their duties in an efficient and professional manner. This is the case of civil servants in the province, attempting to maximize their budgets and their compensation levels at the expense of performing their duties. Thus, instead of performing their duties, public employees became opportunistic and involved primarily in rent seeking activities to improve their wealth position, maintain their privileges and continue to control the allocation of resources.

A 2001 Report on the state of the Public Service in South Africa discloses that corruption, at national or provincial levels, is one of the problems the government should deal with.

Moreover, deficiencies in the provincial government were revealed at the African Renaissance Conference organized in Pretoria (12 May 1999), jointly by the Office of the then Deputy President Thabo Mbeki and the Department of Public Service and Administration to enhance regional training.

A provincial government director general in presenting the role of leadership in public service transformation in general described a big picture of the provincial administration. He decried the "over-concentration of experienced senior managers at the central government office level while provincial departments had weak executive support systems and lacked a sense of direction. A cursory glance at provincial departments reveals overworked top management, with middle management having weak and inadequate management and administrative skills with low levels of motivation" (*Sowetan*, May 13, 1999).

This set-up leads to inefficiency and bureaucratic incompetence, another factor likely to cause corruption. In order to promote sustainable growth and development in the province, the government needs a competent, efficient and professional civil service. The bureaucracy, in general, and those who serve in it, in particular, must be responsive to the needs and demands of the business class in order to encourage and enhance investment and productivity in the economy. Thus, to improve macro-economic performance, the bureaucracy is expected to be able to deliver public goods and services to the population equitably and efficiently.

Unfortunately, cases of corruption in Gauteng during the period under study, witnessed a severely bloated and inefficient bureaucracy marred by all forms of corruption in many departments, especially during the premiership of Motshekga. The problem of a lack of capacity and technical skill is a general problem in all departments. But, for instance, it has been acute in the Department of Education and was raised as an issue in the Department of Finance and Economic Affairs. Aspects such as the overspending by R454 million, and the failure to close books of accounts on time for 1996 by the Department of Education were indicated as some of the problems.

In addition, the need to ensure that a high standard of professional ethics is promoted in the workplace is highlighted in the Constitution. This represents an important drive to create a non-sectarian approach to public service based on professionalism that needs more efforts to drive out the rot. As emphasized by the PSC 2001 Report, while these efforts are important and positive, claims of a poor success rate and long turnaround times are hard to discount. Experience has shown that the internal processes and projects instituted by public service organization and agencies vulnerable to corruption are generally weak and ineffective and that a greater momentum is often needed. In this perspective, it is important to develop a more sophisticated approach to understanding the economic, social and political context in which corruption takes place, so that more effective intervention can be undertaken (2001:9).

8.5. Socio-Cultural Determinants of Corruption

According to Poverty and Inequality Report (PIR)[18], "South Africa is an upper-middle-income country, but despite this relative wealth, the experience of most South African households is of outright poverty or of continuing vulnerability to being poor. In addition, the distribution of income and wealth in South Africa is among the most unequal in the world, and many households still have unsatisfactory access to education, health care, energy and clean water. This situation is likely to affect not only the country's social and political stability, but also the development path it follows: countries with less equal distributions of income and wealth tend not to grow as rapidly as those with more equitable distributions". Such an environment is also conducive to corruption.

8.5.1. Social Dimensions

One of the main features of the South African society resides in the inequalities that make up the social fabric of the nation. Poverty and inequality pose the greatest threat to the success of South Africa's young democracy, prompting Archbishop Desmond Tutu to call for action by stressing:

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18 Report prepared for the Office of the Executive Deputy President and the Inter-Ministerial Committee for Poverty and Inequality (13 May, 1998).

> "*At the moment, many, too many, of our people live in gruelling, demeaning, dehumanising poverty. We are sitting on a powder keg. ... We should discuss as a nation whether a basic income grant is not really a viable way forward. We should not be browbeaten by pontificating decrees from on high. We cannot, glibly, on full stomachs, speak about handouts to those who often go to bed hungry. It is cynical in the extreme to speak about handouts when people can become very rich at the stroke of a pen*" (Nelson Mandela Foundation Lecture, November 23, 2004).

But before this call, president Thabo Mbeki's often referred to the "existence of two nations: one rich and white and the other one poor and black" (*Business Day*, 11 November 1998). The latter is characterized by harsh poverty, seen as imbalances from the past and a legacy of apartheid. In 2003, a major study by the government[19] noted: "One of the major consequences of the change in the structure of the (South African) economy is that 'two economies' persist in one country. The first is an advanced, sophisticated economy, based on skilled labour, which is becoming more globally competitive. The second is a mainly informal, marginalised, unskilled economy, populated by the unemployed and those unemployable in the formal sector. Despite the impressive gains made in the first economy, the benefits of growth have yet to reach the second economy, and with the enormity of the challenges arising from the social transition, the second economy risks falling further behind, if there is no decisive government intervention."

A majority of those surveyed has singled out poverty as the most important root cause that has spread corruption in the provincial government. In the first place, one is attempted to answer that poverty may cause corruption. But after a meticulous analysis of facts, it is of the utmost importance to point out that it is a complex situation dictated more by culture-bound conceptions than mere personalistic variables. It emerges from our investigation that while numbers of public officials believe that poverty causes corruption, anthropological and sociological respondents from our three academic institutions have argued that as corruption is associated with power, poverty has nothing to do with it.

[19] 'Towards a Ten Year Review' (2003).

There are many countries far poorer then South Africa where corruption is less frequent. Very poor people are rarely corrupt. It is always the relatively well off who get greedy. The corrupt officials who are stealing are not poor; they are the ones with jobs and opportunities to get corrupt. They may believe they are, but this is a cultural problem, not an objective reality. Those who are benefiting from state institutions for themselves, are doing so not because of the legacy of the past or because they are poor, but for pure and insatiable greed. Greed is the cause of corruption, which in turn leads to poverty. Therefore, as they (academics) have stressed, poverty is generally the result of corruption and a lack of patriotic and nationalistic culture.

When one looks around Gauteng, one finds that poverty is a reality and when corruption thrives in an environment where individual members of society have no access to financial resources, to people in power or to public services vital to the poor such as education, health and sanitary facilities, they become more vulnerable to extortion and cannot use corruption in their favour. They are the first victims of corruption. Empirical evidence elsewhere in developing countries had shown that in poor countries corruption lowers economic growth, thereby breeding poverty over time. At the same time, poverty itself might cause corruption, perhaps because poor countries cannot devote sufficient resources to setting up and enforcing an effective legal framework, or because people in need are more likely to abandon their moral principles (Paolo Mauro, 1998:13).

New estimates of poverty from the Human Sciences Research Council (HSRC) show that the proportion of people living in poverty in South Africa has not changed significantly between 1996 and 2001. However, those households living in poverty have sunk deeper into poverty and the gap between rich and poor has widened. Approximately 57% of individuals in South Africa were living below the poverty income line in 2001, unchanged from 1996. Limpopo and the Eastern Cape had the highest proportion of poor with 77% and 72% of their populations living below the poverty income line, respectively. The Western Cape had the lowest proportion in poverty (32%), followed by Gauteng (42%).

The HSRC has estimated poverty rates for each municipality. The majority of municipalities with the lowest poverty rates are found in the Western Cape. These include Stellenbosch (23%) and Saldanha Bay (25%). The major city with the lowest poverty rate

is Cape Town (30%). Pretoria and Johannesburg have somewhat higher rates of 35% and 38%, respectively, while Durban has a rate of 44%. The poorest municipality is Ntabankulu in the Eastern Cape, where 85% of its residents live below the poverty line. The figure below shows that seven of the 10 poorest municipalities are located in the Eastern Cape while two are located in Limpopo and one in the Free State.

With its large, poor population KwaZulu-Natal has the biggest "poverty gap"[20] (R18 billion). The aggregate poverty gap is calculated by summing the poverty gaps of each poor household. Therefore, it is equivalent to the total amount by which the incomes of poor households need to be raised each year to bring all households up to the poverty line and, hence, out of poverty. The Eastern Cape (R14.8 billion) and Gauteng (R12 billion) follow KwaZulu-Natal. The Gauteng's poverty gap has grown faster between 1996 and 2001 than all other provinces. This is probably a result of its population growth rapidly exceeding economic growth. Among municipalities, Durban has the largest poverty gap, followed by Johannesburg and East Rand. The poverty gap has grown faster than the economy indicating that poor households have not shared in the benefits of economic growth. In 1996 the total poverty gap was equivalent to 6.7% of gross domestic product (GDP); by 2001 it had risen to 8.3%. The HSRC study has shown that the poverty gap has grown from R56-billion in 1996 to R81-billion in 2001 indicating that poor households have sunk deeper into poverty over this period.

The fact that poorer households have not shared in the proceeds of economic growth is reflected in the rise in inequality between rich and poor. Poverty rates also are much lower for whites than for other historical racial groupings in South Africa. The degree in which poverty is concentrated in South Africa is astounding - of all poor individuals, 95 percent are African. Poverty rates in South Africa - meant to measure the extent of absolute poverty - are extremely high and tend to increase in rural regions, in provinces containing one of the former homelands, and in areas whose economies have been underdeveloped by apartheid-era policies. In most provinces the level of poverty is shockingly high, with

[20] The *poverty gap* measures the required annual income transfer to all poor households to bring them out of poverty.

poverty rates for individuals near or exceeding 50 percent. Table 30 gives the estimated poverty rates by province in South Africa.

Table 31: Poverty head count and ratio per province

Province	*Number of poor household*	*% household living in poverty*	*Number of poor individuals*	*% individuals living in poverty*
Western Cape	125 208	14.1%	635 557	17.9%
Northern Cape	51 466	38.2%	267 992	48.0%
Eastern Cape	710 257	56.8%	4 115 332	64.0%
KwaZulu Natal	626 889	40.4%	4 216 184	50.0%
Free State	263 112	36.1%	1 331 649	47.1%
Mpumalanga	208 419	33.8%	1 275 517	45.1%
Northern Province	608 528	61.9%	3 565 492	69.3%
North West	232 947	29.7%	1 248 724	41.3%
Gauteng	299 821	15.4%	1 443 204	21.1%
Total	**3 126 647**	**35.2%**	**18 099 651**	**45.7**

(Source: HSRC, 1995: A Profile of poverty, inequality and human development in South Africa).

In Gauteng, as everywhere in South Africa, one finds that poverty is entrenched in the fabric of the South African society and is a feature of each province. With an estimated 25% of the population living on less than a dollar a day, government needs a strategy to reduce poverty, a national anti-poverty plan. As Frank Meintjies asked, “is it possible that many key players forget we are on the lower rungs of the ladder of middle-income countries? That our society is highly unequal? That countries in our league, apart from the large number of ultra-poor, have millions who are sent sliding into poverty by the slightest economic shock?” (1999:16).

In a highly unequal society such as South Africa, indications are that general social upliftment initiatives, with a few exceptions such as low-income housing programmes and special health services in urban areas, do not benefit the ultra-poor. Their very position in society – marginalized, and lacking access to resources and information – puts them at a serious disadvantage, as observed by Meintjies. Under such circumstances, the manifestation of corruption may strengthen the social divide and the erosion of social services may exert heavy pressure on what little is left to go round.

Recent studies (Lambsdorff, 1999) have shown that the benefits from corruption are likely to accrue to the well-connected at the expense of the poor and that corruption increases income inequality, as measured by the Gini coefficient. A significant positive impact of corruption on inequality was found in a cross-section of 37 countries, while taking into account various other exogenous variables. Other studies have demonstrated that inequality also contributes to high levels of corruption (Lambsdorff, 1999:4). Therefore, corruption may increase the probability of growing poverty all around the country.

This situation can be explained by what scholars have called the lack of economic development with the creation of a bi-polar type of income distribution between the "haves" and the "have-nots". One consequence of this situation, as described by Hope, is that civil servants, who strive for high social status so that they can be counted among the "haves", resort to the instrument of "demonstration effects" – a conspicuous consumption of luxury goods which they cannot afford given their low salaries (1985:3).

In the South African perspective and as a reminder, one recalls that in pre-1994 South Africa, the system of apartheid severely impeded development in African areas through state sanctioned programs, and used state structures effectively to enrich the white minority and oppress the black majority. History tells us that the apartheid-era government enacted several laws that impoverished blacks especially and created several privileges for the white minority. The system of apartheid effectively sentenced blacks to a life of poverty and deprivation while creating and sustaining artificial privileges for whites. The Natives Land Act of 1913, the Bantu Trust and the Land Act of 1936 limited ownership of land by blacks to a mere 13 percent of the total land area of the country. Meanwhile, whites that made up 15 percent of the population were granted the right to control as much as 85% of the land. In addition, the Industrial Color Bar made it virtually impossible for blacks to occupy skilled positions in the country's industrial sector. As a result of these pieces of legislation, most of the income and wealth generated in South Africa accrued primarily to the nation's white population (Mbaku, 2000:49).

Despite its reputation of not being a "typical developing country", South Africa still bears the burden of poverty on the part of the black community. The very high level of poverty and inequality in this country leads to the establishment of a link with corruption. A recent study funded by the British international development department reveals in its Poverty and Inequality report that behind South Africa's First World façade lurked one of the largest income differentials in the world. "The poorest 20 percent receive 3.3 percent of national income, while the richest 10 percent receive 47.3 percent", reveals the study. The report found that half of South Africans lived in poverty, using a poverty line equivalent to about $2.40 a person a day. The British department aims to reduce by half the number of South Africans living in extreme poverty by 2015. It shows that 23.7 percent of the local population lived on less than $1 (then about R3) a day in 1993 (*Business Report*, 11 January 1999:6).

As poor countries bear the burden of corruption, one can understand now why allegations of rampant corruption are so prevalent in South Africa, in general, and in Gauteng, in particular. Can corruption levels in South Africa be linked to Mbeki's existence of two nations? Nonetheless, evidence has revealed that "when debilitating problems trouble the economy, poverty propels people not only to tolerate corruption, but forces them to eagerly participate in it" (Kpundeh, 1995:10).

In Gauteng, places like Soweto, Alexandra, Freedom Park, Ivory Park or Thokoza, as well as hundreds of all so-called "informal settlements" or "squatter camps" that are mushrooming around Johannesburg and other big cities in the province, still remain paradises of poverty. In these places, most school-age children cannot afford to go to school. These uneducated children of today are the most likely to become poor adults in the years ahead resulting in the creation of a large pool of uneducated and unemployed people.

Despite there is a new and democratic dispensation in South Africa, the suffering continues for most blacks who remain poor, as during the apartheid era, unable to get access to opportunities and other key services that accompany democracy. This come as a challenge to the ANC-led government which is currently engaged in efforts to transform the society and provide the black majority and other historically deprived and

marginalized South Africans the way to participate more effectively in political and economic markets. Tom Lodge points out:

> *"the government's policy, which favours black business 'empowerment', surely makes it vulnerable to charges of favouritism. However, there is a professed commitment to an ethic of 'transparency' and, certainly, much more official information about the ways in which the government spends its money is available than before"* (2002:130).

As a result of these acute inequalities in the South African society, the majority of the historically deprived and marginalized people have chosen the "exit option" by engaging themselves in underground activities or informal economy. A walk on the streets of Johannesburg or Pretoria that have been invaded by thousand of hawkers from all social strata tells the story and give us a big picture of the existence of the informal economy in the province. By participating in several types of underground activities, people are trying to earn some income that can generally support them and their relatively large families. Meanwhile, individuals at the top of the political system continue to enjoy relatively high standards of living thanks to the control they have over goods and services and other opportunistic behaviours.

Most Gauteng leaders come from this deprived background and are thus vulnerable to corruption. Evidence elsewhere has shown that individuals faced with these types of hardship conditions are quite susceptible to actively engage in corrupt activities in order to secure necessary resources to maintain the high life. The almost chaotic situation experienced by certain Gauteng departments between 1994 and 1999 featuring mismanagement, political scandals and allegations of corruption followed by numerous commissions of enquiry, was a bitter pill to swallow and left people with the impression that the new men in power were incompetent and corrupt.

Fingers were pointed at their poor background seen as the catalyst cause of mismanagement and corruption. But it is wise not to jump to generalizations. If there are few rotten fruits this does not mean all fruits on the tree are rotten. Dan Mofokeng and Jessie Duarte's exit from government was clouded by investigations and commission of

inquiry into mismanagement and corruption in their respective departments. Both were outrageously cleared of charges of corruption, but irregularities and mismanagement were singled out and further investigations in the Housing department delivered plenty of evidence of corruption involving bribes, kickbacks, misappropriation and fraud. There was nothing to justify that poverty was the prime cause of this kind of behaviour.

A statement made on 3 November 2003 by Kenyan President Mwai Kibaki who urged - at a Nairobi conference hosted by the African Parliamentarians Network Against Corruption (APNAC) – Africans as partners in the common struggle, *"to bring an end to the culture of corruption across Africa, as this culture has brought poverty to our people and shame to us as leaders* (Reuters, 2003-11-03); indicates that African leaders are concerned about the damaging effects of corruption.

Since1994, the ANC-led government has worked effectively to improve the lives of the poor, according to findings of research collected as part of the government's ten-year review process. But much work still needs to be done and bold initiatives are urgently needed to confront this challenge

8.5.2. Cultural Dimensions:

Culture is said to be a contributing factor to corruption in Africa generally. But, to what extent does culture within a country influence the behavior of its political leaders? Is corruption culturally determined? Does loyalty to family, ethnic, or socioeconomic identity outweigh allegiance to objective rules? Do patronage systems secure advantage through personal rather than formalized channels? Is the cultural relativist explanation for corruption correct? Response to these questions will cement the core of our discussion.

According to scholars, corruption arises from the existence of defective cultural norms as a result of the conflict between Africa's traditional cultural values and the imported Western norms that accompany political, economic, and industrial development or modernization. Culture has been highlighted by Huntington as a cause of political corruption and is higher in states where "the interests of the individual, the family, the clique, or the clan predominate" (Huntington, 1968:71). Many other corruption scholars

such as Scott (1972:11); Johnston (1983); Klitgaard (1988:62-64) have considered culture in terms of kinship, traditional societies, sense of community, etc., and assumed that it is a strong and significant variable in explaining corruption and cannot be ignored in corruption analysis.

From this view, corruption is a cost that each African society anticipating political and economic modernization must bear (Mbaku, 2000:50). Thus, notes Paolo Mauro, sociological factors may contribute to creating an environment in which the availability of rents is more likely to result in rent-seeking behaviour (2001: 342).

Another common and popular explanation of differential corruption is that social norms are very different in different countries. What is regarded in one culture as corrupt may be considered a part of routine transaction in another. Some societies are characterized by a high level of trust among its people, while others may lack this and trust can be helpful in fighting corruption, since it helps bureaucrats to better co-operate with each other and with ordinary citizens. Culturally speaking, corruption may result from diverse interpretations of the public or national interest. What signifies a patriotic act in one context constitutes corrupt practices in another.

For instance, in traditional African society, the rights of the individual are usually considered subordinate to those of the ethnic group or extended family. The family and loyalty to it are considered more important than individual rights. These particularistic attachments are very strong in many African societies and are said by researchers to have a significant impact on corruption. Grief (1994:913) provides insights of how culture works as a causal mechanism by studying trade among organized societies of the medieval Mediterranean littoral. He found two distinct types of societal organization: one *collectivist* and another one *individualist*.

1. In *collectivist* societies the social structure is ‘segregated” in the sense that each individual socially and economically interacts mainly with members of a specific religious, ethnic, or familial group in which contract enforcement is achieved through “informal” economic and social institutions, and members of collectivist societies feel involved in the lives of other members of their group. At the same

time, non-cooperation characterizes the relations between members of different groups.

2. In *individualist* societies the social structure is "integrated" in the sense that economic transactions are conducted among people from different groups and individuals shift frequently from one group to another. Contract enforcement is achieved mainly through specialized organizations such as the court, and self-reliance is highly valued.

As observed by Collier, "in general, collectivist societies have more traditionalistic political cultures that are ambivalent about open markets, display paternalistic attitudes, prefer hierarchically organized societies, and place real political power in the hands of a small and self-perpetuating elite who often inherit the right to govern through family ties or social position" (1999:1).

In South Africa, these two kinds of societal organization do interact where traditional networks are still strong and important but are straddling over western individualistic cultures based on commitment rules that enable them to construct citizen coordination mechanisms that are self-enforcing on the ruling elite, thus lowering political corruption levels.

Thus, what is seen as corruption varies from one society to another. Given such variations, explorations of how actors themselves evaluate social practices are required. Whereas economic corruption takes place in a market-like situation and entails an exchange of cash or material goods, which is basic to corruption, in traditional African society, the exchange is not only in cash and other tangibles, but it takes place in a social setting with a number of cultural and moral meanings. This is what scholars have called "social exchange" or "social corruption". According to Médard, "social corruption is conventionally understood as an integrated element of clientelism. Clientelism often implies an exchange of material benefits but cannot be reduced to this, because clientelism has a wider cultural and social implication. Clientelism, nepotism, ethnic and other favouritism are all variants of corruption, in social terms" (1998:308).

This led Chabal and Daloz (1999) to point at the significance of these paternalistic attitudes by asserting that "this is a system that enables the political elites to fulfill their duties, to meet the expectations of their clients and, hence to enhance their status. In their view corruption is a key aspect of the African functional disorder; it is legitimate, practical and "a habitual part of everyday life, an expected element of every social transaction" (1999:99). This is a system of obligations of mutual support, imperatives of reciprocity, and importance of gift exchange, which for these authors constitute the "key ingredients" of the continent's "modernity" (ibid, 101).

But my investigations did not link the manifestation of corruption in Gauteng to cultural determinants. The account of the Gauteng leadership is a mere illustration in order to single out the significance of "Gauteng uniqueness". Contrary to Chabal and Daloz's view regarding the "failure of the modern state to supersede the informal compacts" (1999:100), the Gauteng experience claims the transformation from the racist administration to a public service characterized by professionalism and ethical standards. Obviously, transforming a society as complex, sundry and imbalanced, as South Africa has not been an easy job, as the implementation of these new standards has not been uniform. Mpumalanga and the Eastern Cape are such an example where the legacy of both Bantustan states and apartheid are still more evident. In Gauteng, "the modern state has succeeded to supersede that of the informal compacts derived from ethnic, factional, or nepotistic ties of solidarity". Gauteng is a new and modern structure that did not get influenced by what Chabal and Daloz call the "moral economy of corruption" … that is embedded in the dominant social imperatives.

What remains true in most African countries is the fact that a lot of young people migrate to the urban areas in search of opportunities for further education or immediate employment. Without any other means of support, they have no choice but to rely on relatives who had migrated to urban centers early and who are now well established both socially and economically. Those urban relatives then have the obligation to provide assistance to the new arrivals. Consequently, a top civil servant is expected to share in the modern industrial sector, with members of his extended family and his ethnic group. But, interestingly, this does not necessary imply that public servants in this case must be involved in corrupt exchanges at all costs. This interaction is viewed as solidarity in action

but whatever the nature of the exchange (goods and services), what is evaluated here is more the nature of the relationship existing between those involved.

Meanwhile, in terms of family solidarity networks, it has been argued that such culturally related pressures can force civil servants into engaging in corrupt activities in an effort to generate the additional resources needed to meet obligations to members of the immediate and extended family. Thus the motivation to remain honest may be weakened by long established patron-client relationships, in which the sharing of bribes and the exchange of favours has become entrenched.

The Gauteng leadership is a good example to emphasize the nexus between cultural determinants and new standards of public management. This could be the story of any member of the Gauteng government living and working in Gauteng. Dr Gwen Ramokgopa (Health) was born in Atteridgeville in Pretoria; Nomvula Mokonyane (Security) in Kagiso, Krugersdop; Jabu Moleketi (Finance) and Khabisi Mosunkutu (Public Works and Transport) in Pimville, Soweto; Ignatius Jacobs (Education) in Riverlea, Johannesburg and Paul Mashatile (Housing) in Pretora.

While most MECs are from Gauteng townships and Tokyo Sexwale was from Johannesburg, the last two premiers came from Limpopo and fit well into this big picture, in terms of family networks solidarity. Both came to Gauteng, and Johannesburg especially, in quest of green pastures and better living conditions. They both succeeded in making a name for themselves but in different ways: Motshekga, a Pedi, who was born in Bolobedu, Duiwelskloof, became a respectable scholar with strong legal credentials, while Shilowa who was born on 30 April 1958 at Olifantshoek, turned out to be a respected trade unionist. Their successes made them the envy of those left “at home” and a catalyst for other communities in the rural area whose members were still dreaming to take the Gauteng road. Motshekga became Gauteng Premier to succeed Tokyo Sexwale after persistent infighting in the Gauteng African National Congress when he went against the wishes of a strong lobby of provincial and national ANC leaders and contested the position of provincial ANC chair vacated by Sexwale.

However, his leadership was permanently challenged and shadowed by all sorts of wrongdoings: from spying claims that he spied for the apartheid government to allegations of blatant irregularities in his office, mismanagement and corruption. The Negota commission of inquiry was appointed by the ANC national leadership in February 1998 to investigate all these allegations including those aimed at him for maladministration of donor money at Nipilar and misrepresenting the scale of the organization's activities to donors. But, as noted by an observer, "the ANC has long had a dilemma in dealing with allegations of spying against its own members, and has rarely taken action against even those about whom strong evidence exists" (S. Brummer, 1998). Therefore, though Motshekga has never been a party establishment favourite, the national leadership avoided moving decisively against him after his election, fearing that interference would only reinforce the perception that the popular will was being subverted. A decision was taken to make sure he did not contest the 1999 elections – effectively ending his premiership.

Motshekga's leadership had never been seen as a strong one when compared to that of his predecessor Tokyo Sexwale. Observers have described it as a "fledgling leadership" featuring tensions, rivalry between the ANC old guard and party newcomers, factionalism and intrigue in the province. But in an interview with Shalo Mbatha of *Saturday Star,* he judged his administration as a success story and argued that none of the accusations ever led to legal charges, while conceding that there had been some problems (January 30 1999). But the weakness of his administration was exposed when provincial Director General Vincent Mntambo, regarded as one of his allies, tendered his resignation on March 24 1998, accusing Motshekga of "flouting administrative procedures and policy in the way he ran his office".

Socially, Motshekga who is married to Angelina Motshekga (the former Gauteng MEC for Social Services & Population Development (2000-2004) and currently Gauteng MEC for Education with 9 children) has been described by Mbatha as "some one who knows about the hard life, an orphan who once subsisted on R1 a month pocket money at school, and who first had the chance to study by electric light when he was in matric. Someone uncomfortable to admit he has a swimming pool at home but says the size of his family means, "He never has any money and has never been on holiday". "I can't afford it", he said. But he has to carry on working and will "die on duty" because he needs the money.

Coming himself from poverty, he understood why some people are forced to steal: “they have families to feed”. “These cases are different from those of criminals who make violence and theft their way of life”, he added (Mbatha, 1999). This is the kind of background that may be conducive to acts of corruption. However, his confrontational governing style may have put him in trouble by embarrassing the ANC leadership that had no choice but to remove him by paving the way for Shilowa to take over. As pointed out by Drew Forrest, “Motshekga has the embalmed quality of a politician whose moment has passed” (*Business Day,* 2 September 1999).

The youngest of seven children, Mbhazima Shilowa, a Shangaan, was born in Olifantshoek, Gazankulu, attended school at Khamanyani Lower Primary Schools, Muhunguti higher Primary School, Kulani Higher Primary School and Akani High School. He came to Johannesburg to seek employment in 1979. He worked at John Weinberg Hardware in Germiston, Anglo Alpha Cement in Roodepoort and PSG Services in Johannesburg. He joined the trade union movement in 1981 and in 1991 he was elected as Deputy General Secretary, and in 1993 General Secretary of COSATU, a position he held until his nomination and subsequent appointment as Premier of Gauteng.

Shilowa was elected a member of the National Executive Committee of the ANC in 1997. He has been a Central Committee member of the SACP since 1991 and represented both organizations in the National Peace Structures and CODESA negotiations. On 15 June 1999, the Provincial Legislature elected Shilowa as the Premier of Gauteng. He was inaugurated on 18 June 1999. He is married and has two sons. Under his premiership, Gauteng is unquestionably in better hands now than under Motshekga. But it is still too early to draw up any conclusion and there is still a long way to go.

Dan Mofokeng, the former MEC for Housing, was born in Bethlehem in Free State but grew up in Kathlehong in Johannesburg and became a teacher after his high school before engaging in civic organizations’ activities. Jessie Duarte was born in Johannesburg and was the fifth of nine children. She grew up in Newclare - a coloured township - where hard life and poverty went hand in hand before becoming involved in women activities during the struggle years. But while solidarity in action may be salient in regional governments that had absorbed Bantustan states in their bureaucracies, as was the case in

Mpumalanga or the Eastern Cape for instance, Gauteng may be less affected by patrimonial cultures of tribute.

Thus these features alone cannot explain Mofokeng and Duarte cases. As observed by Tom Lodge, "what may appear to be an increased incidence of abuse in these domains [the two departments] is probably a consequence of more stringent controls and more open disclosure. In these cases, the rapid social mobility from situations of material hardship which modernization theorists suggest as a prime cause of political corruption may help their behaviour" (2001:420). Therefore, the salience of culturally-based explanations of corruption in Gauteng seems to be inappropriate. A valid explanation may be found in the change in social status for the newcomers who possessed more "struggle" credentials than administrative ones before their appointments to the ANC government. In these two cases we cannot refer to cultural determinants to explain why they failed. Incompetence has nothing to do with culture.

Nevertheless, we have to remember that in South Africa the traditional society does no longer exist in its original form. History teaches us that across the different groups, marriage customs and taboos differ, but most traditional cultures are based on beliefs in a masculine deity, ancestral spirits and supernatural forces. In general, polygamy is permitted and a *lobola* (bride-price) is usually paid. Cattle play an important part in many cultures, as symbols of wealth and as sacrificial animals. However, social interactions in South Africa's urban areas, along with the suppression of traditional cultures during the apartheid years, means that the old ways of life are fading, but traditional black cultures are still strong in much of the countryside. Although the country is home to a great diversity of cultures, most were suppressed during the apartheid years when day-to-day practice of traditional and contemporary cultures was ignored, underestimated or destroyed. The new South Africa is being created on the streets of the townships and cities.

In corroboration of these historical features, I came to realize the depth of the dilemma existing in Gauteng, as demonstrated by some interviews I conducted at random around Johannesburg. It emerged from these contacts that, as a metropolitan area, Gauteng does not have a specific traditional culture and has been seen as a mosaic of cultures where

there is no predominance of one culture over another. The new comers must "adapt or vanish". Because people are no longer exposed to their original culture, as was the case with those living in Sophiatown or those living in Soweto, today many people often referred to as the "lost generation", seem to have lost their culture and identity. These individuals have become culturally hybrid, having adopted Western-influenced traditions and sitting upon them while in the meantime trying to keep their African cultural roots. The end result is *defective cultural norms*: a mixture of "segregated" and "integrated" social structures coupled by both informal and commitment rules as outlined above.

Tom Lodge (2001:406), unequivocally, stresses that "South Africa is not a "*typical developing country*" and may not seem to share the structural predisposition towards corruption, which many authorities believe makes the condition endemic in other African countries. South Africa's uniqueness is the result of state formation during a long period of white political monopolies that made it more difficult than elsewhere in Africa for the state to be influenced by the persistence of old pre-industrial cultures of tribute". This is more accurate in Gauteng than in other provinces

South Africa's uniqueness has been championed by Chabal and Daloz (1999) who, too, consider the country as an exception to these rules so far because they believe that the Western notion of the strict separation of public and private interests has been so strongly-rooted in this country. Thus, how can one explain the incidence of corruption in the Gauteng administration in the post-apartheid area? The authors of the *Disorder as Political Instrument* suggest new ways of explaining the problem: if it is so much part of the community-based culture elsewhere in Africa, perhaps the motives for corruption in South Africa are also rooted in community – in this case, racially defined communities.

Perhaps those members of the new black elite who steal from the state really do feel they are merely redistributing the wealth that has been denied them by the government's unfortunate conversion to free market policies – because whites pay most of the taxes. Also perhaps whites that steal do so because they feel they must take what they can before the black elites take it all (Peter Fabricius in *The Star*, October 15, 1999).

Therefore, once civil servants begin to make distinctions among the people they deal with according to the degree of family relationship or friendship, they have abandoned what Tanzi calls “the arm’s-length principle” (i.e. the principle of objectivity). This principle requires that personal or other relationships should play no role in economic decisions that involve more than one party (Tanzi, 1995:161-180). Yet, despite concern about culture as a cause of corruption, it emerges from the analysis that a causal mechanism has not come up to satisfactorily include culture in political corruption models. Nonetheless, I try to show how culture affects political corruption levels through its influence on the human behavioral and on the possible forms of state rule a society perceives as its natural limits.

As Caiden has argued, “bureaucratic corruption is shafted and conditioned by cultural attitudes and behavioral patterns that are defective” (G. Caiden and N. Caiden, 1977:303). In many cultures, particularly in the context of poverty or conflict, allegiance to personal loyalties such as one's family or ethnic, religious, or socioeconomic identity outweighs allegiance to objective rules. Patronage systems, in fact, represent a common means of securing advantage through personal rather than formalized channels.

For instance, in the post-1994 Gauteng, allegations of nepotism were rife in the government. This led to a request by the National Party (NP) to the Public Protector to investigate the extent of new senior appointments at different levels of government and the public service since May 1994, in general and in Gauteng particularly. The short listed cases in Gauteng were that of Mr Jabu Moleketi, MEC for Finance and Economic Affairs, husband of Ms Geraldine Fraser-Moleketi, the then minister for Welfare and Population Development and of Ms Patricia Elizabeth Murray, head of the department of Agriculture, wife of the then minister of Land Affairs and Agriculture, Mr Derek Hanekom. But all cases of nepotism were found to be without substance by the Public Protector. As he said: “from the investigation by my office of the complaints of nepotism by the NP, I could not find one instance where such an allegation could be justified. My requests to the NP to provide me with substance for these allegations were not responded to” (Adv. Baqua, Public Protector, *Press Release*, 1 May, 1999).

In this regard, this study assumes that the intention of anthropological approaches or cultural values of corruption is not to excuse illegal actions by providing an explanation

by “culture”, but as emphasised by new research, to show that the borderline for acceptable behaviour is not universal. Using these approaches may enable to understand what is corruption and what is not corruption (Andvig *et. al*, 2000:79). Therefore, in the same line of thinking, Lambsdorff stresses that “tracing the level of corruption to cultural determinants should not suggest that levels of corruption are largely inevitable. Culture can only explain a certain fraction of the level of corruption and there remains sufficient room for improvements of a country’s integrity” (1999:10).

Moving back to our initial questions at the beginning of this section, one can argue now that it is not that simple to answer these questions because cultural norms of “gift-giving”, for instance, are distinguishable from truly corrupt practices in any setting. Moreover, the cultural relativist principle that claims that an individual human's beliefs and activities make sense in terms of his or her own culture, smacks of paternalism and leads to complacency as the determinants of corruption are complex and do not lend themselves to simple explanations.

Nevertheless, a recent research underlines that the perceived level of corruption on a cross-country basis is determined by the economic, political and socio-cultural factors. Although this thesis could not establish a link between the manifestation of corruption in Gauteng and cultural determinants, however, this link generally exists. This new research (Tavares, 2004) finds a significant statistical relationship between cultural variables, perceived corruption and political and economic variables, of which development seems to be the most important factor. This relationship is the result of the regression between the Corruption Perception Index, the culture dimensions, as suggested by Hofstede and by Schwartz, and the social-economic variables such as the human development index, gini coefficient, openness index and political stability indicator. Also the cluster analysis shows that as the level of perceived corruption increases, the level of development and openness of countries decreases and the cultural characteristics tend to be more significant.

Another research on the Culture/Corruption Relationship (Mallinger *et al.*, 2004) which used the nine dimensions of the GLOBE study[21] and perceptions of corruption (measured by the CPI 2003) examined this relationship and the findings are quite interessing. The sample consisted of 17,370 middle managers from 62 different societies and cultures collected from 951 organizations that were represented in one of three industries: *food processing, financial services* and *telecommunication services*. These types of organizations were selected because they represented industries found in all 62 societies and were sufficiently different from one another that they presented an opportunity to capture information from disparate types of businesses

Culture within each of these countries was measured along the following nine dimensions: Uncertainty avoidance, Power distance, Institutional Collectivism, In-Group Collectivism, Gender Egalitarianism, Assertiveness, Future Orientation, Performance Orientation and Humane Orientation. A regression analysis was used using the GLOBE dimensions as the independent variables and the CPI as the dependent variable. A second-order linear regression with a 95 percent confidence level was run on each of the nine dimensions and their subsequent sub-categories.

It emerges from this study that societies/organizations with high power distance; individualistic practices or low future orientation would be highly susceptible to corruption. This is the current tendency in South Africa where government officials seem remote from the public and the ongoing political scandals could be justifiable. From the nine dimensions of measurement, the only significance in the study appeared with respect to *uncertainty avoidance*, defined as "…the extent to which ambiguous situations are threatening to individuals, to which rules and order are preferred, and to which uncertainty is tolerated in society (House, et al., 2004: 602)," and "…the extent to which members of collectives seek orderliness, consistency, structure, formalized procedures, and laws to cover situations in their daily lives." For example, societies that have detailed policies and procedures would be described as demonstrating a high degree of uncertainty avoidance.

Mallinger *et al.* claim that, "the greater the u*ncertainty avoidance* (as exemplified by societies or organizations with specific policies and procedures for conduct), the less

[21] Global Leadership and Organizational Behaviour Effectiveness, see House, et al., 2004.

likely corrupt practices will occur. While it is surprising that only *uncertainty avoidance* emerged in the analysis, it is notable that the relationship is significant for all three subscales—what is valued, what is practiced and the difference between the two.

According to House, *et al.* "…countries that are high on uncertainty avoidance tend to have governments that support economic activities." The results of the regression analysis in the current study support that hypothesis (2004: 603) and "…in uncertainty-avoiding societies, the public sector is able to function without much political interference and there is relatively less bribery and corruption." (2004:630).

These conclusions suggest that, an understanding of the relevant aspects of local culture is indispensable as culture determinants impact on the behaviour of both individuals and organizations. Seen from this angle, this analysis, according to Mallinger *et al.*, provides some insight regarding the possible impact of country culture on levels of corruption that occur within a given society. Recognition of such effects and the degree of their impact can drive cultural variables to act as predictors by anticipating potential ethical issues within specific cultural environments, and can also serve as guidelines for developing practices and policies to mitigate corruption, and for helping individuals and organizations to design strategies for dealing with these corrupt practices.

That is what this thesis undertook to achieve while investigating the underlying factors of corruption in the Gauteng administration.

8.4.3. The Human Factor

One of the human factors at the root of the current public corruption is an insatiable greed, which tragically has become the driving force behind political behaviour. Of course greed as a human foible is not new. The histories of our communities are replete with examples of how greed had in the end destroyed the rich and powerful. But what makes greed in the contemporary South Africa different is this perception that it has been institutionalized and legitimized. Profligacy and extravagance in the political arena, illustrate this point. The institutionalization and legitimization of greed underscores the dichotomy between

the principles enshrined in the struggle for freedom of the past and the abuse in the exercise of power of today.

Professor Erich Fromm, a noted Jewish writer and thinker, stated: "Greed is a bottomless pit which exhausts the person in an endless effort to satisfy the need without ever reaching satisfaction". A Chinese proverb says: “greed is insatiable”.

In South Africa, there is consensus that the wholesale siphoning off of public funds by greedy public servants is nothing less than a national disgrace. Hardly a day goes by that we do not hear of some or other municipal or government official being arrested or suspended from duty because of misbehaviour. It is furthermore evident that greed seems to be the prominent factor in cases of corruption and organised crime in Gauteng. For instance farms and smallholding attacks which occurred in the Wierdabrug area, in Gauteng, in 1999, were directed against the property of the smallholders and it appeared that in all the attacks investigated, the primary motive for the attack was one of greed.

Further, it has been reported that in the property sector, greed is driving speculators crazy. Since mid-1999, land speculation and property boom have made developers instant-billionaires. Developers buy farms ahead of the sprawl, rezone them into townships, divide them into stands, sell them as quickly as possible and take their money three years before they had to pay for them. But the danger is that one day the end buyers will stop and the last speculators will lose billions (*Sunday Times*, 01 June 2003). In the Western Cape, it emerges from the corruption trial of former Western Cape premier Peter Marais, and his then-minister for environmental affairs, David Malatsi that “golf estates in South Africa were not designed to create jobs, but to make huge amounts of money for their developers”. Marais and Malatsi are alleged to have corruptly received two donations totaling R500 000 for the then-New National Party, to "lubricate" an application for the provincial approval of the Roodefontein golf estate at Plettenberg Bay. Malatsi alone also faces charges of theft and fraud, unrelated to the Roodefontein controversy.

In June 2005, Vusi Pikoli of the National Prosecuting Authority (NPA) announced that he would focus increasingly on crimes occasioned by greed rather than those arising out of poverty.

To keep things in perspective, it is arguable that corruption is perceived as a shortcut and a quick way to enrichment. Indeed, as Dlamini asserts, "we live in a world of competition and materialism where material possessions are accompanied by a symbol of an elevated social status. It is this concern with a person's own parochial interests which disregards broader public interests. Other personality features associated with selfishness are prestige, power, honour and temptation" (2001). The lure and prestige associated with material possessions is irresistible to many and people are willing to violate rules and principles to enrich themselves. Iona Minton argues that the pursuit of money, by means devoid of morals and ethics, is the most prevalent malaise of modern times (2002:9).

According to Rose-Ackerman, subtle differences in culture and basic values exist across the world. But there is one human motivator that is both universal and central to explaining the divergent experiences of different countries. That motivator is self-interest, including an interest in the well being of one's family and peer group. Critics call it *greed*. Economists call it *utility maximization*. Whatever the label, societies differ in the way they channel self-interest. Endemic corruption suggests a pervasive failure to tap self-interest or greed for productive purposes (1999:2).

Xolela Mangcu in his analysis of corruption's roots keeps the same line by recognizing that power and greed explain the existence of corruption. Mangcu quotes CB Macpherson, the author of *The Theory of Possessive Individualism*, who has demonstrated how the concept of democracy espoused by people such as Thomas Hobbes, John Locke and Jeremy Bentham entrenched in the political culture the idea that we are all self-interested individuals whose purpose in life is to maximize our individual pleasures without regard to the greater community good. Self-aggrandisement became the basis of how people thought about themselves and their relations to each other and to government (*Sunday Times*, 21 September 2003).

By applying this model to South Africa's politics, Mangcu suggests that we must locate our own corruption in the political culture that has evolved over the years, a political culture founded on a number of principles that have to do with extracting maximum

benefits from the state for both individuals and groups. As seen in another chapter, the best-case scenario to be applied to this assumption remains that of the arms deal scandal where individuals entrusted with power unduly and improperly influenced the awarding of government contract in return for individual kickbacks.

All these attitudinal or human causes are linked to what Victor Le Vine (1975) called the "core process" that is related to the individual office-holder. In other words, the functions of the individual occupying a given office or political position are defined not only by the formal, explicit powers and duties attached to the office, but a special role. The political role is determined by expectation as to how the occupant of a given office ought to behave. The office is, therefore, a sort of uniform that provides the wearer with explicit and implicit cues about his own expected behaviour and also tells others something about how he will probably behave as long as he remains in uniform (1975:4).

The centrality of the individual office-holder is important in this study for many reasons:

1. He is the link between the formal polity and those outside it;
2. It is he who converts political resources into goods that creates feed and maintain politically corrupt relationships;
3. And finally, it is not after all, as emphasized by Le Vine, institutions or organizations that engage in corrupt political practices, but people, acting alone or in concert for reasons of political corruption.

Thus, it appears that a major motivating factor in the prevalence of corruption is greed. However, it can be argued that greed can flourish when institutional factors and systemic factors are favourable to corrupt exchanges. Bureaucratic transition and the conquest of political power by the "New Men" are some of many reasons for the incidence of corruption. In almost all incidences of corruption in Gauteng, the role played by individuals cannot be ignored. Phylicia Oppelt, criticizing the new men in the office wrote: "our new democracy offers wonderful opportunities for gifted, energetic black people. We should encourage those among us who have the guts and the confidence to stick their necks out, take the risks and make a run for it. But ambition unchecked can

easily become naked avarice. And upward mobility can easily become a licence for downright greed" (*Sunday Times*, December 7, 2003).

What is devastating is the fact that profligacy and extravagance have begun to characterize elite behaviour at all levels of government. Palatial mansions at home and abroad, private jobs, luxury cars, expensive clothes and frequent overseas holidays have become the status symbols of the rich and famous in the government. What makes their conspicuous consumption totally unconscionable is the glaring fact that millions and millions of their fellow countrymen are still struggling to make ends meet. If conspicuous consumption has weakened the moral fibre of the society and made it vulnerable to venality, corruption and cronyism have further sapped its strength. Corruption and cronyism and the acceptance of these vices by a segment of society go against the grain of democracy and good governance. My investigations in the Department of Safety and Security and the Housing Department in the next chapter, clearly show how accurate is the above statement. If not checked corruption and its corollaries lead to the concentration of wealth among a few individuals; widens economic and social disparities; perpetuates the exploitation of the poor; increases the cost of living and accelerates inflation. It is one of the major causes of human misery.

8.5.4. Concluding Remarks

It may therefore be worthwhile to conclude this chapter by stressing that through this empirical analysis we have identified a full range of potential determinants of official corruption in Gauteng. It emerges from this examination that public sector corruption is shafted and conditioned by:

(1) State involvement through regulations and authorizations that lead to the lack of competition in the granting of important documents such as licences and certificates, which give a golden opportunity to bureaucrats to extract bribes. Examples from the Licensing Department, Public Works, Housing and Welfare Departments provide good illustration of this trend.
(2) In addition, the Affirmative Action policy seems to be favouring a specific section of the society, namely the black community, as recruitment and promotion are no

longer based on merit but are politically motivated. This can widely open new doors for venality, as rules for promotion and hiring are sometimes contentious.

(3) Taxation and procurement regulations are major problem areas where different ways of interpreting laws require taxpayers to ask for assistance in complying with them. In many instances, the payment of taxes implies frequent contacts between taxpayers and tax administrators or when the administrative procedures lack transparency and is not closely monitored within the tax administration. In all these cases corruption is likely to be a major problem. In general limited supply of goods and services makes rationing or queuing situations unavoidable that push taxpayers to recourse to corrupt practices in order to "speed up" the procedures. Specific cases of poor procurement control were emphasized in almost all governmental departments.

Therefore, this study has highlighted the frequency of significant official corruption in terms of the prominent role the government is playing in the economy through active industrial policies, price and interest rate controls, excessive regulations, and complex tax systems. With regard to institutional shortcomings, factors such as poor systems and weak checks and balances, the laxity of the punishment system and the lack of institutional capacity, all hamper the service delivery quality and create an environment conducive to corruption. From this perspective, corruption arises where public officials have wide authority, little accountability, and perverse incentives. This means the more activities public officials control or regulate, the more opportunities exist for corruption. Furthermore, the lower the probability of detection and punishment, the greater the risk that corruption will take place. Further, the lower the salaries, the rewards for performance, the security of employment, and the professionalism in public service, the greater the incentives for public officials to pursue self-serving rather than public-serving ends.

Besides these political corruption determinants, emphasis has also been put on socially-embedded incentives to participate in or withstand corrupt practices. A number of factors related to socioeconomic and cultural conditions such as inequality, poverty, patronage and unemployment, can predispose groups or societies to disregard formal rules. In other cases, dominance of a political party – such as the ANC - or ruling elite over political and

economic processes, or exclusion of marginalized or poorly organized groups from the process, creates incentives for those disadvantaged by the system to operate outside it.

Finally, the above analysis highlights that the general causal mechanisms that have been exhibited in this chapter to explain political corruption are contained within the structures of the state – check and balance systems, excessive regulations, penalty structure, affirmative action, institutional capacity – surrounding the corruption experience. Specific mechanisms such as poverty and inequality, personalistic behaviour, cultural determinants – provide further explanations for the extent of corruption a state may display. Thus, we have identified, by so doing, the existence and the strength of specific political, economic and socio-cultural mechanisms that can help to understand the underlying causes of political corruption in Gauteng.

However, before dealing with the impact of corruption in the province, as there is no cause without effect, the next chapter will examine the consequences of official misconduct in two provincial departments: the Department of Safety and Security on the one hand, and that of Housing on the other hand. The aim is to lay out the relationship between the behaviour recounted in the two narratives and the various hypothetical causal models described earlier.

Chapter Nine

COMMISSIONS OF INQUIRY INTO PROVINCIAL CORRUPTION

9.1. Introduction

We elect to use the case study method because it is the most appropriate to this study. Scholarly works present case studies as a strong method of testing theories. As explained by Stephen Van Evera:

> **"***contrary to large-n, or statistical analysis that deals with a large number of cases – usually several dozen or more – the case-study analysis explores a small number of cases (as few as one) in detail, to see whether events unfold in the manner predicted and (if the subject involves human behaviour) whether actors speak and act as the theory predicts"* (1997:29).

Furthermore, Van Evera states that "case studies can be best if we want to infer or test explanatory hypotheses, or if cases have been unevenly recorded – a few are recorded in great detail, many in scant detail" (1997:55). Given the lack or the rarity of experiments in social science, case studies seem to be the best format for capturing evidence for or against political theories.

The following cases demonstrate that corruptiuon in Gauteng is costly as it impacts on the well being of its citizens. Our case studies, notably the Moerane Commission and the Housing Department's investigations present blatant cases of the abuse of power by those entrusted with it. These two cases directly apply themselves to the study's conceptual framework based upon two models: Becker's "crime and punishment" and Klitgaard's "principal – agent theory".

The former put emphasis on the individual who compares the expected utilities of legal and illegal behaviour. Fundamental propositions of this model are that the incidence of illegal behaviour is positively related to the potential gains from illegal activity and negatively related to the probability of conviction and the punishment. In Becker's framework gains from *legal activities* are explicitly defined, on the one hand as the government wage, promotion, and public pension. On the other hand, potential gains from

corrupt behaviour are assumed to be a function of variables describing the size and scope of the public sector. The more government involvement in market operations, the more opportunities for corruption become evident through discretion on regulations and allocation of resources.

The latter treats corruption as an information problem on behalf of the "principal" who fails to control the "agent" properly. In this context the *citizens* who elect a politician are considered as the *principals* and the *politician* as the *agents*. The models primarily rely on the information problems in explaining the incidence of corruption. The monopoly power of officials and the degree of discretion they enjoy in exercising this power create formidable information problems in explaining the incidence of corruption. Hence the role of institutions of accountability that have been pictured as mechanism that leads to detection and punishment of offenders. The need to prioritize effective anti-corruption strategies with a clear identification of the causes and effects of the phenomenon clearly prove to be unavoidable. The more aware provincial administration is of the perceived risks it faces, the better placed it is to address and manage these risks.

Thus the eradication of corruption implies governance, which is seen by researchers as the traditions and institutions that determine how authority is exercised in a particular country. According to D. Kaufmann, A. Kraay and P. Zoido-Lobaton (2000) governance is:

1. the process by which governments are selected, held accountable, monitored, and replaced;
2. the capacity of governments to manage resources efficiently and formulate, implement, and enforce sound policies and regulations;
3. the respect of citizens and the state for the institutions that govern economic and social interactions among them (2000:1).

In their work, the authors have demonstrated that practical experience in many countries suggests that *weak governance* and *slow economic development* go hand in hand, while *improved governance* fosters *development success*. Their demonstration is based on some individual countries. For example, the decline of living standards in the Ukraine in the 1990s has been ascribed to weak governance in the form of ineffective rule of law,

inadequate protection of property rights, widespread corruption, and ill-advised policymaking serving special interests. In Argentina, corruption in procurement and budget allocation was found to be common in the province of Corrientes. In contrast, in the City of Buenos Aires, a participatory program to enhance transparency in procurement is bringing about major improvements. In Campo Elias, Venezuela, far-reaching municipal reforms cut corruption in half and improved efficiency. These examples suggest that while governance failures are widespread and costly, good governance provides significant benefits.

9. 2. The Moerane Commission

In terms of good governance, corruption is seen as one of the most concrete expressions of maladministration. Transparency in public administration, according to Dieter Frisch, is not a new fashion. It is a legitimate concern of democracy: the people have the right to know how decisions that affect them are arrived at, by whom and under what circumstances; how public resources are administered, by whom and why. It is a guarantee of good governance (2000:24).

The lack of transparency and accountability coupled with the lack of leadership and discipline displayed by Ms Yasmin “Jessie” Duarte, the MEC In the Gauteng Department of Safety and Security, turned the Department into private business and led to the appointment of the Moerane Commission of Enquiry into alleged mismanagement and corruption within the Department. Jessie Duarte was eventually suspended before losing her portfolio in 1998. This case must be understood as that of *elite* or *grand corruption*, involving dishonest practices by a senior official – though the offences themselves were quite trivial - resulting in poor and autocratic management and large-scale misappropriation.

The Moerane Commission of Enquiry was appointed in terms of the Provincial Commission Act N° 1 of 1997 to enquire into alleged corruption and mismanagement in the Department of Safety and Security in the Provincial Government of Gauteng, and was given the following terms of reference: “the Commission was specifically directed to make findings and recommendations on:

(1) Whether MEC Duarte drove an official government vehicle without a valid driver's licence;
(2) Whether the MEC was involved in a car accident in a government vehicle and failed to report the accident to the police on time, as required by law and government regulations;
(3) Whether the Department of Safety and Security paid for the air-fares and other related expenses for Mr. B. Bulunga on the MEC's official trip to Portugal;
(4) Alleged irregularities in the appointment of consultants, and remuneration including a Mr. Joseph Banda who was employed as administrative assistant to the MEC;
(5) The suspension of Mr. Theo Burgers, a Director in the Department. Whether this suspension was in accordance with the public service Act and regulations;
(6) Any other relevant allegations of corruption and mismanagement of the Department of Safety and Security, which warrant consideration in pursuance of good governance in the Province."

The Commission started its business on 16 February 1998, adjourned on 13 March 1998, resumed on 28 April 1998, and adjourned on 17 May 1998 for written and oral submissions. The latter were entertained on 8 and 9 June 1998.

In examining the terms of reference above, the Commission of Enquiry exposed mal-administration, financial improprieties and an attempted cover-up. The cover-up allegation was basically that some person or persons in the Department of Safety and Security had fraudulently and by means of forgery created or attempted to create a false paper trail in an attempt to exonerate MEC Duarte from all liability arising from or connected with the accident mentioned above. The Enquiry produced evidence of systematic corruption by government officials who were in positions of trust.

Administrative irregularities included the findings by the investigation that after many denials about the car accident on 18 October 1997, MEC Duarte admitted, at least, that she

was driving an official government vehicle, that is, her official vehicle, without a valid driver's licence. In fact, on 18 October 1997, MEC Duarte was involved in a car accident with a government vehicle and failed to report the accident to the police on time as required by law and government regulations. There was an attempt on the part of Mr. Sibeko, then Head of Department (HOD), acting in concert with Messrs Musi and Muyani, and perhaps others, to conceal the fact that MEC Duarte drove her official car on 18 October 1997 when it was involved in an accident. The attempt encompassed the following dishonest, and/or criminal, and/or improper conduct:

1) On 4 February 1998, the forging of Ms Maruping's signature on a document which was backdated to 11 November 1997;
2) On 4 February 1998, the uttering of the forged document to "The Star" (a local newspaper);
3) On 4 February 1998, the exerting of undue influence on Ms Maruping to obtain her signature on a backdated letter, which purported to close the matter of the "accident involving the MEC's car";
4) On 5 February 1998, the creation of a letter backdated to 10 November 1997, with the intention to deceive.

In the circumstances, therefore, Messrs, Sibeko, Musi and Muyani dishonestly and by means of fraud tried to conceal or cover up the fact MEC Duarte had been involved in an accident whilst she was driving or was in control of her official motor vehicle. It was claimed that this was a rear-guard action to protect Duarte.

Further investigation against Duarte shows clearly that:

1) Her friend allegedly accompanied her on a trip to Portugal at the taxpayers' expense. The Department paid Lynn's travel in settlement of an invoice against the airfare of Mr. Bulunga when he accompanied Ms Duarte on an official visit to Portugal during April 1997. During cross-examination Ms Duarte accepted responsibility for the payment of the airfare in respect of Mr. Bulunga.
2) Irregularities in the appointment of consultants and remuneration including Mr. Joseph Banda who was employed as personal assistant to the MEC from December 1995. In

this regard, it was found that the appointment Mr. Banda as a consultant was not tenable in several respects:

a) As intended as a member of the Strategic Management Team (SMT) in the Department of Safety and Security, Mr. Banda was found not to be "substantially qualified and experienced in the area in which he was to make a contribution". His poor qualifications, standard 8 with 2½ years relevant experience, would hardly be sufficient motivation for his appointment to the post.
b) His employment as a member of the SMT was unauthorized, as the right to employ SMT members was vested in the Director General and not in the provincial service commission that recommended him to the post. The decision was therefore irregular and misdirected.
c) There was no justification and basis for the level of Mr. Banda's remuneration at R112,00 per hour limited to 40 hours a week because this was a rate payable only to members of the SMT. Mr. Banda's rate of remuneration exceeded the salary ranges set for members of the personal staff allocated to the MEC who are employed as civil servants. When recommended by the Public Service Commission (PSC), the appointment to the post was at the rank of chief administration clerk and a the salary notch of R50 868 p.a.. The gap between this amount and the R288 232,00 he had received over 15 months - from 1996/01 to 1997/03 – was alarming and highly irregular. The Commission established that, at the interview for the post in question, the panel preferred Mr. Banda above three candidates who held Bachelor degrees (a requirement of the post according to the advertisement). Hence the question: on what basis was Mr. Banda paid the enormous amount of money he received over approximately the 18 months period, with access to a government car and a cellular phone? No action was taken to rectify his status in accordance with the directives from the Human Resources Directorate. At last, Mr. Banda who worked from 4 December 1995 to June 19 1997 was finally fired after it became known that he had defrauded his previous employer.

3) Another case of a breach of the directives of the Tender Board as well as the Treasury Instructions (TI) was that of Right Entry CC, as a consultant. The Commission heard

the evidence of Jackie Motsegoa, Mr. Burgers, Mr. Sibeko and Ms Duarte, and considered as well the submissions of the Democratic Party regarding the procurement of Right Entry CC's computer services for literacy training and installation of software. From all the evidence it was indisputable that Right Entry CC was engaged as a consultant without any contract setting out the services to be provided and the rates of remuneration. Similarly, the payments to Right Entry CC were not controlled to ensure payment was effected properly.

Therefore, the following irregularities were found to impact on good governance:

1) By utilizing the services of Right Entry CC, the Department was in breach of Treasury Instructions S2.1.1, which requires that if a Department needs services, provision of which is the functional responsibility of another Department, it must obtain services from that Department. Delegations of the Tender Board (para.1.6), however, provide for deviation from the requirement where exemption from the relevant Treasury Instruction or other financial directives, has been granted. The Commission was of the view that at the time that Right Entry CC was employed by the Department of Safety and Security, the Gauteng Government's Central Computer Services was responsible for computer training, and Corporate IT was responsible for installing software and attending to computer faults. Even if justification had existed for procurement of outside services, such as it might have on 6 February 1997 when Ms Duarte addressed the Director-General on her computer problems, a departure from the requirements of TI S2.1.1 was not secured.

2) The argument that Right Entry CC offered specialized service, which few other companies could provide was not entirely valid. Other companies capable of providing the service should have been afforded the opportunity through the Tender Board process; or at least the department tendering procedures should have been used.

3) Ms Duarte, as political head of the Department, and Mr. Sibeko, as Head of Department and Accounting Officer, in terms of the provincial Exchequer Act. 1994, should have been aware that Tender Board's directives, the Treasury

Instructions, and the delegations of the Tender Board, were at all times applicable to the department. Although Right Entry CC was employed before Mr. Sibeko became HOD early in 1996, he did not take action to rectify the procurement through to 1997.

4) Ms Duarte, as MEC was accountable for the conduct and expenditure in the Department of Safety and Security, and there is sufficient evidence that she commissioned Right Entry CC without adhering to the Tender Board Regulations or the Delegations of the Tender Board. She therefore bears responsibility for this irregularity.

5) The same could be said about Mr. Sibeko, who failed, as the Department's Accounting Officer, to take steps to regularize the procurement of services of Right Entry CC within departmental tender procedures. He should also be held responsible for unauthorized expenditure incurred on Right Entry CC.

Other irregularities that could be placed on the agenda for investigation as part of the sixth term of reference included:

1. The failure by the MEC, over a long period of time, to implement proper administrative procedures and, in general organizational structures;
2. The acquisition by the department of printing materials from Shereno Printers, office furniture from Zakhe without following proper tender procedures;
3. The Department thereto did not properly manage the use and maintenance of Government vehicles, and damage as well. According to the Commission, it was evident that management of government vehicles at the Department of Safety and Security had been very lax. Mr. Burgers sent several letters to staff involved in accidents early in 1997, to Messrs Nkutha and Musi, demanding reports on alleged accidents, but there was no evidence that such reports were forthcoming. There was also no evidence of any decisive action taken by the HOD in this regard.
4. Regarding the suspension of Mr. Theo Burgers, a Director in the Department, the suspension had been lifted before the Commission began hearing oral evidence,

thereby rendering it unnecessary to enquire into the legality or otherwise of the said suspension (Report [of the] Moerane Commission of Enquiry: 1998).

Reactions:

Duarte resigned her position and Gauteng Premier Mathole Motshekga referred the findings to the attorney general. However, despite flagrant mismanagement, maladministration and corruption on the part of Ms Jessie Duarte, she was cleared in January 1999, from all corruption and fraud charges after her acceptance to pay back to the Department of Safety and Security any outstanding amounts owed by her to the Department. After that, she was rehabilitated in the high ranks of the ANC and nominated on the party national executive committee (NEC) for parliament. The outstanding amount to be paid was R27 000. Later she became High Commissioner to Mozambique.

9. 3. The Housing Department Investigations

Besides Duarte's case of engaging in impropriety, complex issues were brought to light in February 1998 in Gauteng during the Dan Mofokeng case. As earlier as 1996, allegations of widespread mismanagement, corruption and intimidation in the Housing Department were rife. This led the leader of the National Party in the Gauteng Legislature, Mr. Johan Kilian, to call for the suspension of the MEC for Housing and Land Affairs, Mr. Dan Mofokeng and for a judicial probe into the functioning of his department. In January 1998, allegations of irregularities were made by the public, the media, concerned staff of the Housing Department and political parties to such an extent that the Auditor-General had to intervene. The Public Protector in this regard also received various allegations. While the Premier's Office welcomed an investigation by the Auditor-General, however, there was no way for Mofokeng to be suspended, pending the outcome of the probe.

It is worth noting that prior to further debate the Auditor-General reports between 1997 and 1999 in the Housing Department constantly displayed many shortcomings including:

- The asset management programme
- Lack of supporting documentation for rentals
- Overstatement of expenditure

- Lack of control over farmers settlement programme
- Deficiencies in the control of debtor's bursaries to employees.

Afterward, it was agreed at a steering committee meeting comprising the audit team and senior staff of the department to urgently investigate these allegations. The investigation that had been conducted by the Auditor-General lasted almost six months – from 3 April 1998 to 30 September 1998. The findings and recommendations of the ensuing report were tabled in the Provincial Legislature on November 1998. An initial investigation was performed to determine the factual basis of 27 allegations. Only 17 were finalized and reported including the following:

(1) Subsidies were paid out by the Department as well as by conveyancers, although sites were not serviced and housing were not provided.
(2) Conveyancers did not comply with the regulations of the Department and the stipulations of standard agreements entered into with them. The Department allegedly did not ensure compliance with these either.
(3) Agreements with developers contained several flaws, which adversely affected the delivery of houses.
(4) Townships were not proclaimed timely.
(5) Although a firm of registered accountants and auditors (firm) was appointed as consultant to the Subsidy Management Section, it failed to impart skills to the Department. In addition, all the modules of the Subsidy Management System (SMS) were not implemented.
(6) Contract workers were appointed in the Office of the MEC for Housing and Land Affairs in the absence of a recommendation by the Gauteng Provincial Service Commission (GPSC)
(7) Money was paid out to attorneys not registered as conveyancers at the Provincial Law Society (Law Society)
(8) Subsidy applications to obtain subsidies contained false identification numbers and personal particulars.
(9) The Department did not adhere to the tender regulations of the Provincial Tender Board (PTB).
(10) Government vehicles were used for personal purposes by the Office of the MEC

(11) Despite the non-existence of sites, R6 million was approved for the Atteridgeville, etc.

The purpose of the Report was twofold:

a. to facilitate public accountability by bringing to the attention of the Provincial Legislature the findings arising from an urgent investigation into allegations of irregularities at the Department of Housing and Land Affairs of the Gauteng Provincial Administration.
b. To secure and maintain cooperation between all parties involved and the management was informed in detail regarding the objectives and *modus operandi* to be followed during the investigation.

This urgent investigation ended with the exoneration of Dan Mofokeng, the MEC for Housing and Land Affairs, from any blame with regard to alleged mismanagement in the Department. He was cleared of 17 of the 27 allegations, leaving the Gauteng NNP leader Johan Kilian disconcerted and only able to say: "it barely scratches the surface" (*Citizen,* 8 January 1999).

However, the Auditor-General stated in his Report that while sufficient audit tests were performed to provide evidence for the findings contained in the Report, these findings should not be regarded as comprehensive since tests were only performed on a sample basis to substantiate allegations. He hoped that the Report would give rise to corrective steps, which would contribute, constructively to the establishment and implementation of proper management measures and financial control which would lead to improved value for money.

The remainder of the allegations was referred to the forensic auditing component for further investigation. The forensic department is a specialist branch of the audit profession specially trained to investigate administrative and financial crime, which literally uncovers every stone, follows every voucher and cheque, and tracks down every clue and traces all computer data. Otherwise the probe had identified weaknesses in the system, prompting further investigations.

This is why, despite the exoneration of Mofokeng in early January 1999, a large force including the Heath Special Investigating Unit, the Auditor-General, the Public Protector and the Director of Public Prosecutions, was called to probe Gauteng Housing Department. In a joint statement released after a meeting between the four bodies in Pretoria, the need to meet regularly, share information and coordinate investigations was expressed. They agreed to coordinate efforts and to look at complaints against developers, irregularities with subsidy applications and alleged corruption by officials of the Department. Certain of these allegations had been highlighted in the Auditor-General's Report, as seen above, and in investigations conducted by the Public Protector (Offices of the Public Protector, Johannesburg, 2 February 1999). The probe by the four agencies was concentrated on the remaining ten allegations already raised by the Auditor-General's Report and involved 32 housing development projects. The cost of the projects exceeded R100 million.

Moreover, in May 1999, the Heath Investigating Unit was given the go-ahead to scrutinize 18 alleged irregularities in the Housing and Land Affairs Department. The 18 allegations included theft, corruption, mismanagement and other irregularities such as abuse of the subsidy scheme by departmental employees and developers, and failure to comply with tender procedures as well. Meanwhile, although he was cleared of all allegations of corruption, Dan Mofokeng lost his place on the ANC list and the Legislature in connection with alleged irregularities within the Housing Department. Consequently the ANC axed him from its election list that led to the loss of his post in the government. Critics were unanimous that allegations of irregularities committed within the department under Mofokeng leadership weighed heavily on a decision by the African National Congress to axe him from its election list. Subsequently he lost his MEC position after the June 1999 elections.

In March 2000, a statement from the Office of the Public Protector exposed certain irregularities after various in-depth forensic audits of specific-linked housing schemes had been finalized. The investigation revealed a plethora of fraudulent activities, which not only entailed a loss to government but also a loss to the poorest of the poor. These irregularities included:

- A developer submitted claims and was paid for the installation of basic services which were never installed,
- Duplication on claims and payment in respect of a certain engineer,
- Lack of performance by developers after receiving payments,
- Non-disclosure of crucial facts to the Department which made its administration task extremely difficult,
- Lack of proper control by certain local authorities.

Finally, the Public Protector put an emphasis on the fact that the multi-disciplinary approach of the investigation and the establishment of the crack team of senior investigators was to ensure that the fraudulent activities involving millions of tax payers monies should be brought to an end (The Public Protector, 16 March 2000). But as strange things happen in politics, the Public Protector released on 28 September 2000 another report that showed that the former MEC for Housing and Land Affairs Dan Mofokeng was cleared of allegations of interference with the selection process and appointment of two senior managers of the department and found the allegations without substance. Therefore the investigation could not establish evidence to prove alleged irregularities in the Department. Among the allegations proved were:

- Those certain companies offering an inferior product at a price higher than that of competitors were appointed as consultants.
- That the Department prematurely considered paying a developer an amount of R935 980.
- That criminal charges and the suspension of an employee were withdrawn to obtain her silence with regard to her alleged knowledge of incidences of impropriety that had occurred within the department.
- That all members of the Gauteng Housing Board were not objective and impartial in their decisions concerning housing projects.
- That the Department sold state land to large “white owned” corporations at discounted prices and far below market value while persons from the community concerned had to pay exorbitant prices if they wished to acquire land in the same area.

Despite exonerating the former MEC Mofokeng for the second time, the Public Protector Selby Baqua was uncompromising in his revelations of large-scale ineptitude, blatant misuse of power and influence along with gross irregularities within the Department. In other words, he found out among other things that there was a lack of measures in the Department regarding control and safeguarding of vital documentation such as contracts and that the mechanism established by the Department to attend to complaints by the public in connection with matters pertaining to housing was inadequate. Thus the need for further investigations, as he recommended.

Amid this controversial exoneration, a parallel investigation by the Special Unit carried on with its task culminating in the release of the 1999/2000 Annual Report on 13 October 2000 that indicated that 142 000 individual subsidy applications, approximately 100 conveyancers and approximately 170 projects were under investigation. Allegations included:

a. Developers:

- Not all the houses in the project had been constructed
- Services were not installed or were not workable
- Houses were sub-standard
- No value for money
- False certificates issued to the Department of Housing
- Individuals not qualifying for subsidies were allocated houses

b. Conveyancers:

- They did not adhere to their contract stipulations and particularly: payments were made to developers/ sellers without the conveyancer being in possession of a "Handover Certificate or Top Structural Certificate".
- They did not pay monies received from the Department into a separate account.

During the financial year 2000/2001, the Special Investigating Unit noted in its Annual Report that the it had investigated 22 housing projects and visited 25 920 sites to establish if the houses were erected, if services were installed and if the quality of the houses met the required standard. It was found that 21 452 houses had been erected. The team

finalized 17 of the 22 projects and these files had been closed. Of theses, two projects were referred to the Department of Housing to address administrative issues while five projects were still under investigation.

In this report, and also the last one for the Special Unit, emphasis had been put on the scope of the investigation. Accordingly, the unit expressed its concern by highlighting what could be seen as an immense investigation that necessitated from the investigating team the need to look at all the relevant documentation pertaining to the projects that had been approved. This included perusing the project and financial files with emphasis on the following:

- Agreements between the Housing Board and the Developer
- Application by the Developer
- Correspondence between the Developer and the Housing Board
- Addendum's and changes to original agreements

In addition to this the team needed to investigate the payments made and if they were in line with the necessary policies and procedures, if the beneficiaries qualified for subsidies, visit the sites to establish if top structures were erected, services installed and contract stipulations met. The Unit reported its findings to Gauteng Premier Mbhazima Shilowa and new Housing MEC Paul Mashatile in April 2000, that is to say almost 6 months before that of the Public Protector who recommended also further investigations including:

- An investigation by the Head of the Department (HoD) whether disciplinary measures should be taken against any official who might have been responsible for lack of control and non-compliance.
- The HoD, in consultation with the three investigating agencies, should establish a departmental investigating body to investigate the housing development projects administered by the department in 1995.

Notwithstanding the conclusion of those reports, the Housing Department continued to receive numerous complaints of corruption from the general members of the public, prompting the new MEC, Paul Mashatile, to commission a probe in order "to dig deeper and widen the scope of investigations". Consequently, he enlisted the services of

independent investigative and forensic experts, George Fivas – a former commissioner of the SAPS – and CVMP Ramathe in January 2002. The investigation, in its preliminary findings, discovered evidence of serious irregularities including bribes paid to speed up a place on the housing waiting list, houses sold illegally, and developers who had been paid for houses they never built. As a result, the MEC resolved to instruct the investigators to conduct thorough investigations focusing particularly on irregularities in 20 projects in the low-cost housing sector. The details of a 10- month investigation into fraud and corruption involving these 20 projects had been revealed by Paul Mashatile, the MEC, in a media statement handed over to me by his office when I requested an interview on 3 March 2003.

From this document dated 11 December 2002, he pointed out that Gauteng low-cost housing initiative has lost R42, 9 million to fraud, corruption and shoddy workmanship. This amount is enough to build about 2 150 houses worth R20 000 each. On the 20 projects uncovered by the investigation, the worst cases had been singled out as follows:

- **Protea Glen Ext 1-4, 11 and 12:**

On 24 August 1994 an agreement to construct 2 400 housing units in Protea Glen, Soweto, was entered into between the Department and a developer styled Township Realtors. There was evidence indicating that the developer was paid approximately R40.1 million despite non-performance and /or breach of contract. There was also evidence of possible criminal conduct on the part of a number of role players, prompting the Department to bring in the Serious Economic Offences Unit of the SAPS to further enhance the department efforts in its fight against corruption and maladministration. A senior official who was implicated in the irregularities was suspended.

- **Saldo Projects:**

In 1994 and 1996 South African Land Development Organisation (SALDO) and its subsidiaries was awarded contracts to undertake housing development in Vlakfontein, Hammanskraad and Protea South. Saldo was liquidated while initially being investigated by the then Heath Unit. An out of court settlement was reached between the Department and Saldo with the assistance of the Special Investigating Unit following more allegations of wrongdoing being reported. The Department started new investigations – still under

way - not only into the three projects but also into other projects undertaken by the company or its subsidiaries.

- **ERF 230 IQ Farm Hospital – Diepkloof, Soweto:**

The department is investigating a deed of sale entered into between the Department of Development Planning and Local Government and a company known as Choice Decisions 18 (Pty) Ltd in November 2000. Evidence uncovered shows that there was flagrant disregard of stipulated rules and procedures as well as acts of collusion between the company and certain officials within the Department of Development Planning and Local Government.

- **Lakeside (southern Johannesburg):**

Various irregularities allegedly committed by individuals and organizations in the allocation of low cost houses (commonly known as RDP) to non-qualifying beneficiaries have been investigated in the Lakeside project. The irregularities range from illegal sale of RDP houses to acts of bribery. As a result of the investigations, sixteen cases of fraud and/or theft had been reported to the SAPS and arrests are pending.

- **Diepsloot West Extension 1 and 2 (northern Johannesburg):**

Evidence uncovered show possible collusion between Local Council officials and members of the public. This matter in particular pertains to the manipulation of the "waiting list" by the officials. As a result, many deserving poor people are being deprived of the housing benefits resulting in government's work being projected in poor light. The prejudice that has been suffered by both the Department and the City Council of Johannesburg is tremendous.

- **Braamfischerville and Tshepisong (West Rand):**

The projects consist of about 18 000 housing units. The investigation has identified various persons including Council officials who are facilitating the illegal tenure of properties. A number of cases pertaining to fraud/or corruption have been reported to the SAPS for further investigations. Arrests are pending.

- **Slovoville (West Rand):**

Investigation in this project has identified members of a local steering committee who have acted illegally in obtaining ownership of subsidized houses for themselves. The investigation is still proceeding and the Department has in the meantime confiscated over 33 title deeds pending the outcome of the investigation.

- **Kagiso (West Rand):**

It has been found out that officials in the employ of Roodepoort Local Council have been accepting bribes of between R240-R260 in exchange for manipulation of ones position on the "waiting list". Furthermore, the officials have been also receiving bribes of between R3000-R6000 to issue a fictitious letter of site allocation to non-qualifying beneficiaries. As a result of the investigations, numerous charges of theft and corruption against employees of the Roodepoort City Council have been laid with the SAPS. A further 30 instances of theft and/or corruption are still under investigations.

After the disclosure of these corruption cases, it emerged that the Department started to take action to root out corruption. In the Protea Glen case, the department acted swiftly by canceling the contract as well as instituting a civil suit for the recovery of the over-paid funds. The same measure was taken in the Diepkloof case when the Department cancelled the deed of sale and requested the Department of Development Planning and Local Government to take appropriate action against the implicated officials.

Besides, a lot of arrests and suspensions had already been made and more prosecutions seem likely as the investigation continued. The alleged transgressions by the suspects, according to the Housing Department, ranged from fraud, corruption, irregularities in housing provision by councilors, selling of title deeds and RDP houses, officials who tampered with the provincial waiting list and developers who claimed money from the department for houses that were never built (*Housing2Day*, April 2003).

To date, available figures show that subsequent to months of investigations:

- 20 projects are under investigation
- 117 criminal cases have been registered with the police totaling 2 430 counts of fraud and or corruption

- 9 arrests have been effected, including 6 for allegedly defrauding the Department of close to R120 million and one Gauteng Housing Department employee, Daniel Bila of Soshanguve, sentenced to two years' jail for corruption in July 2003. He admitted asking for and receiving R1 420 from an elderly woman who was thinking the "fee" she had paid him would secure her a better position on the housing list. She never got the house.
- More arrests are imminent, as the department has applied for 34 warrants of arrest.

Measures instituted to root out corruption within the Department will be dealt with in the next section that includes a review of all contracts, a review of policies and procedures in the awarding and administration of contracts; a customer support centre; the establishment of an investigating unit; scrapping provincial advisory boards and the formation of a fraud prevention committee.

9.4. Concluding Remarks

These two cases are not isolated cases as allegations of corruption from other departments continue to be reported. However, corruption poses a serious development challenge. The bigger the government is, the more it allows corrupt officials to discover and auction more profitable parts of the government. The impact on service delivery is costly as poor people are the first to pay the price, as they have to struggle against unemployment and poverty, unable to access adequate accommodation and subsequently basic health care and social services. Most of them live in small and overcrowded shacks with no privacy and without any basic services such as water, sewage or refuse removal. According to the Department of Housing, it was estimated in 1997 that 2.2 million households in South Africa were without adequate housing. It was further estimated that this figure would increase by 204 000 every year because of population growth, barring any effective intervention (2000:2). The Commissions of inquiry show how bad the situation was, especially in the Department of Housing and the relationships between these cases and the causal models become more obvious.

Experience in Gauteng and elsewhere in the country has shown that, even in clear-cut cases of corruption, where officials have been investigated and found guilty of having

abused their office for private purposes, "the most that agencies such as the Special Investigating Unit, the Auditor General or the Public Protector's office can do is force the official concerned to repay state monies and recommend disciplinary or criminal proceedings. They cannot either enforce these recommendations or monitor their lack of enforcement", Colm Allan has observed (March 2000:2). In Duarte's case there was neither disciplinary action nor criminal proceedings. A few months later, she was nominated as the new South African High Commissioner to Mozambique. As she continues to be employed in government service, this sets the precedent that misconduct is tolerated in the public service. The Democratic Party was shocked and astonished that the ANC decided to appoint Duarte despite the fact that she was forced to resign as a result of the findings of the Moerane Commission. As observed by Peter Leon – then DP's Gauteng leader – "the real issue was fraud for attempting a cover up and conspiracy to commit fraud, which De Vries (Witwatersrand Attorney-General) had not mentioned". "Duarte is guilty and she is going to be left untouched, without paying the price for what she did", Leon said. To which Duarte replied, "I have paid the unfair price of indulging egos of politicians who wanted me out of the way… Moerane did not accuse me of these things, only Leon does". (Independent Online: www.iol.co.za.: 1998/09/12).

In the Mofokeng case, alleged incidents of corruption in his department were under investigation for nearly five years without any tangible result while repeated incidents strongly suggested irregular practice. As put by the HoD for Housing Department: "part of the reason why there was so much corruption was that there were no systems at the time to enforce compliance by developers. Money was paid based on claims submitted by developers" (*The Star*, December 11 2002). Otherwise, before the current investigation, the Department was almost under control of obscure forces working in the dark, as a legacy of Dan Mofokeng leadership. He was unable to see that the ship that he captained was about to sink under the burden of corruption. The final report of all investigations called by him was "spin doctored", in opposition parties' terms. As proof: he had been exonerated twice despite the evidence of the cases. In taking action to stop inefficiency and corruption in the spending of taxpayers' money, Paul Mashatile did simply the right thing by opening a can of worms in his department.

Duarte and Mofokeng escaped punishment for misbehaving in Gauteng, because both possessed good political credentials in the ANC circles as freedom fighters. Even the two Gauteng government officials, found by a commission of inquiry that cost taxpayers R1,5 million, to have "dishonestly and by means of fraud tried to hide" Duarte's involvement in an accident, could not be prosecuted. The only casualty of this saga was Safety and Security Department head Mkhabela Sibeko, whose services were terminated on June 30 1999 on the ground of incompetence and maladministration. But in a bizarre twist of events, the Commission for Conciliation, Mediation and Arbitration ordered the Gauteng government in November 2000 to pay R433 000 to Sibeko as compensation for 12 of the months he had been without pay and also to reinstate him. Sibeko's application to the Commission was unopposed. This is called a mockery of accountability and transparency.

In many cases, the lack or absence of appropriate penalty amounts to being "punished" by being given an interest-free loan. Clearly, an efficient and accountable public service cannot emerge under such conditions. This bring me back to the two causal models and one can conclude that there is little difference between the crime-and-punishment model and the principal-agent model in explaining corruption. In both models corruption is viewed as a function of two major sets of variables: opportunities for corruption and controlling power of institutions. These institutions should not be limited only to the judiciary, it seems now, as these two cases have indicated, they can be extended to political institutions and civil society as well.

The analysis of these two cases clearly shows how official misconduct impact on the political life of the province. As it will be demonstrated in the next chapter, in the political realm, corruption undermines democracy and good governance by subverting formal processes. Corruption in elections and in legislative bodies reduces accountability and representation in policymaking; corruption in the judiciary affects the rule of law; and corruption in public administration results in the unequal provision of services. More generally, corruption erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and officials are hired or promoted without regard to performance. At the same time, corruption undermines the legitimacy of government and such democratic values as trust and tolerance. Duarte and Mofokeng cases confirm this reality. After their departure from Gauteng politics, the ruling party tried hard to do

some damage control to improve its image in the province. But it was the case of too little too late as the damage had already been done. Further investigations in the two departments proved how bad they were managed under these two leaderships.

In terms of good governance, I encountered the case of inexperienced managers who often, were ignorant of tendering procedures and failed miserably to run their respective departments. As a result, they have to leave on the grounds that maladministration and corruption have sullied their credibility.

The next chapter will summon evidence to demonstrate that corruption in Gauteng is costly – not perhaps as damaging as in poorer provinces, but nevertheless representing a considerable restriction on state capacity and a threat to political stability and developmental projects in the province.

Chapter Ten

CORRUPTION CONSEQUENCES IN GAUTENG

10.1 Introduction

By striving to draw up a reasonable theoretical understanding of the causes and consequences of corruption and to try to get a sense of the extent of these relationships through empirical research, the study also looks at the way in which to monitor corruption in order to get rid of it in the public domain. While there is increasing evidence that the economic *costs* of corruption are enormous and that the levels of corruption vary widely from one country to another, controlling it became a priority. Obviously, strategies to address this issue need to pay more attention to its roots causes that include the roles of incentives, prevention, and specific economic and institutional reforms.

In the first part of this study, I referred to the vigorous debate between those who argue the "toxic" vs. the "tonic' effects of political corruption that has been brilliantly illustrated by Professor Heidenheimer. By so doing, I tried to underline the point of view of those who have argued that the economic benefits of corruption outweigh the costs (Leff, 1964; Nye, 1967; Huntington, 1968). One notes that in earlier discussions of the problem of corruption in developing countries, some scholars brought to light perceptions about positive aspects of corruption. For example, their argument ran that corruption overcomes bureaucratic indifference and accelerates decision-making, reduces uncertainty about deciding whether or not to invest, and thus serves to mitigate the consequences of poor government policies (Leff, 1964:8-14).

Meanwhile, Michael Johnston argues that while corruption can sometimes distribute small benefits to a large proportion of the population and can break through bureaucratic and political stalemates, more often it is a "regressive" form of influence benefiting the wealthy and the well connected at the expense of the have-nots (1982:25).

However, our line of thinking is that corruption is socially destructive. Although some forms of corruption may have marginal political and economic benefits, it is important to point out that corruption has severe negative effects on long-term and sustainable

economic growth and development. In addition, analyses of the overall balance of various consequences of corruption show that its effects are negative.

Kaufmann and Gray (1998:8-9) underscore this feature by showing that instead of corruption being the "grease" that lubricates the "squeaky wheels" of a rigid administration, it fuels the growth of excessive and discretionary regulations. Further, available empirical evidence refutes the grease and "speed money" arguments by showing a positive relationship between the extent of bribery and the amount of time those enterprise managers spend with public officials. Responses from more than 3,000 firms in 59 countries surveyed in the World Economic Forum's Global Competitiveness Survey for 1997 indicated that where corruption was perceived to be high, firms managers spend more time with government bureaucrats negotiating licenses, permits, signatures, and taxes. In this context, the grease argument is particularly troublesome since bribes can override such regulations and cause serious social harm, such as illegal logging of tropical rain forests or failure to observe building codes designed to ensure public safety.

It has been found that whether corruption occurs on the micro or microeconomic scale, it has its prices, both direct and indirect. Moreover, corruption is not a zero-sum game. It is obvious that the costs or the price of corruption are better outlined in terms of economic growth. From this perspective, a number of studies have explored the possible influence of corruption on the growth of GDP. In developing countries, one dollar of corruption is estimated to impose a burden of $1.67, which becomes very large when compounded over time. For more details, let us take a look at recent attempts in assessing the impact of corruption on political development. Tanzi's analysis of causes and effects of corruption around the world provides the necessary scheme that is used in this study which shows that the consequences of corruption on the economy are explained through two approaches: qualitative effects and quantitative or econometric results (1998:26-28):

10. 2. Qualitative Results or Direct Effects

The nexus between corruption, development and stability shows clearly that the social and economic costs of corruption are sometimes unbearable for many developing countries. Further, some forms of corruption are more harmful for development than others, but

nobody argues anymore that corruption is good for development. What is obvious is the fact that corruption affects the poor *directly* since it increases the price for public services, lowers the quality of these services and often restricts poor people's access to water, education, health care and many other key services. It also distorts poor people's relationships with and trust for public officials, the police and people in authority who extort bribes from them.

Furthermore, the effects of corruption hit the small people hard, not the bigwigs. Studies show that the ones shortchanged by all this are the socially powerless and decent people, for they either cannot or will not join in playing the crooked game. Small business and poor people lack the resources to prod the decision - making mill to work in their interest; they are helplessly at the mercy of capriciousness and corruption. So they try to make a go for it in the outlaw zone of the shadow economy. Because of their poverty or uprightness they constantly get short shrift in comparison with those who have the wherewithal to influence decisions and the way things are handled to their advantage and are not shy about doing so.

Nevertheless, new studies show "little research has been conducted in South Africa on the costs of corruption, both in terms of actual monetary value and trust in public institutions" (Department of Public Service Administration, Jan. 2002). This thesis is an attempt to underline the effects of corruption on the domestic environment.

In Gauteng, the least corrupt regional administration in comparison to other provinces, there is no doubt that corruption hurts the economic performance of the province through public servants' wrongdoings. A task team appointed to investigate administrative /managerial issues affecting the provincial administration of Gauteng from the 5th to 9th May 1997 found among other pitfalls that the financial management capacity of many of the departments in the province was not commensurate with the tasks that they were needed to perform or the budgets managers were required to oversee. The departments of the province did not have sufficient numbers of appropriately qualified senior financial managers a situation that was conducive to corruption resulting in significant loss/wastage of public funds or resources.

The *National Party Corruption Barometer* points at a total amount of between R161,5 million and R356,6 million that was transacted in corrupt activities in Gauteng between July 1994 and June 1998, as shown in this table:

Table 32: Total Amount of Corruption:

Province	N° of cases	Amount involved	Fraud/Theft	Maladministration
Gauteng	61	R161,5m – R355,5m	R113,5m- R241,5m	R43m-R87,5m

Source: NP Corruption Barometer (1998:13).

This table shows how poorly managed, inefficient, and wasteful departments are able to squander resources that could otherwise, be used for genuine development. Various state officials may extract "under the table" fees from individual citizens as they approach the state as customers, patients or school children. Widespread corruption is seen as a symptom of a poorly functioning state, and as a failure of ethical leadership, democracy and good governance. Corruption literature in recent years highlights the impoverishment of poorly managed states, as corruption emerges as one of the most important contributors to high levels of poverty and deprivation in the developing world.

These practices have been underlined in Gauteng where, according to a new study, clients of public services (health, police and home affairs) estimated that between 15% and 30% of public officials are corrupt, and 10% indicated that public officials expect some form of extra payment for services rendered. Public officials themselves perceived clients to be corrupt in a sense of constantly seeking "back-door" solutions to their problems. They admitted to having been approached by a client wanting to give them a gift in exchange for a service provided. Slightly more than one in ten public officials in Gauteng admitted to accepting such a gift (*Country Corruption Assessment Report*, *SA*, 2003:3).

With regard to the police, it appears that police officers are the most vulnerable to corruption, as shown by a *TI Global Corruption Barometer* (3 July 2003), where 23.8 % of respondents in South Africa singled out police, deemed as the most ripe for reform. Subsequently, corruption among police members is severely compromising the functioning and credibility of the SAPS. In terms of foreign investment, as put by a Senior Superintendent of the SAPS Strategic Unit: "corruption compromised the quality of the

police services and affected the country's economy because investors did not trust the police" (*Business Day*, 23 November 2000). Besides, internal corruption is detrimental to the morale of police members and causes the public to perceive the police as being unable to provide an effective policing service. The following figures show how cases of police corruption increased year after year between 1996 and 2000 and alleged offences from 1 January 2001 to 31 December 2002.

Table 33: Number of Cases of Police Corruption: 1996-2000

	1999	1997	1998	1999	2000
Cases received	2300	3108	3779	4638	3751
Police allegedly implicated	2197	3106	3586	4374	1466
Police charged	246	428	475	844	1041
Police convicted	30	78	128	143	195

Source: Race Relations Survey 2001/02, p.374.

Table 34: Police Alleged Offences: 2001-2002

Corruption	Fraud/Theft	Defeating Ends of Justice	Assisting Escapees	Bribery/Extortion
1251	696	293	90	40

Sources: SAPS Annual Report 2002/2003, p.10.

Furthermore, lack of power by poor people makes them vulnerable, as they do not have easy access to legal recourse and representation. Property rights are often not well established and access to courts depends on the power of the purse. Not having the means to bribe the judge often results in losing a case. In a country with a corrupt justice system such as South Africa, justice becomes a matter of negotiating a price, much to the advantage of the rich and powerful who have virtually no limits imposed on their actions. This has been highlighted by serious weaknesses and shortcomings in the capacity and will of public sector bodies to implement and to comply with the laws. For example, the courts are overloaded and struggle to retain experienced prosecutors, resulting in backlogs, delays and withdrawals in corruption cases, and this may contribute to the perception of the prevalence of corruption within some organizations.

In terms of corruption effects, a look at Elliott's table can be useful as she recaps the consequences of administrative corruption in Korea, Malaysia, Nepal, the Philippines,

Singapore, Thailand, and Hong Kong – all emerging countries like South Africa. This is the result of a cross-country study - that analyses the incidence of corruption in three government functions: taxation, expenditure, and regulation. The implications of Elliott's study to Gauteng lay in the similarities of her findings with those of Gauteng with regard to the three government functions. The study found that the most common forms of corruption were bribery, nepotism and theft of government property. As might be expected, the study also found that reduction of taxes owed was the primary corrupt objective in customs and other revenue collection agencies. Regarding government spending, the study found that overpricing, substandard quality, and theft of government property for sale on the black market were the most common forms of corruption. In the regulatory area, most of the cases look at police departments, where the most common outcome of corruption was protection of illegal vice. This study covers almost the same areas, hence the application of Elliott's research on comparative grounds.

Table 35: Consequences of Corruption:

Inefficiencies	Inequities
Misallocation of government resources due to award of contracts to less efficient bidders	Redistribution of assets from public sector to corrupt individuals
Distortions in allocation of government expenditure	Redistribution from relatively poorer to relatively wealthier individuals who are more likely to have access to government officials
Distortions in allocation of privatized enterprises	Undermining of political legitimacy
Inappropriate or poor quality infrastructure	-
Undersupply of public goods such as clean air or water	-
Incentives to create additional regulations or delays in order to collect bribes	-
Lost national savings and lowered investment due to flight abroad bribe of "capital".	-

Source: Kimberly A. Elliott, in *Political Corruption: Concepts and Contexts*, A. Heidenheimer and M. Johnson, 2001:929

The two experiences underscore the subsequent burden of government malpractices as corruption undermines economic development by generating considerable distortions and inefficiency. In the private sector, corruption increases the cost of business through the price of illicit payments themselves, the management cost of negotiating with officials, and the risk of breached agreements or detection. In the Gauteng case the whole burden is borne by government departments as corruption is:

(1) *siphoning away* a large chunk of public resources which could have been productively employed elsewhere in the economy, as was the case of Jessie Duarte who took a friend on an overseas visit. There were millions of rands misappropriated in the Gauteng Housing and Land Affairs Department headed by Dan Mofokeng.

(2) *undermining* effectiveness and efficiency of the government; for instance Duarte's department was plagued with factions and was under the control of inept political and administrative heads, as found by the Moerane Commision, giving the whole Gauteng government a negative image. The same can be said about the appointment by the ANC national leadership of the Negota commission of inquiry to probe a string of allegations of maladministration and corruption against Premier Motshekga. This resulted once again in a negative image of the government and ended up undermining its effectiveness and efficiency.

(3) *reducing* efficient mobilization of resources and management of development activities; as people in top government positions devoted their time to respond questions put to them by the investigative officers to help the numerous commissions of inquiry. Thus, they lack the necessary time to get committed to government development priorities.

(4) *directing* gains from investment in the industrial sector to conspicuous consumption; as demonstrated by the following two mayoral cases. The first case involves the Mayor of Ekurhuleni metro, Bavumile Vilakazi who once was described as someone having completely "lost control of spending". It was reported that he took conspicuous consumption to new heights when the mayoral committee approved a R3.5 million budget for his office administration. Many staff in his office earned salaries that made them the envy of their counterparts ranging from R305 000 a year for his policy advisor and his liaison director to R162 000 for his secretary; while his personal assistant pocketed R201 000. This followed his inauguration in February 2001 when he splashed out R400 000 for a one-day party. Furthermore, his council approved the building of new council chamber, including mayoral office, estimated to cost R60 million. Vilakazi's car was a fully armoured Mercedes E430, which cost R560 000, had special features such as run-flat tyres, bullet-proof polycarbonated windows and a specially reinforced passenger cell. Obviously, this was in sharp contrast to what his colleagues in other municipalities were driving.

As Sphiwe Mboyane noted, "while the ANC preaches belt tightening and financial discipline among civil servants, it seems this does not apply to the mayor of the economically depressed Ekurhuleni unicity, which is made up of several towns and satellite townships on the East Rand" (*City Press*, May 20 2001). As a result of this wastfeful expenditure, Vilakazi was forced to resign.

The second case involved the mayor of Mogale City, Lentswe Mokgatle. It was revealed that, in terms of a proposal, Mokgatle's basic salary would rocket to R2.5 with the total costs of his office amounting at more than R4 million. This prompted an urgent meeting attended by Gauteng Premier Mbazima Shilowa, government spokesman Joel Netshitenzhe, Johannesburg Mayor Amos Masondo and Ekurhuleni mayor Bavumile Vilakazi. The emergency meeting and the revelations came in the wake of an outcry over Vilakazi's extravagant expenditure and aimed to devise a strategy to respond to the revelations of Mokgatle's proposal.

(5) *generating* allocative inefficiency by permitting the least efficient contractor or most costly supplier with the highest ability to bribe those who award government contracts, as seen in the procurement section with Ndinzani's case, to win tenders. It can be asserted that where the system of bribery is well established, as was the case in Johannesburg Licensing Department, income gained from bribes is no longer a windfall but becomes a part of expected wages in addition to the award of contracts for supplying, designing and construction by the public sector. In August 2000, there were numerous arrests in this department where about 80% of staff members were implicated in fraud and bribery, with 16 arrests in Sandton offices, 12 in Johannesburg and 4 in Roodepoort, thanks to the National Traffic Information System (Natis). The arrests followed the uncovering by the Johannesburg Licensing Department, in conjunction with the Department of Transport, of a huge scam that involved the issuing of illegal roadworthy certificates.

During investigation, I found that clients who spent the whole day in long queues were those who could not afford to pay bribes. As a "punishment" for not paying, they were "sentenced" to stay in long queues for long hours and were likely to come back the

following day. This sort of corruption for the provision of public services is an experience of everyday life. The money slipped to the licensing officer for the issuance of a roadworthy certificate or a driving licence or the occasional bribe or "cool drink" to the traffic cop to avoid an "official" ticket.

In terms of costs, "the beneficiaries of such a system are the few entrepreneurs, bureaucrats, and politicians directly involved in it; leaving the economy in limbo by stunting wealth creation and limiting the state's ability to deal effectively with widespread poverty and deprivation. As a result, the enormous costs generated are borne by the population at large" (Mbaku, 2000:58).

Furthermore, examples from the Gauteng Province show that between 1994 and 1999, one of the laws most commonly violated with impunity was the finance law. "Most departments were overspending and the Finance Department especially was bloated with unproductive public servants who had duplicating functions. The province was not attracting investment and businesses were leaving the city center in droves" (*City Press*, June 16, 2002:3).

A Report of the Auditor-General gave details of the whole situation by explaining how "key policies, practices and control framework necessary for proper financial management had not been established in the province. Weaknesses existed in the budgeting process. Budgets did not always make provision for all known expenditure that contributed to the over expenditure thereof. Further, budget did not reflect the strategy, goals, needs and objectives of the national government and/or the province" (June 1999-October 2000:3).

One notes in terms of current legislation, and especially the Public Finance Management Act (PFMA) Act 1 of 1999, that overspending is regarded as illegal and may lead to charges of financial misconduct. In 1999, a report showed that unauthorized expenditure of close to half a billion rands in the Gauteng provincial administration was uncovered by the Auditor-General's office. At the end of the 2000-01 financial year, GP was among the overspending provinces:

Table 36: Unauthorized expenditure in Gauteng

Province	Total of Votes in 2000-01	N° of Votes with Excess Spending	Total Amount Overspent	Total Appointed for the Year
			R'000	R'000
Gauteng	12	9	88317	18538798

Source: Auditor-General, 2001:72-74

It is arguable that corruption eats into an already tight budget and extra expenditures mean cuts in other basic needs areas. In October 1999 in Gauteng, the worst scenario came under the form of unauthorized expenditure, prompting the Standing Committee of Public Accounts (SCOPA) to hold public hearings at the Gauteng Legislature where different departments were called to account for the unauthorized spending. "Unauthorized expenditure did not refer to stolen money. It was money spent by the different departments that "was not part of their budget", reiterated Mr. Johan Kilian, then SCOPA chairman, during one of my visits to his office. This followed damning reports by the Auditor-General on the financial statements of the various departments for the financial years 1997/1998 and 1998/1999.

The Committee noted that there were no significant improvements in the audit opinions received by provincial departments for the years mentioned above. The Committee also noted that the audit opinions reflected a number of common transversal issues that needed to be addressed for improved financial management and performance in the various departments. According to the Committee's Report (2001:3), the situation could be due to various reasons such as:

- Late or non-submission of supporting documentation for auditing purposes;
- Lack of effective personnel expenditure control or management resulting from the failure to perform regular reconciliations between the Financial Management System (FMS) and Persal;
- Unauthorized expenditure, e.g. exceeding of budget or non-compliance with tender regulations;
- Weak asset management;
- Inadequate internal controls and failure to comply with Treasury instructions.

Therefore, the Committee recommended that, in line with the PMFA, Treasury should monitor and assist the departments' efforts to rectify deficiencies that were identified in the Auditor-General's report. Regular interaction and effective communication between departments, Treasury, the Public Accounts and portfolio committees, and the Auditor-General's office, should ensure that the obstacles to improved financial management and administration are identified and addressed effectively (*SCOPA Report*, 15 October 2001).

The occurrence of these incidences of corruption can be interpreted as a strong message that shows that when corruption takes place, it distorts markets and the allocation of resources by:

(a) *Reducing the ability of the government to impose necessary regulatory controls and inspections to correct for market failures*. When the government does not perform well its regulatory role on banks, hospitals, food distribution, transportation activities, financial markets and so on, it loses part of its basic *raison d'être*. The regulatory capacity is largely a national rather than a provincial responsibility. Tables 37 and 38 show how people perceive state ability to enforce the Law at national as well as provincial levels in South Africa:

Table 37: Perceived State Ability to Enforce the Law (2002)

	Not at all likely	Not very likely	Likely	Very likely	Don't know
Committed a serious crime	6	7	34	44	9
Did not pay a tax on some income they earned	8	10	35	34	13
Obtained household services (like water and electricity) without paying	10	12	34	32	12

Source: *Afrobarometer* Paper No.24: 16.

As explained by Robert Mattes *et al*., "while these are important bases of respect for the state's capacity to enforce the law, it is quite clearly not widespread enough. This means that 13% feel there is a good chance they could get away with committing a crime, 18%

feel they could conceal tax and get away with it, and 22% think it is quite possible to get their services without paying for them" (2003:15).

Table 38: Perceptions of State Enforcement Capacity, by Province (2002).

	Commit a serious crime	Evaded tax	Obtained free services	Average
Northern Cape	8	12	13	11
Free State	3	11	24	13
Western Cape	8	13	17	13
Northwest	12	14	12	13
Gauteng	8	13	17	13
Mpumalanga	13	20	21	18
Eastern Cape	16	21	26	21
K/Zulu Natal	20	24	26	22
Limpopo	23	34	36	31

Source: *Afrobarometer* Paper No.24: 17. *% "Not likely"/ % "Not likely at all*".

Robert Mattes *et al.* argue that provincial disparities in government capacity reflect the legacies of Bantustan government. But these patterns may also reflect a legacy of a limited presence of the Pretoria government in these areas. For example, while an average of one in ten respondents feel they could get away with a crime or not paying taxes or rates in Northern Cape (11%), or Western Cape, Free State, Northwest or Gauteng (13% each), an average of one fifth of respondents in KwaZulu Natal (22%) and almost one third of Limpopo (31%) respondents felt they could do so (2003:17).

It emerges from this research that interestingly, the sense that the state will enforce the law is wider than the perceived moral authority of the state's enforcement agencies.

(b) *Distorting incentives as able individuals allocate their time and energies to rent seeking and to corrupt practices and not to productive activities*. Generally, the resulting activities have a negative value added. This was the case at the Johannesburg Licensing Department where an internal investigation during March 1997 revealed serious structural flaws in the system. As a result, a huge vehicle licence scam was rampant within the

department where hundreds of false and forged clearance certificates were detected between March and July 1997 (*The Star*, 21, 5, 1997; *Sowetan*, 21, 5, 1997; *The Citizen*, 22, 5, 1997; *Business Day*, 22, 5, 1997). Bribes ranging from R800 to R1600 were being paid by thousands of South Africans to syndicates to acquire illegal learner's and driver's licences. The licence scam works like this: one pays between R800 and R1600 to a "runner" who in turn gets in touch with his "crooked connection" at the Department of Home Affairs in Johannesburg. In some instances "applicants" have apparently approached the corrupt officials directly.

Consequently, ten forged clearance certificates were detected every day at the Johannesburg traffic-licensing center. The scope of the fraud was considered to be much wider, but the exact extent cannot be determined as other centers in Greater Johannesburg lacked equipment to identify forged papers (*The Star*, 21, 07, 1997). As a result, about 5000 drivers' licence cases that were issued fraudulently in Gauteng were investigated. Thus, police had investigated 1015 cases of fraudulent licences issued in New Canada near Soweto between March and November 1996, resulting in 523 arrests and 470 convictions. Here the racket began in 1995 when police uncovered 400 incidents of fake licence issuing. By 1996 the racket mushroomed to 1200 cases. In Pretoria, there were 2800 cases investigated in Cullinan (*Business Day*, 22, 07, 1997). As an irate Johannesburg resident claimes, "running this scam is tantamount to committing murder and the bribes are blood money" (*The Star*, 01, 07, 1997).

(c) *Reducing or distorting the fundamental role of the government* (on enforcement of contracts, protection of property rights, etc…). When one can buy one's way out of a commitment or out of a contractual obligation, or when one is prevented from exercising one's property rights because of corruption, one of the fundamental roles of the government is distorted and growth may be negatively affected. Corrupt procurement can be singled out here as promoting excessive spending.

The awarding of contracts to high-cost bidders without following tender regulations result in decreasing state funds since it leads to higher spending on projects of often inferior quality. If we look at the tender award case that involved Ndizani Aviation Services and Europ Assistance in 1997, it emerges that the court ordered the board to review its

procedures after the Gauteng Tender Board had granted the tender to Ndizani despite impropriety surrounding the award. During the same year, an Auditor-General's report found the Department of Transport to have spent R557 785 on a vehicle hire contract in defiance of tender board rules. In the financial year ending on March 31 2000, a report compiled by the Auditor-General revealed among other things that tenders were granted without tender documents or board approval in the middle of a scandal involving financial irregularities totaling around R90 million in the Gauteng Education Department.

It is clear that the area of public management in which most corruption takes place is that of procurement. The purchasing of goods and services for the public service implies that certain decisions can only be made at higher levels of government. As Kimberly Ann Elliott has argued, "where such projects respond to genuine social needs, corruption may increase their costs, lower the quality, or lead to inappropriate choices of technology. Worse are 'white elephant' projects that enrich officials and suppliers but serve little public purpose" (2001:930). For instance, corrupt officials could allow the use of cheap materials in the construction of buildings or bridges that would afterward collapse, as was the case in two Pretoria incidences in the recent past.

In one incident, a mall collapsed on 20 December 2001 onto customers and more than 50 people were injured when the ceiling of the ground floor of the Kolonnade shopping centre partly collapsed around 16h00. According to the Tshwane city council no occupation certificate had been issued for a portion of the Kolonnade shopping centre, which partly collapsed. In a statement in Pretoria, the council said it was in the process of acting against the centre for non-compliance with building legislation, when the accident happened. The certificate had not been issued, as the centre had not met all the necessary legal and safety requirements, the council said. Yet the building plans had been approved. But the council could not explain why the mall was operating without the required documents?

In another incident, the Women's Day (9 August 2004) stage roof collapsed at the Union Buildings. The collapse left Gauteng businesswoman Suraya Scott paralysed and narrowly missed President Thabo Mbeki and various dignitaries. A report based on an investigation

into the incident showed that the collapsed roof was not anchored correctly. It also noted that:

a. the structure did not have the correct ground anchorages installed;
b. no completion certificate was issued for the structure;
c. an engineer from the Tshwane Metropolitan Council was not appointed;
d. there were no technical drawings presented; and
e. that there was only a verbal agreement between the contracted company Computer Audio Visual Technology (CAVT) and Presentech, the company that erected the stage roof.

These two cases highlight the lack of transparency, the transgression of procurement policy and the failure to comply with state tender and procurement procedures that raise the inevitable question of accountability. While the projects responded to genuine social needs, corrupt exchanges may have played the catalystic role in lowering the quality of the material to be used, which led to inappropriate choices of technology. Who will be accountable in these two incidences that imply that corrupt exchanges took place somewhere in the tender process? To support this claim, the academic literature shows that "the possibility of corrupt influences has always been important for the way procurement is organised in practice… The separation between the price and technical information in the purchasing organisation gives rise to middlemen with fairly high technical competences who try to buy technical information from employees and thereafter try to sell it to bidders… But in developing countries, the middlemen often need more political and less technical expertise" (Andvig *et al.,* 2000:126).

Therefore, when the awarding of a tender becomes questionable and when roofs collapse on customers putting their lives at risk, this become a matter of public concern. These concerns arose from the Green Paper on Public Sector Procurement Reform in South Africa (April 1997) that pointed to corruption as a damaging factor of the procurement process by stressing that:

> *"Corruption is morally and economically damaging. It jeopardizes the procurement process, is always unfair, and often criminal. It saps money from much needed development projects, and adversely affects their quality.*

> *Corruption, apart from permitting wasteful procurement to occur, undermines values of society, breeds cynicism and demeans the individuals involved. Accordingly there should be continuing vigilance in the procurement system to prevent and to react to the blight of corruption".*

However, it seems that in most cases people take irregular executive decisions with no powers in matters of procurement. In Pretoria, Tshwane's executive mayor, Father Smangaliso Mkhatshwa and Thoahlane Thoahlane, one of his municipal manager had been accused of involvement in matters of procurement over which they had no powers. A PricewaterhouseCoopers report on a forensic investigation into the business relationship between the City of Tshwane Metropolitan Municipality (CTMM) and Yarona Creative Management Services – a new organizational structure appointed to design "an appropriate structure" for the municipality – revealed that both Mkhatshwa and Thoalane had their powers revoked at a council meeting on April 5, 2001, and vested in a procurement committee. This after Yarona was given the job earlier in April 2001. Only Tshwane's procurement committee had the necessary powers to accept, reject or disqualify a tender application for the rendering of services to the CTMM.

Nevertheless, both Mkhatshwa and Thoahlane authorized the payment of Yarona's invoices and the signing of an agreement after this date. From an original contract of R350 000, Tshwane's taxpayers paid over R7 million for the design and establishment of an organizational structure that is still far from complete. It can be pointed out that Dr Thoahlane Thoahlane took office as municipal manager in April 2001 with an annual salary of R830 000, but was suspended from January 20, 2003. He was informed of his suspension in a letter signed by executive mayor Smangaliso Mkhatshwa. Thoahlane's suspension was related to financial dealings between the municipality and Yarona Creative Management Services as well as his refusal to sign his performance contract. During his suspension, he spent most of his time playing golf while, at the same time, earning a hefty salary amounting to R 70 000 each month. The issue was referred to the Public Protector for further investigation. The Public Protector informed the council later that the matter could not be investigated any further and that it should be closed.

After two weeks of negotiations, Thoahlane resigned at last at the end of July 2003 and

received an all-inclusive settlement of R3 million in a golden handshake after having worked for about two years of his five-year contract, leaving councilors in disarray. It emerges from this example that a lack of transparency and accountability allows politicians to take advantage of their powers to channel money into their own pockets. The most affected by this conduct are once again the poor who are more dependent upon public services compared to the rich.

(d) *Reducing the legitimacy of the state and perhaps of democracy*. Thus besides corruption that bears most heavily upon the poorest sections of society, who are in the end bearing the cost of the distortions and deprivations corruption produces, it is also clear that corruption impacts on politics by rendering the state incapacitated and impotent. From this perspective, it should be noted that corruption destroys the state's ability to extract taxes, to implement coherent and rational development policies, to redistribute resources among groups and regions, and consequently become destructive to its ability to transform the society and the economy according to political priorities.

This has been evidenced by research that (Andvig *et al* (2000:60-61) shows that:

i. *The capacity of the state to extract taxes will for instance be eroded when individuals and groups are able to pay their way out, and certainly when public officials are embezzling revenues collected.*.

Idasa and Afrobarometer found that corruption was the other key evaluation that may shape perceptions of government legitimacy and trustworthiness that allow the public to judge as to whether their representatives and government officials govern honestly (*Afrobarometer* no 24, January 2003:9). One realizes that the same study shows how corruption has evolved through the years since 1994. Idasa and Afrobarometer surveys from 1995 to 2000 have consistently found a widespread sense that significant proportions of government officials were involved in corruption. In 2002, however, there were changes in public opinion. As of September – October 2002, just over one third (38 %) of South Africans said that "most" or "all" government officials were involved in corruption. Similarly, 23 percent thought "most" or "all" elected leaders, such as parliamentarians and local government councilors were corrupt. Also 13 % thought that a similar proportion of

officials in the President's office are corrupt. These figures represented a significant decline in public perceptions of corruption. The proportions that perceived significant levels of corruption in Parliament dropped from 45 to 22% in 2002. Similarly, the figures for "government officials" declined from 50 to 27%. It is also noteworthy that the stark racial differences in these perceptions seen over the past few years have been narrowing considerably.

In another study (*Afrobarometer Briefing Paper* No 5, July 2003:3), Idasa conducted a survey between 13 September and 13 October 2002 that emphasized the change in perceptions by South African of their most pressing problems with corruption listed in seventh place. Clearly, the perception that corruption is an important problem has been increasing steadily since 1994, when it was not even reported as an issue. It was first mentioned in 1995 by 2% of the surveyed population and has now climbed to 13%. Whites are more concerned about this issue than others, with 31% mentioning it, compared to 22% of Indians, 11% of coloureds, and just 8% of blacks.

ii. *When bureaucratic regulations are restructured, manipulated and operated in a confusing and impenetrable manner in the implementation end to enable bureaucrats to collect bribes and other personal advantages, and public officials are preoccupied with other tasks, insecurity will hamper investments, state's revenue basis will shrink further and its ability to render public services will be shattered.*

Government's capacity - as demonstrated in this study - to solve the important problems facing the country, to enforce the law, and to serve them as individuals, is another possible factor shaping the legitimacy and trustworthiness of the democratic political system, as Idasa has pointed out.

The 2002 Afrobarometer revealed that when asked "What proportion of this country's problems do you think government can solve, fully four in ten (40%) of those surveyed said that government should be able to solve "most" of the problems facing the country; 29% expected government to solve at least "some of them". Only one in ten said that government could solve "very few" (11%) or "none" (2%). Differences in racial categories and provincial categories appear to be the most important demographic factors

that distinguish between perceptions of government capacity, as shown in the following table. Nonetheless, in general, government capacity, as manifested in these responses, is weakest in provinces incorporating former Bantustan homelands: which means provincial governments that include large numbers of poorly trained former Bantustan civil servants.

Table 39: Ability to Solve National Problems (2002)

	Total	Black	White	Coloured	Indian
All of them	17	19	11	15	8
Most of them	40	43	34	38	29
Some of them	29	27	38	28	30
Very few of them	11	9	13	14	25
None of them	2	2	2	3	8
Don't know	2	1	3	3	2

Source: Afrobarometer Paper No 24, January 2003:12

iii. *Corruption effects render political system illegitimate in the sense that in many cases, corruption scandals, reports and debates have led to mobilization and political action from below.*

One saw how Dan Mofokeng and Mathole Motshekga had been toppled in elections at a time where corruption issues were high on the agenda. In many cases there is just much talk on corruption but little action, making people deem the entire political system dishonest and illegitimate, with withdrawal and political apathy as the consequence. According to Tom Lodge, the perception that politicians were corrupt or uncaring was among the most important issues that restrained people from voting in the general elections of June 1999, besides the failure to register and difficulties caused by lack of time or opportunity. These issues can be, broadly, conceptualized as issues of enfranchisement, disengagement and convenience (2003:110). Furthermore, the perception that politicians were corrupt was especially influential among the abstainers aged between 35 and 44 (20%) and 45 and 54 (28%). Both very poor people and the wealthiest non-voters in the sample were most likely to be unregistered. More affluent people were more likely to explain their non-participation with reference to corrupt politicians, and a majority of the wealthiest group of abstainers agreed that their failure

was caused by the conviction that political parties did not reflect their concerns, states Tom Lodge. Finally, the consequence of disinclination to vote due to the perception that politicians were corrupt may alternatively lead to low turnouts, as a symptom of political satisfaction. The second municipal elections in December 2000 were characterized by apathy with 40% of the electorate in Gauteng having decided not to cast their vote.

Generally, the criticisms often voiced in many countries, and especially in transition economies such as Gauteng, against democracy and the market economy, are highly influenced by the existence of corruption. Thus, corruption may slow down or even block the movement toward democracy and a market economy. In Gauteng, the existence of corruption is evidenced through departments' annual reports as well as budget statements. It is a "serious problem" in South Africa, according to the last PSC report released on 21 February 2003. Endemic corruption in the public service in South Africa, has been identified by senior national, provincial government and municipal officials as the major impediment to transformation and services delivery, during an African Renaissance Conference in Pretoria in May 1999: "with the rebirth of a democratic state, the government was required to defend the gains already made by "unleashing the greatest might" against the wave of corruption", warned Cabinet ministers (*Sowetan*, May, 13, 1999). TI Global Corruption Barometer 2003 survey pointed to South Africa as a pessimist country where more people (36.1%) expected corruption to increase rather than expected it to fall. Only 19.3% thought corruption would decrease a little during the same period.

(e) *Increasing poverty because it reduces the income earning potential of the poor.* It is worthy to point out that more than 30% of Gauteng's population of 8,8 million are destitute, according to the province's Department of Social Services and Population Development whose R3.9 billion budget is the second largest in the province, after education. Up to 87% of this budget goes to care dependency, foster care, child support, old-age care, disability and grants-in-aid to people who cannot care for themselves. Despite Gauteng's affluence, the province has high levels of poverty with 48% of children in the province living in difficulty because of the lack of income in their houses. About 25% of them are living in poverty and experience serious social problems. For instance,

levels of crime and violence are high, with children involved both as victims and perpetrators.

At the national level, a study reveals that in excess of R11 billion is spent annually on social security benefits paid to some 3 million beneficiaries. This represents approximately 2% of GDP and is a major source of income for the poor. Social security, argues Lala Camerer, represents a significant proportion of government expenditure and as such requires good administration, careful management and strict control. Although there are substantial losses due to fraud and corruption, these losses could not be quantified. However, it is estimated that fraud, theft and inefficiencies in South Africa's social security is absorbing 10% of the 11 billion budget, i.e. an annual loss of R1 billion (1997:23).

At the provincial level, this has been the case in the Gauteng Department of Social Services and Population Development where a 1999 Report of the Auditor-General on the financial statements of the Gauteng Provincial Administration 1996-1997 reveals deficiencies, shortcomings, problems and fraud regarding the control over pension payments, advance, suspense and disallowance accounts, budget auditing and grant-in-aid.

Another investigation during May 1999 at the request of the Minister for the Public Service and Administration, Dr Zola Skweyiya, found that the area of social security had problems with capacity both in terms of the numbers and expertise of staff. There were problems with cross-border flows and "ghost pensioners". The suspension of officials suspected of fraud with full salary presents a problem to the Department that has uncovered a major syndicate defrauding the government with tentacles in other provinces. An official allegedly committed fraud with warrant vouchers amounting to R7, 925,883. The official was suspended from office and was sentenced in the Pretoria High Court for fraud. Only a minimal amount was recovered. At the end of the 1998-1999 financial year, the Department had experienced fraud to the tune of R50 million.

In order to combat fraudulent claims and to stop pension fraud, the national government decided in August 1998, on a countrywide suspension of disability and care dependence grants by the Department of Social Services and Population Development. This new

welfare policy entailed the re-registration of the recipients of grants. In line with this policy, Gauteng withdrew pensions from about 14 000 beneficiaries. The Gauteng Department of Social Services and Population Development had to re-register 110 000 pension beneficiaries in Soweto by 30 March 1999 as part of a national strategy to eliminate "ghost pensioners". In Soweto, there were about 350 000 recipients of pensions, as noted by the *Race Relations Survey* (2000/2001:242). The Department hoped to save about R5 million as a result of the drive. The campaign followed investigations, which uncovered about 530 beneficiaries and members of the public who defrauded the department in 1997.

In a 2000 Report released on 30 March 2001, the Gauteng Auditor General, indicated that the Gauteng Department of Social Services and Population Development had failed to implement adequate internal control measures and this had in some instances led to losses running into millions of rands. Further, the Department had also failed to reconcile the Personnel Salaries System (PSS) with the Financial Management System (FMS), and this had resulted in a loss of R2,6 million. Inappropriate accounting practices had also resulted in the loss of authorized items amounting to R21, 805 million. The social assistance programme had shown a loss of more than R11, 662 million, instead of a R10, 143 million saving. Finally, in the social pensions area, expenditure could not be sufficiently verified because the department had failed to submit files requested for audit. "Since 19 percent of audited files did not contain documentation as prescribed by the Social Assistance Act of 1992, it could not be established whether all statutory requirements had been adhered to before pension payments were effected", the Gauteng Auditor said.

In the meantime, the national department of Social Services and Population Development failed to spend 78.5% of its budget, according to the Auditor-General in September 2000. A report by the South African Human Rights Commission expressed its concerns by indicating that the government had massively failed South Africa's most needy citizens. The report said that poverty alleviation reached only three million of 20 million people living below the poverty line. For IDASA, more than five million children in South Africa – 30% of those under the age of 17 - regularly went hungry. And six out of ten people in South Africa were starving, the government said in May 2002.

In February 2002, according to the Gauteng Department of Social Services and Population Development, the Gauteng Government had had to close down 90% of its poverty alleviation projects, after losing R7 million to corruption. This followed a probe by the Kagiso Trust - commissioned by the Department of Social Services and Population Development - which investigated all provincial poverty-relief projects and found out that 90% of the 368 projects were enriching individuals and not serving the community. Few people channeled up to R7 million of its budget that was meant for the poor into their own pockets. Social Services and Population Development MEC Angie Motshekga said her department was then consolidating the remaining 10% into more effective programs.

Corruption and mismanagement often go hand in hand. At the end of the 2002/2003 financial year, despite government's talk of poverty alleviation and job creation through capital expenditure and public works projects, a report released by Parliament's joint budget committee in June 2003, indicated that all provincial governments have under spent their budgets at the end of March 2003. The report was based on the preliminary figures released by the national Treasury, indicating spending trends in government departments. Of the total of R16, 3 billion allocated to provinces for capital expenditure, generally associated with job creation, R2, 5 billion remained unspent. Gauteng received R3, 7 billion and failed to spend R391 million.

Finally about R15 million in social grant money meant for the poor had been pocketed by government officials in 2002 throughout the country, as disclosed by Social Development Minister Zola Skweyiya. This led to either suspensions and/or arrest of several officials dealing with grants. Three cases of theft of social grant money, amounting to nearly R1 million had been reported in Gauteng resulting in one dismissal and one resignation (*Business Day*, 10 December 2002).

To sum up, it should be clear that corruption is negatively associated with developmental objectives everywhere, as underlined by Daniel Kaufmann (1998) who argues that "opportunistic bureaucrats and politicians [who] try to maximize their take without regard for the impact of such perdition on the "size of the overall pie", as highlighted by all these cases. Therefore, they may account for the particularly adverse impact corruption has in many developing countries. This was evidenced by a survey of high-level officials from

emerging economies that showed that public sector corruption was rated as the most severe developmental obstacle facing their countries, and no significant differences existed across regions.

10. 3. Indirect Effects or Quantitative Results

Data and research showing the deleterious effects of corruption on growth have been mounting, as suggested by corruption literature. From this perspective, it has been emphasized that: "in the past couple of years, several econometric studies, using cross-section analysis and utilizing the available corruption indexes, have reported important quantitative results on the effects of corruption on economic variables. These results suggest that corruption has a negative impact on the rate of growth of countries" (Tanzi: 1998,28). The experience of countries in transition strongly supports these findings that can be applied at both micro and macro levels - thus, allowing a better understanding of the negative consequences of corruption on developmental priorities.

In general terms, the costs of corruption seem to be influenced by a range of other factors coming through many indirect channels. Therefore, on a macro level, corruption has implications on:

- a country/province's ability to attract investment,
- income generation through taxation,
- the effectiveness of its institutions, and
- economic growth and poverty alleviation.

As found by Gupta *et al*. (1998), a 1% increase in aggregate growth is associated with a 1.2% increase of income growth of the poor. Consequently, since corruption negatively affects economic growth, higher growth in corruption is associated with lower income growth of the poor.

Gauteng as a society in transition presents similar features to those found elsewhere in transitional countries where powerful empirical evidence have demonstrated how corruption hurts the poor *indirectly*. For instance, fiscal distortions caused by corruption

erode the quality of government services, with particularly serious consequences for the poor. Indeed, corruption appears as an impediment to economic growth through a wide range of channels by hindering investment (both domestic and foreign), restricting trade, distorting the size and composition of government expenditure, weakening the financial system, strengthening the underground economy and reinforcing inequality. Therefore, it seems that increases in corruption go hand in hand with decreases in economic growth, which in turn affect poverty alleviation. These negative effects of corruption on investment and growth similarly exacerbate poverty and erode the tax base, further undermining the quality of public services vital to the poor such as education, health, water and sanitary conditions.

This scenario emerged clearly on 30 March 2001, when Gauteng Auditor Keith Nayager released his report showing how the Gauteng Welfare Department has failed to implement adequate internal control measures leading to losses running into million of rands. He revealed that inappropriate accounting practices had resulted in the loss of authorized items amounting to R21, 805 million. Further, the social assistance programme showed a loss of more than R11, 662 million, instead of a R10, 143 million saving. The replacement cost of assets lost or stolen was R4 582 022 at the end of the 1998-99 financial year, and was ultimately written off. Finally, the social pensions expenditure could not be sufficiently verified because the department had failed to submit requested files.

The analysis of the above indirect effects establishes that the level of uncertainty in the business environment significantly affects investment, as corruption:

(1) *Reduces investment and as a consequence, it reduces the rate of growth*.

Mauro (1995:681-712) undertook an influential empirical study on the impact of corruption on investment in a cross-section of countries. He aimed to "identify the channels through which corruption and other institutional factors affect economic growth, and to quantify the magnitude of these effects". He made use of various indexes provided by *Business International* (BI), a private firm that sold this and related indicators of country risks to banks, multinational, companies, and other investors. The author found that in a sample of 67 countries, corruption had a negative impact on the ratio of investments to GDP, its investment rate.

Researchers such as Keefer and Knack (1995) and Brenetti, Kisunko and Weder (1997) obtained similar results. However, Mauro's results have been subjected to criticism voiced by Wedeman (1996), the World Bank (1997) and Campos, Lien and Pradhan (1999). Nevertheless whatever the debate, Mauro's result show that such reduction in investment is assumed to be caused by the lighter costs and by the uncertainty that corruption creates. Thus, according to Tanzi, the reduction in the rate of growth is a direct consequence of the decline in the investment rate. In other words, the analysis is based on a production function that makes growth a function of investment (1998:29).

In South Africa, economic indicators show that the South African economy has continued to achieve steady and sustained growth over the past decade, despite the fact that it is experiencing difficulties in attracting foreign direct investment (FDI) and the global economic slowdown. However, it should be remembered that the most rapid sustained period of growth occurred in the 1960s, the highest annual increase in real GDP having been in 1964 – an increase of 7.9%. In 1977 there was for the first time in this period a small decrease (of 0.1%), due undoubtedly to the 1976 Soweto uprisings. But in the following years, real GDP grew by some 33% between 1980 and 1999, although there were periods of contraction over the same time, most notably in the early 1990s when the uncertainty about the political future began to take place.

In 1999, the economy grew by 1.9% in real terms, more than double the rate of 0.7% for 1998, according to Statistics South Africa. Yet, the growth rate in 1999 was significantly lower than in the preceding years. Real growth in GDP was 3.2% in 1994, 3.1% in 1995, 4.2% in 1996, 2.5% in 1997. 2.4% in 2000, 2.8% in 2001 and 3.0 in 2002. This is a great deal better than many other economies have experienced. Nonetheless, in comparison with other emerging market countries, South Africa's economic growth has become less volatile. Since the 1950s, the economy has diversified and is no longer dependent on gold mining. Exports have become more diversified and multi-factor productivity has been rising since 1992. Private sector investment is now rising and tight fiscal discipline has allowed government to start increasing expenditure, while reducing borrowing (with the budget deficit expected to be between 2 and 2.5% of GDP).

In Gauteng, the volatility of global financial markets and the re-alignment of emerging market economies had also had a significant impact on the provincial economy, and rendered the reform and restructuring process more difficult. As South Africa continues to be heavily impacted by economic realignments among emerging market economies, this will translate into major effects on the economy of Gauteng province, given its magnitude, sophistication, financial sector orientation and international linkages, as expressed by Jabu Moleketi, then MEC for Finance and Economic Affairs in his department's 2003 annual report.

Data from the report showed that between 1995 and 2002, Gauteng province's economy grew at an average of 3.3% - in excess of the national average over the same period of 2.7% and the province's contribution to South Africa's GDP grew from 32.6% in 1995 to 33.9% in 2002. The strength of the Gauteng economy is seen by its sectoral contributions to the gross domestic product. The finance and business services sector contributed 50%. This constituted 27.9% of the GGP, followed by community services sector at 19.3%, manufacturing at 17.9% and transport at 12.3%. One of the principal concerns however is that growth appears to be taking place in capital intensive, rather than labour intensive sectors.

Further, StatsSA data, quoted in Gauteng's 2003/2004 budget, suggested that the Gauteng province's economy was undergoing transformation. In 1997, primary industries accounted for 1.8% of GGP, a figure that later dropped to 1.3%, while secondary industries have similarly decreased their contribution from 29.2 % to 23.9%. By contrast, the tertiary sector increased from 60% in 1995 to 66% in 2002. While between 2000 and 2002 national labour absorption fell from 43.8% to 40.4%; Gauteng province witnessed an increase from 44.7% to 45.3%, representing one of only three provinces where unemployment fell between 2000 and 2002.

While there is no palpable evidence to prove the effects of corruption on growth in Gauteng, it is noteworthy to say that, the incidence of corruption at the national level has disastrous consequences in the province. Corruption affects growth hence FDI as this behaviour causes foreign investors to adopt negative sentiment that affects the whole

country as investments become scarce. This has been expressed by Mark Lowe, a DA spokesman, who urged that "government should also address the risk perceptions that deterred investors, such as crime, corruption and uncertainty of property ownership" (Radebe: 2004). Brian Bruce, CE of Murray & Roberts, felt the same and called for a new solidarity between business, labour and government to address the negative perceptions about South Africa that were scaring off foreign investors. According to him the challenge was to close what he called the "interpretation gap" between key players on the damage being done by perceptions on issues such as crime, corruption, HIV/AIDS, the skills shortage and labour rigidity (Fraser: 2003).

It clearly seems that corruption is one of the factors impacting on foreign investment by entertaining negative perceptions in South Africa.

(2) *Reduces foreign direct investment (FDI) and undermines a country's ability to attract foreign capital* because corruption has the same effects as a tax and in fact it operates as a tax. Tanzi draws attention to its inconsistency: "less predictable is the level of corruption (the higher is its variance), the greater is the impact on foreign direct investment. A higher variance makes corruption behave like an unpredictable and random tax. Thus, increases in corruption behave like an unpredictable and random tax" (1998:29).

In fact, Gauteng FDI opportunities are limited by the high cost structure of its location relative to the country as a whole and to other sub-Saharan and emerging markets, as well as the distance of the province from port facilities. The provincial government's highest priority is to create an environment that will attract investment, both local and foreign, in order to foster growth and eliminate historical inequalities.

While the fundamentals in the South African economy are good, the question that remains is whether there could be delivery on the 5% growth which is desired to boost the economy and improve investors' perceptions. For instance, figures show that foreign direct investment (FDI) flows into South Africa, which had been positive in the first three quarters of 2001, turned negative to the value of R1,9 billion in the fourth quarter (South Africa Yearbook 2002/03:154).The same happened during the first three quarters of 2002

where FDI flows positively into South Africa, before turning negative to the value of 0,7 billion in the fourth quarter. The explanation is that "strong capital inflows into the economy during the first half of 2002 were curtailed in the second half of the year owing to "negative investor sentiment" (South Africa Yearbook 2003/04:167). But during 2002, there was an improvement in services in the balance of the account resulting from a sharp decline in dividends declared on foreign direct investment in the economy, which caused a contraction in the net investment-income payments to non-residents. Although South Africa's flows of foreign direct investment have improved, it is estimated that the country attracts on average less than 1% of total foreign direct investment to developing countries. It is notable that although growth has remained in positive territory since 1998, there is a wide acceptance it is not even close to the rates needed to improve social problems.

Regrettably, this relatively positive growth has proved to be insufficient to alleviate unemployment, despite a significant increase in government spending on social services in real terms. The government has failed to reduce unemployment rates. This led Tito Mboweni, governor of the South African Reserve Bank, in his keynote address to Heads of Foreign Missions in December 2002 to express his concern: "the accusation is often heard that the country grows, but without creating jobs for the huge number of unemployed people", (*SA Institute of Race Relations Survey 2002/2003*:130).

For real growth to be realized South Africa should have a strategy to attract FDI and encourage foreign investment to the country. If one looks at reports published by international ratings agencies the declining trend in the economy may be attributable to many factors as reported in economic circles, notably (see *SA Institute of Race Relations Survey 2000/2001*:448-51):

(1) Education and a better-trained workforce was a crucial factor in making the country an attractive destination for FDI. Problems in education are exacerbating the shortage of skills. Skills were also being lost as a result of emigration, particularly of whites, owing to fears about crime and the potential lack of employment opportunities, given the intense focus on affirmative action and black empowerment.

(2) While fiscal and monetary policy was good, there was concern about job creation that has been hindered by labour legislation.
(3) The geographic location of the country very far from Europe, Japan, and North America, sensitively reducing the size of its market and Africa is still perceived as a high-risk destination for investment.
(4) Low levels of investment from US or any other country due to a "range of ill-considered and inconsistent government policies", such as over-regulation of the labour market; the use of tax incentives which were uncertain and inconsistent with trade policies; and the remnants of exchange control.
(5) It was not the task of the state to create employment, but to create the environment for this to happen.

Despite difficulties in attracting FDI, the government announced in September 2000 a new strategy based on Industrial Development Zones (IDZs) to be established in various areas around the country. But there was concern about its feasibility as South Africa was offering, "no additional incentives for investments in its IDZs and the country's labour legislation remains fully applicable", according to *Finance Week* (see *SA Institute of Race Relations, Survey* 2002/03:131).

The same mood was notable among thing tank groups worldwide. The *2002 World Investment Report* published by the UN Conference on Trade and Development found that South Africa was an underperforming economy in attracting foreign direct investment (FDI), along with countries such as Ethiopia, Colombia, Pakistan, and Zimbabwe. South Africa had been ranked 113th out of 140 countries in terms of attracting FDI, and 77th out of 140 in terms of potential in attracting FDI. The rankings were based on various "social, political, institutional, and economic variables".

The *2002 Economic Freedom of the World* annual report gave South Africa 47th place out of 123 countries. The ratings showed that South Africa's position had deteriorated steadily since the first report in 1970. At that time, South Africa occupied 16th place. But a deteriorating political and economic situation meant other countries had gradually overtaken South Africa. In 1990, it reached a low of 67th in the ranking. Only in the last few years had South Africa managed to improve to 50th (in 1995) and then 47th in 2002.

The report rated the various countries according to size of government in terms of expenditure and taxation, legal system and security of property rights, currency stability, trade openness, and regulation of credit, labour and business. The report is published every five years by the Fraser Institute of Canada in conjunction with the Free Market Foundation of Southern Africa.

But, although there are many factors pulling down investment, corruption and a range of new factors have been singled out. The World Economic Forum (WEF) found during its summit in Maputo that what was holding Africa back in general and South Africa's growth in particular were "too much government involvement in the economy, relatively closed economies, corruption, weak public institutions, political instability and geography". Corruption received much attention at the summit with Finance Minister Trevor Manuel suggesting a campaign of "naming and shaming" companies guilty of corruption (Seria: 2004). Manuel used the example of the Lesotho Highlands Water Scheme where government officials and international companies were convicted of corruption and were to be denied contracts in future projects.

However, government attempts to encourage foreign investment in the country are overshadowed by frequent reporting of misconduct and corruption involving high-ranking politicians, casting a shadow on government activities and priorities. After the "Yengeni affair", just when people thought the government had matured enough to be trusted, another scandal surfaced, regarding the non-disclosure of assets by the defence minister, Mosiuoa Lekota, before the spotlight turned on the deputy president, Jacob Zuma. As argued by David Bullard: "watching a political wriggle on the end of a hook makes us feel all warm and fuzzy about our new democracy. Watching the deputy president of the country wriggle on a hook is an altogether less pleasant spectacle, partly because of his seniority but mainly because the rest of the world's media are much more interested in Zuma than they were in a political minnow like Yengeni" (*Business Times*, September 7, 2003). The cost of this form of behaviour from the highest office holders of the country is much too high as its negative effects on investor sentiment soften the economy and keep away the much-needed FDI, seen by the government as the magic wand for economic revival.

Majakathata Mokoena has highlighted the negative effects of corruption on the South African society as a whole. In an article in *City Press* (September 22, 2002), he warned about Africa's endemic corruption that has seeped into the South African socio-political system with a vengeance – and promised to destroy whatever economic momentum the country inherited from the apartheid era. Besides, Mokoena contends that, like everything else, corruption is a drag on economic growth. Like taxation, it has the ability to gouge out needed financial resources from countries and bludgeon whatever multiplier effect those forfeited investments could have had on the economy. So, for investors to set their eyes on a particular industry, they have to have sufficient information with which to make decisions. As a result, he concludes, investors normally avoid places known for their corrupt practices when making investment decisions.

(3) . *Reduces expenditure for education and health* because these sectors do not lend themselves easily to corrupt practices on the part of those who make budgetary decisions. In fact, notes Paolo Mauro, corrupt politicians may be expected to spend more public resources on those items on which it is easier to exact large bribes and keep them secret – for example, items produced in markets where the degree of competition is low and items where value is difficult to monitor. Corrupt politicians may therefore be inclined to spend more public resources on fighter aircraft and large-scale investment projects than on textbooks and teachers' salaries (1998:12).

The controversial 43 billion arms deal in South Africa is a good example as well as the ambitious Blue IQ programme in Gauteng. Anecdotal evidence however supports the assumption that by favouring large and capital intensive projects at the expense of smaller social infrastructure projects, those who allocate resources may have better opportunities to extract illegal incomes. The success of the Blue IQ programme, for instance, will depend on the honesty, fairness and transparency in the management of the project as a whole by the Department of Finance and Economic Affairs. The Department must provide investors and cross-border inter-bank lenders with a measure of the projects' safety and soundness, while excluding factors related to country risks concerns. One objective is to achieve a higher growth rate for the province than the country as a whole.

In particular government departments in Gauteng, such as Welfare, Health, Education, Transport and Provincial and local government, corrupt elements misdirect the assignment of unemployment or disability benefits, delay eligibility of pensions, abuse school feeding schemes, weaken the provision of basic public services, making the poor suffer most. Such misbehaviour undermines the social safety net and may deter the poor from seeking basic entitlements and other public services and adopt the famous "exit option". On 16 March 2004, Social Development Minister Zola Skweyiya disclosed at the launch of a new national security fraud and corruption prevention facility that government was losing about R1, 5bn a year to small time crooks intent on defrauding the social security system. Between 2001 and January 2004 a total of 147 government officials were arrested for corruption offences, including taking advantage of child support grants intended for the poor. For instance, in Eastern Cape, fraudulent schemes were apparently rife with a syndicate facing 11 000 charges of laundering R3, 5m in social assistance grants for the elderly and disabled. In Gauteng, four family members accused of issuing false medical certificates to gain from state disability grants had also been arrested. And about 500 people fraudulently receiving disability grants of up to R1, 5m had been removed from the system, reports Linda Ensor (*Business Day*, March 17 2004). In another instance, Housing Minister Lindiwe Sisulu ordered all provincial housing departments to establish anti-corruption units in an effort to root out corruption and fraud that has bedeviled government's low-cost housing projects. The units will investigate allegations of corruption and fraud in the provinces' housing projects. This study has highlighted this trend while exploring the Gauteng Housing Department dossier.

Besides, empirical studies on the welfare effects sometimes produce inconsistent results, for instance, with respect to foreign direct investment (FDI). Similarly, the proven impact of corruption on investment is commonly related to an adverse effect of corruption on incentives to invest. This is not without theoretical strings. Indeed, there is strong evidence that corruption lowers a country's or a province's attractiveness for investments. This reduces capital accumulation and lowers capital inflows. Also the productivity of capital suffers from corruption. This corroborates the assumption that large welfare losses result from corruption.

(4) *Tends to reduce state revenues as far as taxation is concerned*: in fact, "it pushes firms underground (outside the formal sector), undercuts the state's ability to raise revenues, and leads to even higher tax rates being levied and fewer taxpayers. This, in turn, undermines the state's ability to provide essential public good, including the rule of the law" (Gray and Kaufmann, 1998:8). Evidence shows that one of the main ways in which corruption reduces state funds is through its negative effect on tax income by opening up loopholes in tax collection and by acting as an arbitrary tax (with high welfare costs). Especially when corruption is not centralized, its random nature creates high excess burdens because, to the cost of negotiating and paying bribes – as seen in the Licensing case – must be added the cost of searching for the person or persons to whom the bribe must be paid.

Bribes paid within South Africa and abroad should not be allowed as deductible expenses for tax purposes. Thus guidance needs to be provided to tax assessment officers to help them to distinguish bribes from legitimate businesses promotion and retention expenses. Tax policies in corrupt countries often favour the rich, well connected and powerful to begin with. This happened in Gauteng where Mr. Irvin Khoza, a prominent businessman "forgot" to pay his taxes for a period of ten years and owed million of rands to the Treasury. Thus tax evasion through corruption as well as poor tax administration where some of the revenue "disappears" before it reaches government coffers reduces the tax base and adds to the progressivity of the tax system. Thus, poor transparency and high levels of corruption increase credit risks. Those holding deposits or granting loans will stay away from banks. As a consequence, there is a negative impact on capital movements caused by corruption.

Although South Africa has been internationally recognized as having a good financial system, this has not deterred corrupt employees within its Revenue Services from defrauding the government by accepting bribes in exchange for erasing customs' tax arrears. Many incidences of corruption are rife in South African Revenue Services (SARS) branches in Gauteng. In October 1997, tax inspector George Wilke of Roodepoort was convicted of corruption for offering to erase a customer's tax arrears in exchange for R50 000 and was sentenced in the Johannesburg Regional Court to two years' jail or a R6 000 fine. He was arrested in February 1996 shortly after he had received R30 000, R20 000

less than the initial request; this after the customer had alerted the police to the taxman's offer. The police had given the amount received by the customer (*The Star*, 20 October 1997). This was someone in a position of trust at the Receiver of Revenue's office and was supposed to see to it that the office functioned properly, but who tried to enrich himself by taking bribe.

According to SARS website and many Johannesburg newspapers, a raid on 30 January 2001 by the Scorpions on 25 customs officials suspected of fraud unearthed possible incriminating documents and gifts, including cash, given to officials by those dodging import duties. 21 of the officials were employed by SARS and one was a senior employee of accounting firm KPMG. The "gifts" given to the suspects besides cash, included hi-fis, rifles and even baby clothes in exchange for returning confiscated goods to people caught circumventing payment of import duties.

The anti-corruption and compliance campaign led by SARS in the first quarter of 2001 resulted in the arrests of numerous people. As reported by *The Star*, it emerged during these investigations that private companies were suspected of paying corrupt SARS officials thousands of rands to misrepresent value added tax journals on their behalf. This was confirmed after the arrest of a VAT refund auditor following an investigation that lasted several months. André Bierman was arrested at his Vanderbijlpark home on April 24 2001 on charges of fraud and corruption amounting to about R600 000. The arrest was carried out by detectives of the commercial crime branch of the SAPS following the conclusion of three trials in the Pietersburg Regional Court in which four former SARS employees were convicted of VAT fraud totaling more than R1 million (*The Star*, April 25 2001).

In April 2002, four SARS officials from the Johannesburg customs and excise special investigations section were charged with fraud and corruption for allegedly accepting gifts and money from an attorney acting for certain importers and clients. Karin van Rensburg, Roland Human, Roux Chetty and Ian van Niekerk appeared in a commercial crime court on charges of corruption and fraud while waiting for trial. The gifts and money allegedly given to the four between 1995 and 2000 for "favourable and preferential treatment"

totaling an estimated R155 000 were detailed in an affidavit presented to the Pretoria High Court (*Business Report*, April 17 2002).

Tax evasion through corruption as well as extra expenditures, as seen above, are manifestation of lax administration and mismanagement that lead to some revenue "vanishing" before reaching government coffers. The consequences are often disastrous for the poor who suffer from it most in transition economies and in many developing countries, where, according to the World Bank, corruption may reduce revenue collection by driving firms (or their most profitable activities) out of the formal sector and by providing a moral justification for widespread tax evasion, as businesses in the informal sector do not report revenue and therefore do not pay taxes (World Bank, 1997). The end result is the reduction of the tax base that has two effects, in Gupta *et al* terms: first, it reduces the distributive function of tax collection and contributes to increasing income inequality; second, it reduces the amount of public funds and therefore the amount of public spending (Gupta *et al*, 1998).

All these cases are an indication that if not controlled, corruption may contribute to larger fiscal deficits, making it more difficult for the government to run a sound fiscal policy. It is not surprising nowadays to note that participants in corruption surveys rank tax and customs administrations among the most corrupt government agencies in developing countries. Excessive taxation, besides excessive regulation encourages ordinary citizens and disillusioned businesses to go underground and countries find it hard to get out of poverty. A recent World Bank report shows that: "Where the government regulates every aspect of businesses activity heavily, businesses operate in the informal economy" (*Business Day*, October 8 2003).

It is important to point out that the size of the underground sector in different economies has been explored empirically in numerous studies during the last two decades by scholars such as Andvig *et al.* (2000); De Sotho (1989); Friedman *et al.* (2000). Different methods of exploration have been developed often leading to very different results. Underground and unofficial activities constitute the two types of informal sector. The sector is characterized by illegality in business and activities not registered by statistical offices.

Tax evasion, avoidance of labour regulation and other government or institutional regulations, crime and corruption are part of the system.

The World Bank website has even portrayed the impact of the underground or unofficial sector on the economy of a country as follows: "The informal sector plays an important and controversial role. It provides jobs and reduces unemployment and underemployment, but in many cases the jobs are low-paid and the job security is poor. It bolsters entrepreneurial activity, but at the detriment of state regulations compliance, particularly regarding tax and labor regulations. It helps alleviate poverty, but in many cases informal sector jobs are low-paid and the job security is poor. The size of the informal labor market varies from the estimated 4-6% in the high-income countries to over 50% in the low-income countries. Its size and role in the economy increases during economic downturns and periods of economic adjustment and transition" (http://extsearch.worldbank.org).

According to latest figures available, in 1996 there were an estimated 1 398 000 persons or 15% of the country's workforce occupied in the underground or informal sector activities in South Africa.

Obviously, evidence has shown that there are two-ways links between corruption and underground economic activities. On the one hand it is clear that any regular illegal economic activity of some scale needs bureaucratic and political protection that can only be supplied illegally, most often through corruption, as noted by Andvig *et al.* (2000:101). Thus, it may be argued that underground economic activities lead to corruption. This demand for illegality may often be derived from the costs involved in legal registration and establishment and the behaviour of the bureaucracy in their legal capacity. Otherwise, how can one explain the huge number of registered companies at the Receiver of Revenue that have been declared "dormant" while doing business? There is only one explanation: to avoid paying taxes!

In addition, in an exclusive empirical study of the size of the underground economy undertaken in 69 countries, Friedman *et al*. claim that corruption, rather than tax rates, is the main determinant of the size of the underground economic activities. In most of these observations the share of the underground economy varied between 10% and 70% of the

total economy. With the partial exception of the group of transition countries, the incidence of perceived corruption appears to increase with the share of the underground economy (2000:454-493). In other words, Andvig *et al*. (2000) stress that the positive empirical association between the underground's share of the economy is well-established, and is likely to be one of the major mechanisms through which corruption becomes deeply entrenched in the society.

Further research is needed to explain the relationship between corruption and underground economic activities in Gauteng where hawkers are mushrooming. Official records of the province's size of the underground workforce are not available. Nevertheless, according to *SA Institute of Race Relations Survey 2000/2001*:404-409, a study conducted by Ntsika Enterprise Promotion Agency in 1996 showed that hawkers are classified as a *survivalist* enterprise along with subsistence farmers and vendors. A number of entry barriers keep the survivalist out of the micro category, among them a lack of skills and experience, shortage of financial resources, social barriers, and lack of access to markets.

In 1999 in Johannesburg, the city was estimated to have some 3 000 informal traders, resulting in .the implementation by the Metropolitan Council in Gauteng of steps to restrict trading in the inner city and to divert it to designated and regulated areas. In September 1999, those trading in Braamfontein were evicted and in December 1999, those operating in Yeoville were noticed by the Metropolitan Trading Company (MTC) – a new structure established in October 1999 - to move into the newly erected Rockey Street Market. The reason given by the Council to justify those moves was that "it could no longer cope with the litter generated by the hawkers and the dangers associated with restricted pavement space had an impact on the Johannesburg's rental and office occupancy rates". In fact, most of formal businesses, including the Johannesburg Stock Exchange and the Reserve Bank, moved out of the city to the northern or the southern suburbs, reducing the city to a mere "ghost city" at night.

Hawkers reacted angrily to the decision, refusing to move into the new market. The Gauteng Hawkers' Association said the erection of the R5 m market was a ploy to keep "black traders apart from the white traders". After negotiations they finally agreed to move in. The premier of Gauteng, Mr. Mbhazima Shilowa promised to extend the

experience elsewhere around the city by building six other trading markets. He said that the regulation of the informal sector would reduce hidden costs and time incurred in traveling, storage, and setting up businesses, meaning there will be a fee to be paid.

Corrupt conduct in office in Gauteng means that quite normal services to which all citizens are nominally entitled by the constitution and the law are denied to persons from the underclass, already under severe social duress, unless they "cough up". It starts with giving someone who needs a certificate of birth or death a hard time, it continues where children are enrolled in school, testimonials are required for a job application or positions with government are filled.

Thus it is our understanding that economic growth in the province that is required for development will depend on government policy that is best achieved through the private sector taking advantage of investment and job-creating opportunities. Government's role therefore in stimulating economic growth is to ensure the creation of a fair and efficient environment conducive to business activity. As the 2003/2004 Budget acknowledges, attention needs to be paid therefore to political and economic stability (supported by macroeconomic stability and policy clarity), rates of economic growth, labour market stability, investment incentives, the tariff regime and the protection of property rights. These factors need to be underpinned by a clear regulatory framework, increased competition, accountability and transparency.

To sum up, the most serious consequences of corruption have been described above and what emerges is a clear message that corruption is socially destructive and its deleterious impact on development is beyond doubt. In cross-country regression analyses scholars such as Treisman have found that by far the most important determinant of corruption is economic development, measured by real GDP per capita. Causation runs from economic development to lower corruption, and from corruption to lower economic development. As a society in transition, the first challenge to be overcome by Gauteng is the uplifting of its development programmes in order to alleviate poverty in the province. Therefore, corruption, as an impediment to economic development, should be kept under control. Accordingly, combating corruption becomes an everyday struggle for each citizen in the

province and should not remain the sole responsibility of government. A combined, integrated approach is needed to succeed.

In short, it appears now that corruption and the effects of corruption will often feed back into the various phenomena that we have labeled “causes”, as discussed above. In other words, the “causes” and “effects” of corruption are closely interrelated and can hardly be separated. From my investigation and other empirical studies such as Tanzi (1998); Andvig *et al*. (2000); Kaufmann (1998) and Mauro (1998) on the causes and consequences of corruption, it can be claimed that corruption commonly goes along with policy distortions, inequality of income and lack of competition. But, as argued by Lambsdorff, to derive clear arguments with respect to causality is rather difficult. On the one hand cultural determinants may drive corruption and the variables in question at the same time. On the other hand corruption may cause these variables but it is at the same time likely to be the consequence of them. These empirical results are nonetheless helpful in identifying areas which are prone to corruption or which indicate its existence (1999:11).

Part Four
APPROACHES AND STRATEGIES FOR COMBATING CORRUPTION

Chapter Eleven

LEGAL AND INSTITUTIONAL FRAMEWORK

11.1 Introduction

Are there effective mechanisms of accountability or proper incentives in some institutions or levels of government? How do these operate? Do anti-system attitudes vary across government institutions - between public education and tax collection, for example - or between national and subnational governments, or between different regional governments?

In the past decade, the South African government has been serious about combating corruption and has focused attention on it. The reasons for the government's attention are not only that corruption undermines service delivery and hampers economic development; but also the threat that continuing corruption in the public sector can pose to the new democracy by undermining good government and leading to the misallocation of resources. However, proper management of these issues is critical for public trust in government. Therefore, that is the responsibility of the government to deal with and to confront these problems.

Corruption has long been a characteristic of the South African public service. However, there is a widespread perception that corruption has increased during the period of political and economic transition that commenced in 1994 (Camerer, 2001:55). Besides, corruption is perceived as a problem at all spheres of government and at all occupational levels in South Africa. Poor systems and inadequate internal controls tend to provide opportunities for corruption to thrive. This enhances the opportunity for unplanned corruption to take place. At the same time there is evidence of syndicated, planned corruption in the public service (PSC, October 2000:8), though this has not been a dimension of corruption that I am able to address in this case study of Gauteng. While most corruption seems to be planned, unplanned corruption, in contrast, occurs when a public servant, without motive and instinctively, jumps on any opportunity to commit spontaneously or unexpectedly an act of corruption.

Robert Payne, the author of *The Corrupt Society*, asserts that corruption is contagious; it breeds on itself; once established, it is inhumanly difficult to remove. But unless a society collectively wants to degenerate, it must, once corruption has settled in it, grapple with the problem or perish (1975:ix). Evidence elsewhere shows how a country endowed with riches like the former Zaire has been left in tatters and reduced to despair after thirty years of corruption and looting by the former President Mobutu and his henchmen (Kalombo, 1997). Therefore it is the duty of all governments to prepare themselves against its onslaught by taking proper precautions. However, historical evidence has also shown that attempts to curb corruption are about as old as corruption itself (Riley, 1998:132).

In terms of causality, it should be emphasised that corruption is a complex phenomenon that is almost never explained by a single cause. If it were caused by a single cause, as Tanzi has argued, the solution would be simple (1998:30). Based on evidence, it is apparent that the struggle to root out corruption should take into account the many factors that influence it, some can be changed more easily than others. Because of the complexity of the phenomenon, the fight against corruption must be total war engineering on many fronts and sustainable, as it cannot be won in months or even in a few years. Containing corruption has become a primary concern of almost all organizations (states, multinational lenders, development agencies) and this a fight that involves fighting human nature. Thus the greatest mistake that can be made is to rely on a strategy that depends excessively on actions in a single area, such as increasing the salaries of the public sector employees; or increasing penalties; or creating an anti-corruption office; and so on, and to expect results quickly.

Therefore, combating corruption can be seen as part of the broader goal of creating more effective, fair and efficient government. Rather, it has been suggested that the policy response to the struggle against corruption has several elements common to every society: the reform of substantive programs, changes in the structure of government and its methods of assuring accountability, changes in moral and ethical attitudes, and most importantly, the involvement and support of government, the private business sector, civil society and the international community. This has been called “social empowerment” by Johnston (1998) who perceives it as an essential element to preventing political corruption that includes the strengthening of “groups and interests that make up civil society – that is

organizations, enterprises, and informal social networks active in the realm between individuals and government".

11.2 Holistic Approach

In Gauteng, as in the rest of the country, controlling corruption is one of the greatest challenges to the establishment and consolidation of democratic systems that should be confronted as a matter of urgency, a prelude to economic growth. When many provincial leaders and public managers choose to redress corruption by controlling fraud, bribery, extortion, embezzlement, tax evasion, kickbacks, and other forms of illicit and corrupt behaviour, they would like to eradicate this scourge that erodes their agency's mission and the broader goals of sustainable development. Recognition of deleterious effects of corruption in Gauteng raises the practical problem of what can be done to eradicate it. What was the government's reaction to the problem and how effective it has been in its fight against corruption?

According to this survey, perceptions of government effectiveness in the handling of corruption was as follows: more than 68% of respondents believed that government is doing enough in combating corruption by maintaining transparency and accountability, while 26% disagreed and a mere 5% strongly disagreed and 5% were uncertain. In the same context, respondents were asked to rate the Gauteng management as excellent, good, fair or poor. The majority (58%) thought that government management was fair, 37% found it good against a mere 5% who had no opinion. This reflects the government's seriousness in committing itself to fight corruption as shown by numerous anti-corruption programmes and projects that were initiated by the government in the wake of political scandals in 1997 and 1998.

There have been many efforts, activities and strategies put in place to address public sector corruption at all levels of government (national, provincial, local). Transparency South Africa (T-SA) has singled out recent developments, as set out below:

The Constitution of South Africa (Act 108 of 1996) provides the basis for fighting corruption and promoting good governance in moving away from the apartheid and

colonialist past. Various pieces of legislation that explicitly address the issue of corruption were established, and others are in process of being promulgated (van der Merwe, 2001:2). Some of the more recent ones include the:

> Corruption Act (1992), Interception and Monitoring Prohibition Act (1992), Drugs and Drug Trafficking Act (1992), Public Protector Act (1994), Special Investigating Units and Special Tribunals Act (1996), International Cooperation in Criminal Matters Act (1996), Criminal Law Amendment Act (1997), Witness Protection Act (1998), National Prosecuting Act (1998), Prevention of Organized Crime Act (1998), Promotion of Access to Information Act (2000), Protected Disclosures Bill (2000), Corruption Amendment Bill.

Specific bodies and mechanisms have been established to deal with the issue of corruption in different ways. These include the:

> Independent Complaints Directorate, South African Police Service (SAPS) Anti-Corruption Unit, Special Investigating Unit, Investigating Directorate for Serious Economic Offences, National Crime Prevention Strategy, National Intelligence Agency, Public Protector, Auditor-General, National Directorate for Public Prosecutions, Public Service Commission, Department of Public Service and Administration, SAPS Commercial Crime Unit, Directorate of Special Operations (Scorpions), Asset Forfeiture Unit, South African Revenue Service (SARS), National Anti-Corruption Forum (NACF), Public Accounts Committee.

Most of these agencies have established their offices in Gauteng and are operating at a provincial level. Strategies and efforts deployed revolve around a set of resolutions. These include:

- The formulation and popularization of a code of conduct for public servants;
- The creation of a Senior Management Service to promote optimal use of senior management;
- The initiation of a range of internal departmental anti-corruption units;

- The creation of an Asset Register to monitor acquisition by public sector managers.

In preventing and fighting corruption Gauteng Provincial Government adopted proposals and recommendations that emerged from the anti-corruption conferences held nationally in November 1998, April and October 1999 (TSA, 2001:38-42; Camerer, 2001:58-67) with the spotlight especially on:

(1) *public awareness and transparency*: different focus groups could in their own way undertake or participate in public awareness campaigns by different means, such as posters, stickers, leaflets, reports in the media and publications. Positive steps such as exposing corruption when it occurs, publicizing and highlighting the problem, including making public announcements and hosting anti-corruption forums and conferences. It would be vital to ensure that public awareness and actions to follow are well informed and go beyond mere public outcry and hysteria, mud-slinging or political point-scoring.

(2) policy interventions: are taking place – internally with organs of civil society (e.g. to improve internal systems, cultures of integrity and individual behaviour), and externally with both the public sector (e.g. relevant policy and legislation on different tiers, departments and agencies of government, political ethics and public sector ethics) and the private sector (e.g. corporate governance, business ethics and economic ethics).

(3) *strengthening anti-corruption bodies and the criminal justice system*: establishment of anti-corruption organizations and watchdog bodies such as the ex-Heath Special Investigating Unit and other Special Investigating Units, the Scorpions, the Public Protector's Office committing themselves to playing their roles at all levels of government including regional and international networks of integrity against corruption. Establishment of commissions of enquiry, empowering and improving legislation to fight corruption in order to secure high level prosecutions and the proper follow-up of corrupt officials.

(4) *anti-corruption strategies*: the formulation of anti-corruption strategies, including the transformation of government policies and the prioritization of areas for strategic interventions is a step in the right direction. But more has to be done.

(5) *improving of checks and balances*: visible steps have been taken to improve checks and balances that include: decreasing incentives, more transparency in tenders, improving governance systems, financial controls and procedures, the putting in place of Codes of conduct for public servants and a toll free number to encourage whistle blowers.

(6) *political will*: the required political and social will of all role-players to address the phenomenon in all its forms and dimensions. This is an important component in the fight against corruption. The presidential engagement with his "zero tolerance" approach had been seen as a crucial step to coming down harshly on all forms of corruption. The involvement of senior management at national and provincial levels was viewed, as part of political will. As Koffi Annan put it, "we have the capacity and the means to resolve our problems, if only we can have the political will".

(7) *cross-sectoral participation*: the interaction between government's actions to fight corruption and the participation of the civil society and the private sector involving business NGOs, the youth, religious bodies, women's groups, media, professional bodies, human rights and other relevant stakeholders.

In doing so, two approaches have been identified (van der Merwe, 2001:31), as follows:

I. Conventional government or public sector-focused approach: the main characteristic of this approach is that a variety of instruments and mechanisms are implemented to ensure that the government and the public sector at large are being cleaned of corruption. The basic rationale would be that corruption is a problem in (or of) the public sector and/or in interaction with other sectors.

II. An emerging holistic societal approach: the main element of this approach is to ensure that adequate and effective initiatives and mechanisms exist to address corruption and good governance in the different sectors. The basic rationale would be that the matter is a wider societal problem that is present in the different sectors in different ways with different challenges and priorities. Each sector needs to ensure that adequate measures are taken and processes are set in motion to address the problem. Consensual structures and programmes for cooperation and monitoring have to be put in place.

All these strategies for combating corruption have been wrapped up into a unique document for the Public Service as a distinct sector of the South African society. The document, entitled the *Public Service Anti-Corruption Strategy* and published in January 2002, is the product of the Department of Public Service and Administration. It has been developed in accordance with the resolution of the National Anti-Corruption Summit for the Public Service in order to give effect to expressed commitment of government to fight corruption in this sector. The Anti-Corruption Strategy revolves around nine considerations that can be summarized and outlined as follows:

1. *Review and consolidation of the legislative framework*: the existing legislative framework though solid is however fragmented and requires review and consolidation to improve its efficiency. Obviously, the existing Corruption Act of 1992 has proven to be ineffective and because the common law crime of bribery was repealed by this Act, prosecution of bribery cases has been insignificant. Then it has been proposed that a new legislative framework to fight corrupt be established and implemented by July 2003. But until now this long-awaited legislation is still being debated in Parliament. The objective of this framework is to provide for:

a) A new corruption Act that provides a workable definition of corruption, that reinstates the common law crime of bribery, that cerates presumption of *prima facie* proof to facilitate prosecution, that extends the scope of the Act to all public officials and private citizens and their agents;
b) A range of offences and obligations;
c) A holistic approach to fighting corruption;

d) Compliance with regional and international conventions;
e) Civil recovery of proceeds and the ability to claim for damages; and
f) Prohibition of corrupt individuals and businesses.

2. *Increased institutional capacity*: there is proposition that the courts, existing national corruption-fighting institutions and departmental capabilities be improved for optimal functioning. Regarding the courts, it is proposed that there should be a review of the current proliferation of courts in order to assess and improve the efficiency of courts with particular attention being given to improving the specialized capacity of court officials to address corruption cases, rather than create additional specialized courts. Moreover, it has been proposed that:

a) The efficacy of existing departments and agencies be improved through the establishment of appropriate mechanisms to coordinate and integrate anti-corruption work.
b) Departments create a minimum capacity to fight corruption by undertaking the following tasks:
    - Conduct risk assessment
    - Implement fraud plans as required in terms of the Public Finance Management Act, which must include, as a minimum, an anti-corruption policy and implementation plan.
    - Investigate allegations of corruption and detected risks at a preliminary level.
    - Enable the process of conducting further investigation, detection and prosecution, in terms of prevailing legislation and procedures.
    - Receive and manage allegations of corruption through whistle blowing or other mechanisms.
    - Promote professional ethics amongst employees.

3. *Improved access to report wrongdoing and protection of whistle blowers and witnesses*: this focuses on improving application of the protected disclosures legislation, witness protection and hotlines.

4. *Prohibition of corrupt individuals and businesses*: it has been proposed that mechanisms be established to prohibit (a) corrupt employees from employment in the Public Sector and (b) corrupt businesses and agents of such businesses from doing business with the Public Service for a maximum period of five years. It is also envisaged that the information system for prohibited employees should be established as well as a central electronic register of prohibited businesses.

5. *improved management policies and practices:* management must be held accountable for preventing corruption as solid management practices have been widely recognized as the first line of defense against corruption. Thus improvements should be effected with regard to procurement systems, employment arrangements, discipline management, risk management, information management and financial management. The proposals include the extension of the system of disclosure of financial interests, screening of personnel, establishing mechanisms to regulate post-Public Service employment and strengthening the capacity to manage discipline.

6. *Managing professional ethics*: development of a generic professional ethics statement for the Public Service that should be supplemented by mandatory sector-specific codes of conduct and ethics. Professional ethics that will be supported by extensive and practical explanatory manuals, training and education.

7. *Partnerships with stakeholders*: partnering has been identified as a cornerstone of the national fight against corruption and for that purpose:
    - The National Anti-Corruption Forum should be used to promote Public Service interests;
    - Partnerships should be established with the Business and Civil Society sectors to curb corrupting practices; and
    - Public Service unions should be mobilized to advocate professional ethics with members.

8. *Social analysis, research and policy advocacy*: the role of civil society in fighting corruption is crucial. Thus the proposal that all sectors should be encouraged to

undertake ongoing analysis on the trends, causes and impact of corruption and to advocate preventive measures.

9. *Awareness, training and education*: a comprehensive awareness campaign, supported by education and training, needs to be established and implemented. The campaign will be aimed at promoting South Africa's anti-corruption and good governance successes domestically and internationally. The local part of the campaign will be hinged on the promotion of *Batho Pele* (people come first) initiatives and pride among employees.

10. Nevertheless, responding to the development challenges posed by corruption requires an understanding of its causes and one of these causes, as seen, is poverty. The fight against *poverty* through the promotion of job creation policies, health policies, education policies and meeting basic needs are important strategies in *poverty alleviation.* Reducing poverty and inequality in South Africa will require substantial changes in the distribution of incomes, wealth and economic power. The elements of such redistribution revolve around access to livelihoods, housing, infrastructure, land and water.

The challenge facing the new South African government is immense and from the perspective of implementation, however, current progress has not met expectations; the most important reasons for this relate to the underlying distortions in economic markets and social institutions introduced by apartheid, which continue to produce and reproduce poverty and inequality in South Africa.

Despite the challenge, there is still hope. As Nelson Mandela argues:

> *"Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life. While poverty persists, there is no true freedom. Sometimes it falls upon a generation to be great. You can be that great generation. Let your greatness blossom. Of course the task will not be easy. But not to do this would be a crime against humanity, against which I ask all humanity now to rise up. "Make Poverty*

History in 2005. Make History in 2005. Then we can all stand with our heads held high" (Nelson Mandela, Trafalgar Square, London, June 2005).

In order for the Public Service Anti-Corruption Strategy to succeed, all the above strategic considerations have to take place, as they are all interrelated and dependent on one-another. Besides sufficient allocation of resources are needed for these "stepping stones" of the anti-corruption strategy, as labeled by the Department of Public Service, to achieve some results.

It should be noted that a review of the South African corruption literature shows clearly that in terms of international practices, the Public Service is outfitted with elements of a good anti-corruption strategy. On the one side the country has an ambitious and comprehensive legislative, regulatory and institutional framework thanks to the new dispensation put in place in 1994. Furthermore the Public Service utilizes good management practices, including a code of conduct, modern employment practices, financial disclosures, fair procurement and a progressive disciplinary system for ensuring economic utilization of all state resources.

On the other side this framework does however not function optimally at present for many reasons including the lack of sufficient resources to fulfill mandates in the light of more pressing problems such as unemployment and health delivery, the fragmentation of the legislative framework, inefficiencies within and between institutions with anti-corruption mandates, a lack of focused socialization programmes, inefficient application of the disciplinary system, underdeveloped management capacity in some areas and inequalities in the accumulation of wealth.

In future, acts of corruption will be regarded as criminal acts and they could be dealt with either in the administrative or criminal justice system, or both if need be, as the Department of Public Service and Administration underlines.

Chapter Twelve

GAUTENG CORRUPTION RESISTANCE STRATEGIES

12.1. Introduction

At the time of political scandals and commissions of inquiry in the province between 1994 and 1999, the government reacted quickly to stamp out corruption that was undermining the civil service. The battle against the rot began within the Department of Finance and Economic Affairs and was initiated by MEC Jabu Moleketi with the launching of an Anti-corruption Hotline on 18 March 1998, known as the Gauteng's corruption hotline. This was seen as a firm attempt by the Gauteng Provincial Government to get rid of corruption from the public service.

During 1998, some cases of illicit behaviour were reported on the Hotline including the case of a principal who had been charged for renting out his school's electricity to 10 surrounding shacks. He was running extension cords from the school and charged R100 for each line. Small-time crooks like the electricity-purveying principal were nabbed. So were government employees who used official cars as taxis by night. A hospital superintended who received illegal cheques worth some R1,4 million had been suspended. The Finance department recouped R3,5 million of the estimated R6 million lost to fraud in 1998 alone. A white board was updated daily with the amounts recovered. The hotline was only at the tail end of the fight against corruption, as rumoured in the Office of the MEC for Finance Department. Lower profile efforts include tightening up financial systems to cut down on fraud (*Mail & Guardian,* November 27 to December 3, 1998:46; *Gauteng News*, n° 2, November 1998:5).

After a decade in power, the record represents an improvement on what it was during the first term. These improvements, though not comprehensive are nonetheless impressive. Let us analyse different strategies adopted by individual departments in their onslaught against corruption.

12.2. Department of Finance and Economic Affairs:

Between 1994 and 1998, most departments were overspending and bloated with unproductive public servants. The province was not attracting investment and businesses were leaving the city center in droves. In 1996, the MEC for Finance and Economic Affairs Department, Jabu Moleketi expressed his concerns by criticizing government departments, which in the middle of limited financial resources, practiced fraud upon each other and the national exchequer. These fraudulent practices from certain unfaithful government structures were seriously undermining the allocation of the state's limited financial resources to needy departments. He noted the need for all budgeting to be done in honesty and integrity. In 1997, after a report by the provincial auditor-General, Mr. Shauket Fakie, had showed that the government had incurred unauthorised expenditure of some R404m in the 1995/96 financial year, Mr. Moleketi termed this a "mockery of accountability". He announced early in the same year that the province would begin the 1997/98 financial year 'on a clean slate".

According to the Head of Department (HoD), Thenjiwe Hlatshwako, in analyzing the situation in the first term of office, it became quite clear that the challenges facing the department were instilling financial discipline in the province and developing a policy that would inform economic interventions by government. This would facilitate the creation of an environment conducive for business to grow and create jobs (*Annual Report 2001/2002*:3).

The department's annual reports from 2000 to 2003 show that the sound financial discipline unequivocally adopted by Government contributed to increased capacity to improve the conditions in Gauteng. The implementation of the *Public Finance Management Act* (PFMA) turned out to be a crucial point in ensuring sound public finances. A more optimistic outlook emerged, with heavy emphasis put on capital spending and the broad strategy was to speed up the delivery of economic infrastructure, as reflected by Blue Q projects, and contribute towards economic growth within the confines of fiscal sustainability.

The full implications of the Public Finance Management Act are beginning to dawn on the civil service. Treasury has focused on key areas of the implementation such as the appointment of chief financial officers, awareness and training, internal audit committees and internal audit. All of these initiatives have been implemented. Reporting deadlines have been met by the province and changes to budget formats and expenditure classifications in place. Gauteng continues to pioneer these initiatives in the country.

Progress achieved to date on the implementation of the PFMA can be summarized as follows:

- The establishment of an audit committee the department shares with two other departments,
- The establishment of a provincial internal audit unit,
- A departmental risk assessment was conducted in 2000/2001 and based on this four focused audits were conducted by the Internal Audit in 2001/2002.
- All monthly and quarterly reports were submitted to Treasury timeously,
- The implementation of the Act is progressing well and will be phased in gradually up to 2007, according to Treasury's medium to long-term plan.

In addition, the department also defined and adopted a strategy to address the economic challenges through a policy document referred to as the Trade and Industrial Strategy Policy. In terms of this policy, the challenges facing the Gauteng government at the time included:

- Maintaining this financial discipline and ensuring sound financial management through the appointment of suitably qualified staff that is adequately supported.
- Introducing a new resource management thinking as prescribed by the PFMA that requires the management of risk.
- Introducing systems that will enhance and support management.

Therefore, to address these challenges the department embarked on a process that began with the appointment of Chief Financial Officers (CFOs) and its capacitation in terms of

staffing. This was followed by the training of non-financial managers on the PFMA; a change in the accounting system from the Financial Management System to the Basic Accounting System; the establishment of an internal audit function in the Shared Service Centre and the appointment of an Audit Committee.

As a result, this process saw the province receiving the first six out of twelve unqualified departmental audit reports in 2001/2002. On 25 August 2003, the Gauteng Provincial Government received a clean bill of health from the Auditor General. All 12 departments as well as the Legislature received unqualified opinion from the Auditor General on their financial statements for the financial year 2002/2003. As announced by the Premier Mbhazima Shilowa, the Gauteng Government had fulfilled its promise, and did it a year ahead of the target that had been set. Gauteng remains the leading province in implementing the Public Finance Management Act. This has gone a long way in enabling the establishment of measurable objectives and outcomes, with a focus on outputs as opposed to inputs.

*The GSSC Hotline***:** launched on 18 March 1998, the Hotline was a firm attempt by the GPG to stamp out fraud and corruption from within its ranks. It brought allegations of corruption directly to the notice of government by enabling the public to inform them of any corruption they may have observed. At the end of 1998, an average of 33 calls was recorded daily, showing the interest the public had for the 24-hour hotline. When the Department began its anti-corruption campaign in October 2001, it had been found that the hotline was kept very busy, with more problems coming from the Education, Housing and Health departments. In education, principals were reported to be abusing schools funds, and there were complaints about the placement policy of teachers not being followed, especially in jobs-for-pals situation. Meanwhile, the Health Department constantly experienced the problem of staff stealing medicine and expensive equipment. Officials at the Housing Department were reported to be allocating people to "nonexistent houses or helping others to jump the waiting list".

According to the Department, after receiving any information tip on the hotline, officials acted by forwarding a report to the relevant head of department for further investigation before reporting back to the Finance Department. But most departments delayed

investigating themselves resulting in interminable backlogs. As the manager for forensic audit at the Gauteng Shared Service Centre (GSSC), Advocate Jacob Khetsi who is in charge of the hotline told me during my visits: "there is no database on corruption cases yet". This is why officials engaged departments to supply them with information on corruption and fraud in the province, so that they could see the trends and patterns. A database building was under process in order to find solutions to the problems. Nevertheless, there was indication that so far only the Transport and Public Works Department had started submitting information on corruption with the main problems being the abuse of government vehicles.

A PSC Report on anticorruption hotlines (April 2002) in the provinces shows that the main shortcomings were the lack of guidelines uniformity in the set-up and the administration of the hotlines. The end result was the absence of a coherent operational plan or organizational structure as well as no uniform data-capturing mechanisms that record the number of calls, the types of complaints, nor the way in which they had been dealt with.

Table 40: PSC Survey of Provincial Hotlines (Gauteng):

	GAUTENG PROVINCE
Hotline No	*0800 600 933*
Location	Department of Finance: Communication Section
Public Awareness	Mass media campaign including banners, stickers and radio talk campaigns.
Operational Procedures	- Calls are not recorded - There is voice-mail system that operates in the evenings to capture calls.
Investigative Procedures	- Information is passed to the HOD of Finance - The HOD passes the information to HOD of the Department where corruption is alleged.
Budget	- Department of Finance pays for the line, facilities and staff - Unknown budget
Human Resources	3 people: - 1 Call Operator - 1 Supervisor - 1 Manager
Evaluation and Data Management	- Cases are compiled monthly - No statistics on the number of cases

Source: Hotlines: PSC Report, 2002:23.

Gauteng, as well as KwaZulu-Natal, does not have any investigative capacity attached to the hotline center. Instead officials refer all cases to the internal audit section of the particular department about which a concern has been raised. There are no mechanisms of checking whether any follow-ups do occur with these cases. Nor is there any guarantee that the audit section of the relevant department has capacity itself to undertake the investigation. Therefore, it becomes clear that if hotlines are to be successful, they must be seen as a part of a long-term strategy for combating corruption, which in turn requires a long-term commitment to public awareness building, to sum up the PSC hotline Report.

12. 3. Department of Transport and Public Works

In most cases of corruption in the government, action is taken only after sensational media reports have exposed the case or after an independent investigation has published his findings on a specific one. As seen above, the Transport and Works Department was confronted by many claims of rampant corruption especially in the Licencing department in Johannesburg. Scams in which traffic officers, clerks and supervisors were involved included the fraudulent issuing of licences, roadworthy certificates and registration documents. Administrative weaknesses also played a major role in this escalating problem with the computer system used by both traffic and police officials not connected and criminals taking advantage of the loophole.

In 1999, the improvement of the National Traffic Information System (NaTIS) facilitated the identification of a marked car and of its owner, while with the old system it could take up to three months before a stolen car was/could be marked on the department's computer system. Other measures taken to combat corruption included:

- Registration of workers on a national list (similar to that used by doctors and lawyers) to ensure that anyone dismissed because of criminal activities – corruption is a crime – would be barred from working in a similar department.
- Sending details of all duplicate cars to the anti-hijacking unit with the instruction to confiscate the vehicle and arrest the owner.

- To move the Diepkloof and Brixton vehicle units to Langlaagte testing station, where testing, registering and clearance of motor vehicles are done under one roof (*Sowetan,* 7 July 1999).
- Visit by the Gauteng government to all local traffic departments (Department of Transport, 11 September 2002). This visit by a team tasked by the Gauteng Department of Transport and Public Works during August 2002 occasioned the finding of all sorts of irregularities including: the issuing of fraudulent licences and licences authorized by clerks instead of examiners; disorganized filing systems, missing files, unregistered examiners, incomplete forms, non-compliance of test yards and road tests done in less than 15 minutes. Irregularities were found also in the registering authorities on the estates of deceased people, repossessions and amalgamation transactions resulting in 1049 fraudulent estate transactions. As a result, six licence test centres were closed for three months as were many examiners suspended and nine other centres given 14 days to clean up their acts. Thousands of Gauteng motorists were on the brink of seeing their driving licences nullified after irregularities were found in the test centres. Police had to be called to investigate the crime syndicate operating at the Loveday Street centre in Johannesburg.

The MEC was commended for his handling of his portfolio, as well as for other initiatives including a major purge that resulted in the firing of two officers and the suspension of 10 officials on charge ranging from the misuse of official vehicles to breaching of tender regulations. In a statement to media, Mosunkutu said the move was part of a renewed determination to stamp out bribery and corruption in the province's traffic law enforcement agencies and showed his department's hard line by not taking the matter of corruption in government lightly (*Citizen*, 23 March 2001).

In his budget speech to the Gauteng Legislature on 22 May 2001, Mr. Mosunkutu tabled the situation encountered at most of the licensing departments in Gauteng as well the strategies of his Department to stamp out corruption. He pointed out that his Department in partnership with Business Against Crime (BAC), the Department of Safety and Liaison and the Department of Justice had embarked on a number of initiatives in the campaign against fraud and corruption in pursuit of clean governance. In most departments the main problems identified included:

- Customer service characterized by long queues and a customer-staff interaction full of friction;
- Staff shortages and lack of supporting systems;
- Inadequate supervisory capacity and lack of managerial innovation;
- Fraud and corruption involving some officials and some customers, as well as that facilitated by officials in other related government departments;
- Lack of strategic financial management, including providing management information for collection of licence fees purposes;
- Record-keeping methods that hamper quick service delivery to customers (i.e., files centralized in one of the 5 offices);
- No mentorship of new generation managers;
- Unnecessary referral of customers/public to the provincial department (Gautrans) on matters that fall squarely on the jurisdiction of the chief licensing officer (Department of Transport, 28 June 2001).

To resolve these problems a project plan, accepted by all stakeholders, called "Best Practice Model" was put in place and was the outcome of countless strategic sessions between BAC and the Transport Department and the following changes were expected from the model:

- Change of the physical/structural arrangements at each licence department;
- Categorization of staff for different transactions;
- Continuous management of password changes;
- Using the supervisors as the backbone of the license office;
- Document verification in the backroom, and installation of a document tracking system.

The aim of this initiative was to provide managerial and supervisory support to the Licensing Departments in the city of Johannesburg in particular and to other licensing departments throughout the province. The total budgeted amount was approximately R11 million. In partnership with BAC, Gautrans and the City of Johannesburg appointed a total of 10 supervisors and seven (7) managers on a contract basis of 6 months. This was done in terms of the Treasury Regulations and the Tender Board rules on the utilization of service provides on panels. The supervisors are highly trained in NaTIS, and provide

NaTIS training themselves. Five (5) of these supervisors started on 02 May 2001, at the offices of Loveday Street, Roodepoort and Langlaagte where parts of the Best Practice Model were being implemented. The other five (5) supervisors started on Monday, 02 July 2001 along with the managers (Department of Transport, 28 June 2001).

The City of Johannesburg would appoint permanent staff, supervisors and managers during the project period. Revised job descriptions were put in place to assist in the process. As with already existing staff, supervisors and managers, an effective skill transfer process was activated.

The project was expected to achieve in the 6-month period:

- Good customer service ensured by flowing back office operations and staff trained in service excellence;
- Reduced/eliminated fraudulent or corrupt activities or dealing with them effectively;
- Optimized financial and human resource management;
- Correct staffing levels and mentorship of new generation managers;
- Positive innovative capability in supervisors and managers; and
- Licensing departments to be run as viable businesses and centres of service excellence, centres of the City of Johannesburg.

Finally, the last initiative was that of long queues resolution that ended up in the setting up of “a queue management system” aimed at improving the management and assisting customers’ needs as follows:

- To indicate to customers how long they will wait for service;
- To aid managers on service delaying points or centres;
- To identify slow and fast workers, and set reasonable benchmarking;
- To identify training gaps and train staff who are below the benchmark; and
- To provide other management information at provincial government level.

The offensive against fraud and corruption did not stop here. The Department of Transport and Public Works in conjunction with the Gauteng Operating Licence Board, previously known as the Permit Board, started investigating in July 2001 several meter taxi operators who were engaged in illegal operations. They found for instance that RIXI Taxi, a meter/sedan operator and others had contravened the Law by renting out permits at an amount of R210 per week per taxi driver, under the guise of franchising. RIXI Taxi was in possession of 74 permits, which they rented out to drivers for operations in the Pretoria Central Business District. The Board decided to cancel with immediate effect all operating permits held by RIXI Taxi and ordered the recall of the cancelled permits within a seven-day period. The investigation was extended to other metered taxi operators reported to be contravening the law in a similar fashion (Department of Transport, 21 July 2001).

The Department continued to focus on rooting out corruption and fraud within the departmental processes such as motor vehicle registration, licensing, roadworthy certificates, GG vehicle misuse, and financial related areas. In this context though measures were taken and implemented at the Johannesburg licensing department in July 2001 to bring to an end the scams and corrupt practices that saw ordinary and honest citizens forced to queue for hours for documents. These measures were so successful that other metropolitan councils in Ekurhuleni, Tshwane and the Mogale municipality decided to adopt them. Even the national Transport Minister Dullah Omar commended the work done and said that because of the success, the control measures would eventually be implemented throughout the country. They were simple but though measures aimed at the removal of touts and crooks who were promising the public “fast service” and to clear the surroundings outside the Loveday Street offices. As reported by *Saturday Star*, 11 August 2001, they included:

- The lock of fire escape doors that can be opened only in case of fire;
- The replacement of the security company
- Undercover metro police officers are to be present to watch staff and inspect suspect transactions between members of the public and staff;
- Reconfiguration of customers lifts to the relevant departments;
- Staff are subjected to daily body searches on entry, and are prevented from entering the area of the building in their cars;

- Agents no longer get preferential treatment and should stand in queues like everyone else;
- Loitering has been banned, and on entry, members of the public are issued with vouchers authorizing their presence in the building and these must be returned to security when leaving;
- Every entrance is manned by a security guard who advises the public on where to go;
- Extra cashiers have been employed in order to process transactions speedily;
- Documents are now bar coded and are scanned at the entrance to record the time and date of arrival and can be traced at any time.

To prevent corruption from shifting to other areas, the tough steps had been adopted in all areas of the province. As said by the MEC Mosunkutu, "despite tough measures put in place to root out corruption, it still existed" (*Citizen*, 19 March 2002). This is why financial accountability and the elimination of fraud and corruption remained key focus areas for the Gauteng public transport, roads and works department, as singled out in the departmental 2002 Annual Report tabled on 10 September 2002 in the Legislature. "We have reduced fraud and corruption; including the time spent by our customers at licensing departments. And above all, we have increased the revenue collected from licences to R708 million". In addition, loitering inside licensing offices had also been stopped resulting in the elimination of staff bribery. As the result of the new strategies, 18 people had been arrested and 45 apprehended during inspections at various driving schools between 2001 and 2002.

"These achievements, Mosunkutu states in the Report, were the result of the implementation of innovative Best Practice Model in the Licensing Offices and the partnership with Business Against Crime and local authorities". Finally, he promised to regularly carry out the inspection of vehicle testing stations, driver licence testing centres and driving schools for compliance throughout the province. "This will be achieved via the implementation of more comprehensive policies and procedures combined with a bigger focus on inspections, investigations and internal audit", (*2003 Budget*, 3 June 2003).

12.4. Housing Department

Allegations of corruption and intimidation in the apartheid-era and allocation of up to 45 000 state-owned houses with an estimated value of R3bn led the then Gauteng Premier Tokyo Sexwale to institute a commission of inquiry on December 1, 1997 to probe these irregularities. This was followed by the appointment of commissioners to the commission known as "Home Truths Commission" headed by Jabu Dhlamini, a Germiston lawyer. The Home Truths Commission had been appointed to investigate the allocation of and eviction from state-owned homes for the period between January 1 1976 and March 31 1994, during 20 years before the ANC-led government came to power. At the time Gauteng Housing and Land Affairs MEC Dan Mofokeng announced that about 150 000 state-owned houses valued at R10bn were being transferred to their occupants in Gauteng and it was estimated that acts of intimidation and corruption in the allocation of these homes were up to 30% (*Business Day*, 31 December 1997).

The Commission was linked to a housing transfer programme, in terms of which government had agreed to give occupants of state homes a discount of R7 500 on the historic price of each property. Housing transfer bureaus were set up to oversee the programme. Corrupt councilors and municipal officials who made way for others who had paid bribes allegedly threw thousands of families out of houses. Others were overlooked during housing allocations because they had not paid bribes to councilors. Victims of corruption and mal-administration were given until the third week of January 1998 to submit complaints. The Commission concluded its hearings in March 1998 before completing its report in April 1998. At the end of December 1997, the Commission received 780 genuine submissions detailing alleged irregularities in the allocation of these houses, a sign of people's confidence in the Commission and their readiness to "talk". On the January 20 deadline, there were more than 6 000 complaints received by Gauteng's Home Truths Commission (*Business Day; The Star*, 27 January 1998). Claims of irregularities included the sale of state-owned houses to councilors' family members, people renting houses for 11c a month in Sandton and others being forced into marriages to secure housing.

Between 1994 and 2000, the continued shortcomings influencing housing delivery could be summarized as follows: there was little incentive for developers to finish projects on time, particularly during the last phase of construction; weak capacity and poor planning within the department slowed down spending and the 2000 local government elections and re-structuring towards newly demarcated municipalities slowed down housing development; lack of end-user finance to credit-linked beneficiaries and housing institutions delayed the implementation of several large projects; slow transfer of land and delays in township establishment procedures sometimes due to capacity constraints at local government level; delay of prescribed payments by conveyancers; poor performance by developers; legal technical issues related to section 118 of the Municipal Systems Act affecting the transfer of ownership; and slow approval procedures for Environmental Impact Assessments (EIAs).

However, as pointed out by MEC for Housing, Paul Mashatile, "the many obstacles in the path to achieving more effective and efficient housing delivery remain a challenge to us rather than a deterrent" (2001/2002 Annual Report).

The Report reveals that the Gauteng response to the above-mentioned problems was the creation of delivery-oriented Agencies:

- *Gauteng Partnership Agency*: primarily responsible for the establishment of the management of an appropriate finance mechanism and the management of housing stock owned and held by the Department.
- *Housing Development Agency*: responsible for the implementation of housing projects. Acting as the developer of choice for all new projects approved from 1 April 2002 so that the role of external developers is limited.
- *Urban Regeneration Agency*: responsible for the implementation of large scale urban development projects that go beyond the provision of housing to providing the necessary social amenities, economic opportunities, etc. that contribute to the development of sustainable communities.

The approach of setting up Agencies allowed the department to ring fence specific business with a view to creating increased effectiveness and greater accountability.

Other initiatives by the Department include the corrective measures taken on 10 December 2002 – contained in a document called "Corruption Media Statement" - to avoid a recurrence of the same acts, after the findings of independent investigations into corruption and maladministration in 20 projects:

- Undertaking of a major data clean up exercise to ensure that all decisions are based on accurate information (waiting list, Housing Subsidy System, etc);
- Conducting a review of policies and procedures governing both the awarding and administration of contracts particularly with regard to the monitoring of the performance of developers;
- Undertaking a contract review process which entailed not only the review of our current contracts but was also aimed at improving all contracts entered into by the Department and the safe keeping of all original contracts in one central point.
- Establishing of an internal investigating unit in 2001 to look at cases that are brought to the attention of the Department from time to time.
- Abolition of the former provincial advisory Boards and the replacement thereof by a more effective, efficient and transparent Advisory Councils.
- Finalization of the Fraud Prevention Plan and the formation of the Fraud Prevention Committee that would entail the utilization of the GSSC hotline.
- Establishment of a Customer Support Centre (CSC) on 28 May 2002 referred to as a "Place of Hope". A toll-free number is also operational. Through this facility the Department is able to provide a mechanism to deal with complaints and to facilitate the investigation of allegations of irregularities. The CSC functions as common entry point for stakeholders to the department on various issues related to housing delivery. The center represents a critical 'One-Stop Shop" through which relevant information on the core business of the department can be accessed and disseminated. Since its opening, the CSC has handled at the end of August 2003 in excess of 79 500 cases with a daily average of 500 people visiting the center. The Call Centre receives approximately 700 calls a day. For the past 12 months, the Call Centre agents have managed to handle 11 413 calls on average per month. Most of the cases lodged at the Centre relate to the Waiting List and enquiries on Subsidies. The establishment of the Centre resulted in transforming the Department from one that just hears its customers,

into one that actually listens and acts (*Corruption Media Statement*, 10 December 2003; 7-8; *Budget Vote Address*, 3 June 2003).

Finally, since the implementation of the above steps there has been a material decrease in the reported cases of fraud and corruption against all the role players and the non-performance by developers, according to the Housing MEC.

On 13 January 2004, the Gauteng Department of Housing (GDH) released a progress report to the media explaining some of the expenses used for forensic investigations into corruption. This followed the story published in the *Saturday Star* on January 10 2004, alleging that the GDH had spent millions of rands on investigations. The investigation and corrective measures by the department started in 2002 after a public outcry over the abuse of housing subsidies by developers and fraud by people who were not supposed to benefit from the housing scheme.

The cases outlined by the GDH had been under scrutiny since 1994, eight years before the department's investigative unit was set up in February 2002. One of the cases in point was the South African Land Developers Organization, which received R41-million from GDH. After investigations it was found that only five houses had been completed.

According to this report, between the April 2002 to March 2003 financial year, forensic investigations had cost the department R3,6-million. In the following financial year (March 2003 to March 2004) the department predicted the spending to be around R6,7-million "including VAT, disbursement and external legal costs". This meant a spending of more than R10-million on investigations since 2002. "These investigations have been ongoing since 1994. We have completed more than 50 percent of the work and the outcomes vary. Sometimes there is evidence of fraud. Other times no one can substantiate the complaints," said Keith Khoza, GDH spokesperson. However, the committee of inquiry that was assigned to investigate in April 2003 had found irregular transactions to the value of R43-million that led to the dismissal of Peter van den Heever, a director of formal housing.

The department said fraud in the allocation of housing took many forms such as developers who demanded money from prospective homeowners even though developers had received payments from government. Other cases involved developers who received money from government but did not build houses; developers who overcharged government for housing projects; gangsters who evicted rightful owners from their houses; and officials who allegedly exchanged houses for bribes.

The committee also completed an investigation of the South African Land Development Organisation (Saldo), a housing developer that had a number of subsidiaries, which received more than R70m for projects between 1994 and 1996. It received R31,5m for individual subsidies for 2400 houses, of which it built 318, some of which were only partially constructed. Saldo had used two legal firms to process individual subsidies on its behalf.

"Civil claims have also been issued against the law firms. The value of these claims is in excess of R140m, plus the interest plus the cost of investigations," said the department's housing head Sibusiso Buthelezi. The committee had also filed more than 100 charges of corruption and fraud in connection with irregularities in the allocation of houses to non-qualifying beneficiaries in a number of townships, such as Duduza, Katlehong, Lakeside, Braamfischerville and Tshepisong. "This has been a longstanding complaint in many communities," Buthelezi concluded. The latest outcome of corruption investigations done by the department was the arrest of four project managers and a crooked councilor from Ekurhuleni municipality on January 15, 2004.

12. 5. Department of Social Services and Population Development

Once an entity plagued by corruption and mismanagement and unable to deliver according to its mission, the Welfare Department, as it was known, has gone from strength to strength by improving the quality of its services in a period of two years. The Department put in place a comprehensive strategic management system – based on the Public Finance Management Act and the Public Service Regulations – that ensured that it accelerated its services delivery according to its national and provincial mandates. As disclosed by the

MEC for Social Services and Population Development Department in her 2003 budget speech, the strength of this system lied in the fact that it:

g) Is guided by a comprehensive policy analysis, formulation, evaluation and monitoring approach that provides a framework for the collection of baseline research information on the target population, i.e. children, women, youths, people with HIV/AIDS, disabilities, families and communities;
h) Contributes to the development of a comprehensive social security system and an integrated poverty alleviation strategy;
i) Forms the basis for analyzing national and provincial government priorities to inform the allocution and budgetary processes;
j) Forms the basis for focusing the Department in terms of aligning its vision, mission, goals and objectives, strategies, programmes, resources and structures;
k) Provides for a holistic performance monitoring system that takes into consideration the Department's capacity to deliver services to its citizenry, impact on the services rendered, the extent to which it uses its resources productively, as well as the extent to which it minimizes the effects of inflation.

As a result of this strategic system that put the vulnerable and the destitute at the centre of the government machinery, the Department has fully succeeded in "turning the tide against poverty and living up to its commitment to being a caring government", in Angie Motshekga's terms. Among other things, achievements for the year 2002/2003 included:

- Opening of 13 more offices closer to people in Alexandra, Vosloorus, Thokoza, Rathanda, Alra Park, Dobsonville, Orlando, Diepkloof, Daveyton, Kempton Park, Eldorado Park, Zonkezizwe and Lenasia.
- Providing social grants to more than 750 000 families in Gauteng and all beneficiaries have the right to access banking facilities at no cost to the beneficiary.
- Conducting of an audit of social grants beneficiaries resulting in the clamping down on syndicates that provided medical certificates to healthy people. More than 3000 people had been nabbed.

- The National Food Emergency Scheme has provided food and hope to more than 5000 families in Gauteng in 2002. From October 2003, the Department started to dispatch food parcels to more than 28 000 families.
- In order to strength the poverty relief programme, the remaining 10 development centers – seen as the key instruments in reskilling and providing hope for people in the province – will be opened soon.
- The school uniform programme for orphans in distress and child-headed families has provided summer and winter uniforms to 1 500 children and this number was expected to reach 7 000 children by the end of 2003.
- More than 788 organizations that serve the weak and vulnerable were funded to the tune of more than R295 million.
- The partnership between the Department and organized formations such as non-profit organizations (NPO's), community-based organizations (CBO's) and Faith Based Organizations, has enabled the empowerment of the aged, people with disabilities and women.
- Consolidation of the service level agreement with NGOs to ensure a broad funding model in order to incorporate all those formation committed to serving the poor and vulnerable.
- Fight against HIV/Aids and support to people affected and infected with HIV/Aids thanks to the broad government's funding.

The Department whose R3.9 billion budget is the second largest in the province after Education, allocated up to 87% of it to care dependency, foster care, child support, old-age care, disability and grants-in-aid, in short to people who cannot care for themselves.

Other departmental strategies are related to poverty alleviation projects. Among other programmes, Gauteng had poverty alleviation projects to hire unemployed township residents to clean the streets. These workers do the same job as those workers employed by municipalities or private companies and in Johannesburg they reported directly to Pikitup. For example, the Gauteng government established the Zivuseni poverty programme in 2002. As part of this it hired workers to do waste management tasks which were linked to Pikitup's Zondi depot in Soweto.

In May 2003 the National Development Agency (NDA) and the Gauteng Department of Social Services agreed to work together to develop poverty alleviation projects in the province. The department set aside R16 million, while the NDA encouraged more funding commitments from other financial sources, including international ones. NDA is a funding agency aimed at establishing relationships and building networks with businesses, government, non-governmental organisations, agencies and communities involved in development. It is funded by government and the European Union and by the private sector.

The department has identified three main areas of concern: health, education and economic development. The NDA offers training support to community members regarding the above-mentioned areas through workshops, establish ways to encourage more funding commitments from the other financial sources and see to it that the beneficiaries have access to the Gauteng provincial government's poverty alleviation programmes.

The department and the NDA tried to integrate their programme initiatives in order to avoid difficulties but rather intensify development. Furthermore the NDA assisted the department to arrange conferences with local government aimed at promoting talks to support and strengthen the department's ability to perform its constitutional social development mandate. The aim of the partnership was to enhance, strengthen and expedite sustainable socio-economic development in the communities of Gauteng.

Meanwhile the Department of Social Services was involved in two programmes of poverty alleviation: development centres and the Gauteng Intersectoral Development Unit. Development centres, whereby community members were engaged in projects like youth clubs, vegetable growing and art and craft, for example, were established in communities where poverty seemed very high and the Department had to cope with corruption. The Gauteng Intersectoral Development Unit (GIDU) was established in order to ensure appropriate, multi-sectoral contributions from all levels of government, civil society and the private sector. The GIDU was built on the opportunities provided by social capital and entered into innovative partnerships with business and civil society organisations to provide community based and community funded poverty alleviation and social

development programmes. GIDU's purpose was to coordinate policies, strategies and action plans to guide the implementation, monitoring and evaluation of a comprehensive integrated provincial poverty alleviation strategy.

Forced to deal with fraudsters who abused the system and posed a serious threat to limited resources available to assist deserving people in Gauteng, the Social Development Department announced in its Budget Vote presented to the Gauteng Legislature on 29 June 2004 the existence of systems to weed out people who received grants when in actual fact, they were not entitled to receive them.

To this end the Department cancelled 1380 grants that were fraudulently paid to beneficiaries who were not entitled to receive them. Out of this number, assisted by the Johannesburg Commercial Branch of the SAPS, 13 fraudsters were arrested and appeared in court. In addition, 4 syndicate leaders who assisted people to defraud the system were arrested and charged. 5 medical doctors were under investigation pending their arrest.

To promote this aim, a Gauteng Poverty Targeting Report mapping poverty pockets at local government level was completed by GIDU. The Interdepartmental Poverty Alleviation Programme (IPAC), representing all government Departments, functions from the offices of this unit. The Integrated Food Nutrition Programme as well as Interdepartmental Social Sector response to the Expanded Public Works Programme is currently coordinated through IPAC. GIDU is also responsible for the MEC/MMC (Members of the Mayoral Committee) Local Government Forum set up to promote policy and coordinate social development initiatives of local and provincial government.

However, the achievements above do not mean the end of misbehaviour in the Department as incidents of theft by officials are still reported. As evidence (*The Star*, 28 February 2002), the Gauteng government was forced to close down 90% of its 368 poverty-eradication projects after finding out in February 2002 that a few people channeled up to R7 million of its budget into their own pockets. The set up and the implementation of the new strategic system helped to stop the loot so far.

12. 6. Department of Safety and Security

The national department of the SAPS that has control over provincial departments has identified in its 2002/2003 Annual Report, corruption, along with HIV/AIDS, as an internal risk. According to the Report, *corruption is undermining the economic stability of various countries and compounding the impact of organized crime. Furthermore, corruption among police members severely compromises the functioning and credibility of the SAPS and internal corruption is detrimental to the morale of police members and causes the public to perceive the police as being unable to provide an effective policing service* (p.8).

This prompted the Department to establish a National Evaluation Service Division, which focused on evaluating operational activities in terms of their compliance with regulations and standing procedures. As a result the Service Integrity Strategy has been set up and forwarded to all provincial departments for implementation. The main goal of the Service Integrity Strategy is to enhance the levels of integrity among police officials in the SAPS. The Strategy focuses on addressing corruption in the Service and is essential for establishing and maintaining a management information system to successfully address service integrity in the SAPS. The Strategy was recently revised to ensure that initiatives are not undertaken in a fragmented manner, thereby ensuring coordination between the various role-players in the SAPS. The Fraud Prevention Plan was also included in the Service Integrity Strategy that has been rationalized into six tiers as follows:

Regulatory development: focuses on the equipment of the SAPS with legal mechanisms to address corruption that includes various legal and policy instruments such as the United National Convention Against Corruption and the SADC protocol Against Corruption.

Control and verification of services: addresses the management processes, including functional processes and procedures relating to, for instance, physical and information resources, in the SAPS. The verification of the integrity of members of the SAPS, including current SAPS members and recruits.

Disciplinary action: concerns complaints against members of the Service, disciplinary investigations and hearings and the restoration of integrity by dismissing offenders. A database will be created to assist the SAPS management with the correct placement of police officials to enhance integrity in the Service.

Criminal investigations: investigation of criminal cases against SAPS members, and the prosecution of SAPS members in criminal cases.

Intelligence: gathering reliable intelligence in respect of corruption and potentially corrupt activities. This is closely linked to risks relating to corruption in the SAPS. Such risks will be taken into account during intelligence tasking and gathering.

Preventive partnerships: this is about establishing and developing projects in the SAPS and external partnerships with key role-players in the community and private sector, including refining methods and procedures in the SAPS to prevent corruption in identified areas of police functioning.

All six tiers must be in line with the following aims:

- Prevention of corruption
- Detection of alleged cases of corruption
- Investigation of cases of corruption
- Implementation of restorative actions to deal with possible shortcomings which may have resulted in or contributed to corruption.

In Gauteng this Strategy has had successful results with the investigation of more than 736 cases of corruption involving members of the SAPS. After the disbanding of the Anti-corruption Unit, investigations are now handled by the Organized Crime Unit through an integrated and holistic approach. The period April to June 2003 saw the arrest of 66 suspects for alleged corruption. This included both members of the SAPS and civilians who allegedly bribed them. The Department through its monitoring and evaluation directorate had prioritized cases of corruption received from members of the public and was sending them to the provincial commissioner for quick intervention and further investigation.

12. 7. The Gauteng Department of Education

Delivering the Department's progress report on 15 November 2001, Gauteng Education MEC Ignatius Jacobs, disclosed that his department had developed a Fraud Prevention Plan to bring about change in employees' attitudes towards corruption. The draft plan was finalized and implemented with effect from June 2001. The Department had also established a Fraud Prevention Operational Committee to steer and take responsibility for the Fraud Prevention Project (FPP) as well as to ensure effective project implementation, management and maintenance.

The arrest of a senior manager and two other senior officials of the Gauteng West District in the wake of allegations of fraud and corruption in January 2003, had been seen by the Department as "its strategy to rid itself of fraud and corrupt practices in the Public Service and as part of its Fraud Prevention Plan that aims to encourage all officials and the public to engage in whistle blowing so that we can have a clean administration and good governance" (Department of Education, 28 January 2003).

Finally, most Departments, including those we have not referred to in this section because of the laxity of their strategies, have adopted the Code of Conduct of the Public Service Administration, which set guidelines for the regulation of the working environment for public officials.

Subsequently, the remarkable improvement that all the departments have made in managing public finances especially could not go hardly unnoticed by the Premier of Gauteng, Mbhazima Shilowa. In a statement issued on 25 August 2003, he praised and lauded the Gauteng Provincial Government's commitment to prudent financial management, clean governance and accountability. As he pointed out,

> *"this was indeed a remarkable improvement from the previous years when the Auditor-General, due to a variety of reasons, was unable to make an opinion on the financial statements of some of departments while giving qualified opinions on*

some departments where there was improvement. This meant that there were some things about our finances which the Auditor-General felt needed tightening".

Thus, he proudly announced that for the first time, the Gauteng Provincial Government had received a clean bill of health from the Auditor-General with the 12 departments as well as the Legislature receiving unqualified opinion on their financial statements for the financial year 2002/2003 (*Media Statement*, 25 August 2003).

"These achievements have been made, as Shilowa has earlier said, despite the fact that we have had to wage a determined struggle to overcome the terrible legacy of the apartheid system, which in many ways continues to define the nature of our society" (Mid-Term Report 1999-2002).

12. 8. Strategies Constraints

Undoubtedly, this remarkable improvement put the Gauteng Government in drive for a better life for all. But could it be contended that corruption has been overcome in Gauteng? Frankly, there is still a long way to go. Can one conclude now that the strategies put in place in Gauteng to control corruption have really been effective? A close look at government response to thwart corruption shows some cracks in the citadel. As corruption literature has revealed, several limiting factors must be taken into account. This study finds that the lack of political will, the laxity in the protection of whistleblowers and the ignorance of international approaches can undermine all anti-corruption efforts.

12.8.1. <u>The Political Will</u>:

While all identified strategies are viewed as important in the fight against corruption, *political will* emerges as an underlying problem, a fundamental tool without which any concrete action cannot be achieved. In Camerer's terms this is one of the "two factors identified as potentially "making or breaking" anti-corruption efforts. It refers to the demonstrated, credible intent of political actors to address an issue seriously" (2001:62). In the survey I only asked civil society respondents whether the need for ethical standards or leadership or political will was enough to combat corruption. The majority of them (67%) pointed out the importance of political will in the adoption of appropriate policies

and allocation of resources. Example provided by the leadership is a contributing factor to the incidence or the control of corruption.

It is usual for members of the public to witness in some African countries the President who declines to dismiss a minister widely reputed to be corrupt or instead moves him to head another ministry or he could even appoint an individual widely reported to be corrupt to head an anti-corruption commission. These kinds of examples do not help create the climate for a corruption-free society. Obviously, the lack political will dilutes any mechanisms intended for sustainable and effective anti-corruption strategies. As Camerer has suggested, "without this, the government's statements on reforming the public service, strengthening transparency and accountability, and reinventing the relationship between government and the private sector, remain mere rhetoric. In all efforts to combat corruption, the commitment of senior elected representatives and other public officials are pivotal" (2001:63).

However, suspicion of political interference exposes the limits of political will. President Mbeki's "zero tolerance" campaign towards corrupt practice reached its peak with the "removal" of Judge Heath from investigating the so-called "Arms deal". This case exposed the limits of his political will and showed that many anti-corruption mechanisms are hampered by a lack of independence, funding constraints and capacity limitations. Mbeki publicly denounced Judge Willem Heath and excluded the Heath Unit, as it was known from the arms scandal inquiry following a ruling by the Constitutional Court that a judge could not head such a unit since this blurred the line between the executive and the judiciary. Heath subsequently resigned. He was the head of the Special Investigating Unit whose mandate was to investigate corruption cases and recover plundered public funds.

Evidence has shown that most anti-corruption agencies report to the head of state, making them dependent on the will of a single political leader. Observers note that in South Africa, despite a sophisticated anti-corruption infrastructure, the independence of official anti-corruption bodies is limited by their politicization: all of the agencies authorized to participate in the arms procurement investigation, with the exception of the Auditor General, are headed by former senior ANC politicians. This prompts people to question the independence of these bodies regarding cases implicating prominent senior ANC

members in government, as illustrated by sensational cases of mismanagement, fraud and corruption that involved Allan Boesak, Winnie Mandela, Tony Yengeni, Deputy President Jacobs Zuma and in Gauteng Jessie Duarte, Dan Mofokeng and to some extent Motshekga. In all these cases the ANC was accused of cover-up.

Noria Mashumba of the Human Rights Trust of Southern Africa discerns two forms of political will to fight corruption in public service provision: the "quantitative" and the "qualitative". The first includes efforts to establish anti-corruption institutions, legislation and processes, and "tremendous progress has been made within the region. But beyond this, "qualitative" political will is also essential, she said. This means concrete action by those who make commitments to ensure the effectiveness of their policies" (*Global Corruption Report* 2001:58). Often the government has displayed a more limited determination to curb corruption, especially when it affects its own ministers or senior officials.

One notes that while these efforts to clamp down on corruption are important and positive, claims of a poor success rate and long turn around times are hard to discount. In many cases the success is limited. Whatever the reasons, van der Merwe (2001) (:12-13) puts the blame on "blatant intellectual dishonesty" and points out that "the fundamental error in the current anti-corruption discourse, policies and strategies is that current solutions – effective as some may be in their own right – do not fit the extent and complex nature of the problem. Otherwise, current anti-corruption strategies are, at best, only partially successful since only a part of the problem, albeit important, is addressed. Success is praised and celebrated, while the problem in our society and the world at large is ignored or overlooked. Moreover, zones of comfort are created and maintained for certain perpetrators of corruption" (such as Jessie Duarte and Dan Mofokeng).

In the same line, observers have noted that in recent years, anti-corruption rhetoric has been on the rise among governments, often as lip-service response to the increasing media attention and activism of civil society, as well as from actions taken by some international agencies to fight corruption (Kaufmann, 1999). Although there are many countries and institutions that have undertaken serious efforts against corruption, there are many whose commitment to addressing the problem is rather dubious. It is therefore important to be

aware of the fact that the fight against corruption can present few success stories. The only clear-cut successes, as stated by many scholars, have been Hong Kong and Singapore, both city-states that had fairly authoritarian governments when they initiated their anti-corruption efforts. A few other countries, including Italy and Uganda, have made inroads in fighting corruption but have by no means destroyed the problem. Uganda, for instance, has in recent years improved its ranking in the corruption index, but remains below even Africa's gloomy average, scoring a mere 2.1 for the CPI 2002 (94th out of 102) and 2.2 in the 2004 CPI (117th out of 133).

Therefore, it is generally believed that the lack of successful anti-corruption campaigns is partly due to limited knowledge related to causes, effects and cures of corruption, and partly because the distant past appears to be more important than current policies. The lack of success in many anti-corruption reforms has at its core many public sector officials whose positions and actions have considerable impact on economic value for the society. Andvig *et al.*, explain how, "in isolated incidences, the ones likely to discover corruption are often agents working with the corrupt agent (s). If they do not report it, this means they implicitly accept it. In this case misbehaviour is most likely to spread. Thus, the monitoring agent will end-up becoming a part of the corrupt system" (2000: 131). As a result, these role-players in the anti-corruption drive become part of the overall problem and need to be cited as such (van der Merwe, 2001:12).

12.8.2. Protection of Whistleblowers:

Whistle blowing is important because it is related to culture of freedom of association and human rights. More, it is a symptom of changed relationship between employer and employee. Therefore, it needs functioning international and external systems as well as an effective legislation for protection. Disclosure is one different type of efforts to control corruption. As Gene Ward put it, "disclosure is to politics what financial statements are to business". Disclosure fulfils two very important functions: accounting and accountability, which serve as both preventive measures and monitoring tools in combating political corruption (2004:39). In South Africa, efforts are deployed for the promotion of staff awareness of the *Protected Disclosures Act* and of reporting mechanisms available to them, both internally and externally. But, more importantly is the Protection of

whistleblowers, given the importance of whistle blowing as a source of information in corruption cases.

The *Protected Disclosures Act* (no 26 of 2000) that came into force in February 2001 made provision for procedures in terms of which employees in both the public and private sector may disclose information of unlawful or corrupt conduct by their employers or fellow employees. Therefore, they are protected from "occupational detriments". In terms of the Act an occupational detriment is defined as being dismissed, suspended, demoted, harassed or intimidated, refused transfer or promotion, subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage, denied appointment to any employment, profession or office, otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security.

However, should "occupational detriment occur and is found to be linked to the protected disclosure, the Act thus prohibits the employer from subjecting an employee to that, prompting the protection of the bona fide whistleblower and the interdiction of him being dismissed by the employer" (Camerer, 2001a).

International and local experience has highlighted the importance of whistle blowing as illustrated by the following examples:

a) In the United States of America, the persons of the year 2002 were whistleblowers and the year declared the "Year of the Whistleblowers" by the *Time* magazine (December 30, 2002/January 6, 2003). Three American women, Cynthia Cooper of WorldCom, Coleen Rowley of the FBI and Sherron Watkins of Enron, risked all to sound alarms about their troubled institutions. They risked their jobs; their health and their privacy to bring to light badly needed word of trouble inside crucial institutions. They did not want glory, but tried to restore confidence in business and government. As *Time* wrote:

> "*You could laugh about the CEOs in handcuffs and the stock analysts who turned out to be fishier than storefront palm readers, but after a while the laughs came hard…. Enron and WorldCom turned out to be Twin Towers of false promises.*

They fell. Their stockholders and employees went down with them. So did a large measure of public faith in big corporations (p.38).

b) In Gauteng, Mofokeng's Department was the theatre of a witch-hunt against those suspected of leaking information to the media about corruption and maladministration. Earlier in February 1999, the department's deputy director of administration, Prudence Matima-Mashile was suspended with full benefits and remunerations a day after the investigating units announced their collective forces would conduct the investigations within the Housing Department. She was suspended for allegedly urging residents of Soweto and the Vaal Triangle to expose some of the alleged corruption in the media. She was previously linked to axed former Housing Department head, Enos Ngutshane, who was fired for insubordination and alleged maladministration. He was the person who blew the whistle against corruption in the department while heading the department. It was reported (see *City Press*, 9 May 1999) that he uncovered a scam in which in one case a "developer" successfully tendered for low cost houses and then claimed to have built a certain number of units but on investigation it was established that no such houses had been built. The scam cost the provincial government R8,5 million and one of the most memorable prosecutions for corruption was that of Louis Botha, the Gauteng Housing Department official who was hit with a hefty prison sentence for stealing about R8-million from the subsidized housing kitty.

Senior accountant Louis Botha handled the province's disbursements from the National Housing Fund - the central reservoir of funds for the government's low-cost housing drive. But lax controls within the provincial department enabled Botha to siphon cash into front companies for almost four years before he was exposed. Botha used some of the proceeds to buy properties in Johannesburg's eastern suburbs, where several of his friends were living rent-free. He was only caught in 1996 when Standard Bank noticed a strikingly large amount of money flowing into his credit-card account. The bank alerted the department, which then contacted the Transvaal attorney general's office. The Gauteng province accounted for roughly one-third of the R3-billion national housing fund budget for the 1996/97 financial year, and had been praised by central government for its speedy disbursement of low-cost housing funds.

Botha was convicted on 95 counts of theft and 30 counts of fraud and corruption and sentenced to 11 years imprisonment in the Johannesburg Magistrate's Court in May 1997, after handing over a full confession. He told the court he had "taken advantage of all opportunities" to pillage the fund from November 1992 until the middle of 1996, when he was caught.

Botha set up a string of fictitious creditors on the department's computer, forwarded them cheques from the fund and printed fake invoices. He set up the front companies with the help of some of his friends, who shared the proceeds. The fictitious companies' titles included three variations on the name of top estate agent Lew Geffen (who was not connected to the scam). In his tell-all confession, apparently made in the hope of securing a lenient sentence, Botha also described how he drew up false invoices in the names of so-called creditors. He either forged the second signature required for the cheques or asked one of his department colleagues to sign - without letting them in on the swindle. But as investigations e showed later, the scam by Botha was not an isolated incident. There were other bogus contractors who also skimmed the department of millions by claiming to have built houses that were never built (Sello: 1999).

Subsequently Ngutshane was suspended after exposing corruption and accused of insubordination, dereliction of duty and of employing a consultant without following proper procedures. He was then offered another job within the provincial government, which he declined and settled for a substantial package. At the time of his suspension and subsequent dismissal, Ngutshane claimed the whole saga to be a “cover-up” involving corruption. This is this web of corruption that led to Mofokeng’s axing from the ANC provincial list where he was originally placed in second position. He fell, so did his credibility.

c) There are a lot of cases involving whistleblowers in the Housing Department, like the sex-for-houses scandal that erupted in February 2003. Kate Nendouvhada who spoke out about the way she was forced to trade sex with an official in exchange for a house, said she “made a sacrifice to secure a house for her family” despite the repugnance of the act and her own humiliation (*The Star*, February 20, 2003). Nendouvhada is just one of the victims who consented to blow the whistle about corruption in the Housing Department

that had cost the province R60 million, according to a damning dossier handed over to the Scorpions by the then Housing Minister Sanki Mthembi-Mahanyele to probe corruption in the provision of low-income houses. Another case was that of the axing of the chairperson of the Gauteng Public Accounts Committee Johan Kilian of the NNP in February 2001. It was believed that he was fired because he had been investigating alleged maladministration and misuse of public money. He was the one behind Housing Department's investigations.

However, whistleblowers do not have an easy time. In South Africa, whistleblower legislation fails to provide the whistle blower with job security after reporting malpractice in the workplace. This has led a number of lawyers to advocate for a review of the Protected Disclosures Act, since it leaves employees vulnerable, especially if they are not aware of the legal requirements for "protected disclosure" as outlined in the Act. Martin Luther King Jr. once warned: *"our lives begin to end the day we become silent about things that matters"*.

12.8.3. <u>The International Dimension</u>:

In Gauteng, it is important to note that the fight against corruption is not distinct and independent from the reform of the state. Generally, the reason is that some of the measures to reduce corruption are at the same time measures that change the character of the government. Thus, keeping in mind the shortfalls of these measures special attention should be given to the globalization of anti-corruption strategies that have been proved and applied elsewhere in the world.

Those applied in the province must suit those applied at the national level that must be in the same line with international practices. The majority of civil society respondents emphasized the need for international cooperation. They said that global dimensions of corruption implied regional and international cooperation if large-scale corruption is to be countered.

A review of some current approaches to fighting corruption at the international level shows clearly that Gauteng is on the right path, but can do better to improve the general

situation in the province by adhering to new trends. Global anti-corruption strategies can be typologized in different ways, as suggested by scholars (Andvig *et al.* (2000:133-134):

(A) By the type of *policy instruments* suggested, for example whether it is monitoring and controlled or focused on the motivation of the corrupt agents.

(B) By the *motivation of the campaign,* for example whether its major aim is to improve the efficiency of government, or rectify injustices, or to get rid of political opponents.

(C) By the *position of the agents targeted,* for example whether they are clustered in a few sectors or are in high or lower level positions and so on.

(D) By the likely *effect* of the policy.

(E) By the type of *organization initiating* the anti-corruption strategy.

Table 41: Typologies of Anti-Corruption Strategies:

1. INTERNATIONAL	
	World Bank and IMF policies
	OECD efforts to criminalize transnational bribery
	UNDP an UN policies
	Transparency International's interventions
2. TRANSNATIONAL	USA's *'Foreign Corrupt Practices Act'* (FCPA)
3. NATIONAL	
	Procedures and training within state or public sector institutions
	'Service culture' approaches
	'Island of integrity'
	Capacity-building to 'design out' corruption
	Legal approaches, including state funding of parties and patronage appointments
	Anti-corruption agencies
	Auditor general and Parliamentary oversight
	The police and 'Inter agency' co-operation
4. LOCAL or 'CITIZEN' LEVEL	
	Minimizing petty-corruption by protecting against the extractive and arbitrary nature of the state
	Structural reform, e.g. decentralization and deregulation
	New administrative procedure (e.g. overlapping jurisdiction, customerisation of public services and service delivery surveys)
	Complaints and redress
	Community oversight
	The media
5. POPULIST	
	Purges (e.g. of civil servants)
	Making examples (public humiliations and executions, quasi-official tribunals
	Moral rearmament campaigns and 'the new citizen'

Source: Doig and Riley (1998).

Currently, referring to type (E), four broad levels or types of anti-corruption strategies can be identified in operation in developing countries, as outlined in table 41: international, national, local or 'citizen' level, and populist. It can be observed that only levels 1, 3 and 4 (international, national, local or 'citizen' levels) are operating in Gauteng.

Another new approach includes the World Bank's efforts to eradicate corruption. So far, the World Bank is the organization that has developed the broadest and most elaborate set of policies aimed at reducing corruption. However, international literature review underlines (Andvig *et al.* (2000) the fact that much of the present policy debate on anti-corruption strategies has at its roots the principal-agent theory of corruption. Popularization of this approach by Robert Klitgaard in 1988 has been widely promoted and applied in a number of developing countries during the 1990s.

Theoretically, this theory explains how public officials almost by necessity have a number of incentives and opportunities for engaging in corrupt exchanges. At the practical level, the approach indicates that the policy instruments may be fruitfully divided into those that influence the number of corrupt opportunities, and those that influence the incentives. These include policy instruments that influence the expected (gross) gain of the corrupt act, the probability of being caught and the size of the penalty if detected. If expected gains are higher than expected costs, the agent will, according to the theory choose to be corrupt. For example, the expected gains for public officials are higher when they have wide discretionary powers and considerable monopoly power in their jobs. The expected probability if detected is reduced by decreased accountability. This leads to a (E) type classification of anti-corruption policies as seen above. Hence the formula: **C = M+D-A.**

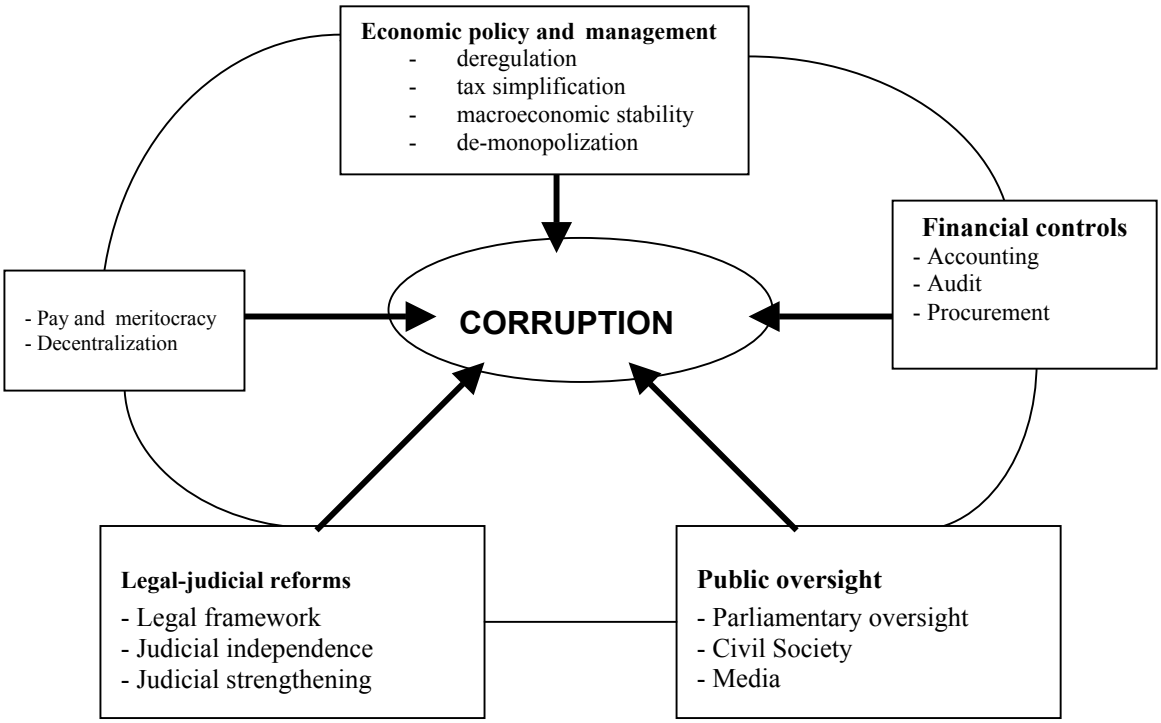
Klitgaard's work has been very influential and appears to be at the core of the World Bank's approaches. Thus, a World Bank policy formulation prescribes that an effective anti-corruption strategy should (2000:21):

1) encourage the reduction of rents by means of economic liberalization, deregulation, tax simplification, de-monopolization and macroeconomic stability;
2) reduce discretion through administrative and civil service reform, including meritocratic recruitment and decentralization; and

3) increase accountability by building up institutions such as auditing and accountancy units, through legal reforms such as judicial strengthening, and by encouraging public oversight through Parliament and a more vibrant civil society.

As shown by the figure below, while (1) and (2) are mainly believed to affect the number of corrupt possibilities arising in an economy and to reduce the gross grain, (3) influences the expected probability of being caught. In addition the Bank's advocacy of *wage increases* in the public sector is also based on principal-agent theory. The Bank's advocacy of *scaling down the public sector* to core areas will, according to theory, mainly reduce the number of corrupt opportunities. This figure summarizes the discussion above on current strategies.

Figure 01: **The World Bank's "multi-pronged" anti-corruption strategy**



Source: World Bank 2000

The cluster of policy measures to fight corruption suggested above all rest on the assumption that the principal's objective is to reduce corruption (Klitgaard,1998). These measures include the reforms in incentive systems and organizational procedures.

Globalization gives an opportunity to any entity to improve its marks in the fight against corruption. As the global economy has facilitated increases in cross-border corruption, anti-corruption strategies must take a global angle. There is a need to adopt cooperative arrangements at the national and regional levels to provide for an exchange of experiences, ideas and information. This includes:

(1) effective coalitions bringing together provincial governments, national government, private businesses and civil society. This has been done with the formation of the National Anti-Corruption Forum (NACF) but with very little result.
(2) developing effective information sharing and networking capacities between agencies and governmental institutions.
(3) Holding annual conventions to review the past efforts and progress and map out strategies for the future.
(4) And most important is the urgent need to set up a database on corruption, department by department.

The three constraints discussed above - the list is not exhaustive - show that there is no "perfect model of strategies". To succeed, any anti-corruption effort must take into account the limiting factors I have exposed in this section, the recommendations besides.

12. 9. Recommendations:

I embrace, as an example of preventive strategy, the one suggested by the Independent Commission Against Corruption (ICAC) that was created in 1988, as an independent body by the New South Wales (NSW) government in Australia. Its aims are to protect the public interest, prevent breaches of public trust and guide the conduct of public officials by:

- exposing corruption through investigations which can include public hearings,
- preventing corruption by giving advice and developing resistance to corrupt practices in public sector organizations,

- educating the public sector and the community about corruption and the role of the ICAC.

In late 2001, the ICAC commenced a major research project to develop a snapshot of corruption-related issues facing the diverse NSW public sector. The findings were published in January 2003 under the title: “Profiling the NSW Public Sector: Functions, Risks and Corruption Resistance Strategies”. All organizations in the public sector are encouraged to adopt this strategy or the seven-step risk management process as a general approach to identifying and treating risks. Though encouraging the findings are, more however can be done to build corruption resistance within the public sector.

In view of minimizing corruption Gauteng organizations should take solid steps by implementing this strategy described by ICAC as “building and sustaining corruption resistance”. The seven-step risk management process requires to:

(1) *Establish the context*: set up the strategic, organizational and risk management context in which the rest of the process will take place, establish criteria against which risk will be evaluated and the structure of the analysis.
(2) *Identify risks*: identify what, why and how things can arise as the basis for further analysis.
(3) *Analyze risks*: determine existing controls and analyze risks in terms of the range of potential consequences and how likely those consequences are to occur.
(4) *Evaluate risks*: rank risks to establish priorities; if the level of risk established is low, then risks may fall into an acceptable category and treatment may not be required.
(5) *Treat risks*: accept and monitor low priority risks; for other risks develop and implement a specific management plan, which includes a consideration of funding.
(6) *Monitor and evaluate* the performance of the risk management system and the changes that might affect it.
(7) *Communicate and consult* with internal and external stakeholders as appropriate at each stage of the process and concerning the process as a whole.

The failure to appropriately implement this strategy by identifying and then managing and monitoring risks can have devastating consequences for any organization including loss of

reputation, inefficient use of resources, poor service delivery, excessive waste and financial loss that are just some of the costs of poor risk management.

Finally, other strategies or practices identified throughout this research that can further be of assistance to Gauteng institutions in building corruption strategies include:

(1) Dismantling over-regulation, for the overload of discretionary administrative rules and regulations provides officialdom at every level with the opportunity to exercise its authority not on the basis of objective requirements but rather in the specific interests of those (low-paid) officeholders empowered to decide. Discretion must be kept to the minimum.

(2) Reform of the public service with a view to abolishing ponderous and nebulous ways of doing and deciding things. In their place introduce more precise and intelligible statutory and administrative regulations together with more efficient information flows; then translate them into real-life jurisprudence and practice.

(3) Revised hiring and employment conditions in the civil service – for example, more competition for posts, time-limiting affirmative recruitment policy (e.g., 10 years period), better remuneration, and ombudsmen – plus reduction of arbitrarily exercised decision-making authority.

(4) Public invitation of tenders for government and agency contracts and all planning and procurement or public purchasing contracts above a certain amount. Documentation to be made obligatory; public and open evaluation of all bids and justification of the decision taken. This means greater transparency that is absolutely essential to overcoming corruption.

(5) Government's unfailing commitment to prosecute. Effective, speedy and justly enforced disciplinary and punitive measures against corrupt officials and employees. Blacklisting businesses that have been found guilty of corruption and refusing to consider them for government contracts for a certain period – until they have mended their ways – can also be a useful tactic.

(6) Creation of independent commissions of inquiry and protection of freedom of the press. Even in industrial countries big cases of corruption have been brought to light only through free and independent media. More training for monitors and more education for public servants on corruption are required.

It must be noted that each of the above strategies is an important base around which to build a dynamic anti-corruption strategy in accordance with accepted international practice in this area. The lack or absence of these strategies could lead to apathy and cynicism in developing adequate and effective anti-corruption strategies. Camerer has underlined the weaknesses of these strategies or government's response to corruption when she argues: "they are all interlinked to an extent. Indeed, ineffective criminal justice responses, for example, are underpinned by a lack of expertise and resource constraints – which are linked, in turn, to political will in terms of the commitment to prioritize this area in the budget. These are all further linked to the general lack of management expertise to tackle the complicated phenomenon of corruption control as an underlying problem" (2001:62).

But evidence elsewhere indicated that particular economies like that of Singapore, Hong Kong or Portugal, have managed to significantly reduce the incidence of corruption. In countries like Sweden or England corruption flourished in the 18th century and in the 19th century. Accordingly, notes Tanzi, "governments should not be fatalistic or passive about corruption. With well-focused and determined efforts, corruption can be reduced, though not to zero level. Trying to bring corruption to zero would be too costly in terms of resources and in other ways" (1998:30).

Chapter Thirteen

MAJOR FINDINGS AND GENERAL CONCLUSIONS

13.1. Introduction

The study tackles the Gauteng experience during the last decade to explain corruption – through intensive field research – by investigating causes, effects and the effectiveness of its anti-corruption measures. In examining the Gauteng experience, this study has to some extent challenged the traditional political science perspective on formal institutions derived from the Weberian legal-rational model of democratic and bureaucratic rule by bringing in some broader political debates largely on the role of the civil society but also models from social anthropology and sociology to explain political corruption causality. Therefore, what lessons can be drawn from the Gauteng experience?

Firstly, the big question in this thesis is whether corruption is the effect of democratization or not? Does democratization inhibit corruption or is the spread of democracy and transparency contributes to corruption? Finally, is corruption lower in democratic countries and those with a free press and strong civil associations? In general, the evidence from the Gauteng case study indicates support for argumentation about a causal relationship between corruption and democracy. Both democracies and autocracies can be deeply corrupt. But there is a perception that a democratic system increases the incidence of corruption due especially to the openness of the system. Although democracy is seen as an impediment to the incidence of corruption, it is however not an end in itself and is not invariably a cure for corruption, as corruption is not necessary caused by democratization. Instead some democratic systems can be more vulnerable to special influence than others, as some corrupt elements of the ruling party can use illegal means to obtain specific favours. While competitive elections help limit corruption as opposition candidates have a motivation to expose corrupt ruling elites, they are not sufficient to limit corrupt incentives. Consequently, there is a need for all democratic governments to establish strong means of public oversight.

Evidence has shown that corruption in general terms will decrease with increasing levels of democracy or rather the different stages of political transition, as the case of Gauteng

illustrates. Thus, when authoritarian control such as apartheid is challenged and smashed through economic liberalizations and political democratizations, the level of corruption will increase and reach a peak (Duarte and Mofokeng cases) before it is reduced with increasing levels of democratic governance (anti-corruption strategies process).

Secondly, why did we choose to look at corruption in Gauteng?

Gauteng should be a "best case scenario". It is the richest province in South Africa yet it was administrated or created from scratch. Therefore, it should be more free from corruption inducing values that might derive from rural patrimonial politics (associated with old homeland regimes) or with the habits of apartheid era central civil service. High levels of urbanization and a relatively strong civil society characterize Gauteng. The province is home to 70% of the country's work force and is the vibrant business heart of Southern Africa since the discovery of gold in 1886 on the Witwatersrand. The concentration of financial, industrial and mining activities can justifiably highlight the dominant economic role Gauteng is playing in shaping the economic landscape of the country as a whole. Yet, poverty and inequality in the distribution of resources and opportunities are definitely encountered here. Finally there is a general agreement that political trends and styles in the province inevitably exert great influence on the rest of the country. Thus politics in South Africa cannot be properly understood without understanding the politics of Gauteng.

Hence, it might be easier in Gauteng to identify those aspects of corruption that we can explain as the consequence of new political factors as opposed to the legacy of apartheid and older kinds of political behaviour. In particular, this study might cast light on those forms of corruption that may be the result of democratization.

Thirdly, where is corruption located in Gauteng?

The evidence collected from Gauteng enables this study to identify which aspects of public administration are vulnerable to corruption.

13.2. The new political sites:

(1) *Regulations and authorizations* (licences, permits) that give a kind of monopoly power to the officials who must authorize or inspect the activities leading to frequent contacts between members of the public and civil servants who end up by colluding. The lack of competition in the granting of these authorizations gives bureaucrats a great amount of power and a good opportunity to extract bribes. For instance, several individuals in the Licence Department become middlemen or facilitators for obtaining these permits. This is a clear example that shows how government officials can use tactics to benefit from their monopoly power and administrative discretion by extracting bribes from those that need the authorizations or permits to engage in activities.

(2) *Affirmative Action or political transformation* policy: translated as non-meritocratic processes of bureaucratic recruitment and promotion that can lead to corruption. The period of bureaucratic transition generally brings about structural fragmentation or conflict in the public service between the "new men" in power and the older public servants. Here race is the rule of the game. Indeed, for many whites, Affirmative Action is nothing else than a form of discrimination while for the disadvantaged group; it represents hope for real socio-economic change and economic opportunity and a better future. In racial terms, achieving equity is an innermost ambition of the transformation policy. However, the government's policy of favouring blacks makes it vulnerable to charges of favouritism, thus corruption. As evidenced by this study, less are recruitment and promotion based on merit, the higher is the extent of corruption. Further, depolitization of bureaucratic recruitment and promotions, lack of patronage and nepotism, and clear rules on hiring, all improve the quality of a bureaucracy. Therefore, the absence of political meddling in applications of employment and advancement along meritocratic principles has a strong negative impact on corruption levels.

(3) *Poor and lax management* resulting in incompetence. Bad administration leads to mismanagement, maladministration and corruption that pave the way to poor services and delaying tactics in delivery terms. This was evidenced by Jessie

Duarte and Dan Mofokeng cases. Both ended up resigning their positions after having been exposed by commissions of inquiry appointed to investigate them for alleged corruption in the running of their respective departments. Other evidence from Gauteng showed that the appointment of senior staff in the Office of the Premier was what observers have called a "hair-raising" affair such as the appointment of a chief director after a senior interviewing panel had rejected her for "lacking in analytical and strategic thinking about issues". The most striking case was that of the appointment by the Premier of his driver, as his assistant private secretary with a salary of about R110 000 a year. This while the advertised position called for a three-year university degree and relevant work experience – of which the driver apparently had none.

(4) *Decline in morals and ethics* results in lack of institutional capacity. Every administration is run according to a set of rules. Any constraints on capacity hamper service delivery. Despite a political commitment to opening up the public service to greater scrutiny, it remains uncommunicative and opaque. For instance, in many Gauteng departments, forensic audit reports issued by the Auditor-General point out the lack of capacity as "*one of the burning issues in government*" that results in poor implementation process. There was the case of former Local Government MEC Sicelo Shiceka who failed to make Shilowa's cabinet but found himself appointed as Chairperson of the Safety and Community Liaison Standing Committee in the Legislature. Despite being accused of gross mismanagement of his department and failing to honour the Code of Ethics he had signed. Another case was that of MEC Paul Mashatile who obtained in June 1997 an advance of some R34 000 on his salary for an alleged study trip to Australia, while he was still MEC for Public Transport and Roads. He never took the trip, but started repaying only in 1999 at a minimal rate of R2 883 per month – enjoying in effect a two-year interest free loan from Gauteng's taxpayers.

(5) *Poor control and checks and balances*: this is lack of transparency, impunity and poor/lack of monitoring. Public accountability is necessary for the control of corruption, especially with a dominant party like the ANC that is sure to win the vote. Although accountability and monitoring mechanisms exist on paper, they are

not properly implemented as evidenced by a Report of the Auditor-General (2001:2). In the Department of Education, an audit (March 1997) revealed that there were no proper management systems to either monitor accounts or maintain adequate internal checking and control measures. For instance, permanent as well as temporary employees with no banking details resulted in hand payments, which were necessarily more exposed to possible irregularities and incorrect payments.

(6) *Political and administrative leadership* or the lack of political will or bad examples set by top public figures. Jessie Duarte and Dan Mofokeng cases fit well in this category besides those of former Local Government MEC Sicelo Shiceka and Paul Mashatile, the new MEC for Economic and Finance Affairs, as mentioned above.

(7) *Low levels of education on the part of many public servants* that can be an impediment to the establishment of a professional public service. One of numerous challenges facing Gauteng and singled out by this study included: legacy of little training and development, particularly in response to a dynamic service organization; problems with discipline and mechanism to deal with transgressions speedily; lack of career management; lack of personnel delegated functions to enable managers to manage effectively and efficiently; lack of mechanism to retain skilled staff; lack of literacy skills for lesser skilled employees; procedures and processes not geared towards efficiency, poor morale of staff, particularly in period of massive transformation. To quote Tom Lodge: "The exodus of skilled personnel from the public service as well as the appointment of under-qualified people to middle-management positions at a time when public service tasks have become increasingly complicated, has increased bureaucratic inefficiency and hence increased the incentives to bypass official procedures illegally. This may be a short-term problem, though" (2002:150).

(8) *Greed as personal determinant or a proclivity to self-enrichment*. This is the main factor that explains the abuse of public power by those who must administer it. This study has highlighted many cases of the "privatization of state assets" by its elites for private benefits. Most corruption cases exposed advocate the prevalence

of greed as a corruption determinant. From the "matric debacle" to the mysterious "disappearance of court dockets" from Hillbrow Police station and courts of law as well to the "middlemen" in the Johannesburg licence department, all these cases suggest greed among public officials.

(9) *Tender procedures*: unnecessarily complex and lax rendering them inefficient and creating opportunities for corruption. The Ncholo task team (1997) in the old Department of Corporate Services - now the Premier's Office – revealed that the tendering system did not allow solutions to be requested, only products. The Department's view was that the tendering system was at fault, and this meant that the best practice was often ignored. Similarly in the implementation of projects there was poor definition of the costs, time and resource requirements in tenders. In the meantime, the Auditor-General noted that there was non-compliance with tender procedures in the Department of Finance and Economic Affairs for the year ended 31 March 1997. In its 2000/2001 Annual Report, the department of Finance acknowledged that the management of the tenders had been quite a challenge which needed to be addressed so as to improve the quality of service it provided to other departments. This led to its reformulation in the form of new regulations.

(10) *The size of penalty and administrative sanctions*. Higher penalties may reduce the number of acts of corruption, but may lead to demands for higher bribes on the corrupt acts that still take place. Effective penalties tend to be more lenient and the administrative procedures followed are slow and cumbersome. The fact is that in the real world relatively few people are punished for acts of corruption, despite the extent of the phenomenon. Thus, there seems to be a wide gap between the penalties specified in the laws and regulations and the penalties that are effectively imposed. Duarte and Mofokeng escaped punishment for misbehaving in Gauteng, because both possessed good political credentials in the ANC circles as freedom fighters. Even the two Gauteng government officials, found by a commission on inquiry that cost taxpayers R1, 5 million, to have "dishonestly and by means of fraud tried to hide" Duarte's involvement in an accident, could not be prosecuted.

It is clear that all these aspects or sites of corruption are especially connected with the more democratic or transformation dimensions of government. The more governments have changed the more likely it is that control structures may be absent.

13.3. How does official corruption affect society?

(1) *Corruption increases poverty because it reduces the income earning potential of the poor* by siphoning away a large chunk of public resources, which could have been productively employed elsewhere in the economy, as was the case of Jessie Duarte who was found to have used state funds to take a friend on an overseas visit. There were millions of rands misappropriated in the Gauteng Housing and Land Affairs Department headed by Dan Mofokeng. Meanwhile, 30% of Gauteng's population of 8,8 million are destitute. Despite Gauteng's affluence, the province has high levels of poverty with 48% of children in the province living in difficulty because of the lack of source of income in their houses.

(2) *Instills the culture of dishonesty by eroding ethics*. Examples from Gauteng Province show that between 1994 and 1999, one of the laws most commonly violated with impunity was the finance law. Most departments were overspending and the Finance Department especially was bloated with unproductive public servants who had duplicating functions. Where the system of bribery is well established, as was the case in Johannesburg Licensing Department, income gained from bribes is no longer a windfall but becomes a part of expected wages in addition to the award of contracts for supplying, designing and construction by the public sector.

(3) *Loss/wastage of public funds in the face of scarce resources and lowered investment.* A task team found in May 1997 that most departments of the province do not have a sufficient number of appropriately qualified senior financial managers. A situation that is conducive to corruption resulting in significant loss/wastage of public funds or resources. Evidence in the Province shows a total amount of between R161,5 million and R356,6 million that has been transacted in corrupt activities in Gauteng between July 1994 and June 1998.

(4) *Misallocation of government resources resulting in the redistribution of assets from public sector to corrupt individuals*. This results in generating allocative inefficiency by permitting the least efficient contractor or most costly supplier with the highest ability to bribe those who award government contracts, as seen in Ndinzani's case. The awarding of contracts to high-cost bidders without following tender regulations result in decreasing state funds since it leads to higher spending on projects of often inferior quality.

(5) *Distorting incentives as able individuals allocate their time and energies to rent seeking and to corrupt practices and not to productive activities*. Generally, the resulting activities have a negative value added. This was the case at the Johannesburg Licensing Department where an internal investigation during March 1997 revealed serious structural flaws in the system. As a result, a huge vehicle licence scam was rampant within the department where hundreds of false and forged clearance certificates were detected between March and July 1997.

(6) *Corruption effects render political system illegitimate in the sense that in many cases, corruption scandals, reports and debates have led to mobilization and political action from below.* We saw how Dan Mofokeng and Mathole Motshekga were toppled in elections at the time where corruption issues were high on the agenda. In many cases there are just much talk on corruption but little action, making people deem the entire political system dishonest and illegitimate, with withdrawal and political apathy as the consequence.

(7) *Inappropriate or poor quality infrastructures*. The purchasing of goods and services for the public service implies that certain decisions can only be made at higher levels of government. The allocation of public procurement contracts through a corrupt system may lead to lower quality of public infrastructure and services. For instance, corrupt officials could allow the use of cheap materials in the construction of buildings or bridges that would afterward collapse, as was the case in two Pretoria incidences in the recent past. These two cases highlight the lack of transparency, the transgression of procurement policy and the failure to

comply with state tender and procurement procedures that raise the inevitable question of accountability.

(8) *Reduces state revenues by opening up loopholes in tax collection and by acting as an arbitrary tax.* Tax evasion through corruption as well as extra expenditures, as seen above, are manifestation of lax administration and mismanagement that lead to some revenue "vanishing" before reaching government coffers. The consequences are often disastrous for the poor who suffer from it most in transition economies and in many developing countries, where, according to the World Bank, corruption may reduce revenue collection by driving firms (or their most profitable activities) out of the formal sector and by providing a moral justification for widespread tax evasion, as businesses in the informal sector do not report revenue and therefore do not pay taxes. Corruption destroys the state's ability to extract taxes, to implement coherent and rational development policies, to redistribute resources among groups and regions, and consequently become destructive to its ability to transform the society and the economy according to political priorities.

(9) *Reduces investment and foreign direct investment (FDI) and as a consequence, it reduces the rate of growth*. The incidence of corruption at the national level has disastrous consequences in the province. Corruption affects growth hence FDI as this behaviour causes foreign investors to adopt negative sentiment that affects the whole country as investments become scarce. Mark Lowe, a DA spokesman, opined that "government should also address the risk perceptions that deterred investors, such as crime, corruption and uncertainty of property ownership".

(10) *Reduces expenditure for education and health because they do not lend themselves easily to corrupt practices on the part of those making budgetary decisions.* Corrupt politicians choose to spend more on those components of public expenditure on which it is easier to levy bribes. A report released by Parliament's joint budget committee in June 2003, indicated that all provincial governments had underspent their budgets at the end of March 2003. The report was based on the preliminary figures released by the national Treasury, indicating spending trends in

> government departments. Of the total of R16, 3 billion allocated to provinces for capital expenditure, generally associated with job creation, R2, 5 billion remained unspent. Gauteng received R3, 7 billion and failed to spend R391 million.

In short the effects of corruption impact negatively on the political process by undermining the legitimacy of the state and economically by impeding developmental strategies, as "corruption leads to loss of much needed revenue and human talent for development, distorts priorities for public policy, and shifts scarce resources away from the public interest … Political instability, corruption, and underdevelopment are mutually reinforcing", to quote Stephen Ouma (Elliot: 2001:926). Therefore, if corruption is so toxic in Gauteng, how bad its impact is on the rest of the country?

13.4. Fourthly, why does corruption occur in Gauteng?

As seen, areas such as affirmative action, tendering or the expanded provision of benefits (e.g. in Housing, Welfare or Education) are areas that are vulnerable to corruption and are all associated with transformation/democratization projects. However, the incidence of corruption in the province can be explained by Gauteng's lack of a "traditional" culture base that may make leaders especially susceptible to acquisitive and individualistic forms of behaviour.

Therefore, the study of corruption in Gauteng, through the case studies (Duarte and Mofokeng), highlights the fact that the perceived corruption in public administration by bureaucrats and elected politicians has thus found significant confirmation. Through the analysis of these cases, the exposure of what is the "hidden face" of public power, as termed by della Porta and Vannucci, "demonstrates that the market for corruption has, for many years, represented the determining factor for a vast range of (frequently illegal) activities based on the appropriation of public resources by state functionaries, in collusion with other role players outside public administration" (1999:13). Moreover, nothing is as destructive to a society as the rush for *quick and easy money, which* makes fools of those who can work honestly and constructively. Profligacy and extravagance in the political arena suggest that greed in the contemporary South Africa has been "institutionalized" and "legitimized".

13.5. Finally, to what extent does Gauteng have in place a viable anti-corruption strategy?

How does its anti-corruption measures match up to general prescriptions for combating corruption? On the prevention side, a review of current approaches to fighting corruption in the province shows clearly that Gauteng is on the right path, as anti-corruption measures applied in the province suit those applied at the national level that in turn are in the same line with international practices. The study argues that while anti-corruption measures in Gauteng have succeeded in reducing corruption levels, they have not stopped it, as new cases surface almost every week in the local press. Thus there is still room for improvement if the Gauteng government aims to succeed. Despite the government's rapid response to corruption, it is believed that effective anti-corruption strategies should address the underlying causes of corruption to prevent it from occurring in the future and wider reforms are needed than those currently listed. Poor systems, poor socio-economic conditions, affirmative recruitment, procurement regulations and so on, are some of the key causes of corruption this study has identified that need to be firmly tackled with emphasis on economic growth and democratic practices.

The study has established that internal processes and projects instituted by public service organizations and agencies vulnerable to corruption are generally weak and ineffective and that a greater momentum is often needed. As indicated before, addressing public sector corruption is the responsibility of the state and state institutions. While it must draw on its social partners, including civil society, business and others, in the final analysis government will be judged by the success of its own efforts to address the problem. The establishment of various anti-corruption bodies indicates the willingness of government to deal decisively with the corruption problem.

The study highlights the lack or absence of a viable database that constitutes one of the weaknesses of the Gauteng administration. Observations from fieldwork show that while Gauteng is trying its best to stop corruption, there is still some homework to be done. Until now, there is no standardized database within the government. This is rendering the task very difficult for any study of corruption in the province. Almost all departments, with the exception of the Finance Department, referred me to the Premier's Office.

Nonetheless, with the decentralization of all departments in 1999, there are no specific records on cases of corruption at the Premier's Office, as each department is quasi-autonomous. Monitoring cases of corruption becomes a challenge as information is drawn from sources including newspaper reports, Special Investigating Units, the Auditor General and Public Protector reports, transcripts of Public Accounts Committee or from whistle blowers. Requests to all departments for a list of current disciplinary actions involving misconduct did not bring about expected results due especially to the lack of cooperation and political will on the part of senior officials.

Thus there is a need for common guidelines and coordination strategies amongst internal departmental anti-corruption units that have been established and the initiation in each department of its own monitoring and evaluation capacity. This means the build-up and the improvement of internal audits and controls by higher authority applicable to both officialdom and the business sector. Finally the study assumes that other strategies to fight corruption could be provided, however, the ones in place already seem sufficient. However, the fight against corruption cannot proceed independently of the reform of the state. In many ways it is the same fight.

As a result, the study's major conclusions concern those general assumptions about the relationship between democracy and good governance. The study shows that certain theories concerning the causation of corruption need to be revised. Even the most authoritarian systems, as was apartheid, were able to control the levels of corruption and keep it at an economically viable level (consider examples of "controlled corruption" in the South East Asian countries (Singapore, Hong Kong, Malaysia, Thailand, and the Philippines). Evidence has shown that, "the current degree of democracy in a country makes almost no difference to how corrupt it is perceived to be. What seems to reduce corruption is whether or not a country has maintained democratic institutions for a long continuous time (Treisman, 2000:439)

To this end, other mechanisms such as accounting standards and audits and direct accountability of leadership in government need to be strengthened alongside the protection of whistleblowers. But the end result is that several factors associated with these mechanisms have highlighted the fact that transparency and the resulting exposure

have increased opportunities for graft. What emerges from this study is a common belief that incentives and opportunities of generating corruption are strongly linked with political institutions; therefore, the study of determinants of corruption includes many institutional factors among the potential causes of corruption. Thus the presence of democratic institutions proves to be crucial to prevent corruption. However, corruption cannot be fought if it is not exposed.

In more democratic and open societies, besides greater civic engagement, the chance of closer monitoring and exposure of corrupt officials and politicians is higher than in non-democratic society. Freedom of the press and of association leads public interest groups to expose abuses of power and political pressures on media could in fact inhibit the diffusion of news on corrupt acts, vanishing, in this way the theoretic negative impact of media on corruption. Otherwise, it seems that civic participation to political activities is effective in increasing the risk for corrupt incumbents being caught and punished. Therefore illicit governants' behaviour can be prevented only when basic political rights are effectively guaranteed to citizens. As a result, many political institutions can indeed have some effects on corruption only if political rights are sufficiently guaranteed to citizens. The transition to democracy in South Africa has enabled citizens to use the vote and new-found civil liberties to confront corruption, prompting ruling elites and opposition figures to show strong anti-corruption commitment.

Such commitment suggests a need for more research on the actual effect of democratization in government departments that will serve the cause of anti-corruption campaign better.

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30 December 2002

APPENDICES

A. LETTER REQUESTING ACCESS TO DATABASE IN GAUTENG PROVINCIAL DEPARTMENTS

NAME:
FUNCTIONS:
DEPARTMENT:
ADDRESS:

DATE:

Re: **Request for a Data Base**

Dear Sir/Madam,

As agreed this morning with your department, this is my request for a data base on misconduct and cases of corruption in the public sector in the Gauteng Government.

I am a Ph.D. candidate in Political Studies at Wits University, Johannesburg. I am working on cases of misconduct in the Gauteng public sector post-1994. The study's core focus is to examine and to provide a better understanding of the causes and consequences of corruption on development in Gauteng in the post-apartheid era as well as to look at ways and means that are effective to prevent or fight it.

In order to assemble a database of cases involving public sector misconduct and corruption in Gauteng, I would like to request from you a list of current disciplinary actions involving misconduct and cases of corruption investigated and under investigation in your department, if possible. The request for a Data Base is part of a research I am conducting since May 2000.

I believe that initiatives from government since 1998 are clear indicators that South Africa has put the issue of corruption firmly on its agenda. It is not only encouraging but also an historical opportunity now to address the corruption issue openly in order to instill a sense of trust, confidence and commitment into democratic institutions and processes.

In terms of development, a growing body of evidence suggests that corruption has a devastating economic and social impact. It impedes investor confidence with negative impact on the private and on foreign investment. Fundamentally, it undermines sustainable development and exacerbates inequality by affecting the poor disproportionately.

I would like to thank you for your attention. Your contribution will be appreciated.

Yours truly,

B. STRUCTURED QUESTIONNAIRE FOR PUBLIC SERVANTS

NAME (optional) :
INSTITUTION :
POSITION HELD :

DATE:

Dear Sir/Madam:

I would like to ask for your contribution to the building of a new public administration in South Africa. This questionnaire deals with misconduct in Gauteng public sector post-1994. The study's core focus is to examine and to provide a better understanding of the causes and consequences of corruption on development in the post-apartheid era as well as to look at ways and means that are effective to prevent or fight it. This cannot be done without your humble contribution.

In each country, the public sector plays such a large and central role that cannot pass unnoticed. State and public officials are responsible for administering public resources on behalf of the entire community. The management of such a big sector requires some degree of accountability and efficiency.

The survey's outputs will contribute in three ways to corruption research in accordance with the Promotion of Access to Information Act (2000):

1. Base-line data: this study will provide a methodologically sound and comparable survey data on citizen's experience of the Gauteng Provincial Government.
2. Building local academic and research capacity.
3. Policy implications: data and analysis will contribute to a more empirically based policy discourse by providing policy makers and the business community with a more robust understanding of public sector administration.

I would like to ask you to answer to the following questions in full confidence. The questions are part of a survey I am conducting since May 2001. Therefore your responses will never be linked to any information that might reveal your identity. I promise to protect your confidentiality and to keep secret all collected data. Altogether, this survey should take about 20 minutes to complete.

LIST OF QUESTIONS:

1. Have you ever heard of government corruption in Gauteng?
   □ Yes □ No □ Never □ Uncertain

   If YES, (a) From which source did you hear about government corruption in Gauteng?

(b) Can you refer to any specific instance of corruption in the regional government?

2. What is the actual extent of corruption in Gauteng?
   □ Very serious □ Serious □ Not very serious
   □ Definitely not serious

3. The extent of corruption in Gauteng is largely the result of poor and lax management and a lack of control within the administrative system that create an environment in which corruption can fester. Do you agree or disagree?

   □ strongly agree □ agree □ disagree
   □ strongly disagree

4. Do you believe there is more or less corruption in Gauteng now than was the case under the old system of apartheid?
   - very much □ not very much □ less □ not at all
   - none of the above

5. What can be the root causes of corruption in Gauteng? From the following list, rank the most important causes that you think propel corruption in the public sector, starting by the first most important to the last most important:

(a) low level of education
(b) poverty
(c) non-meritocratic employment critera such as "affirmative action"
(d) apartheid
(e) nepotism
(f) clientelism

6. How do you feel about Gauteng government officials accepting bribes from public members?
   □ very harmful
   □ somewhat harmful
   □ not harmful

7. How do you feel about someone who provides a job for an unqualified family member?
   - very harmful
   - somewhat harmful
   - not harmful

8. Is corruption more prominent in the public or the private sector or is it about the same in both?
   - Public sector
   - Private sector
   - About the same in both
   - Don't know

9. How many officials in Gauteng government do you think are involved in corruption?
   - Only a tiny insignificant minority
   - Only a few but – they hold important positions

- Quite a significant number at all levels
- Mainly junior officials with senior provincial positions
- Mainly senior officials with most junior provincial positions

10. Elected politicians found guilty of corruption and fraud could face a number of situation. Which one of the following do you think is the most appropriate?
    - Lose their jobs and go to prison
    - Lose their jobs and have to pay a fine
    - Lose their jobs only
    - Pay a fine only
    - There should be no penalty for this

11. How do you feel about the Gauteng Legislature passing a law that people running for public office should publicly disclose their entire assets?
    - Strongly agree
    - Agree
    - Disagree
    - Strongly disagree

12. How much trust and confidence do you have in commissions of inquiry that investigate politicians after major corruption scandals?
    - A great deal
    - A fair amount
    - Not very much
    - None at all

13. Do you think the government is doing enough in combating corruption by maintaining transparency and accountability?
    - Strongly agree
    - Agree
    - Disagree
    - Strongly disagree
    - Uncertain

12. Does the Gauteng Government have sufficient resources to fight corruption?
    - Enough resources
    - Need a little more resources
    - Need a lot more
    - No resources at all

13. How do you rate the Gauteng management?
    - Excellent
    - Good
    - Fair
    - Poor

14. How effective do you think Gauteng Anti-Corruption Unit is in fighting corruption in the government?

- Very effective
- Effective
- Not very effective
- Not at all

15. Do you know any others people I should interview?
    - Yes. Please give details
    - No

16. May I have some copies of documents, correspondence, or reports that are mentioned in our discussion?
    - Yes. Please give details
    - No

Thank you for your contribution.

C. STRUCTURED QUESTIONNAIRE FOR ACADEMICS, BUSINESS AND NGOS

NAME (optional) :
INSTITUTION :
POSITION HELD :

DATE:

Dear Sir or Madam:

I am a Ph.D. candidate in Political Studies at the University of the Witwatersrand (Wits) in Johannesburg. The topic of my thesis is the understanding of causes and effects of political corruption on development in the post-1994 Gauteng public sector, as well as the strategies in place to combating it. I would like to ask for your contribution to the building of a new public administration in South Africa by answering the following questions. The questionnaire is part of a survey I have been conducting for the past two years. This cannot be done without your contribution.

The survey's outputs will contribute in three ways to corruption research in accordance with the Promotion of Access to Information Act (2000):

Base-line data: this study will provide a methodologically sound and comparable survey data on citizen's experience of the Gauteng Provincial Government;

Building local academic and research capacity;

Policy implications: data and analysis will contribute to a more empirically based policy discourse by providing policy makers and the business community with a more robust understanding of public sector administration.

I would like to ask you to answer to the following questions in full confidence. The questions are part of a survey I am conducting since May 2001. Therefore your responses will never be linked to any information that might reveal your identity. I promise to protect your confidentiality and to keep secret all collected data. Altogether, this survey should take about 20 minutes to complete.

LIST OF QUESTIONS:

1. Have you ever heard of government corruption in Gauteng?
   □ Yes □ No □ Never □ Uncertain

   If YES, (a) From which source did you hear about government corruption in Gauteng?

   (b) Can you refer to any specific instance of corruption in the regional government?

2. What is the actual extent of corruption in Gauteng?

□ Very serious □ Serious □ Not very serious
□ Definitely not serious

3. The extent of corruption in Gauteng is largely the result of poor and lax management and a lack of control within the administrative system that create an environment in which corruption can fester. Do you agree or disagree?

□ strongly agree □ agree □ disagree
□ strongly disagree

4. Do you believe there is more or less corruption in Gauteng now than was the case under the old system of apartheid?

□ very much □ not very much □ less □ not at all
□ none of the above

5. Is corruption increasing or decreasing, or remaining at about the same level?

6. What are the root causes of corruption in Gauteng?

7. Do you think that because of the global dimensions of corruption, regional and international co-operation is essential if large-scale corruption is to be countered?

8. Do you believe that attempts to promote ethical standards, leadership and political will are enough to combat corruption at the national or regional level?

9. In the Gauteng context, is corruption the principal cause of poverty or poverty the principal cause of corruption?

10. Do you see democracy and the rule of the law as an impediment to the incidence of corruption?

11. To which extent could you assess the role of the whistleblower in the fight against corruption?

12. Most black people directly affected by poverty in South Africa believe that apartheid is a backdrop to the problem of corruption. Do you share this point of view?

13. How do you feel about the Gauteng Legislature passing a law that people running for public office should publicly disclose their entire assets?

- strongly agree
- agree
- disagree
- strongly disagree

13. How much trust and confidence do you have in commissions of inquiry that investigate politicians after major corruption scandals?

- a great deal
- a fair amount
- not very much
- none at all

14. What proportion of Gauteng government officials are corrupt?

- only a tiny insignificant minority
- only a few but - they hold important positions
- quite a significant number at all levels
- mainly junior officials with senior positions generally honest
- mainly senior officials with most junior provincial positions generally honest

15. Do you think the government is doing enough in combating corruption by maintaining transparency and accountability?

16. How do you rate the Gauteng management in terms of combating corruption?

- Excellent
- Good
- Fair
- poor

17. Do you know any other people that I should interview?

- Yes. Please give details
- No.

18. May I have some copies of documents, correspondence, or reports that are mentioned in our discussion?

- Yes. Please give details.
- No.

Thank you for your collaboration.