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Guest Editor: Jon S.T. Quah

Contents

Editorial
Preface to the special issue

Since first established in 1990, Hong Kong Public Administration Association (HKPAA) is committed to promote and enhance the quality of research and practice of public sector management in Hong Kong and the region. It provides a forum for the identification and discussion of important issues in public policies and management. We have collaborated with local universities as well as overseas counterpart organizations to arouse keen interest in the pursuit of best practices in public services through regular dinner talks, seminars and conferences by renowned leaders in both public and private organizations.

A new website for the Association has been launched in 2020 to mark the 30th Anniversary of HKPAA. It features new icons on speeches of top leaders given at our luncheons, dinners and conferences; full PDF versions of all issues of the PAP journal as well as photo albums of all our activities.

To celebrate the 30th Anniversary of HKPAA and the 20th Anniversary of the School of Professional Education and Executive Development (SPEED) of The Hong Kong Polytechnic University, we have organized an International Conference on Developments and Trends on Public Administration into the Third Decade of the 21st Century in 2020 at the HK PolyU. Papers presented at the conference will be considered for a special issue for the PAP Journal in 2021.

Public Administration and Policy - An Asia-Pacific Journal (PAP) was first launched in 1992 and jointly published by HKPAA and City University of Hong Kong. It was suspended in 2005 due to the departure of the Editor-in-Chief. In spring 2012, it was re-launched with the support of the new co-publisher, the SPEED, HK PolyU and a new Editor-in-Chief. The PAP Journal has progressed smoothly from print version to e-version and now online, in the past nine years. We have published general issues on various aspects of public administration, one special issue on "Health Policies" and two on "Tertiary Education".

We are delighted to have a successful collaboration partnership with Emerald Publishing Limited in the United Kingdom. Since 2018, PAP has been published online in open access on the Emerald Insight Platform. In order to have the journal indexed in ESCI and SCOPUS as soon as possible, PAP will move forward to publish three issues with at least one special issue per year starting from 2020.

In this special issue on "Corruption scandals in six Asian countries", we are delighted to have a world renowned academic and expert in anti-corruption, Professor Jon S.T. Quah from Singapore as the guest editor. With his expertise and networking, all the papers are very well written by specialists in the field. We hope this special issue will make significant contributions to the understanding and prevention of corruption scandals for policy makers, scholars and students in various countries around the world.

Peter K.W. Fong
Editor-in-Chief, PAP Journal
President, Hong Kong Public Administration Association

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About the Editor-in-Chief

Professor Peter K.W. Fong, PhD (New York University), is President of Hong Kong Public Administration Association and Editor-in-Chief of PAP Journal; and Managing Director of Peter Fong & Associates Ltd. He teaches Strategic Management and supervises DBA students' dissertations of the University of Wales Trinity Saint David. He also holds advisory and visiting Professorships in several Mainland China universities, namely Tsinghua, Renmin, Tongji, and Tianjin Universities. He is a member of Hong Kong Institute of Planners, Planning Institute Australia, and Chartered Institute of Logistic and Transport. He was formerly a Teaching Fellow, Judge Business School, University of Cambridge; Director of EMBA programme, HKU Business School; Associate Professor, Department of Urban Planning & Urban Design, HKU; Executive Vice President & Professor, City University of Macao (formerly AIOU); Head, Centre for Executive Development, HKU SPACE; Honorary Professor, China Training Centre for Senior Civil Servants of Ministry of Human Resource & Social Security, PRC; Studies Director, Civil Service Training & Development Institute of the HKSAR Government; Visiting Scholar, MIT; and Consultants, World Bank and Delta Asia Bank in Macao. Peter K.W. Fong can be contacted at: fongpeter@netvigator.com

Introduction to the special issue

I am grateful to Professor Peter K.W. Fong, the Editor-in-Chief, for inviting me to be the Guest Editor for this special issue of *Public Administration and Policy* on "Corruption scandals in six Asian countries." Corruption is a serious problem in many Asian countries as, according to Transparency International's Corruption Perceptions Index (CPI) in 2019, 19 (70 per cent) of the 27 Asian countries surveyed have scores below 50, ranging from 16 for Afghanistan to 41 for China and India.

As no country is immune from corruption scandals, the aim of this *Public Administration and Policy* special issue is to contribute to the literature on corruption scandals in Asian countries. It consists of seven articles: a comparative article and six articles on selected corruption scandals in India, Japan, Macau, Malaysia, the Philippines and Singapore. The first article by Jon Quah provides a comparative overview and analysis of the selected corruption scandals in the six Asian countries. The second article on constitutional corruption in India is written by Krishna Tummala. The third article by Matthew Carlson analyses two *sontaku*-linked scandals in Japan. In the fourth article, Sonny Lo focuses on the corruption scandals of two principal officials in Macau, Ao Man-long and Ho Chio-meng. The fifth article by David Seth Jones provides an in-depth analysis of the infamous 1MDB scandal in Malaysia. The sixth article, which is written by Eric Batalla, deals with two grand corruption scandals involving the procurement of two infrastructure projects in the Philippines. The final article by Jon Quah compares the Teh Cheang Wan and Edwin Yeo corruption scandals in Singapore.

I would like to thank all the contributors to this *Public Administration and Policy* special issue for their fine contributions and cooperation in revising and submitting their manuscripts promptly. All the contributors and I owe a huge debt of gratitude to the 14 peer-reviewers for their constructive feedback which has enhanced the quality of the seven articles. Last but not least, I am also grateful to Prof Peter Fong, Editor, Dr Alice Te, and Associate Editor, Dr Franky Choi, for their cooperation and assistance in facilitating the publication of this special issue of *Public Administration and Policy*.

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Corruption scandals in six Asian countries: a comparative analysis

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Abstract

Purpose – The purpose of this paper is to compare and evaluate how the governments in six Asian countries have dealt with selected grand corruption scandals.

Design/methodology/approach – This paper is based on the comparative analysis of 11 corruption scandals examined in the six articles on India, Japan, Macau, Malaysia, Philippines and Singapore included in this special issue of *Public Administration and Policy*.

Findings – The responses of the governments in the six countries depend on the strength of their political will in combating corruption. The responses of the governments in Malaysia, Philippines, India and Japan reflect their weak political will in combating corruption and lack of accountability of the corrupt offenders. By contrast, the strong political will of the governments in Singapore and Macau is reflected in the investigation and punishment of the corrupt offenders without any cover-up of the scandals.

Originality/value – The findings would be of interest to scholars, policymakers and anti-corruption practitioners and activists.

Keywords India, Japan, Macau, Malaysia, Philippines, Singapore

Paper type Research paper

Research on corruption scandals in Asian countries

King (1986, p. 174), in his pioneering study of political scandals, contends that "political scandals are worth studying for the light they can throw on a country's political culture and political system." However, the comparative study of political scandals is still in its infancy. Research on corruption scandals in Japan has focussed on the Teijin scandal (Mitchell, 2002), Lockheed scandal (Dixon, 1977; Kan'ichi, 1976; Kitazawa, 1976; MacDougall, 1988), Recruit scandal (Kearns, 1990; Yayama, 1990) and policy failure scandals (Carlson, 2017; Carlson and Reed, 2018a). In India, research was conducted on the Bofors scandal (Oza, 1997), Tehelka scandal (Trehan, 2009) and Coalgate scandal (Parakh, 2014). In Malaysia, research was done on the *Bumiputra* Malaysia Finance scandal (Lim, 1986; Milne, 1987) and the 1Malaysia Development Berhad (1MDB) scandal (Brown, 2018; Case, 2017; Gunasegaram, 2018; Wright and Hope, 2019) and a comparison of both scandals (Teh, 2018). The major studies on corruption scandals in Hong Kong are done by Downey (1975), Lethbridge (1985) and Scott (2014).

An extensive literature on corruption in China exists (Meng, 2013; Quah, 2013; Pesqué-Cela, 2018) but limited research has focussed on corruption scandals. China's political leaders have used corruption allegations to eliminate their political opponents during the past two decades by linking them with corruption scandals (Ho and Huang, 2013, p. 4). Prominent examples include the purging of Chen Xitong by Jiang Zemin, Chen Liangyu by Hu Jintao and Bo Xilai and Zhou Yongkang by Xi Jinping. Amongst these four scandals, Bo's role is

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analysed by Garnault (2012) and Lee (2018) and Zhou's corrupt network is unravelled by Zhu (2017).

The *Global Corruption Report 2004* identified three Asian leaders: President Suharto of Indonesia (ranked first), Presidents Ferdinand Marcos (ranked second) and Joseph Estrada (ranked 10th) of the Philippines, amongst the 10 most corrupt world leaders (Transparency International, 2004, p. 13). Corruption was institutionalised during Suharto's administration (1966–1998) and his family members benefitted from their monopoly of the import, manufacture and distribution of many products. In May 1999, *Time* magazine published a special report exposing the Suharto family's US$15 billion fortune (Colmey and Liebhold, 1999, pp. 15–29). The most comprehensive study of the corruption of President Marcos and his cronies was conducted by Aquino (1999). President Estrada's "unexplained wealth" and "propensity for acquiring real estate" was investigated by Coronel (2000).

This special issue of *Public Administration and Policy* contributes to the growing literature by analysing the 11 grand corruption scandals selected in India by Krishna Tummala, Japan by Matthew Carlson, Macau by Sonny Lo, Malaysia by David Jones, Philippines by Eric Batalla and Singapore by Jon Quah. This article provides a comparative analysis of how the six governments have dealt with these scandals and identifies the three lessons for combating corruption in other countries.

As corruption occurs in the public and private sectors in Asian countries, it refers to "the misuse of public or private power, office or authority for private benefit – through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement" (Quah, 2011, p. 10). Following this definition, it is necessary to distinguish between grand and petty corruption. Grand corruption refers to corrupt acts committed by political leaders and senior civil servants and usually involves "large, international bribes and 'hidden' overseas bank accounts" (Pope, 2000, p. xix). By contrast, petty corruption involves poorly paid low-ranking civil servants demanding bribes from those they serve to expedite their applications or perform other favours as a coping strategy to support their families.

Thompson distinguishes between sex scandals involving the transgression of sexual norms and codes; financial scandals infringing rules and conventions governing the use of economic resources; and power scandals infringing rules governing the use of political power. However, such corrupt acts only become scandalous when they are disclosed to non-participants, seriously infringe rules, conventions or laws concerning the proper exercise of public duties, and are condemned by the public (Thompson, 2000, pp. 120–122, 29–30). Finally, Lowi (1988, p. viii) distinguishes the substantive scandal or the "breach of an actual norm" from the procedural scandal, which involves the concealment of the substantive misconduct. This article adopts the definition of scandal by West (2006, p. 6) as "an event in which the public revelation of an alleged private breach of a law or a norm results in significant social disapproval or debate and, usually, reputational damage." Using West's definition, a corruption scandal refers to the public exposure of corruption offences that result in social disapproval and reputational damage of the offenders.

Grand corruption scandals in six Asian countries

The 1MDB scandal, which is analysed in Jones' article, is "the world's biggest financial scandal" and "largest kleptocracy case" in US history because the US Department of Justice believed that more than US$4.5 billion was stolen from 1MDB (Ramesh, 2016). When the police raided the Najib family's apartments on 16–17 May 2018 in Kuala Lumpur, they confiscated US$274 million worth of luxury items, including 567 handbags, 423 watches, 12,000 pieces of jewellery and US$28 million in cash (Wright and Hope, 2019, p. 406).

Batalla's article focusses on the approval of two mega infrastructure projects in the Philippines by two presidents without competitive public bidding. The first scandal involved

Herminio Disini, President Marcos' golfing buddy and relative of Imelda, who received a substantial commission from Westinghouse Electric Company for brokering a meeting to obtain Marcos' approval to build the Bataan Nuclear Power Plant (BNPP) in June 1976 without following the proper procurement guidelines (Beaver, 1994). The original project cost of US$1.1 billion increased to US$2.1 billion when the BNPP was completed because of the additional safety requirements arising from the Three Mile Island accident in Pennsylvania in March 1979, interest charges, inflation and foreign exchange losses. Disini was charged by the Office of the Ombudsman (OMB) with corruption in June 2004 and ordered by the Anti-Graft Court in April 2012 to return US$50 million in commission but he died in June 2014 without doing so. The Anti-Graft Court dismissed the case against Marcos as there was insufficient evidence that he had received any commission from the Westinghouse deal (Mendoza *et al.*, 2016, p. 9).

In the second scandal, President Gloria Macapagal-Arroyo approved on 21 April 2007 the proposal of the Zhongxing Telecommunications Equipment (ZTE) Company from China to develop the National Broadband Network (NBN) project using US$329 million in loans from China's Export–Import Bank. On 27 April, journalist Jarius Bondoc revealed that an unnamed Commission of Elections (Comelec) official, who was later identified as its chairman Benjamin Abalos, was involved in brokering the over-priced NBN project. After the Senate Blue Ribbon Committee investigated the NBN deal on 18 September 2007, President Arroyo suspended the NBN project on 22 September and cancelled it during her state visit to China on 2nd October (Llanto and Chavez, 2008).

Lo compares the corruption scandals involving two senior public officials in Macau. First, Ao Man-long, the Secretary for Public Works and Transport for the Macau Special Administrative Region (SAR) from 1999 to 2006 was arrested for bribery by the Macau Commission Against Corruption (CAC) on 8 December 2006. In January 2008, he was found guilty of 40 counts of bribery, 13 counts of money laundering and two counts of abuse of power and sentenced initially to 27 years of imprisonment and fined 240,000 patacas (US$29,838). In May 2012, Ao was found guilty of accepting bribes of 31.9 million patacas (US$3.9 million) and given a final jail sentence of 29 years (Meneses, 2019). Second, Ho Chio-meng, Macau's Prosecutor-General from 1999 to 2014, was arrested on 26 February 2016 and charged with 1,536 offences, including embezzlement, fraud, abuse of power, money laundering, unjustified economic wealth and inaccurately reporting his income. He was sentenced in July 2017 by the Court of Final Appeal to 21 years' imprisonment for his crimes and fined 18 million patacas (US$2.2 million) for benefitting from illegally awarding contracts worth 167 million patacas (US$20 million) (*Plataforma Macau*, 2018).

Quah focusses on two corruption scandals in Singapore. The first scandal involved Teh Cheang Wan, the Minister for National Development, who was questioned by the Corrupt Practices Investigation Bureau (CPIB) on 2 December 1986 regarding two complaints that he had accepted bribes of S$1 million from a building contractor. However, he committed suicide on 14 December before he could be prosecuted in court. The second scandal involved Edwin Yeo, an Assistant Director of the CPIB, who was charged in July 2013 with misappropriating S$1.76 million (US$1.41 million) from 2008 to 2012. He was found guilty and sentenced to 10 years' imprisonment on 20 February 2014 for criminal breach of trust as a public servant and for forgery (Chong, 2014, p. A1).

The grand corruption scandals in Japan analysed by Carlson did not involve bribery or embezzlement but *sontaku* or the granting of special treatment by officials for those projects associated with prominent persons. Yasunori Kagoike, Head Director of Moritomo Gakuen School, claimed in 2017 that his application to purchase state-owned land at a huge discount to expand his school was approved earlier by the Ministry of Finance officials because they assumed that this was what Prime Minister Shinzo Abe and his wife, who was a friend of Kagoike's wife and an honorary principal of the school, wanted. Abe and his wife denied any

involvement in influencing Kagoike's application. The Ministry of Finance and local administrators involved in the sale of land said that they had discarded key documents following the laws on storing and handling of government documents. The Osaka prefectural government revealed that Kagoike had inflated the land costs to obtain a larger subsidy but used a lower estimate to show that Moritomo could afford to buy the land. Consequently, the sale of the land and permit was revoked, and Kagoike returned the subsidy and withdrew his application. Kagoike and his wife were arrested and put on trial for subsidy fraud. They were found guilty of receiving ¥56.4 million (US$512,000) in central government subsidies illegally and sentenced to five and three years' imprisonment, respectively, in February 2020 (*Japan Times*, 2020).

The second Japanese scandal also involved Prime Minister Abe, who was accused by opposition political leaders for favouring Kotaro Kake's application for a special deregulation project in Imabari, Ehime Prefecture (Yoshida, 2018). Abe met Kake while studying in the United States, and they became close friends and played golf regularly. After the government approved Kake's application to build a new faculty of veterinary medicine in the Okayama University of Science, which is part of Kake Gakuen, the opposition political leaders repeatedly asked Abe, in spite of his many denials, whether he had favoured Kake and discussed his application on the golf course (Sim, 2017). The scandal was exposed by the publication of leaked internal Ministry of Education documents which revealed that following Abe's intention to expedite approval for the project, the government favoured Kake Gakuen before its application was reviewed by the officials. A former ministry bureaucrat, Kihei Maekawa, confirmed that Abe's office had intervened to approve Kake Gakuen's application by changing the requirements to facilitate its selection over another competing university. The government denied the accusations of Maekawa and other critics but could not provide evidence to substantiate its claims. Nevertheless, the Minister for Education approved the establishment of the new veterinary school in April 2019.

The two scandals in India analysed by Tummala focus on constitutional corruption, which he defines as using the constitution for corrupt purposes to advance personal or partisan interests. First, the original Rafale fighter jet deal negotiated in 2007 by Prime Minister Manmohan Singh's United Progressive Alliance (UPA) government involved the purchase of 126 fighter jets from the French company Dassault Aviation with Hindustan Aeronautics Limited (HAL) in India as the technical partner. However, the deal became controversial because negotiations were delayed and the contract was not signed before the UPA government lost its majority in the April–May 2014 general election. During his official visit to France in April 2015, Prime Minister Narendra Modi announced that India would purchase 36 Rafale jets at a cost of Rs 580 billion (US$8.1 billion) and replace HAL with Reliance Defence as the Indian offset partner (IOP). Consequently, this new deal was criticised by the opposition political parties for being over-priced, and demonstrated the abuse of authority, cronyism and flouting of standard procurement procedures by Modi's government (Hilotin, 2019).

Several litigants filed petitions in 2018 under Article 32 of the Constitution to challenge the new deal because of these questions on perceived procedural irregularities: (1) Did Prime Minister Modi make the deal without the approval of the Cabinet Committee on Security? (2) Was Reliance Defence made Dassault Aviation's IOP without the Defence Minister's approval, as required by the Defence Offset Guidelines, and was HAL, the previously proposed IOP, improperly removed? (3) Does the intergovernmental deal between India and France allow the Central government to violate the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act without disclosing the details of the deal? (4) Is the deal over-priced as the price of each aircraft in the second deal is nearly twice the price of each aircraft in the first deal? On 14 December 2018, the Supreme Court dismissed the plea for a court monitored investigation because it did not find any irregularity in the decision-

making process, pricing or selection of an offset partner on the basis of the evidence provided by the State in sealed covers (*Supreme Court Observer*, 2019).

The second controversy concerns Article 370 of the Constitution of India, which granted special autonomy to the State of Jammu and Kashmir (J&K) in October 1949, and Article 35A, which was added in 1954 to empower the provision of special rights and privileges in property ownership, education and jobs to its permanent residents. As many Muslims in J&K resented heavy-handed rule from New Delhi, there has been an insurgency by Muslim separatists since 1989. As Prime Minister Modi and his Bharatiya Janata Party (BJP) had long opposed Article 370, they included its revocation in the BJP's 2019 election manifesto to ensure the integration of J&K with the rest of India. Consequently, when the BJP won a landslide victory in the April–May 2019 general election, the government fulfilled its electoral pledge on 5 August 2019 by revoking Article 370 and dividing J&K into the Union Territories of Ladakh (without a legislature) and Jammu and Kashmir (with a legislature). The government's decision to revoke Article 370 is controversial as Subhash Kashyap, a constitutional expert, said that the decision was "constitutionally sound" and without any "legal and constitutional fault." On the other hand, another constitutional expert, A.G. Noorani, disagreed because the revoking of Article 370 was "an illegal decision, akin to committing fraud" and could be challenged in the Supreme Court. However, as J&K is an emotive issue with many Indians, the opposition political parties are cautious in challenging the government's decision to avoid being accused of being anti-India (*BBC News*, 2019).

Globalization of corruption

The digital revolution and emergence of "an electronically networked international financial system" increase the opportunities for corruption and the difficulty in controlling it because the globalization of electronic communications has facilitated the transfer of money across borders and money laundering involving many countries (Glynn *et al.*, 1997, pp. 12–15). The 1MDB scandal in Malaysia illustrates clearly the serious consequences when the strict regulations preventing money laundering are not enforced by government officials and banks. At a press conference on 20 July 2016, the US Attorney-General Loretta Lynch announced that the Department of Justice had filed a complaint to forfeit and recover more than US$1 billion in assets from the international conspiracy that laundered stolen funds from 1MDB from 2009 to 2015 through "opaque transactions and fraudulent shell companies" with bank accounts in the British Virgin Islands, Seychelles, Luxembourg, Singapore, Switzerland and the United States. The stolen funds were used by Jho Low, the alleged mastermind behind the money-laundering scheme, to purchase various assets for his relatives and associates, including luxury real estate in New York and Los Angeles, expensive artwork by Van Gogh and Monet, a US$260 million superyacht, and a US$35 million Bombardier Global 5000 business jet, and to invest more than US$100 million to finance the 2013 film, *The Wolf of Wall Street* (Gabriel, 2018, pp. 69–70).

The Financial Action Task Force (FATF) is an intergovernmental organisation that was established in July 1989 to examine and develop measures for combating money laundering (FATF, 2019). To prevent money laundering, member countries should ensure that financial institution secrecy laws do not hinder the implementation of its recommendations. As Malaysia is a FATF member it should have adhered to the FATF's standards and recommendations. If Malaysia had followed these recommendations, the 1MDB scandal could have been prevented. According to Gabriel (2018, p. 74):

> The 1MDB swindle would not have happened had [the] basic principles of public and corporate governance been followed, to include the use of proper checks on how 1MDB's funds were being

> handled. Such checks do exist in Malaysia. . . . But 1MDB was exempted from all such controls, and no corrective measures were taken despite repeated signs of abuse.

By contrast, the two corruption scandals in the Philippines did not involve money laundering but bribery of senior government officials by US and Chinese companies to obtain the president's approval of two infrastructure projects without competitive public bidding. Macau's two senior public officials, Ao and Ho, were found guilty of embezzlement and money laundering but the amounts involved pale in comparison with the huge sums embezzled and laundered in the 1MDB scandal. The two corruption scandals in India demonstrate the impact of globalization in the sale of Rafale jet fighters from France to India and the BJP's revocation of Article 370 which divided J&K into Ladakh and Jammu-Kashmir. The offences committed by Teh and Yeo in Singapore were bribery and embezzlement with no evidence of money laundering. Finally, the *sontaku* scandals in Japan focussed on the granting of special treatment by bureaucrats to approve the applications of projects of friends of Prime Minister Abe and his wife, and their subsequent attempts to conceal Abe's intervention.

Governments' responses to corruption scandals

The responses of the governments in the six countries to the selected grand corruption scandals depend on the strength of their political will and capacity to minimise corruption. Political will refers to the sustained commitment of political leaders to implement anti-corruption policies and programmes to address the causes of corruption in their country (Quah, 2017, p. 64). When corruption scandals involving political leaders or senior civil servants are exposed by the investigation of corruption complaints by the anti-corruption agency (ACA), journalists or whistle-blowers, the government can either cover-up the scandals or investigate the offences impartially and punish the guilty offenders.

The 1MDB scandal in Malaysia was first exposed in March 2013 by the Malaysian on-line business newspaper, *KINIBIZ,* which published a series of articles on bond mispricing, overpayment for energy assets and other questionable deals (Gunasegaram, 2018, p. 14). On 28 February 2015, British journalist, Clare Rewcastle Brown, revealed on her website *Sarawak Report* that nearly US$700 million had disappeared from the 1MDB joint venture and transferred to offshore companies and Swiss bank accounts (Brown, 2018, p. 191). The *Wall Street Journal* reported on 2 July 2015 that Prime Minister Najib Rajak had received US$681 million in his private bank accounts in March 2013 (Wright and Hope, 2019, pp. 341–342).

Prime Minister Najib covered up the 1MDB scandal by removing from office the Deputy Prime Minister, four ministers, the Attorney-General and some junior officials during 2015–2016 to prevent them from revealing evidence of corruption or convening a public inquiry. The government also hampered investigations by withholding documents and computer files and influencing the investigators in the National Audit Department and the Malaysian Anti-Corruption Commission (MACC) to alter their findings or abandon their investigations (Latiff and Ananthalakshmi, 2018). The procedural scandal or attempts by the government to conceal the 1MDB scandal enabled the opposition parties to criticise the 1MDB investment policies and increase public suspicions of malpractices in its financial dealings. The adverse publicity following the exposure of the 1MDB scandal angered many Malaysians and contributed to the defeat of Najib's government in the May 2018 general election (Weiss, 2019, pp. 144–145). By contrast, the new *Pakatan Harapan* government led by Prime Minister Mahathir Mohamad re-convened the special task force to revive the investigations into the 1MDB scandal, beginning with the arrests by MACC officers of Najib on 3 July and his wife on 3 October 2018 (*Star Online*, 2018). Najib's trial began in April 2019 and is still ongoing (Hassan, 2019, p. A9).

The contract for the BNPP project in the Philippines was signed by the National Power Corporation and Westinghouse Electric Company in February 1976 after two years of

negotiations. General Electric and Westinghouse had competed for the BNPP contract. Unlike General Electric, which submitted a formal proposal, Westinghouse relied on Disini's connections with President Marcos to secure the contract without following the proper bidding process (Mendoza *et al.*, 2016, p. 10). Disini's brokering of the deal for Westinghouse was exposed by reports in the *Washington Post* and *New York Times* in 1977–1978 and resulted in public controversy and resistance to the BNPP project because of the increased project cost of US$2.1 billion and widespread public fears of a nuclear fallout after the March 1979 Three Mile Island accident (Mathews and Wideman, 1977, 1978; Butterfield, 1978). The Presidential Commission on Good Government (PCGG), which was established by President Corazon Aquino in 1986 to retrieve the money stolen by the Marcos family and its cronies, charged Disini in 1990 with corrupt practices for brokering the Westinghouse deal but the OMB dismissed the case against Disini in 1992 because of insufficient evidence. In June 2004, the OMB charged Disini for corrupting public officials but counter motions filed by him delayed action until April 2012, when the Anti-Graft Court ordered Disini to return the US$50 million of commission from the BNPP deal but it dismissed the case against Marcos as there was inadequate evidence to prove that he had received the commission. In September 2013, the Supreme Court affirmed the Anti-Graft Court's decision requiring Disini to return the commission but he died in June 2014 without doing so. In short, no one was prosecuted for the corruption behind the BNPP project after 24 years of investigation and prosecution (Mendoza *et al.*, 2016, pp. 9, 13–14).

The NBN–ZTE deal was controversial because investigations by the Senate Blue Ribbon Committee (SBRC) revealed unethical behaviour by the two groups competing for it. The ZTE group was supported by senior government officials and First Gentleman Mike Arroyo, the husband of President Arroyo. The other group was led by Jose de Venecia III, son of the House Speaker, Jose de Venecia, both of whom testified before the SBRC that top government officials had received commissions from ZTE and Mike Arroyo told them to withdraw from the project (Republic of the Philippines Senate, 2009, p. 1). After Comelec chairman Abalos was exposed for brokering the NBN–ZTE deal for ZTE in August 2007, the SBRC began investigating the deal on 18 September 2007 and President Arroyo suspended it on 22 September and cancelled it on 2 October during her state visit to China (Llanto and Chavez, 2008). The Arroyo government minimised the scandal's impact by transferring those officials involved in the deal (Republic of the Philippines Senate, 2009, pp. 32, 57). Abalos and Mike Arroyo were accused of receiving commissions for brokering the NBN–ZTE deal but there was insufficient evidence to prosecute them. Like the BNPP project, no one was prosecuted for brokering the NBN–ZTE deal as the Anti-Graft Court decided on 25 August 2016 that the prosecution failed to provide sufficient evidence for its charges against President Arroyo and her husband, Abalos, and Secretary Leandro Mendoza, who had signed the NBN–ZTE contract, and dismissed all the graft charges against them (Republic of the Philippines Sandiganbayan, 2016, pp. 29–31).

As the *sontaku* scandals in Japan involved Prime Minister Abe and his wife using their influence to expedite the applications of their friends, the officials from the Ministries of Finance and Education attempted to conceal their involvement to protect them from embarrassment. Abe's wife, Akie, was a friend of Junko, the wife of Moritomo Gakuen's Head Director, Kagoike, and was supportive of the school's mission to instil patriotism amongst its students (Carlson and Reed, 2018b). Akie's position as an honorary principal of the proposed elementary school was listed on the Moritomo Gakuen's website and publicised by the media. This revelation led to public scrutiny of the circumstances behind the approval of Moritomo's purchase of state-owned land. Abe forcefully denied any involvement in the land purchase and Kagoike's claim that he had donated one million yen to the school through Akie (Soble, 2017, p. 6). The Ministry of Finance officials initially favoured Kagoike's application as they assumed that their approval would please Abe and Akie. However, the public exposure of the

school's plans embarrassed the Abe administration and the *Asahi Shimbun* revealed in March 2018 that the bureaucrats involved concealed their misconduct by altering 14 documents, including any embarrassing references to Abe and his wife, in February 2017. The suicide of Akagi, a local finance ministry official in Osaka, on 7 March 2018 exacerbated the scandal because he left a note admitting that he had altered the land records on the instructions of his superiors at the Ministry of Finance in Tokyo (Sim, 2020). Consequently, Nobuhisa Sagawa, Head of the Ministry's Financial Bureau, resigned on 9 March 2018 and an internal probe revealed that its officials had made about 200 alterations to documents (Sim, 2018). The Finance Minister apologised for the alterations and offered to reduce his salary and those of the 20 officials responsible as punishment but they were not punished for altering the documents.

A similar pattern of behaviour was observed in the Ministry of Education officials' expedited review and approval of Kake's application because of his friendship with Prime Minister Abe. The Ministry's top official, Kihei Maekawa, resigned to take responsibility for his ministry's actions but he later confirmed that the leaked documents from his ministry were authentic and indicated that his colleagues had favoured Kake's application (Osaki, 2017). However, apart from Maekawa's resignation, no other official was punished and the Ministry of Education approved Kake's application to establish his veterinary school in April 2019. Even though there was no evidence that Abe and his wife had directed the officials in the Ministries of Finance and Education to favour and expedite the applications of their friends, the attempts by the bureaucrats to alter the documents to conceal their involvement and protect them from embarrassment had eroded public support for the Abe administration (Osaki, 2017).

The corruption scandals in India occurred after Prime Minister Modi's BJP won the 2014 and 2019 general elections. The April 2015 announcement of the purchase of 36 Rafale jets from France at a much higher cost and different technical partner in India by Prime Minister Modi resulted in the opposition political parties criticising him for abuse of authority, cronyism and violation of the standard procurement procedures (Hilotin, 2019). Consequently, in 2018, several litigants filed petitions according to Article 32 of the Constitution to challenge the procedural irregularities of the new deal. However, the Supreme Court dismissed the plea for a court monitored investigation on 14 December 2018 as there were no irregularities in the decision-making process, pricing or selection of the technical partner (*Supreme Court Observer*, 2019). Similarly, on 5 August 2019, two and a half months after winning the April–May 2019 general election, Modi's government kept its electoral promise by revoking Article 370 and divided J&K into Ladakh and Jammu-Kashmir. Even though the revocation of Article 370 is controversial and criticised by the opposition political parties, there has been no serious challenge so far to the government's decision.

Tummala contends in his article that the two scandals constitute serious threats to constitutional democracy in India because of the absence of consultation and transparency in decision-making. Modi decided on the purchase of the Rafale jet fighters unilaterally without consulting parliament and refused to answer questions concerning the new deal. Similarly, he revoked Article 370 without consulting the leaders and population in J&K. The controversial J&K decision is not surprising as the BJP had included it in its election manifestos for many years but Tummala questions the need for secrecy regarding the purchase of the Rafale jet fighters and Modi's refusal to defend his decision.

Unlike the MACC, which was ineffective in investigating the 1MDB scandal in Malaysia, and the OMB, which failed to prosecute the offenders in the BNPP and NBN–ZTE scandals in the Philippines, the CAC in Macau and the CPIB and Commercial Affairs Department (CAD) in Singapore were more effective in dealing with the four scandals. Macau CAC's investigation of Ao's and Ho's multiple offences resulted in long jail terms and fines for them (Meneses, 2019; *Plataforma Macau*, 2018). Similarly, the CPIB investigated the bribery

complaints against Teh and recommended his prosecution to the Attorney-General but he committed suicide before he could be prosecuted (Parliament of Singapore, 1987, pp. 29–30). As Yeo was a CPIB senior officer, the CAD investigated his offences to avoid a conflict of interest and he was found guilty and imprisoned for 10 years (Quah, 2015, pp. 77, 83–84).

Lessons for combating corruption in other countries

The first and most important lesson arising from the preceding analysis is that a government's response to a corruption scandal is a reflection not only of its political will to fighting corruption but also of the perceived extent of public sector corruption in the country. As Prime Minister Najib was himself implicated in the 1MDB scandal it is not surprising that he covered up his misconduct by removing some ministers, the Attorney-General and other officials to stop them from exposing his corrupt behaviour. Najib also hindered the investigations of the 1MDB scandal by the National Audit Department and MACC by directing his officials to withhold documents and computer files. The situation changed, however, when the *Pakatan Harapan* government assumed office after winning the May 2018 general election and ordered Najib's arrest on 3 July and his corruption trial began in April 2019.

In Japan, the bureaucrats in the Ministries of Finance and Education reacted to the two *sontaku* scandals by covering up the involvement of Prime Minister Abe and his wife in the case of Kagoike's application and Abe's intervention in expediting his close friend Kake's application. Apart from the resignations of Sagawa and Maekawa, no other official was punished for altering documents and their role in concealing the two scandals. The behaviour of the Japanese bureaucrats is not surprising as Haynes (2000, pp. 101–103) has criticised the Japanese system for not engendering "responsibility, accountability, and transparency" because its "sullied mandarins" do not take "the flak for their shortcomings" as words like "accountability," "culpability" and "humility" are not in "their collective lexicons." The Japanese government did not punish the officials responsible for altering public documents to conceal the involvement of Prime Minister Abe and his wife in the two *sontaku* scandals. The Public Records and Archives Management Act implemented in 2011 required the government to preserve public documents as an intellectual resource for independent use by citizens. However, it did not prevent the Ministry of Finance bureaucrats from altering the documents in the Moritomo Gakuen scandal because there was no incentive for them to follow the rules.

The lack of transparency and accountability of the Japanese bureaucrats is not surprising and reflects the government's weak political will in changing the status quo that favours the structural corruption of the politicians, bureaucrats and business persons. Japan has still not ratified the United Nations Convention against Corruption (UNCAC) after signing it on 9 December 2003 because Articles 6 and 36 require it to establish an ACA to combat corruption. Japan's 16-year delay in ratifying the UNCAC reflects its government's reluctance to replace the ineffective and inadequately staffed Special Investigation Departments in Tokyo, Osaka and Nagoya with an ACA. This explains why Japan does not have an ACA to curb corruption unlike the other five countries. Consequently, it is also not surprising that corruption scandals abound in Japan with 52 corruption scandals occurring from 1948 to 2008 (Quah, 2011, p. 44).

When the BNPP scandal was exposed by the US media and the NBN–ZTE scandal was revealed by a local journalist, there was no attempt by the officials in the Philippines to conceal the fact that both procurement contracts were approved by the two presidents by brokers instead of competitive public bidding and following the proper procedures. Disini was found guilty after 24 years of investigation and ordered to return the commission from the BNPP deal but he died in June 2014 without returning the money. However, there was insufficient evidence to prosecute President Marcos, and Abalos and Mike Arroyo for

receiving commissions for brokering the NBN–ZTE deal. Batalla has attributed the poor conviction rate of the offenders to the improper handling of evidence by the PCGG and the OMB's incompetence and mistakes made in investigating the two scandals. The OMB and PCGG, which are Type B ACAs performing both anti-corruption and other functions, are ineffective because they are "paper tigers" with poor reputations and limited personnel, powers and resources (Quah, 2017, pp. 58–60).

Prime Minister Modi's popularity and the BJP's victory in the 2014 general election in India enabled him to decide unilaterally without consulting parliament on the revised terms of the Rafale deal in April 2015. Similarly, the BJP's victory in the 2019 general election with an increased majority resulted in the revocation of Article 370 by Modi to fulfil the BJP's electoral promise and vested interests without consulting parliament or the population in J&K. The situation in India is unlikely to change for the foreseeable future in view of the inability of the weak opposition political parties to challenge effectively any future controversial policies introduced by Modi's government.

The second lesson is that governments must address the causes of corruption in general and corruption scandals in particular if they are concerned with minimising corruption and preventing the recurrence of corruption scandals in their countries. Corruption is widespread in many Asian countries because many corrupt political leaders, senior civil servants, business persons and citizens resist and subvert the implementation of comprehensive anti-corruption reforms to address the causes of corruption to protect their vested interests (Quah, 2017, p. 68). The 1MDB scandal clearly illustrates Prime Minister Najib's blatant use of 1MDB funds to feather his own kleptocratic interests.

A recent evaluation concludes that anti-corruption efforts in Malaysia are "rife-ridden" and ineffective because of "the lack of political will, failure of proposed initiative[s] to address [the] causes of corruption, duplication and a lack of public support for corruption prevention" (Kapeli and Mohamed, 2019, p. 554). Consequently, Malaysia's Corruption Perceptions Index (CPI) score decreased from 52 in 2014 to 47 in 2018. Jones has attributed the 1MDB scandal to Najib's lack of political will to curb corruption, which is reflected in the 1MDB's defective system of governance, his interference in the MACC's and National Audit Department's investigations, and the failure to enforce the FATF's preventive money-laundering regulations. The MACC is a Type A ACA responsible for performing only anti-corruption functions but its effectiveness as an independent watchdog has been severely hindered by political interference from Prime Minister Najib. As the *Pakatan Harapan* government is preoccupied with Najib's on-going corruption trial and attempts to recover the stolen 1MDB funds, it has not initiated appropriate reforms to address the causes of the 1MDB scandal and the widespread corruption in Malaysia yet. Nevertheless, the 2018 electoral defeat of Najib's government and its replacement by the *Pakatan Harapan* government is reflected in Malaysia's improved CPI score of 53 in 2019 (Transparency International, 2020).

The Government Procurement Reform Act of 2003 in the Philippines requires all government projects to undergo public bidding but the NBN–ZTE deal was approved as an exception because it was a government-to-government agreement. Batalla contends that grand corruption scandals will persist in the Philippines because of the strong incentives for corrupt behaviour and the justice system's failure to bring closure to past corruption scandals as reflected in the low risk of punishment for corruption offenders. President Estrada was found guilty in September 2007 of receiving payoffs and kickbacks and sentenced to 40 years' imprisonment. However, he was pardoned six weeks after his conviction by President Arroyo against the advice of anti-corruption advocates and state prosecutors (Quah, 2011, p. 148).

Even though Macau's CAC investigated and prosecuted Ao and Ho for their multiple offences, Lo attributes Ao's scandal to the absence of effective auditing which enabled him to misbehave with impunity without checks by his superiors or subordinates. However, the reforms introduced by the Macau government after Ao's scandal were moderate and

focussed only on institutional checks on the Secretary of Public Works and Transport at the level of his immediate colleagues, subordinates and appointed citizens without addressing his procedural relations with the Financial Secretary, Chief Secretary and Chief Executive. Similarly, even though the absence of regular and rigorous auditing in the Prosecutor-General's Office contributed to Ho's multiple offences during 1999–2014, the Macau government did not strengthen the auditing process to prevent a recurrence of his offences.

Singapore's response to the Teh and Yeo scandals illustrates its government's zero-tolerance policy towards corruption and explains why it is perceived as the least corrupt Asian country on Transparency International's CPI from 1995 to 2019. Unlike Najib's government which covered up the 1MDB scandal or the Japanese bureaucrats who attempted to conceal Prime Minister Abe's involvement in the *sontaku* scandals, the People's Action Party (PAP) government in Singapore did not conceal the two scandals and investigated those persons responsible instead and punished Yeo for his offences but Teh committed suicide after being investigated by the CPIB.

The PAP government has also analysed the causes of the two scandals and introduced appropriate reforms to prevent their recurrence. As the Prevention of Corruption Act did not provide for the confiscation of the estate of an offender if he had obtained his benefits from corruption, an important consequence of Teh's scandal is the introduction of new legislation to plug this loophole. As Yeo was a gambling addict, he exploited the CPIB's weak internal controls and used the CPIB's funds to visit the two local casinos to satisfy his addiction. The Independent Review Panel (IRP), which was appointed in July 2013 by the Prime Minister to investigate the causes of Yeo's misconduct, concluded that supervisory lapses enabled Yeo to commit his offences and recommended reforms to strengthen the CPIB's financial procedures and audit system. Two CPIB Directors were given letters of warning by the Prime Minister's Office for their failure to supervise Yeo during their terms of office from July 2005 to September 2013. Prime Minister Lee Hsien Loong appointed a new CPIB Director on 1 October 2013 to implement the IRP's recommendations. Furthermore, the Public Service Division announced that from 1 October 2013 all civil servants in Singapore are required to declare their visits to the local casinos to prevent a recurrence of Yeo's offences. In January 2014, the Ministry of Finance formulated a government procurement code of ethics and professional conduct standards for procurement officers and introduced a new reporting system to minimise the occurrence of the procurement lapses in government agencies reported by the Auditor-General's Office in 2013.

The final lesson is the recognition that no country, including Denmark and New Zealand, which share the top position amongst 180 countries on the 2019 CPI, is immune from corruption scandals (Transparency International, 2020). In Denmark, there were two scandals in 2018: the money-laundering scandal at the Estonian branch of the Danske Bank and the embezzlement scandal at the Ministry for Children and Social Affairs' administrative department (*The Local*, 2019). A content analysis of two newspapers found 622 New Zealand corruption stories during 2000–2016 (Barrett and Zirker, 2016, p. 229).

Combating corruption is a difficult task that requires sustained commitment by a government and its allocation of adequate personnel, budget, legal powers and operational autonomy to the ACA to enable it to enforce the anti-corruption laws impartially, regardless of the position, status or political affiliation of the offenders. Indeed, combating corruption in Asian countries is a continuous work in progress because, apart from the resources and expertise required by the Type A ACAs, the implementation of anti-corruption laws will be strongly resisted by kleptocratic and powerful corrupt individuals with vested interests to circumvent these laws to avoid arrest and conviction for their offences (Quah, 2017, p. 79).

As corruption scandals cannot be prevented, what those governments that are concerned with minimising corruption in their countries should do is to avoid covering up a scandal when it occurs and direct their ACAs to investigate impartially the scandal to establish the

guilt of the offenders and punish them according to the law if they are found guilty. These governments should also identify the causes of the scandal so that appropriate reforms can be introduced to address these causes. Needless to say, only those governments with a strong dose of political will to combat corruption will adopt this recommended approach for handling corruption scandals. In this context, it is instructive to quote Prime Minister Lee Hsien Loong's justification of the Singapore government's tough stand against corruption:

> Anyone who breaks the rules will be caught and punished – no cover-ups, no matter how senior the officer or how embarrassing it may be. It is far better to suffer the embarrassment and keep the system clean, than to pretend that nothing went wrong and let the rot spread (Lee, 2012, p. A23).

In the final analysis, when a government decides to cover-up a scandal instead of investigating it, punishing the guilty offenders and initiating reforms to address its causes, the dire consequences are predictable: corruption scandals, like cancer, will proliferate because corrupt individuals and organisations in the country can continue to misbehave with impunity and encourage other citizens to follow suit. Covering up corruption scandals will not make them disappear but guarantee their recurrence.

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Constitutional corruption in India: an analysis of two *Bharatiya Janata* Party scandals

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Abstract

Purpose – This paper focuses on two examples of constitutional corruption in India where the constitution is used for questionable political reasons by the *Bharatiya Janata* Party under the leadership of Prime Minister Narendra Modi.

Design/methodology/approach – The paper relies on public documents and media reports to analyse Prime Minister Modi's handling of the purchase of Rafale jet fighters from France and the revocation of Articles 370 and 35A which resulted in the division of the State of Jammu and Kashmir.

Findings – Constitutional and democratic norms were violated in both cases, but the Supreme Court did not find any irregularities in the sale of the Rafale jet fighters. The second case is under challenge in the Supreme Court. The analysis reveals how the Modi government has undermined democratic values and used constitutional provisions to pursue its partisan and ideological agenda.

Originality/value – The paper focuses attention on the often neglected topic of constitutional corruption in India.

Keywords Constitution, democratic values, *Bharatiya Janata* Party, Rafale fighters, Articles 370, 35A

Paper type Research paper

Introduction

Scholars doing research on corruption encounter many constraints (Tummala, 2019, pp. 174–181). However, research on corruption has neglected its most insidious form, constitutional corruption, which adversely affects the foundation of democracy and society in some countries, including India. Constitutional democracy refers to the sustenance of these core values: a representative government that guarantees universal adult franchise with fundamental rights and liberties for all citizens; upholds the rule of law; meets the people's needs and demands responsibly; behaves in an accountable and transparent manner, and maintains an independent judiciary and free press.

Levitsky and Ziblatt (2019) contend that while many democracies met violent deaths in the past, the current *modus operandi* appear to be killing them quietly by using the very same constitutional and legal provisions. The process of "democratic recession" can be observed not only in India but also in other countries like Israel, United Kingdom (UK) and the United States. Prime Minister Benjamin Netanyahu of Israel dissolved the Knesset as he wanted a legislature to allow him to continue his regime and provide him with immunity from prosecution on alleged charges of corruption. That he was indicted for corruption and would be facing a trial during the second week of March 2020 did not seem to have made any difference to the voters as he was returned with a slightly better majority in this third election, but not enough to form a coalition government. Failure to do so might only mean a fourth election for

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that nation. Similarly, Prime Minister Boris Johnson of the UK prorogued Parliament for five weeks to expedite the implementation of Brexit from the European Union. President Donald Trump was impeached by the House of Representatives on 18 December 2019 for abuse of power and obstruction of Congress. However, he was acquitted by the Republican-controlled Senate on 5 February 2020.

This article contends that to sustain a democratic system of government it is necessary to protect the constitution, which provides the structure and defines the "rules of the game". As artifacts, constitutions grow, live and some die depending upon the social and political dynamics of individual countries. Independent India adopted a new Constitution in 1949 which was written by many constitutional scholars, such as B. R. Ambedkar, which arguably turned out to be the longest constitution in the world, with 395 Articles, 12 Schedules and more than a 100 Amendments to meet the exigencies of a dynamic society. As several authoritative works on the constitutional and political history of post-independent India are available (see Austin, 1966; Guha, 2017; Mahajan, 1986), his article does not dwell on those aspects. Instead, it argues that using a constitution for corrupt purposes such as to advance personal and/or partisan and ideological interests is abhorrent. To sustain that argument, the analysis here focuses on two cases of constitutional corruption: the purchase of Rafale jet fighters from France and the abrogation of Articles 370 and 35A dividing the State of Jammu and Kashmir into two Union Territories bringing them under greater control of the Central Government.

Purchase of Rafale jet fighters

To enhance the capabilities of the Indian Air Force, the Congress party-led United Progressive Alliance (UPA) government of Prime Minister Manmohan Singh in 2007 negotiated with France the purchase of 126 Rafale jet fighters at a cost of ₹590 billion. The Hindustan Aeronautics Limited (HAL), a public sector outfit with nearly 40 years' experience in building aircraft was to be the technical partner. Such an arrangement would have been for India's financial benefit arising from the "offset costs," as the French contractor was required to invest part of the proceeds of the deal in India. However, the contract was not signed before the UPA lost power in 2014.

Prime Minister Modi visited France in 2015 and signed a contract for 36 Rafale jet fighters at a cost of ₹580 billion. As the deal was announced, several questions arose (Nair, 2018; Bharadwaj, 2018). First, Prime Minister Modi acted unilaterally without consulting his Cabinet, contrary to established norms. The convention has been that such deals are approved by the Cabinet Committee on Security. Even the Minister for Defence, Manohar Parikkar, knew about the deal only a week before the announcement in Paris. Second, technically the government proposed to reduce the India-specific enhancements, including those clauses meant to prevent corruption. However, these clauses were eliminated entirely. Third, the government declared that the deal would result in major savings with estimates ranging between 9% (Defence Minister), 20% (Finance Minister) and 40% (an Air Force officer). The final report by the Comptroller and Auditor General (CAG) indicated that the actual saving was 2.86%. Fourth, HAL was dropped as the technical partner and replaced by Reliance Defence Ltd, a private company that was not involved in producing jet aircraft. Moreover, that company was established only 12 days prior to the Paris announcement on the purchase of the jets.

How could Prime Minister Modi unilaterally sign the deal? If the price is cheaper under the new deal, why buy fewer jet fighters? What are the reasons for the different savings estimates provided by the different agencies? Why was an inexperienced private company, Reliance Defence (whose owner is known to be close to Prime Minister Modi), which was in debt and created in a hurry prior to the announcement, selected to replace the more experienced HAL? Was Modi trying to bail out Reliance Defence? Opposition Congress Party leader Rahul

Gandhi (quoted in Deepak, 2018) claimed that Ambani's parent company was in debt to the tune of ₹350 billion and would gain ₹450 billion by virtue of the current deal with Reliance Defence. Was this a manifestation of "crony capitalism"?

The Modi government refused to answer the above questions using the plea of "national security," and indicating that there was a "secrecy" clause in the contract that precluded any disclosure. It was also stated that the Indian technical partner was not selected by the Indian government but by the French contractor, Dassault. Francois Hollande, then President of France, said that there was no secrecy clause but his Foreign Minister disagreed. Eric Trappier of Dassault, however, supported the Modi government by claiming that they had selected Reliance Defence without the involvement of the Government of India. This claim was also refuted by President Hollande. Trappier also claimed that the decision to work with the Ambanis was as old as 2011–2012 (during the previous UPA regime), and the Ambanis were preferred for having land (for building the plant) near the Nagpur airport runway. Both claims were erroneous. The working relationship Trappier suggested was with Mukesh Ambani, brother of Anil, who walked out of the deal feeling that it was not workable. Moreover, he had no land even at the time of the Modi announcement. The grant was signed on 10 April 2015, but land was allotted only on 28 August 2015 by Devendra Fadnavis, the then BJP Chief Minister of Maharashtra (the State where the city of Nagpur is situated) who signed the deal in September. Whether, or not, the Modi government lied in so many ways, and if so for whatever reason, are contentious issues.

Given the government's recalcitrance, a public interest litigation (PIL) case was initiated in 2018 in the form of a Writ Petition in the Supreme Court to seek a stay order on the purchase of the Rafale jet fighters. The government lawyer indicated that the pricing details were shared with the CAG, who would in turn place a report before Parliament. Thus everything was above board, he argued. Accepting that argument, the Supreme Court said that it would not examine the technical matters of pricing. Having found no other substantial evidence for them to intervene, the Supreme Court denied the PIL request on 14 December, 2018. However, the Supreme Court said, citing the precedent set in Chief Election Commissioner Manohrlal, V. (2011), thus:

> [I]t is proceeding in the matter by requiring the Government of India to apprise the Court of the details of the steps taken in the decision making process . . . in order to satisfy itself of the correctness of the decision making process. . . . The requisite information was required to be placed before the Court by the Government of India in sealed cover (Gogoi, 2018).

Incidentally, on the next day, the government requested the Supreme Court's permission to amend their previous statement saying that there was a grammatical error in typing the original deposition, and no pricing details were submitted to the CAG, but would soon be done. It was on this basis that a Review Petition, No. 46 of 2019 was further filed requesting the Supreme Court to reconsider its decision (Gogoi, 2019). The Supreme Court will be conducting hearings on this request on 6 May 2020.

In the meanwhile, the reputable English daily, *The Hindu*, conducted its own inquiry. Five of their findings are highlighted here. First, the price of 36 fighters had actually increased by 41% (compared with what the UPA government was dealing with). Second, three of the seven members of the Negotiating Team (of the BJP government) objected to the higher cost, but were overruled by the other four members. Third, the three dissenting members pointed out that there indeed was a more favorable offer of jet fighters by the Eurofighter Typhoon consortium of UK, Germany, Italy and Spain. Fourth, while the Modi government said that the Prime Minister's Office (PMO) was not involved in any of the negotiations, an internal memo from the Defence Ministry showed that there were in fact "parallel negotiations" by the PMO. And finally, the dropping of India-specific requirements and the anticorruption clause was characterized as "unprecedented concessions" in this deal (Ram, 2019).

Matters took a stranger turn as the Supreme Court, while judging the Review Petition No. 46 of 2019, wanted to see all papers relevant to the Rafale deal. Objecting to the Review Petition, and invoking the 1872 Indian Evidence Act, the 1923 Official Secrets Act and the 2005 Right to Information Act, the Attorney-General declared his intent to proceed against the newspaper, claiming on 7 March 2019 that the documents used by the newspaper were all stolen. But two days later, he backtracked by saying that they were in fact not stolen but only copied, and thus *The Hindu* publicized "privileged" information. He demanded that the newspaper divulge the source of their leak. N. Ram of *The Hindu* refused to do. Consequently, a fight, similar to the Daniel Ellsberg case on the Pentagon papers in the United States, emerged (a fact which the Supreme Court referred to). Chief Justice Gogoi (2019), joining two other Justices, on 10 April 2019 asserted the right to free press thus:

> [I]n long line of cases freedom of the press was recognized. . . . Documents in question were already published in *The Hindu*, and thus cannot be considered "privilege" of the government. Hence they are public documents. The RTI's objective and purpose was *. . . to promote transparency and accountability in the working of every public authority in order to strengthen the core constitutional values of a democratic republic. . . . The Act is meant to harmonise the conflicting interests of Government to preserve the confidentiality of sensitive information with the right of citizens to know the functioning of the governmental process in such a way as to preserve the paramountcy of the democratic ideal* (Emphasis in the original).

Some observers thought that the Rafale purchase would be Modi's Bofors, and that he would lose the general election in 2019. To provide a brief synopsis of the Bofors scandal, Congress Prime Minister Rajiv Gandhi in March 1986 signed a deal with a Swedish company, A. B. Bofors, for the purchase of 400 howitzer guns at a cost of ₹14 billion. In April, the Swedish Radio claimed that the company paid bribes to the tune of ₹60 million to several Indian politicians and defence personnel to secure the deal. Critics accused Rajiv Gandhi of taking part of the bribe himself and hiding it away in a secret Swedish bank account. The middleman involved in the deal (besides some Indians) was an Italian, Ottavio Quattrocchi, who was close to the Gandhi family (Chawla, 1997). Furthermore, Rajiv Gandhi's wife, Sonia Gandhi (current President of the Congress Party), is an Italian. Rajiv was exonerated in the case but lost the following election partly because of the Bofors scandal. He was assassinated in 1991. In 2002, the Delhi High Court quashed all charges pertaining to this issue, but the Supreme Court reinstated the case the following year.

Quattrocchi left India and was living in Argentina when the Central Bureau of Investigation (CBI) was looking for him. As India does not have an extradition treaty with Argentina, it is not surprising that the case filed by India in the Supreme Court of Argentina failed. Quattrocchi died in 2013 in Milan, Italy. As Modi was preparing for the general election in 2019, the CBI sought the Supreme Court's permission to continue its probe into the Bofors case. However, the CBI backtracked, and sought permission of the Supreme Court to withdraw its request later (Kumar, 2019). The case was reinstated by the Supreme Court (cited above) and is awaiting final resolution.

It is not useful to compare the Bofors and Rafale scandals for five reasons. First, money changed hands in case of Bofors, but not in the Rafale scandal. Second, then Prime Minister Rajiv Gandhi was implicated in the scandal but was exonerated later. By contrast, there is no evidence of Modi's involvement in corruption. Third, there were middlemen in the Bofors case, the most prominent being Quattrocchi from Italy. In case of Rafale, Prime Minister Modi alone was directly involved. Fourth, the then Minister for Defence resigned and challenged Prime Minister Rajiv Gandhi and won the next elections. However, in the case of Rafale, Defence Minister Parikkar was sent back to Goa as the Chief Minister. Finally, while Rajiv Gandhi lost the election and his Prime Ministership, the Rafale case did not cost anything

politically for Prime Minister Modi. Instead, he was re-elected in 2019 with a bigger majority than in 2014.

Jammu and Kashmir issue

To understand the Jammu and Kashmir (J&K) issue, it is necessary to provide the historical context. The British departure in 1947 resulted in the division of the subcontinent into India and Pakistan but also left many independent native rulers in India intact. "Whatever their political proclivities," wrote Collins and Lapierre (1978, p. 131) "the future of India's 565 ruling princes, with their average of 11 titles, 5.8 wives, 12.6 children, 9.2 elephants, 2.8 private railway cars, 3.4 Rolls-Royces and 22.9 tigers killed, posed a grave problem in the spring of 1947." These rulers were in time integrated into the Indian Union by Home Minister Vallabhai Patel, ably assisted by his Secretary, Menon (1961). Only the rulers of Junagadh, Hyderabad and J&K were contentious. Junagadh demurred initially, but offered no resistance. The Nizam of Hyderabad resisted but was subdued by the army.

J&K was a Muslim majority state ruled by a Hindu, Hari Singh, who refused to join the Indian Union and wanted to maintain his independent status. It was after Pathan tribal leaders from the Pakistani side invaded J&K that he beseeched India to protect him. Patel obliged on the condition that Hari Singh acceded to India. Hari Singh signed the Instrument of Accession on 17 October 1947. But by then, part of Kashmir was already occupied by the Pakistani side. A divided Kashmir, with one side occupied by Pakistan and the other controlled by India, remains a chronic problem between the two countries and has resulted in three wars.

After the J&K's accession, Article 370 was added on 17 October 1949 to confer special status and provide the State government with greater control over most of its own affairs. Article 35A was also added to enable the State to decide who its citizens would be, and who would be eligible for special rights on employment, acquisition of immovable property and other privileges. Since then, insurgencies have occurred with militants working to either gain independence or join Pakistan to protect the interests of Muslims. Consequently, several Hindu priests fled the State. Since 1990 there are 45,783 casualties, including 22,544 terrorists, 17,311 civilians and 5,926 security personnel (Chengappa, 2019, p. 30). To contain the insurgencies and maintain law and order, the Indian army, endowed with special powers under the Armed Forces Special Powers Act (AFSPA) 1958, made its presence felt prominently. The AFSPA empowers the Governor of a State to declare it a "disturbed area," and enables the Central Government to move armed forces and other security personnel who are allowed to conduct operations and arrest anyone without a warrant. Continued use of these powers became a major irritant to the natives.

For both the BJP, and its progenitor, the *Rashtriya Swayamsevak Sangh* (RSS), which subscribe to the concept of "*akhand Bharat*" (undivided India), a State with special status is anathema. Consequently, as the only majority Muslim State receiving favorable treatment in India, the existence of J&K is unacceptable to the BJP and RSS. The BJP did not hide its feelings, and vowed for a long time to remove Articles 370 and 35A from the Constitution to integrate J&K with the other Indian States. The general election manifesto of the BJP promised to do so. Nevertheless, the BJP entered into a coalition after 2014 with the Chief Minister Mehabooba Mufti of the People's Democratic Party in J&K. However, the coalition ended in June 2018. In November, former Chief Minister Mufti informed the Governor that she found enough allies to form a new coalition government. Governor Patel, a BJP appointee, dissolved the Assembly and claimed that he did not receive Mufti's message, and called for fresh elections. Experienced civil servants recommended that the election be held in June. The BJP leaders preferred the election to be held in November instead of June, claiming that the militants could hide in tall grass and disrupt the election. Prime Minister Modi and Home Minister Shah also claimed incorrectly that they were fulfilling Patel's desire (Thapar, 2019)

and used the powers invested in the President under the original Order of 1949 to abrogate Articles 370 and 35 on 5 August 2019.

Consequently, the State was bifurcated into J&K and Ladakh, and was designated as Union Territories (UTs), not separate States. Thus India now has 28 States and 9 UTs. This arrangement was formalized ironically on 31 October 2019, a day designated as "National Unity Day," which happened to be the birth anniversary of independent India's Home Minister Patel, who integrated the States into the Indian Union. New Lieutenant Governors were sworn in thus bringing the two new UTs under direct central government control. A total lockdown was declared. All communications were cut off, including the Internet, which had 4.5 million broadband users. Travel restrictions were also imposed, and more than seven million people were confined to their homes incommunicado. With the exception of the opposition parties and a few intellectuals, the majority of the nation seemed to have accepted with little criticism, even with some exultation, the decision of the government. International reactions were also muted, except for human rights activists.

When Rahul Gandhi, as President of the Congress Party, raised his voice against the abrogation of the Articles, the division of the State and the trauma of its citizens, the Governor of the State openly stated that he would be willing to send an airplane for Gandhi to come and see for himself how everything was peaceful and going well. Gandhi refused saying that he would rather have the freedom to travel and talk to the people, a request which was denied. When a group of opposition party leaders later went to see what was happening, they were detained at Srinagar airport (the airport hub for travel to Kashmir) and sent back.

Several political leaders, including Chief Minister Mufti and thousands of activists, were arrested, and held in secrecy. Those detained were 144 minors, including a nine year old (Mohammad, 2019, p. 3). Farooq Abdullah, former Chief Minister of J&K was among those detained, and has not been seen, or heard, since the 5 August abrogation. In May 2019, it was announced that he was detained under the Jammu and Kashmir Public Safety Act, which is akin to the Public Safety Act (PSA) applicable to the rest of India. Detainees under these Acts, purportedly to ensure public safety, do not have the same rights available for those normally arrested who can seek the reasons for arrest and apply for bail. Moreover, State Public Safety Boards would review, not the courts, the situation of those detained. These Boards are allowed 12 days to decide on the legitimacy of detention, and only if the government does not claim that public safety would not be endangered. Public safety is determined by what the government thinks it is. Such detentions may be extended for two years. Bora (2019, p. 6) documented that only 9% of detentions in J&K during 2016–2017 were upheld by the Boards, and as many as 81% were later thrown out by the courts on appeal, which shows how this power can be, and was, misused. Ironically, Abdullah was one of those who argued that J&K should remain as part of India. Several *habeas corpus* writ petitions are pending seeking Abdullah's presentation before the Supreme Court, just as the abrogation of the Articles is being challenged. Exasperated as it was, the Supreme Court chided the government on 17 September 2019 suggesting that they "restore normalcy" in Kashmir as soon as was possible. As the Internet has been disrupted for over 150 days, the Court on 13 January 2020 also said that such interruption could only be "temporary", and an indefinite closure is "impermissible". It did not seem to matter for the Modi government that its actions had resulted in denying the fundamental right of communication among citizens and the disruption in commerce and other economic activities.

As elections to the Block Development Councils were scheduled for 24 October 2019, the leaders of all political parties were released on 2 October, nine weeks after their detention. The elections were peaceful even though all the former Chief Ministers, Farooq Abdullah, Omar Abdullah and Mehbooba Mufi, remained in detention. Farooq Abdullah was released on 13 March 2020, nearly after seven months detention without any explanation. And those who

were released had to execute bonds promising that they would not comment on any of the recent developments, and would not take out any rallies for one year (*India Today*, 2019). Strangely enough, Home Minister Amit Shah, when asked what he could do to release the former Chief Ministers, feigned that the matter was not in his hands. The decision, he said, has to be made by the Army and Police who are holding them (as if they could do so on their own). He did not at least suggest that the law should take its course, however legal or illegal their detention. Previously he also observed that someday Article 370 might be restored adding to the lack of clarity in thinking on the issue. Noteworthy is the fact that just as their six-month preventive detention was to end on 13 February 2020, both Omar Abdullah and Mehbooba Mufti were rebooked under the more stringent PSA on 7 February 2020.

On 13 October, 71 days after the division of the State, phone services were restored, but with a caveat. Only those subscribers with postpaid accounts are operative, not the prepaid ones. And people began complaining that the phone servers had charged them even when they could not use the phones during the two months of blackout of all communications. Similarly, partial Internet service was restored to entities such as hospitals in January 2020.

Discussion

The above analysis of the two cases demonstrates a total disregard of established constitutional and legal norms in pursuit of partisan and ideological tenets of the BJP under the leadership of Prime Minister Modi. The case of the abrogation of Articles 370 and 35A with regards the State of J&K should not be surprising as the party's intentions were not a secret as reflected in its election manifesto. Indeed, Article 3 of the Indian Constitution provides the means for the "formulation of new States and alteration of areas, boundaries or names of existing States" by Parliament. However, it is stipulated that the State legislature's views must be sought before any such action is taken. In case of J&K no such consultation occurred. Neither the State population nor the Legislative Assembly was consulted. It was all a simple unilateral decision of the government which was put through the Parliament.

Regarding the Rafale jet fighter purchases, so far no information was released despite the several questions raised. It is agreed that in a democracy the government is answerable to the Parliament and the people at large for all its actions and inactions. Moreover, the voters have the right to know. The Right to Information Act guarantees this right. An informed citizenry is considered the *sine qua non* for an active democracy. There is the important principle of governmental accountability and transparency in government decisions is also expected. But all these principles are given short shrift. The Modi government has remained silent by invoking the argument of "national security."

Conclusion

The largest working democracy in the world, India, which is the main focus of this article, saw some shrill voices from the opposition parties, some media and a sprinkling of academics, but in general it was all taken in stride. Indeed, several challenges are moving through the courts. But both the Rafale and J&K issues seem to be *fait accompli*. However, lest anyone believes that there was a closure, the Supreme Court left the door open by saying that it would "not stand in the way" of the CBI, the lead anticorruption agency in India, if it wants to pursue the complainant's petition (subject of course to the permission of the government as the Prevention of Corruption Act requires for the CBI to deal with cases involving any senior official). It is safe to assume that the CBI would not pursue the matter further. The Supreme Court itself in the past characterized the CBI as a "caged parrot", working as a handmaiden of the incumbent regime (Tummala, 2013, p. 178). Nevertheless, it is clear that the Modi government has flouted almost all constitutional norms enumerated at the beginning of this

article and his actions have not hurt him politically, except for the loss of the State governments of Maharashtra and Jharkhand in the most recent elections.

Larry Diamond (2019, p. 28) identifies several criteria for sustaining a democracy: legitimacy, tolerance, trust, moderation, flexibility and compromise. He further quotes Sidney Hook who contends that democracy requires "an intelligent distrust of its leadership," including a hardy skepticism "of all demands for the enlargement of power, and an emphasis upon critical method in every phase of education and social life." Furthermore, "where skepticism is replaced by uncritical enthusiasm and the many-faceted deifications which our complex society makes possible, a fertile soil for dictatorship has been prepared." In a parliamentary democracy, it is not difficult to notice that a political party controlling a log-rolling majority can deteriorate into a party dictatorship. The transition from a single party dictatorship to that of a dictatorship of the leader is but a small step. India is not unfamiliar with this syndrome; Prime Minister Indira Gandhi declared an Emergency in India from 1975 to 1977. Levitsky and Ziblatt (2019) warn that democracies die when political parties fail to be the gatekeepers against demagogues and charlatans who undermine democratic institutions after assuming power.

Is constitutional democracy dying in India? Is India headed in the wrong direction? Not quite. What can be done? Walter Scheidel (2019) has recommended the "competitive fragmentation of power" at the local and State levels and let their leaders suggest solutions. However, India's first Prime Minister, Jawaharlal Nehru, thought that the village was nothing but a den of ignorance. However, if we lose faith in the general public, what else is left in, and for, a constitutional democracy? Guha (2017, p. 782) correctly points out that India can take pride in its democracy, at least when it comes to elections, which have been in general fair and corruption free, although with some occasional violence. And India has made great strides in terms of development of the country. Pondering over the future, Guha quotes a famous Bollywood comedian, Johnny Walker, who when asked what the prospects are, responds: "*Boss, phipty/phipty* [fifty-fifty]." We hope the percentage is a lot more.

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Sontaku and political scandals in Japan

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Abstract

Purpose – The purpose of this paper is to explain a new scandal ingredient in Japanese politics called *sontaku*. This word refers to cases when officials grant special treatment to a project because they believe they are acting in accordance with the wishes of an associated powerful person.

Design/methodology/approach – This paper describes the specific construction of major scandals involving *sontaku* from 2017 based primarily on newspaper accounts, examines the consequences of these scandals for politicians and bureaucrats, and discusses their implications for combating corruption in Japan.

Findings – The scandals after 2017 damaged to some extent the public support for the current Japanese administration and influenced the prime minister's decision to call a snap election. The scandals also highlighted systematic problems in the bureaucracy and motivated the government to reform laws concerning the management of public documents.

Originality/value – This paper will be useful to scholars and policy makers interested in studying the causes and consequences of scandals and political corruption in Japan.

Keywords Political scandals, *sontaku,* Japan, Shinzō Abe, Liberal Democratic Party

Paper type Research paper

Introduction

The current Liberal Democratic Party (LDP) government under Prime Minister Shinzō Abe has experienced a considerable number of scandals since coming to power in 2012. The most significant scandals involve two school operators and a new scandal ingredient in Japanese politics called *sontaku*. Previously an obscure word, *sontaku* refers to cases when officials grant special treatment to some project because it is associated with a powerful person such as a prime minister. Officials are influenced by the belief that the powerful person will be displeased if they fail to do what they think the powerful person wants. The word *sontaku* surfaced when it was used by the school director of Moritomo Gakuen and soon became one of Japan's most important "buzzwords" of the year (*Kyodo*, 2017). Whether or not Abe or his wife made specific requests on behalf of either school operator or whether bureaucrats made decisions because they believed they were acting in accordance with the wishes of the prime minister's office became a major source of controversy.

This article examines two major scandals involving *sontaku* that have affected the Abe administration after 2017. *Sontaku* is a universal phenomenon linked to the exercise of political power but was not linked to political scandals until 2017. It became an important buzzword after a controversy over the sale of government-owned land to a school operator. Critics of the Abe administration began to use the term to criticize the government and bureaucracy, without direct evidence of misdeeds or corruption. These scandals contributed to some loss of public support for the Abe cabinet and influenced Abe's decision to call a snap election in 2017. The scandals also highlighted systematic problems in the bureaucracy and in the government's management of public documents.

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The article consists of three sections. The first section discusses scandals in Japanese politics and analyses the meaning of *sontaku* to provide the context for how the scandals after 2017 emerged. The second section analyses two major scandals involving the Abe administration after 2017. Newspaper accounts are used to explain the origins of these scandals and the roles played by the main actors. The final section examines the consequences of these scandals for politicians and bureaucrats, and it discusses efforts to change some of the mechanisms underlying the management of public documents.

Scandals, *sontaku* and the Abe administration

The Japanese government has experienced many scandals since the passage of political reforms in 1994. The reform bill, passed by Japan's non-LDP coalition government after the LDP lost power, introduced a new mixed-member election system for the lower house featuring single member districts and proportional representation. The election system practically eliminated intra-party competition, which was linked to candidate-centred campaigns and money politics. With its emphasis on single-member districts, the system also stimulated two-party competition and led to two switches in power. The functioning of this two-party system played an important role in generating major scandals that affected the fortunes of ruling parties in the 2009 and 2012 elections. The reforms also created a new public subsidy system for political parties and implemented stricter campaign finance regulations. The reforms enhanced transparency particularly with the stricter disclosure rules linked to political finance, which made it easier for the opposition parties and the press to construct scandals.

Scandals are socially constructed phenomena created among different political actors that provide an unsystematic glimpse into the issue of political corruption. In a major study of scandals based on the United States and Britain, Thompson (2000, p. 13) defines scandals as actions or events that involve the transgression of certain norms or values that become known to others and often elicit a public response. It provides a useful theoretical classification of scandals as falling into three major types as follows: sex, money and power. Kerby and Chari (2002) propose a fourth type of scandal called the policy scandal, which relates the cause of the scandal to an event or failure related to policy. In Japanese politics, major policy failure scandals became a more frequent form of political scandal after the political reform (Carlson, 2017). A major cause of policy failure scandals is linked to bureaucratic practices and the behaviour of bureaucrats.

In defining scandals, it is also important to distinguish between the substantive and procedural. The initial transgression of norms or values represents the substantive scandal that captures the initial public attention. The procedural scandal refers to those "second level actions" to cover up the scandal (Lowi, 1988, p. viii). In many scandals, the initial focus of attention is often overshadowed by efforts to conceal the offence. In the Moritomo Gakuen scandal discussed below, the Ministry of Finance was implicated much later in a systematic effort to alter public documents and protect the Abe administration from embarrassment.

For a transgression to elicit a public response, the mass media is the key institution. Compared to authoritarian countries, the media in established democracies have more leeway in reporting on specific actions or events that may help precipitate a scandal (Thompson, 2000). In post-war Japan, the media played a proactive role in exposing corrupt behaviour in the 1960s but was reduced to a more passive and reactive role in the 1970s after the LDP had established political dominance (Carlson and Reed, 2018a; Farley, 1996). The media once again began to play a more proactive role after the 1990s after various political reforms as well as significant changes in the party system. In the *sontaku*-based scandals discussed in this paper, mainstream newspapers such as *Asahi* played pivotal roles in uncovering and publicizing scandalous and corrupt behaviour in the political system. However, as will be

discussed below, the media helped create *sontaku* as a "new" scandal ingredient, which by itself was not necessarily scandalous or corrupt.

Scandal is often associated with corruption, but the two words are quite different. Most corruptions happen without becoming public knowledge. Scandals only provide an unsystematic glimpse into corruption, and thus they must be used with considerable caution when assessing the nature of corruption in any given country. There are also scandals that do not involve corruption. Those that focus on incompetence or carelessness might not fit the common definition of corruption as the abuse of public office for private gain. Many scandals generate efforts to cover up the transgression; so scandals that began as a public response to the violation of some norms may quickly involve other transgressions, including those that might be labelled corrupt.

The current Abe government came to power after the 2012 election and has experienced scandals of various stripes. Many of the scandals involve cabinet ministers doing or saying something inappropriate. Two prominent female cabinet ministers, for example, were forced to resign in 2014 after reports surfaced that they distributed gifts to voters or failed to keep accurate financial records of their interactions with constituents. Prime Minister Abe managed the fallout by dismissing both ministers quickly on the same day. This prevented either scandal from seriously damaging the LDP or cabinet support. Abe was not always successful in this regard. He was also criticized for appointing friends and ideological allies to the cabinet with some of them causing problems (Carlson and Reed, 2018a). Besides the "bad" behaviour of cabinet ministers, the Abe administration also confronted problems linked to Japan's small but powerful bureaucracy in areas such as the administration of the pension system (Carlson and Reed, 2018a).

Sontaku: a new scandal ingredient

Sontaku is not a new concept to politics and is detailed in earlier research on the issue of responsibility in government. One way to translate *sontaku* is the notion of "anticipated reactions," described in the research by political theorist Carl Friedrich (1960, 1963) [1]. Writing about the dilemma of administrative responsibility, Friedrich (1960) links responsible conduct as being closely related to the problems of authority. When A is responsible to B, it is assumed that B has given A discretion to decide upon B's behalf in accordance with what the situation requires. Understanding what the situation requires is difficult and this is where the personal aspect of responsibility plays an important role. The personal perspective is related to what B desires or prefers. B may give explicit orders or suggestions, or A may anticipate what B wants. This personal aspect of administrative responsibility focusing on the anticipated reactions by those who are influenced by a superior speaks directly to discussions over the role of *sontaku* in recent Japanese scandals.

The word *sontaku* surfaced when the head director of Moritomo Gakuen, Yasunori Kagoike, was speaking at the Foreign Correspondents' Club of Japan in Tokyo. He was asked by a reporter from the *New York Times* whether he was accusing Prime Minister Abe of giving him favourable treatment with the discounted land. The questions and answers were simultaneously translated live in English and Japanese, and there was immediate confusion on how to translate *sontaku* in English. When pressed further, Kagoike clarified that he did not think there was direct influence by the prime minister, but the translator became confused on who was doing the *sontaku*, initially saying that it was Abe or his wife who were "reading between the lines" before being interrupted by several persons in the room. After pressing Kagoike for more details, it became clear that he did not believe that Abe or his wife were directly involved in the influence but rather the people around them – specifically several bureaucrats in the Ministry of Finance (Kagoike, 2017).

As elaborated in Friedrich's 1960 article, the personal role of administrative responsibility can be anticipated by others and does not require a superior to give orders. When the word

sontaku surfaced at the press conference, it helped build a scandal based on the allegations that *sontaku* took place. Abe was implicated in the scandal even if he was not directly involved. He was put in a difficult position in having to "prove" that he never did or said anything. The more he denied involvement, the more it looked like the government had something to hide. The scandal contributed to a significant decrease in public support for the Abe cabinet. The word *sontaku* further captured public attention and stimulated efforts by opposition lawmakers and journalists to find additional examples. Although the personal aspects that surface in administrative affairs are universal, why did *sontaku* become a new scandal ingredient for the Abe administration and not earlier?

Sontaku and the strengthening of prime ministerial powers

The 1994 reforms mentioned above had important impacts on Japanese politics, including scandal creation, but another important trend is the strengthening of prime ministerial powers that began in the 1990s. The scandals involving *sontaku* are closely related to debates over the powers exercised by the Abe administration. Scholars have detailed the institutional changes that have contributed to increasing powers of the prime minister as well as how Abe has become more skilled in using his power base after 2012 (Mulgan, 2018; Shinoda, 2004; Takenaka, 2006; Makihara, 2016; Nakakita, 2017). This line of enquiry cannot be used to fully explain unsystematic data based on scandals, but it provides useful context in making sense of the *sontaku*-linked scandals involving Abe.

The strengthening of the powers of the prime minister which began before Abe has also been increased further since the launch of the Abe administration in 2012. In 2014, for example, the Cabinet Bureau of Personnel Affairs was created. The structure was designed to give power to the prime minister and the chief cabinet secretary in overseeing appointments of hundreds of top bureaucrats. These appointments had previously been the responsibility of individual ministries and agencies. While the powers of the Abe administration over the bureaucracy have expanded in many ways, Abe himself is also more experienced in wielding his own political power. In the school operator scandals, Abe was criticized for favouring his friends and for essentially wielding power even if there was no conclusive evidence that he gave instructions or said anything, which is not required for the wielder of power for *sontaku* to happen. The increasing powers of the prime minister, as well as Abe's ability to wield power, seem to have played some role in heightening public scrutiny and criticisms of the government.

The rise of the *sontaku*-linked scandals overlaps with some of the structural changes in the powers of the prime minister's office and Abe himself. The creation of the Cabinet Bureau of Personnel Affairs is encouraging bureaucrats to look to the prime minister and chief cabinet secretary instead of their ministries and is increasing the importance of the connections between the two. The creation of scandals based on *sontaku* did not need to uncover persuasive evidence that Abe or his wife was involved in favouring the school operators. The scandals damaged the standing of the Abe cabinet because of the appearance of misdeeds or public dissatisfaction with the government's handling and explanations of the various incidents.

The strengthening of the powers of the prime minister is also connected to party structure as well as the freedom of the press. Prior to ascending power in 2009, the Democratic Party of Japan (DPJ) had some success in obtaining damaging information from the bureaucracy on the LDP. After the collapse of the DPJ, the party system has lacked a single, strong and effective opposition party to hold the LDP in line and check corrupt behaviour. Within the LDP, there is also no anti-Abe faction or force criticizing Abe (Mulgan, 2016). While the mass media is the most critical institution in exposing corrupt deeds, there are many examples of Abe and the LDP taking an aggressive stance against the mass media, which many believe is weakening press freedom and its ability to investigate and criticize the government

(Nakano, 2016; Fackler, 2016). Some observers in Japan, however, have blamed the mass media, particularly the *Asahi*, for unfairly targeting Abe and portraying him as guilty in the scandals detailed below (Ogawa, 2017).

The *sontaku*-based scandals

Scandals are, of course, socially constructed events; so, it is difficult to pinpoint their underlying causes (Sherman, 1989). Each scandal event is unique, and the causes of one scandal cannot be easily generalized to another scandal. Scandals involve complex interactions, responses and reactions from different political actors. Sometimes small idiosyncratic events shape the progression of the controversy in ways that were not anticipated or predictable. In one of the scandals detailed below, for example, the exposure of bureaucratic corruption by politicians leads to payback when a fired bureaucrat criticizes the Abe administration. Efforts to cover up original transgressions can further give rise to procedural scandals that can be equally or more consequential to the various actors involved.

Moritomo Gakuen scandal (2017)

Hiroshi Moritomo created a kindergarten in Osaka in 1950, and in 1971 he set up a legally recognized educational institution named after himself. His daughter Junko was actively involved and her husband, Yasunori Kagoike, took over as the head director upon Moritomo's death in 1995. Part of the educational mission of the kindergarten was to instill patriotism and pre-war ideals into its students, a cause which found support within the Abe government and made it conducive to a friendship between Junko and Abe's wife, Akie (Carlson and Reed, 2018b). When Moritomo Gakuen decided to expand and build an elementary school, they used their personal connections as well as questionable methods to obtain the financial means necessary to begin construction. Their plans proceeded smoothly for years until local politicians and journalists began to raise serious concerns.

The sale of state-owned land to the school initially caught the attention of local politicians in Osaka, who repeatedly asked to view the documents (*Asahi*, 2017a). The media then began to play an active role in getting to the bottom of the story. When reporters discovered that the prime minister's wife was listed on the organization's website as an honorary principal of the planned elementary school and had also publicly supported its mission in the past, public interest in the controversy even generated major world headlines (Soble, 2017). After the *Asahi* and other media outlets began applying considerable pressure, the authorities involved in the land transaction agreed to release some of the documents, which made it possible to confirm whether there was more to this scandal besides the personal connections and *sontaku* (*Asahi*, 2017b).

The documents revealed that Moritomo Gakuen had originally applied to buy the land from the Finance Ministry's Kinki bureau but signed a 10-year lease with the option of buying the land in the future because it lacked the funds. The most stunning discovery was the fact that Moritomo bought the land for only 134 million yens when it was appraised at 956 million yen. Apparently, Moritomo managed to obtain the discount after industrial waste was discovered on the building site, and the bureau agreed to reduce the cost (*Mainichi*, 2017a). The media asked whether politicians had intervened in the process and questioned whether Abe or Abe's wife played some role in Moritomo's purchase of government-owned land. In the absence of clear facts, reporters both in Japan and abroad reported on sensational or embarrassing details about Moritomo Gakuen, its ultra-conservative educational philosophy and its original plan to name its elementary school after Prime Minister Abe.

In a major effort to defuse the scandal, Abe himself came out with a forceful denial and promised to "resign as prime minister" if he was directly involved in Moritomo's purchase of

land (*Yomiuri*, 2017a). He claimed to know nothing about the curricula of Moritomo Gakuen and argued that the school had used his name without his permission. He also defended his wife, stating that she resigned as honorary principal and had not inappropriately influenced the land deal. Repeated efforts by the media and opposition parties to obtain the release of more administrative documents went nowhere. The Finance Ministry and the local administrators involved in the sale of the land discarded key documents in accordance with the existing laws on the storage and handling of government documents.

As concerns over a cover-up spread, the media focussed their efforts on investigating the roles of specific politicians that might have helped Moritomo Gakuen. One of the major names to surface was Ichirō Matsui, governor of Osaka prefecture. Matsui denied any involvement in the land purchase and was now threatening to reverse the decision to allow Moritomo's new school to open in that April (*Nihon Keizai*, 2017). In a significant document release that proved damaging to Moritomo Gakuen, Matsui and the Osaka prefectural government opened its books on some of the paperwork related to the land sale. These documents were damaging because they showed that Moritomo was presenting different estimates for its construction costs. The estimates given to the land ministry were much larger than the amounts agreed upon with the construction company (*Asahi*, 2017c). The amount presented to the Osaka prefecture, however, was considerably lower. The paperwork suggested that Moritomo was trying to inflate the costs with the land ministry to obtain a larger subsidy but was using the low estimates to show the prefectural government that it could afford the terms of the purchase.

The damaging documents and denials of involvement from the political world put Moritomo's director Kagoike and his wife under intense scrutiny. He blamed the company he used for the discrepancies in the paperwork and made efforts to amend some of the conflicting estimates. Kagoike's wife and Abe's wife exchanged emails during this time, which Kagoike made public and cited as evidence that there was a political effort underway to silence him. There was little Kagoike could do to manage the fact that investigators were already building a criminal case against him and his wife. Moreover, it was now clear that the Osaka government led by Matsui was going to cancel the permit to allow the new school to open. Legal troubles further mounted as construction companies sued over unpaid invoices (*Mainichi*, 2017b) and as former kindergarten parents filed various lawsuits in the Osaka District Court (*Yomiuri*, 2017b). Moritomo Gakuen had little choice but to return the land and subsidy, withdraw its application and transfer its director position to Kagoike's daughter (*Asahi*, 2017d).

The ruling LDP relented in its efforts to prevent opposition parties from summoning Kagoike as a sworn witness, which paved the way for him to testify in parliament. Kagoike largely stuck to some of his previous comments, including his claim that Prime Minister Abe donated one million yens to his organization via his wife. He was unable to provide a receipt or smoking gun evidence to substantiate his story. Kagoike revealed a fax received from the aide of Abe's wife about his inquiry about extending the lease for the land with the ministry, but Abe and his wife denied any direct involvement or donating money to the school (*Asahi*, 2017e). Later the same day, Kagoike spoke at the Foreign Correspondents' Club of Japan in Tokyo and used the word *sontaku* several times (Kagoike, 2017).

After Kagoike's testimony and public appearances, the opposition parties pressed the LDP to allow others to testify before the parliament. They called on finance ministry bureaucrats and Abe's wife to testify. The ministry distanced itself from various inquiries by claiming that the Board of Audit would investigate details of the land purchase. The LDP refused to let Abe's wife testify because they claimed there was no evidence that she was involved in any sort of crime (*Asahi*, 2017e). With the avenues blocked for additional testimony, focus shifted back to the legal system and on a second school operator scandal detailed below. While politicians and bureaucrats managed to escape severe consequences,

Kagoike and his wife were in serious legal trouble. The Osaka prefectural and city government had filed formal complaints against them. The special investigation squad from the Osaka District Public Prosecutors Office then arrested and put them on trial for subsidy fraud [2].

Kake Gakuen scandal (2017)

A second scandal over a different school operator emerged in 2017 that featured Prime Minister Abe and his close friend Kōtarō Kake. They met while studying in the United States and played golf regularly. Kake Gakuen was established in 1961 and today operates three universities, a high school, a junior high school, two vocational schools and a kindergarten. In line with the Abe government's plan to establish National Strategic Special Zones (*Kokka Senryaku Tokku*), the Cabinet Office solicited applications to establish a new faculty of veterinary medicine. The government then granted approval for the new faculty to be built in Ehime prefecture and affiliated with the Okayama University of Science, which is part of Kake Gakuen. These facts raised eyebrows. Despite Abe's repeated denials, the opposition repeatedly asked whether Abe was extending his friend a favour and whether the application was discussed on the golf course.

The scandal erupted after a leak of internal Ministry of Education documents first published in the *Asahi*. A government watchdog panel had previously blamed the ministry for helping senior officials find post-retirement jobs. The ministry's top official, Kihei Maekawa, was forced to resign to take responsibility for his ministry and his own actions. The leak could be viewed as a form of political retribution, with bureaucrats exposing political corruption because politicians had exposed bureaucratic corruption. The leaked papers detailed the exchanges between the Cabinet Office and the ministry regarding Kake Gakuen's project. The most stunning detail from the papers is the mention of the "prime minister's intention" to expedite the approval for the project. The government responded by suggesting that the leaked documents were not authentic. It ordered a search of the ministry to establish the truth but claimed that the documents in question could not be found.

Shortly after the documents leaked, the *Yomiuri* decided to publish a story about how former ministry bureaucrat Kihei Maekawa had been a regular customer at a dating bar (*Yomiuri*, 2017c). It was unusual for a mainstream newspaper to report on such personal details, but presumably the *Yomiuri* viewed Maekawa as a central character in the Kake Gakuen scandal. The newspaper's decision to publish the story forced Maekawa to speak publicly for the first time. He explained that he had visited the bar in question but nothing "improper" took place. Most important, Maekawa went on record claiming that the leaked documents from his ministry were authentic (*Asahi*, 2017f). He effectively shifted the headlines away from a personal scandal to a former top bureaucrat publicly criticizing the Cabinet Office and the political pressure placed on the ministry to approve the project.

Opposition parties demanded that the LDP allows Maekawa to give sworn testimony in parliament, but the chief cabinet secretary and the minister of education refused, claiming the documents lacked credibility or did not exist. This position, however, became untenable when the DPJ managed to find a copy of an email message showing that some of the leaked material had previously been sent to senior education ministers. Nearly every major media organization had conducted their own probes into the leaked papers and concluded that the documents were authentic. The LDP reversed itself and ordered the education minister to look for copies of the leaked documents (*Asahi*, 2017g). After a brief search, the Ministry of Education claimed to have located digital copies for some of the documents. To critics, the contents suggest that the government may have favoured Kake Gakuen before ministry officials had even reviewed its application. However, those named in the documents claim that the notes and recollection of past events are inaccurate or fabricated (*Asahi*, 2017h).

The LDP relented and allowed Maekawa and other witnesses to give unsworn testimony during a special parliamentary session. With the nation watching, Maekawa iterated that Abe's office had intervened in the administrative decision to approve the department. He claimed that the government had changed the requirements to make it easier to select Kake Gakuen over another competing university. The ruling coalition summoned its own witnesses to discredit Maekawa's testimony. One of the members who approved the bid for the new department, for example, dismissed Maekawa's claims as outright lies. Maekawa and other critics of the Abe administration cast serious doubt on the government denials but were unable to uncover damaging evidence. The minister of education gave the final green light for the new veterinary school to open its doors in April 2019.

Ministry of Finance and the Altered Documents scandal (2018)

Almost a year after the Moritomo Gakuen scandal first surfaced, the *Asahi* uncovered a more serious case of political corruption that implicated the bureaucracy in a cover-up linked to the Abe administration. The newspaper reported that the Ministry of Finance may have altered some of the original documents given to lawmakers related to the sale of state-owned land for the construction of the elementary school. These documents had been altered sometime after February 2017 in an act that called into question the entire policy-making process and raised serious concerns whether Abe or the prime minister's office was involved. The efforts to cover up within the bureaucracy generated a major procedural scandal that implicated the Ministry of Finance and tainted the Abe administration.

The *Asahi* discovered dozens of deletions across a total of 14 documents. Whoever made the changes purposely and systematically removed any mention or hints of political involvement in the land transaction. This included deleting any embarrassing mentions of Abe or Abe's wife. In one of the original documents, for example, Abe's wife was cited as having praised the ultra-conservative mission of the school, but in the altered document given to lawmakers, this part was stricken from a document that was supposed to have already been finalized. Apparently, whoever cleaned up the records also took the time to purge the names of four additional LDP politicians whose names surfaced in the land deal as if the Finance Ministry was covering up for the prime minister's office and the ruling party.

The document controversy shook the political establishment and led to a flurry of speculation about the intended reasons for the alterations. One obvious concern was whether political pressure had been exerted upon the ministry officials by politicians. The *Mainichi* (2018a) suggested that the documents were "doctored" to support the points made by Nobuhisa Sagawa, the former head of the Ministry's Financial Bureau. Sagawa was the senior finance ministry official who had testified before parliament after the Moritomo scandal surfaced. Sagawa proved to be the government's star witness because he strongly supported the government's position that Abe and his wife were not directly involved in the sale of discounted land. After Sagawa's testimony, he was promoted to the head of the National Tax Agency, which some saw as a reward for defending the government.

The discovery of the altered documents coincided with the suicide of a local finance ministry official in Osaka, which did little to alleviate public concerns about what the government did or knew at this point. While the government cautioned that the reasons why the official took his life are difficult to fathom, the man left a note saying he had been involved in the doctoring of the land records under the orders of his superiors from the finance ministry in Tokyo (*Mainichi*, 2018b). Sagawa, the former head of the financial bureau, saw the writing on the wall, resigned from his new government position and apologized for causing "confusion." After launching an internal probe, the Ministry of Finance admitted that nearly 200 alterations had occurred. The finance minister apologized, volunteered to return some of his salary and announced that around 20 officials will face some sort of punishment such as

salary cuts. The probe also pinned much of the blame on Sagawa and admitted that others made the alterations to match the responses he gave to opposition lawmakers in parliament.

The opposition insisted on calling Sagawa as a sworn witness and boycotted diet sessions in protest until the LDP and its coalition partner agreed. When Sagawa testified, he denied that Abe or the prime minister's office played any role in the altering of the documents. Because he was under criminal investigation, he refused to answer questions about the specific circumstances by which the documents were changed. Prosecutors considered charging Sagawa and other bureaucrats with crimes such as forgery or breach of trust, but the evidence was not strong enough to indict. There was also probably little political will to hold them accountable, particularly when the bureaucrats were trying to cover up the original transgressions related to the school operator.

Consequences of the scandals

To say more about the impact of the scandals on public perceptions, it is useful to briefly examine the approval and disapproval rates of the Abe cabinet from polls taken by *Kyodo* News Agency. The support rate for the Abe cabinet has been quite high as shown in Figure 1 with the disapproval rate surpassing the approval rate primarily during only three major periods. The first period is from July to September 2015 when security-related bills were debated in the parliament. These debates generated considerable controversy and led to large public demonstrations and even physical confrontations inside the parliament.

The second period of increasing disapproval was from July to September 2017. This was the period just prior to the 2017 election when the government was confronting the school scandals. When the Moritomo Gakuen controversy first surfaced, the approval rating remained above 50% and did not drop below this percentage for several months. Initially, the public did not blame the Abe cabinet for the incident. The disapproval rating, however, exceeded the approval rating several times after the media began to focus intensely on the Kake Gakuen controversy.

The third major period when disapproval was higher than approval is from March to May 2018. This time period coincides with the altered documents scandal described above that involved serious misdeeds by bureaucrats [3]. After this period, however, the approval rate has exceeded disapproval except for two polls; the most recent was in December 2019, a

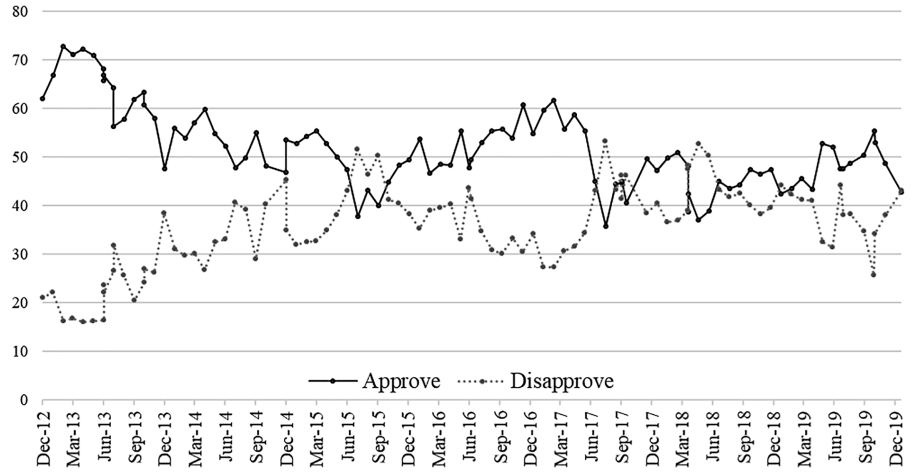

Figure 1.
Support rating for Abe cabinet, Dec. 2012–Dec. 2019 (*Kyodo* poll)

period coinciding with the emergence of the cherry blossom viewing party scandal that is mentioned briefly below.

Bureaucrats were involved heavily in the scandals detailed above, and there was evidence of bureaucratic misdeeds such as the doctoring of public records. The consequences of the scandals for the bureaucracies involved, however, mostly focused on punishing the "bad" bureaucrats. Politicians pinned a considerable amount of blame on Sagawa, a former top head of the Finance Ministry, who ultimately lost his job. Many of the other bureaucrats caught up in the scandals were helping to protect the Abe administration. Only some faced a token form of punishment such as salary cuts. The legal system is not active in prosecuting any of the major bureaucrats in the scandals, including Sagawa.

Japan is among the few Asian countries which lacks a dedicated anti-corruption agency, and its public prosecutor's offices mainly react to major corruption scandals (Quah, 2015). In the document alteration scandal, prosecutors decided not to charge any bureaucrats with crimes. The government, however, relied on a traditional response for preventing corruption, which is the implementation of various preventative measures targeting public servants (Oyamada, 2015). One of the most important areas of reform to emerge from the scandals between 2017 and 2019 are the rules and regulations regarding the management of public documents.

The scandals revealed systemic problems and the importance of creating a more unified system and changing the incentives of government officials. The Public Records and Archives Management Act implemented in 2011 requires the government to preserve public documents as an intellectual resource for independent use by citizens. In 2018, the Abe cabinet solicited proposals for reforms from a working group representing the coalition government (*Yomiuri*, 2018). It decided to adopt some of these measures such as upgrading the post of inspector general, requiring the preservation of administrative documents for more than one year, improving training programmes for bureaucrats and imposing stricter punishment for malicious acts such as tampering. It rejected other reform proposals to expand the scope of public documents to include such things as memos or strengthen the penal code in ways that would make it easier to prosecute bureaucrats such as former finance minister Sagawa. Recent scandals in 2019 and 2020 have revealed widespread concerns about the destruction of public records and have spurred calls for subsequent reforms [4].

The scandals above helped focus attention on the universal phenomenon of *sontaku* but only revealed a small glimpse into the dark corners of Japanese politics. Already, new scandals at the end of 2019 and in 2020 suggest that media focus is moving back to a more common scandal ingredient in Japanese politics, the often troubled relationship between money and Japanese politics. Since the early 1950s the government has held a tax-funded cherry tree blossom viewing party at a park in Tokyo to recognize citizens with significant accomplishments. The Japanese Communist Party proved to be the key in generating a major scandal implicating the Abe government as well as Abe himself. On top of this, Tokyo prosecutors arrested the then LDP member Akimoto Tsukasa over allegations that he accepted illegal funds from a Chinese gambling firm. At the time, Akimoto was an LDP member in charge of overseeing issues related to integrated casino resort projects in Japan, which is a critical long-term pillar of Abe's policies for revitalizing Japan's economy. These "new" scandals borrow upon *sontaku* themes such as political favouritism, government secrecy and cover-up, as well as the misuse of funds. The political and bureaucratic consequences of these scandals for the Abe administration will not be known for some time.

Notes

1. The author wishes to thank Michio Muramatsu and Steven R. Reed for this insight. This article builds upon an earlier effort by Carlson and Reed (2018b). The author also wishes to thank Jon Quah and the reviewers of this manuscript for their many suggestions.

2. They were found guilty at the Osaka District Court in February 2020. Kagoike received a five-year prison sentence.
3. This time period also importantly coincides with a minor scandal that erupted in April 2019 when deputy land minister Tsukada Ichirō boasted that he had used *sontaku* in influencing the allocation for funds for a highway project. His comments were troublesome for the government because the highway would be built in the prefectures of Prime Minister Abe as well as Finance Minister Tarō Asō.
4. In the cherry blossom viewing party scandal that emerged in 2019, for example, the opposition parties requested the guest lists of those who attended the party from the Cabinet Office for documents which they deemed to be important government records. To their dismay, the Cabinet Office shredded the guest lists on a gigantic shredder and further denied requests to locate digital copies, which apparently are not considered official government documents.

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Comparative corruption scandals in Macau: the cases of Ao Man-long and Ho Chio-meng

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Abstract

Purpose – This paper aims at comparing and contrasting the Ao Man-long scandal with the Ho Chio-meng case in Macau, drawing lessons from the two events and casting lights on the literature on corruption scandals.
Design/methodology/approach – The study used documentary research and interpretative and analytical approaches.
Findings – The two cases show considerable administrative discretion on the part of the principal officials involved, and remedial measures along the line of having more rigorous and frequent internal auditing may be necessary.
Originality/value – Original analyses were conducted together with literature review and documentary research. This paper would be of interest to scholars and practitioners concerned with how Macau combats corruption.

Keywords Corruption scandals, Macau, Public maladministration, Auditing, Administrative discretion
Paper type Research paper

Introduction

Since the return of its administrative right and sovereignty from Portugal to the People's Republic of China (PRC) on 20 December 1999, the Macau Special Administrative Region (MSAR) has witnessed two major corruption scandals – the Ao Man-long case and the Ho Chio-meng case. Ao Man-long, a former Secretary of Public Works and Transport, was arrested in December 2006 and found guilty in 2008 for taking bribes, money laundering and abusing his power. Ao was sentenced by the court to 27 years of imprisonment, fined MOP240,000 (US$29,838), and his corrupt proceeds were confiscated (Meneses, 2019). Ho Chio-meng was a former Prosecutor-General of the MSAR government and was sentenced to 21 years of imprisonment in July 2017 for fraud, money laundering, abuse of power and criminal association (*Plataforma Macau*, 2019). These two scandals reflect the prominent political corruption of Macau's principal officials. This paper compares and contrasts these two corruption scandals to contribute to the literature on combating corruption in Macau.

Dynamics of corruption scandals

According to Nathaniel Leff, corruption was seen as an "extra-legal institution" utilized by individuals and groups to "gain influence over the actions of the bureaucracy" (Heidenheimer, 1970, p. 3). There are three major types of definitions of corruption: the public office-centred definition that refers to the misuse of governmental authority for private and personal gains; the market-centred definition that makes corrupt officials see their office as a tool for maximizing their income through the market demands and circumstances; and the

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public-interest definition that refers to corrupt acts as detrimental to the public interest (Heidenheimer, 1970, pp. 4-6). These definitions of corruption are useful for analysing the two corruption scandals in Macau.

An insightful work on the association between corruption and modernization was written by the late Samuel Huntington (1968). He argued that modernization contributed to corrupt acts through the process of creating new opportunities of power and wealth. Moreover, modernization could facilitate corruption because of the expansion of government authority, regulations and activities. The increase in laws might also enhance the likelihood of corrupt acts. Corruption reflects the existence of weak political institutions in which checks and balances are lacking. Those politicians who gain access to political power tend to enjoy more opportunities of access to economic wealth. If absolute power corrupts absolutely, as Lord Acton said, the easier the access to political power and economic wealth, the stronger the likelihood of corruption.

For Huntington, the existence of grand corruption mirrored a very low level of political institutionalization, because the top political institutions, which should ideally be independent of outside influences, were most susceptible to corrupt influences (Huntington, 1968, p. 67). The low level of political institutionalization embraces the existence of a relatively weak anti-corruption apparatus, the lack of anti-money laundering regulations, and the absence of effective checks and balances on the power and arbitrary action of government officials and political leaders. However, Huntington noted that corruption did not necessarily lead to political instability, especially when a society had vertical or upward mobility. However, the lack of upward mobility could exacerbate the harmful impacts of corruption on political instability.

Corruption can also be attributable to the persistence of a "patrimonial bureaucracy" in which public officials attached importance to their parochial interests, cultivated friends and followers, and benefited their own circle of supporters rather than integrating the entire society (Hoselitz, 1970). Jeremy Boissevain (1970) referred to this phenomenon as patronage politics where the rights and obligations of individuals were tied to their families, villages and personal networks. In short, corruption is attributable not only to individual greed but also weak political institutions, strong patronage politics and enduring personal networks.

Corruption scandals occur in many ways. First, most corruption scandals are triggered by competition among government actors because insiders can leak damaging information about other competing political actors as part of the intra-elite struggle for power and resources (Balan, 2011). Denouncers and whistle-blowers are usually government insiders. Hence, unlike usual causes that highlight the role of political opposition, societal groups, and the media in denouncing and exposing corruption, intra-elite conflicts can bring about the exposure of corruption scandals. Second, corruption scandals can suddenly come out as a "cluster" in which political opposition and the mass media reveal the dirty side of the political arena. According to Barrett and Zirker (2016, p. 231):

> Corruption scandals tend to be centrally linked with extensive news media coverage. They also tend to shed a very different light on the political arena than do individual scandals in terms of their impact on the erosion of values, and on casting doubt upon the viability of institutions, while confirming in their repetition the reality of problems in moral, institutional, and political leadership. This contrasts sharply with the portrayal of individual, isolated scandals, which are often seen as rallying efforts in favour of bringing simple solutions to occasional shortcomings of the system.

Third, corruption scandals take place when institutions evolve naturally and when they need to undertake reforms (Zurnic, 2014, p. 186). As Huntington had long emphasized, corruption was due to the lack of political institutionalization. If so, corruption scandals are exposed because of the degeneration and deficiencies of the political institutions. After corruption scandals are reported in the mass media, political institutions and administrative procedures

require to be reformed so that these scandals would hopefully and ideally be avoided in the future.

In a nutshell, the occurrence of corruption scandals can be attributed to the intra-elite conflicts and intra-governmental competition, the natural development in the lack of political institutionalization, and the exposure by the mass media in the form of clusters.

The literature on Macau's anti-corruption has perhaps neglected the relevance of the political opposition and mass media. While Lo has traced the development of Macau's anti-corruption from an institutional and comparative perspective, Yu has focused on its law-making and legal enforcement (Lo, 2017; Yu, 2013). However, given that Macau has a political system where the political opposition is relatively "limited" and the Chinese mass media overwhelmingly pro-government and pro-Beijing (European Union, 2019; Yu and Chin, 2012), the comparative neglect of the dual roles of political opposition and mass media is understandable.

The Ao Man-long scandal

Unlike the literature that refers to the revelation of corruption scandals by intra-elite conflicts, political opposition and mass media coverage, the Ao Man-long case was investigated by the Macau Commission Against Corruption (MCAC) in 2005. There were rumours saying that the British banking authorities found a suspected case of money laundering originating from Hong Kong, and eventually the Hong Kong authorities found that the person involved was a Macau government official. In early December 2006, the Hong Kong Independent Commission Against Corruption (ICAC) alerted the MCAC on the suspected money-laundering activities of Ao. The MCAC then took action and arrested him on 6 December 2006. On 7 December, Macau Chief Executive Edmund Ho reported the situation to the central government in Beijing, which then removed Ao from his position as the Secretary of Public Works and Transport. Hence, the Ao case originated from a cross-border complaint, suspicions and investigation rather than stemming from intra-elite struggle, let alone the revelation from political opposition and the mass media. The mass media were basically reactive to the Ao scandal, playing a negligible role in exposing it but commenting on and reacting to it once the scandal was revealed. The situation of Macau reflected the relatively weak mass media, for most print and electronic media were pro-government at that time.

Macau's situation was very different from other countries in the eruption of corruption scandals because the territory has a relatively "limited" political opposition and a comparatively compliant pro-government and pro-Beijing mass media (European Union, 2019; Yu and Chin, 2012). There were perhaps some difficulties for the local politicians and mass media to unveil any corruption "cluster". In any case, once the Ao case was investigated and revealed, the Macau Chief Executive had the duty to report it to the central authorities for removing Ao from his office at once. The outbreak of the Ao case also illustrated a triumph of cooperation between the Hong Kong ICAC and the MCAC.

According to the 2008 *Annual Report* of the MCAC, the Ao scandal was significant for three reasons. First, Ao was a principal official whose suspected corruption involved a huge amount of money. Second, Ao was such a high-level minister that the corruption scandal would generate "strong negative impacts." Third, "despite the illegal action of taking bribes and laundering money, which reflect the genuine greedy behaviour of the defendant, Ao himself did not admit all these facts. Nor did he feel regretful." As a result, the court found Ao guilty of 40 counts of bribery acts, including individual and group actions, 13 cases of money-laundering activities, two cases of abuse of power, one case of incorrectly reporting his assets, and one incident of having assets and properties disproportionate to his income (MCAC, 2009, p. 29). As a result, he was sentenced initially to 27 years of imprisonment, fined MOP240,000,

and all his illegal proceeds were confiscated. He was given a final maximum sentence of 29 years imprisonment in 2012.

From the perspective of deterring corruption, the confiscation of the proceeds in the Ao scandal appears to be relatively minimal. Even though the Macau government later recovered the proceeds from the UK where Ao and his accomplices laundered a huge amount of money, the monetary penalties show that, in Macau, the corrupt officials' risks of being punished are relatively low but their rewards are comparatively high. This low risk, high reward scenario perhaps laid the foundation for the Ho Chio-meng scandal, which will be examined below.

The MCAC reported the detailed actions of Ao's accomplices. First, Chan Meng-ieng, the wife of Ao and an advisory technician at the Government Information Office, was criticized by the MCAC for assisting Ao's illegal activities, engaging in money-laundering activities, and failing to report her assets accurately. The MCAC said that Chan was aware of Ao's illegal acts, but still "assisted him to avoid the law" (MCAC, 2009, p. 30). She was sentenced by the court to 23 years imprisonment and had to pay back MOP360,000 to the Macau SAR government. Second, Ao had three close relatives – Ao Man-fu, Ao Chan Choi-wah, and Ao Wing-kwong – who provided protective umbrellas for his illegal activities. These relatives were guilty of money-laundering activities and they received sentences of five years, four years and six months, and four years, respectively. Clearly, Ao Man-long made use of his network of relatives to assist him to launder his illegal proceeds. His patronage politics was conducted through his close relatives – a hallmark of utilizing *guanxi* (personal connections) in the corruption scandal (Pye, 1992).

Third, a crucial businessman who assisted Ao was Ho Meng-fai, a board director of the New Meng Fai Construction Company. Ho was guilty of bribing Ao to secure the public construction projects, thereby violating the principles of "fairness, openness and justice." Another two business persons involved in the corruption scandal were Chen Dongsheng, a manager of the China Railway Group Limited in Macau, and Frederico Marques da Silva, a director of the Macau Cleaning Company Limited. Both of them were also guilty of bribing Ao and engaging in the process of money laundering (MCAC, 2009, p. 30). The third businessman involved in the Ao case was Tang Kim-man, who was a director of a construction and an engineering company. Tang was also guilty of paying bribes to Ao and participating in money-laundering activities. Overall, Ao's network of bribery and corruption involved not only his close relatives but also a small group of trusted business persons, including a mainlander, a local Macau Chinese and a local Portuguese.

The Ao scandal had three other important features (Lo, 2017). First and foremost, it was grand corruption involving not only the abuse of public power for private gains but also Ao's perception that what he did was acceptable "business behaviour." He contended in the Court of Final Appeal (COFA) that he helped the construction companies "in accordance with the legal procedures and administrative behaviour." Ao reportedly accepted 3 per cent commission from the construction costs of Macau's Stadium for the East Asian Games, a total amount of MOP 39 million. The Stadium was originally estimated to cost MOP 7 billion, but the final construction bill increased to MOP 13 billion. The increase in construction costs was likely due to the delay in the inception of the construction project – a delay that was and is common in Macau's government practices that outsource projects to private-sector companies. The phenomenon also reflected and shows the relatively lax manner in which the government supervises private-sector contracting-out projects.

Secondly, the Ao scandal revealed the absence of political institutionalization in the process of granting land and construction projects in the MSAR. Ao revealed that there were three ways of issuing construction tenders: open bidding, inviting companies to bid for projects, and granting tenders to companies (*Sing Tao Daily*, 2007a). Nevertheless, open bidding was seldom used when Ao was the principal official responsible for land development and construction

projects. He appeared to utilize his power to grant land and projects to companies. No wonder the COFA criticized him for excessively exercising his discretion in the process of granting land and projects to land developers and construction companies, respectively. Third, the checks and balances mechanism did not work effectively in the Ao scandal. The Land Development Consultative Committee, which was established to make decisions on land and construction projects, failed to work effectively. Ao's subordinates appeared to become his loyal officials without questioning his decisions and judgments. It was reported that the Land Development Office, which was composed of civil servants, appeared to fail to check Ao's decisions and behaviour; two of its officials were either demoted or rotated to work in other departments after the scandal, whereas one of them who worked with Ao decided to resign (*Macao Daily News*, 2008). Therefore, it was obvious that institutional deficiency was one of the key reasons contributing to the outbreak of the Ao scandal.

The most sensitive issue of the Ao case was his possession and utilization of his "friends notebook" that recorded all the details of his transactions and dealing with various business persons and companies, including the amount of bribes he received (*Ming Pao*, 2007b). It was reported that some famous business persons in both Macau and Hong Kong were involved. Ao's notebook included the birthdays of some of these people and his appointments with mainland officials (*Next Magazine*, 2014). The Hong Kong mass media speculated on the details of Ao's notebook, which remained a highly mysterious document in his corruption scandal.

The Ao scandal was procedurally puzzling. It was unclear whether the Financial Secretary and the Secretary of Administration and Justice were involved in the process of approving the contracts signed by Ao in the process of tendering. It was also unclear what the role of the Chief Executive was. It seemed that the power of dealing with all the land and construction projects was delegated from above to the Secretary of Public Works and Transport. Furthermore, the procedures of approving these projects were not transparent. The Tenders Assessment Committee was expected to judge the tenders submitted by the construction companies, but there were reports saying that it merely supported Ao's decision (*Sing Tao Daily*, 2007c). Procedurally, there were six steps in the tendering process: (1) project cost estimated by the Secretary of Public Works and Transport, (2) the publication of the tendering process by the government gazette, (3) the Tenders Assessment Committee reviewing the tenders, (4) assessment of the Secretary and his subordinates, (5) the Secretary's instruction, and (6) modification of the assessment of the different companies by the Committee (*Ming Pao*, 2007a). On the surface, the Tenders Assessment Committee did not work effectively, thereby enabling Ao to manipulate the final stages of giving out instructions and adjusting the assessment of the tendering companies. Again, administrative discretion was involved in the tendering procedures, a hallmark of the lack of political institutionalization in Macau. The Land Development Consultative Committee and the Tenders Assessment Committee did not provide effective checks and balances against the political power and administrative discretion enjoyed by the Secretary for Public Works and Transport. In reality, the existence and utilization of Ao's "notebook" to deal with all the details demonstrated the extent of control by the Secretary for Public Works and Transport amidst the superficiality of the institutional set-up.

From the perspective of administrative efficiency, it could be argued that Ao as the Secretary expedited the processes of granting and deciding land and construction projects by centralizing all the power. In fact, the rapid modernization of Macau's casino industry and its related land and construction projects meant that personal whims, administrative discretion and *guanxi* networks came into the picture too easily without effective checks and balances. In short, rapid casino-based modernization and its expansion of land and construction projects, together with the lack of political institutionalization, contributed to the Ao corruption scandal.

It was in the process of laundering his proceeds that Ao exposed all his illegal acts. He reportedly utilized his close relatives to open bank accounts through which his proceeds were deposited (*Sing Tao Daily*, 2007d). However, these accounts were located in Hong Kong where a more rigorous anti-money laundering system was and is in place. As such, the Hong Kong ICAC reportedly found that Ao owned 39 bank accounts in Hong Kong (*The Sun*, 2007). Apart from Hong Kong, Ao was reportedly opening bank accounts and shell companies in the United Kingdom and Virgin Islands (*Sing Tao Daily*, 2007b). From the perspective of anti-terrorist financing, it was natural that the United Kingdom could find Ao's transactions suspicious. Therefore, the ways in which Ao laundered his huge amount of illegal proceeds were the weakest link in his corruption scandal, explaining why the scandal erupted suddenly after his "accelerated" processes of receiving bribes, playing his *guanxi* politics, and granting land and construction projects quickly.

The Ho Chio-meng scandal

Ho Chio-meng was arrested in February 2016 for his suspected corrupt activities of awarding contracts for public works and services when he worked in the Public Prosecutor's Office. Surprisingly, Ho was charged with 1,536 crimes, which range from fraud to abuse of power, from money laundering to promotion and establishment of "criminal association" (*Plataforma Macau*, 2019). Ho stood trial in the COFA, while other defendants had their cases heard by the lower court. In 2015, the MCAC received a complaint about Ho's activities and started an investigation. The MCAC and mass media did not reveal the origin of the complaint, which was probably an insider who knew the malpractices of Ho for some time. Unlike the Ao case, which erupted because of his money-laundering activities, it appeared that whistleblowing played a crucial role in the revelation of the Ho case. Ho was sentenced to 21 years of imprisonment for his illegal acts, including embezzlement, fraud, money laundering, unjustified economic wealth, and inaccurately reporting his income. Some members of the public were surprised by the number of charges laid on Ho. Critics of the case speculated that because Ho Chio-meng once toyed with the idea of running for the candidacy of the Chief Executive in Macau, he might be a "target" of political "persecution." However, there was and is no evidence to prove this claim.

In fact, Ho was a rising star in Macau's political arena. He was born in Macau in 1955, studied law in China and Portugal, and was later appointed in 1999 as the Attorney General of the Public Prosecutor's Office. Ho worked in the Guangdong People's High Court from 1987 to 1990 as a judge, accumulating his legal experiences in the mainland before returning to work in Macau. In 1990, he went to Portugal to study Portuguese language and law. He formerly worked in the MCAC as a coordinator in 1993 and later promoted as a deputy commissioner from 1995 to 1999, when the transfer of sovereignty and administrative right of Macau from Portugal to China was made in December 1999. After the handover, Ho became the first prosecutor-general of the Public Prosecutions Office until December 2014. In July 2014, when Chief Executive Fernando Chui Sai-on ran for the second term of office, Ho Chio-meng decided not to compete in the election (Fraser, 2014).

Ho's corruption scandal appeared to stem from his lax behaviour toward administrative ethics and personal conduct. He was accused of utilizing taxpayers' money to build a rest room in his office for foreign guests and the room was accompanied by a suite with a table for playing table-tennis, massage and sauna equipment and expensive furniture (Carvalho, 2017). Ho was criticized for moving confiscated items by customs to his private premises. Moreover, he was accused of being a "big spender," renting a villa to receive guests and using it himself, asking his driver to transfer lots of cash from Macau to Zhuhai's bank account, having encounters with mainland women in Macau and Zhuhai's hotels, networking with his relatives to open shell companies that deposited the proceeds from outsourced contracts,

hiring a mainland female "friend" to be an adviser, and utilizing official expenses for foreign trips together with his wife and relatives (Carvalho, 2017). Ho responded to some of these accusations by saying that the mainland female adviser advised him on cases involving large casinos and mainland political leaders, and that his foreign trips were made known to the authorities. Ho's first lawyer resigned from the case on the grounds that the court did not treat the defence and prosecution "equally" (*Plataforma Macau*, 2019).

There was a rumour saying that Ho was a target of political "persecution" due to his political ambition of trying to run for the Chief Executive election in Macau. However, there was and is no evidence to corroborate this rumour. Whether Ho considered the idea of competing in the Macau Chief Executive election, his personal conduct and ethical behaviour would cause concern among his colleagues and attract media attention. The whistle-blower who exposed Ho's malpractices to the MCAC might or might not be concerned about whether Ho would run for the Chief Executive's position.

Yet, the more than 1,500 charges that were made against Ho were shocking and surprising to outsiders. Questions arose on whether Ho knew his malpractices, or whether Ho took some or all of them for granted. Another question was whether internal auditing took place regularly. The trial of Ho did not address the issue of auditing. As such, the government did not emphasize the importance of internal auditing and failed to recommend more frequent and rigorous checks on the Public Prosecutor's Office.

Comparative analysis and remedial measures

Both Ao and Ho were high-level principal officials and underwent their trials at the COFA, although there were complaints from the Ho case that the lower courts should have dealt with the accusations against him and his defence first. Both of them were apparently driven by personal greed, for the large amount of bribes received by Ao, and the way in which Ho contracted out services to "friendly" companies and dealt with his lifestyle demonstrated their personal and ethical weaknesses. Both were also involved in the exercise of administrative discretion, which ideally should be curbed by the government through the use of stricter guidelines governing the tendering processes, the contracting-out services and internal auditing controls. It appeared that rigorous internal auditing controls were deficient in the two cases, which meant that while internal auditing of various government departments is constantly and regularly conducted, such auditing targeted at principal officials should have been enhanced in order to plug the administrative and institutional loopholes.

In the Ao scandal, the lack of auditing contributed to the continuous malpractices and discretion of Ao, whose powers remained unchecked by the senior authorities – the Financial Secretary, Chief Secretary and even perhaps the Chief Executive – or the subordinates. Yet, after the Ao case, the Macau government in June 2008 plugged the administrative loophole by improving the system of granting land and the procurement of public projects. The MCAC advocated the use of public participation in urban planning and design, proposed to reform the Land Committee and set up a new Land Development Consultative Committee, together with a clearer system of declaring self-interest, and suggested the amendment of Law No. 60/99/M to include non-civil servants. The idea was to introduce institutional checks and balances on the power of the Secretary of Public Works and Transport. The MCAC also proposed that citizens who were experts in urban development, transport, logistics, history, culture and environmental protection should be appointed to the Land Committee. Moreover, the Land Committee's decisions should ideally be made known to the public and its documents should be publicly accessible. As such, transparency in the operational procedures of tendering, procurement of projects, and contracting-out decisions would be made known to the members of the public.

Both Ao and Ho played *guanxi* politics, cultivating circles of close friends and followers, and achieving their personal gains through abusing their power and exercising their administrative discretion excessively and easily (Pye, 1992). Both scandals undermined the legitimacy of the Macau government, especially the Ao Man-long case which eventually sparked a violent confrontation between the protesters and the police on 1 May 2007, when some 2,400 workers and citizens protested against corruption and illegal immigrants working in the local construction industry. The Ho case did not erode the legitimacy of the Fernando Chui Sai-on administration, but tarnished its image to some extent. Chui's administration remained popular due to his housing and social welfare policies (Lo, 2020). The Ao scandal had a tremendous impact on the Macau administration, because the government since 2008 had given cash subsidies through the Wealth Partaking Scheme to all citizens for the sake of returning the fruits of economic success to the society (Lo, 2020). Hence, the political and social impacts of the Ao scandal were more far-reaching and extensive than the Ho case.

The two scandals differed in terms of public administrative reforms. The Ao case had the consequences of plugging the institutional loopholes through a revamped Lands Committee and its consultative mechanism. However, there is no evidence to show that the Ho case triggered a change in the internal auditing practices of the Macau government. Article 60 of the Basic Law of Macau states that the Commission of the Audit and its Director are accountable directly to the Chief Executive. Both the Ao and Ho scandals did not result in a review of the Commission of the Audit, which implies that the Macau government was satisfied with the Commission's work, and that it was unnecessary to rectify the existing institutional loopholes. Consequently, the internal auditing practices of the Macau government departments have not been improved by increasing their frequency and strengthening the role of the Commission of Audit. From the perspective of policy learning, the Macau government could perhaps have consolidated the internal auditing practices of all government departments and all principal officials so that a more rigorous system of auditing would prevent a recurrence or any sudden eruption of corruption scandals involving key principal officials, as shown in the Ao and Ho scandals. The occurrence of the Ho scandal in 2014 confirms the ineffectiveness of the weak remedial auditing measures introduced after the Ao scandal in 2006.

The Ao scandal broke out amidst the rapid process of casino-driven modernization without sufficient institutional checks and balances. The Ho scandal occurred mainly because of excessive administrative discretion and personal abuse of power instead of having a context of rapid modernization. The Ho case was more concerned with high-level official misconduct in the Public Prosecutor's Office, whereas the Ao case occurred in a much broader context of modernization without political institutionalization. As the Secretary of Public Works and Transport, the portfolios of Au were more comprehensive than that of Ho and Ao was also more vulnerable to the temptation of being bribed in the processes of dealing with public tenders, outsourcing projects and construction plans.

Conclusion

The Ao Man-long and Ho Chio-meng scandals in Macau originated from similar and slightly different sources of corruption scandals. The two cases were similar in that both principal officials were involved in personal misconduct and administrative discretion. The Ao case was slightly different from the Ho scandal in that the former pointed to rapid modernization without political institutionalization. Both cases fit into the three main definitional aspects of corruption: public office-centred, market-centred and public interest-centred. The Ao case could be argued as a result of rapid economic development and modernization amidst a market situation where competitive tenders were avoided so as to achieve not only administrative convenience but also personal greed and patronage politics. The case of

Macau shows that corruption scandals were triggered mostly by patronage politics in which a close network of friends and followers led to the corrupt behaviour of high-level political officials. The Ao Man-long case was even more enlightening in the sense that Macau's developmental state had to achieve modernization within a relatively short period of time, leading to his corrupt behaviour. Interestingly, the anti-corruption campaign launched by the PRC, the motherland of Macau, at the same time meant that Ao's behaviour was bound to be exposed after his money-laundering activities were checked and penalized. It was unclear when Ao began his corrupt and money-laundering activities, but his bank accounts were firstly checked by the banking authorities in the United Kingdom and later in Hong Kong.

The remedial measures of the Ao and Ho scandals were different. The Ao case led to the determination of the Macau government to address the lack of institutional checks and balances, especially at the level of the Lands Committee and its consultative mechanism. Public participation has been encouraged in order to institute more checks and balances on the principal official concerned. However, these remedial measures stopped short of addressing the procedural relations between the Secretary of Public Works and Transport and his senior authorities, implying that a moderate approach was adopted. The Macau government also did not institute more rigorous and frequent auditing practices of all principal officials and their departments concerned. This phenomenon was obvious in the aftermath of the Ao scandal, which allowed the *status quo* of regular and weak auditing practices to continue. Consequently, the Ho scandal broke out in 2014, eight years after the arrest of Ao. The occurrence of the Ao and Ho scandals after December 1999 highlights the need for more rigorous and frequent internal auditing practices. However, the need for enhancing the Commission of Audit's role was not acknowledged in the aftermath of both the Ao and Ho cases. The Commission of Audit has published its reports regularly and exposed examples of public maladministration after 20 December 1999. Nevertheless, the need for enhanced auditing remains a serious gap in preventing future corruption scandals in Macau.

The consequences of the two scandals were also quite different. When Ao was arrested in late 2006, public outcry and anger were prominent, leading to a confrontation between the police and protesters on 1 May 2007. The legitimacy of the Edmund Ho Hau-wah administration was severely undermined by the Ao scandal. Fortunately, the Ho administration took prompt remedial measures and its relatively strong economic performance stabilized the regime. The Ho case did not result in public outcry because most Macau citizens were satisfied with the performance of the Fernando Chui administration in 2014, when the Ho scandal erupted. In between the outbreak of the two scandals, the Macau government addressed the social welfare of the Macau people by increasing the supply of public housing units, and by giving individual subsidies to each citizen annually amidst the relatively booming casino-driven economy. As such, the political context of the two scandals was quite different. The Ao scandal broke out in Macau seven years after its handover from Portugal to China and at a time when public confidence on the new government was not very secure. The Ho case occurred at a time when most citizens of Macau were satisfied with the performance of the Macau government. Hence, while the violent confrontation between the police and some protesters, who demonstrated against the Ho administration for "corruption" and insufficient social protection, took place in May 2007 shortly after the Ao scandal, there was no police-citizens confrontation in the aftermath of the Ho case.

Unlike other corruption scandals in Western states in which the political opposition, mass media and even intra-governmental and inter-elite conflicts could play a decisive role in exposing such scandals, the Macau example is different. Perhaps Macau remains a "developmental state" in which the government has to tackle development quickly in many aspects, including economic growth, casino management, and construction sector (Lo, 2009).

The persistence of the "developmental state" means that Macau needs to have a highly efficient and clean bureaucracy. Ironically, Macau's political development and institutionalization needs to be accelerated. Without a strong political opposition or strong mass media that scrutinizes the administration, and with a fast-growing economy that demands rapid governmental responses, the challenge is how to maintain the developmental state and a clean administration simultaneously. While the MCAC is working diligently by educating the members of the public, especially civil servants, on the evils of corruption, its work remains educative and cannot penetrate the psyche of all principal officials easily.

The Ao Man-long scandal remains a haunting one to Macau. Given the huge amount of money flows in the casino industry and its related construction projects, high-ranking government officials have to guard themselves against the temptation of being bribed. The lack of an accountable political system with sufficient checks and balances from the legislature, opposition and media means that Macau remains a potential hotbed for corruption. If so, a highly vigilant attitude toward corruption is needed in the psyche of principal officials if Macau is to maintain a good and successful image of "one country, two systems."

Fortunately, perhaps, the central government in Beijing is keen to utilize the anti-corruption campaign to clean up corrupt acts throughout the mainland. This is a gigantic task that has to be observed and implemented in Macau as a special administrative region and as a model of "one country, two systems." Moreover, fortunately, Macau's anti-corruption work remains rigorous and the revelation of the Ao and Ho cases proved that its clean government has been maintained. As such, the Macau case study provides some unique insights into the dynamics of corruption scandals in this special developmental city-state amidst the motherland's drive toward clean governance.

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1MDB corruption scandal in Malaysia: a study of failings in control and accountability

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Abstract

Purpose – The aim of the paper is to examine the various aspects of the 1MDB scandal including the extent and types of corruption that occurred and the action taken to deal with them. In doing this, the paper seeks to identify the reasons for the scandal and the lessons that can be learnt to avoid such a scandal in Malaysia and elsewhere in the future.

Design/methodology/approach – The research for the paper is based on evidence from court hearings, reports of watchdog and regulatory agencies, media reports, and various articles and books written about 1MDB.

Findings – The paper shows that most of the scandal involved embezzlement, bribery, false declarations and bond mispricing relating to extensive borrowing by 1MDB, and entailed a global network of shell companies and individuals through which the illicit money was passed. It also shows weak governance in 1MDB, poor internal controls within banks, the failure of watchdog and enforcement bodies to take the necessary action partly due to political control over them, and overall the lack of political will to deal with the scandal.

Originality/value – The paper builds on the findings of other papers and books written on the 1MDB scandal. It does this by linking the corruption to the borrowings of 1MDB, the international network of money-laundering and bribery through which illicit money flowed, and the poor internal controls in the organisation. It also builds on previous research by highlighting the failure of banks to identify money-laundering and of watchdog and enforcement bodies to deal with the corruption. A further value of the paper is to identify the lessons that can be learnt about combatting corruption on such a scale.

Keywords Malaysia, Embezzlement, Bribery, Money-laundering, Mispricing, Shell companies

Paper type Research paper

Introduction

The 1 Malaysia Development Fund Bhd (1MDB) scandal is perhaps the most serious corruption scandal that has been recorded. The corruption has involved the embezzlement and laundering of billions of US dollars from its accounts together with gains from bribery and bond pricing, facilitated by false declarations by its officials and others. The illicit money was often transferred and laundered outside Malaysia. A cohort of bankers, businessmen and senior government officials mainly from Malaysia, but some from Saudi Arabia, the UAE and other countries have been implicated in the scandal. Increasingly from 2016 the spotlight has been placed on the former Malaysian Prime Minister, Najib Razak (who was also Chairman of the 1MDB Advisory Board), his wife, Rosmah Mansor, and Low Taek Jho (or Jho Low) a Malaysian businessman and associate of Najib. He is alleged to have been the mastermind behind the scandal.

The scandal came to light in 2015 and has given rise to investigations not only in Malaysia but in other countries where embezzled and other illicit money has been deposited and laundered. The investigations were intensified in 2018 with the change of government in

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Malaysia when the *Pakatan Harapan* coalition, under the new Prime Minister Mahathir Mohamad, replaced the *Barisan Nasional* Government led by Najib, which had ruled Malaysia since independence in 1957. The investigations and court trials are still on-going, as more evidence of the scandal comes to light.

The paper examines the various corrupt practices in the 1MDB scandal and explains why they occurred, focusing on political control and the lack of proper surveillance and accountability, with consideration given to the lessons that can be learnt from the scandal.

Aims, corporate structure and funding of 1MDB

1MDB began as the Terengganu Investment Authority (TIA), launched by the *Menteri Besar* (Chief Minister) of the State of Terengganu, Ahmad Said, in February 2009. It was set up as a holding and investment company for the State, and was funded initially by a bond issue of RM5 billion (US$1.19 billion). In September 2009, it changed its status to a Malaysian national investment fund under the name of 1MDB, wholly owned by the Malaysian Government through the Ministry of Finance Inc. (Ali, 2015, p. 134).

To facilitate its aims, 1MDB developed a network of joint ventures (JVs) with two subsidiaries of the Saudi Arabian company Petro Saudi International (PSI) and also an Abu Dhabi company, Aabar Investments PJSC, a subsidiary of the International Petroleum Investment Company (IPIC). From 2009 to 2015, 1MDB created numerous subsidiaries in its own right. Particular mention should be made of SRC International Sdn Bhd, whose remit was to borrow funds from the civil service pension fund, *Kumpulan Wang Persaraan* (KWAP). This company was separated from 1MDB in 2012 and became a wholly owned subsidiary of the Ministry of Finance Inc. (Auditor-General of Malaysia [AGM], 2016, pp. 57–62). As many of the JVs and subsidiaries of 1MDB were registered in other countries, it was difficult to trace illicit flows of money between them (Gabriel, 2018, pp. 69–70).

1MDB had several sources of funding. The initial source was the funds of TIA, mainly derived from a conventional bond issue, transferred to 1MDB on its formation in 2009. The second source of funding was Islamic bonds or *sukuk* issues for a medium term in 2009, and a short-term note issued in 2014 (AGM, 2016, pp. 13–16, 237; US Department of Justice, [DOJ], 2019, p. 15). The third source of funding was three conventional bond issues in 2012 and 2013 which raised US$6.5 billion from the local and international bond markets. Goldman Sachs played a central role in arranging and underwriting these bond issues, charging above the market rate of 7.7 per cent of the securities (Adam, 2018). Also relevant was the loan of RM4 billion (US$954 million) provided by the Malaysian Government in 2011 from the country's civil service pension fund, and raised by the 1MDB subsidiary, SRC International (AGM, 2016, p. 214; *Malaysiakini*, 2016). This loan remains a key issue in the present trial of Najib. Together with other loans, the sum total of the borrowing by 1MDB in 2015 was RM41.9 billion (US$10 billion) including RM8.2 billion (US$1.96 billion) of inherited loans from companies it took over (AGM, 2016, p. 233; Boey, 2015).

Corrupt practices

Embezzlement

The main malpractice in the 1MDB scandal was embezzlement on an epic scale. It occurred in four phases and involved misappropriation of its funds largely derived from borrowing, through bond and *sukuk* issues and bank loans. The misappropriation involved six major embezzlements.

(1) During the Good Star phase (2009–2011), in 2009 US$700 million (RM2.93 billion) of a cash grant of US$1 billion (RM4.19 billion) by 1MDB to a JV with PSI, was siphoned

off to be credited to an account of a company, Good Star Ltd, owned by Jho Low (Gabriel, 2018, p. 71; US DOJ, 2019, pp. 8, 17–18).

(2) In May 2011 an additional US$330 million (RM1.38 billion) lent by 1MDB to the JV ended up as a deposit in the Good Star account (Lee, 2018; US DOJ, 2019, pp. 8–9, 17–18, 29–53).

(3) In 2012 during the Aabar-BVI phase, of US$3.5 billion (RM14.51 billion) raised by 1MDB in bond issues in that year, approximately US$1.4 billion (RM5.80 billion), was misappropriated, ending up in an account owned by Jho Low (Gabriel, 2018, p. 72; US DOJ, 2019, pp. 8–9, 53–88).

(4) In 2013 during the Tanore phase, more than US$1.26 billion (RM5.30 billion) of a US$3 billion (RM12.62 billion) bond issue was embezzled for the benefit of Low, his associates and officials in 1MDB (Gabriel, 2018, p. 72; Lee, 2018; US DOJ, 2019, pp. 9–10, 88–109).

(5) Also in 2013 some of the loans to SRC International from the civil service pension fund, mentioned above, were reportedly embezzled to the benefit of an associate of Jho Low, Eric Tan Kim Loong (Aw, 2016; Brown, 2018, p. 421). It is also alleged that some of the funds were diverted locally to the accounts of Najib and former Malaysian Treasury Secretary-General, Irwan Serigar (Ellis-Petersen, 2018).

(6) In 2014, US$850 million (RM3.58 billion) were embezzled from a loan of US$1.23 billion (RM5.15 billion) to 1MDB from a syndicate of banks. This loan was to be used as a cash payment to IPIC in return for which it would act as guarantor of 1MDB debt. Again the benefactors were Low and his associates (US DOJ, 2019, pp. 10, 54, 59,107–108; Wright and Hope, 2018, pp. 211, 216, 253).

Apart from being funneled through the chain of shell companies, the embezzled funds were also routed on occasions through the accounts of Low's father (a businessman) and brother. In addition, the nominal owner of some of the shell companies was Eric Tan, who acted as a proxy for Low. From these, large amounts of money were transferred to other accounts at the instruction of Low (*Edge Malaysia*, 2018a; Brown, 2018, p. 421; US DOJ, 2019, pp. 101, 232). According to US prosecutors, more than US$6.5 billion (RM27.34 billion) flowed from 1MDB, "through a complex web of opaque transactions and fraudulent shell companies, to finance spending sprees by corrupt officials and their associates" (Tan, 2018). This plus the use of personal and family intermediaries and proxies were all designed to make it difficult to trace the final destination and ultimate use of the embezzled money.

Bribery

Bribery also figured in the 1MDB scandal. Bribes were offered by Goldman Sachs to and accepted by officials in 1MDB and the Malaysian Government to allow Goldman Sachs to arrange and underwrite the bond issues in 2012 and 2013 for a very high underwriting fee, as mentioned above. In a crucial piece of evidence, Goldman Sachs' chairman in Southeast Asia, Tim Leissner, pleaded guilty in a New York court in November 2018 and implicated others, stating:

> While acting within the scope of my employment and with the intent to benefit Goldman Sachs and myself, as an employee and agent of Goldman Sachs, I entered into a conspiracy with those individuals identified in the Government's information to pay bribes and kickbacks to obtain and then retain business from 1MDB for Goldman Sachs. . . . The goal of paying bribes and kickbacks was to influence the government officials to take official action so that Goldman Sachs would receive

business from 1MDB. I took part in the process of paying some of these bribes and kickbacks (*Edge Malaysia*, 2018b).

Further bribes were offered to 1MDB officials in managing its accounts to facilitate the embezzlement, and also to key figures in the banks in which the embezzled money was deposited or through which it was transferred in order to ignore its illicit nature (*eSpear*, 2018).

Money laundering

Embezzlement and bribery in the 1MDB scandal led to another corrupt practice, namely, money laundering, which involved receiving or retaining money from these sources, disguising or not investigating its origins and purpose. Those in receipt either as intermediaries or ultimate beneficiaries were thus guilty of money laundering as was any bank (or legal or financial firm) which retained the money in one of its accounts on behalf of the sender or recipient without investigating its source. This was often in violation of anti-money laundering laws in the country to where such money was transferred, and in the case of banks, in breach of their own anti-money laundering compliance requirements.

Of course, given the chain of complex transactions through which the illicit money was transferred in the 1MDB scandal, the easier it was for recipients to cover up its origins and purpose, and the more difficult it was for the banks to undertake a proper investigation. As discussed below, the enforcement action against the corruption at 1MDB included money laundering as one of the key offences committed by both the recipients of the money and the banks involved in the retention and transfer of the money (Ramesh, 2016; *eSpear*, 2018).

False declarations and bond mispricing

Another aspect of the 1MDB scandal was the repeated false declarations made between 2009 and 2014, which were specified in the court hearings in the US. These included false declarations by 1MDB officials to banks in Malaysia responsible for forwarding embezzled money, and to overseas banks receiving the money. There were also false declarations by the recipients or intermediaries in the transfer of the money. One of them was Jho Low. False statements were made from time to time by senior officials of 1MDB to the IMDB Board, to the *Bank Negara* (Malaysian Central Bank) and to banks from which loans were acquired about the purpose of the loans and value of 1MDB assets offered as collateral (Ali, 2018, pp. 1869, 1883, 1898).

A further malpractice was the mispricing of the 1MDB bonds (setting of the interest rates well above the market rates for government-guaranteed debt) and their sale to chosen investors in a private placement. This may arguably be considered another form of corruption as the investors in the placement pool were able to reap rewards from subsequently selling the bonds (flipping) at a substantial profit because of the high interest rates attached to the bonds (*KINIBIZ*, 2015; Ali, 2018, pp. 1876, 1879).

Cover-up and exposure of the scandal

For a number of years the 1MDB scandal was covered up by the Malaysian Government. This was achieved in 2015 and 2016 by the removal from office of key officials including the Deputy Prime Minister, four other ministers, the Attorney-General and some lower level officials, who were otherwise prepared to unveil evidence of corruption or support an open-ended inquiry. The Government was also able to hide the scandal by ensuring that documents and computer files were withheld from investigators and auditors, and by influencing investigators in the National Audit Department and the Malaysian Anti-Corruption Commission (MACC) to alter their findings or to abandon their investigations.

This was illustrated not least in the redaction of the report of the AGM in 2016 (Latiff and Ananthalakshmi, 2018).

Despite the efforts of the Malaysian Government to cover up the scandal, evidence gradually came to light to show widespread irregularities. Firstly, anomalies in 1MDB were initially revealed in 2013 and came from two sources. One was the Malaysian on-line business newspaper *KINIBIZ*, which ran a series of articles on bond mispricing, overpayment for energy assets and other questionable deals (Gunasegaram and *KINIBIZ*, 2018, p. 14). The second was the web portal managed by British journalist Clare Rewcastle Brown, *Sarawak Report*, alleging that Goldman Sachs had been overpaid for the bond issues. The exposure then widened at the beginning of 2015, when a retired Swiss banker and ex-employee of PSI, Xavier Justo, forwarded to Brown thousands of documents, including 227,000 emails. They came from the servers of PSI, and unearthed evidence of the theft of hundreds of millions of dollars from 1MDB and other corrupt practices (Teh, 2018, pp. 187–191). Important sections of the evidence were published in the *Sarawak Report*, and from this source they were also published in the British *Sunday Times* and *Guardian*, and the *Wall Street Journal*.

This evidence was also reported a few months later in certain news outlets in Malaysia itself such as *Utusan Malaysia, Malaysiakini*, *Malaysia Insider* and various publications of the Edge Media Group (Teh, 2018, pp. 189–190). In addition, the local press provided from 2015 further information relating to the financial dealings of 1MDB, together with major international newspapers including *The Guardian*, *Daily Telegraph*, and *The Wall Street Journal*. The press reports ensured that the scandal was kept at the centre of public attention. These reports gave opposition Members of Parliament (MPs) and some MPs of the ruling *Barisan Nasional*, important information to question the investment policies of 1MDB and raise suspicions of malpractices in its financial dealings. Ultimately, trust in Najib's government was undermined and contributed to its defeat in the 2018 general election. The concern of Najib's government regarding the role of the press was indicated in its suspension of two print publications of the Edge Media Group (the *Edge Weekly* and the *Edge Financial News*) in July 2015. The order was ruled as illegal and revoked three months later by the High Court.

The cover-ups indicated above have simply exacerbated the 1MDB scandal. As pointed out by Lowi (1988, pp. viii-ix), the repercussions of such cover-ups, which he refers to as the procedural scandal, may be as serious as the original malpractices, which he terms the substantive scandal (the actual embezzlement, money laundering, and bribery etc.). As the cover-ups have been exposed through the various channels mentioned above, so the procedural aspect of the scandal has increased alongside the substantive scandal.

Investigation and enforcement

Malaysia

Malaysia is of course the centre of the investigation into the corruption at 1MDB. The new government under Mahathir took steps to revive the investigation, re-establishing the special task force. It comprises the MACC, Attorney-General's Chambers, Royal Malaysia Police, and *Bank Negara* Malaysia, and its leading members are those who figured in the original task force but who fell out of favour with the previous government. According to the office of Prime Minister Mahathir, "This special task force will be responsible on [*sic*] all aspects of the investigation, from financial tracking and asset acquisition which resulted from the mismanagement of 1MDB funds that are kept or invested in the country or abroad" (*Star Online*, 2018). Part of its remit is to cooperate with judicial and enforcement agencies in those countries which are also investigating the 1MDB scandal. The legislation under which enforcement is proceeding is the Anti-Money Laundering and Anti-Terrorism Financing Act,

2001, the Malaysian Anti-Corruption Commission (Amendment) Act, 2018, and the Penal Code (Section 409).

Other jurisdictions

Given the international nature of the 1MDB scandal, investigations have been and continue to be conducted in a number of countries under their respective anti-corruption and anti-money laundering laws where financial institutions have been in receipt of illicit money from 1MDB. The focus has been largely on money laundering although other offences such as bribery and supplying dishonest and misleading information are being investigated. In Singapore, money laundering by certain banks and individuals connected to 1MDB has been investigated since 2016 and enforcement action taken, as mentioned below. Detailed investigation has also been conducted in Switzerland by the Money Laundering Reporting Office Switzerland (MROS), the Office of the Attorney General of Switzerland (OAGS), and the Swiss FINMA (Financial Market Supervisory Authority). The main focus of the investigation, as in Singapore, is money laundering given the large amount of embezzled money from 1MDB that passed through banks in Switzerland. The main legislation under which it is proceeding is the Anti-Money Laundering Act of 1997 (revised in 2009) (Attorney General of Switzerland, 2017, pp. 19–20). In addition, investigations into 1MDB corruption continue to be conducted in the USA where certain locally registered banks and their senior managers are currently being investigated for money laundering, bribery and other offences connected to 1MDB. The main anti-corruption agency involved in this task is the Money Laundering and Asset Recovery Section (MLARS) of the DOJ.

Enforcement action so far

In Malaysia charges have been levied against several 1MDB officials. The former CEO of 1MDB, Arul Kanda, was charged in December 2018 with tampering with the audit report on 1MDB in 2016 to eliminate evidence of corruption. But the centre of the investigation and the focus of media speculation is the role of former Prime Minister Najib. In 2018, he was charged with 21 counts of money laundering and four counts of abuse of power. The trial is now on-going (Lim, 2019). So far, a key focus of the trial is his alleged involvement in the embezzlement of funds from the state pension fund through SRC. In addition, apart from the main individuals involved in the scandal, enforcement action is being taken against those persons who had illicitly received money from 1MDB. For example, on 7 October 2019, 80 persons were fined US$100 million (RM418.6 million) for receiving illicit money from 1MDB (*Associated Press*, 2019).

In addition, in December 2018 the two leadings bankers of Goldman Sachs in Southeast Asia, Tim Leissner (Chairman) and Roger Ng Chong Hwa (Deputy Chairman), were charged with misappropriating US$2.7 billion (RM11.34 billion), bribing officials and giving false statements when issuing the bonds (Makortoff, 2018). Most recently, 17 current and ex-executives of Goldman Sachs have been charged for their part, according to the Malaysian Attorney-General, in "the fraudulent misappropriation of billions in bond proceeds". The intention is to seek custodial sentences and criminal fines (Bowie and Mulberry, 2019).

In two other countries, banks and their senior employees have already been subject to sanctions. In Singapore four bankers from the Falcon Bank and *Banca della Svizzera Italiana* **(**BSI) were jailed for money laundering and related offences in 2016. The main charge was a failure to report suspicious and risky transactions as legally required with additional charges related to forging documents, mis-information and cheating. Four other bankers were given prohibition orders from 3 to 10 years for bribery and providing misleading information (Monetary Authority of Singapore [MAS], 2018, p. 11). Also in Singapore, fines of S$31 million (US$22.3 million) were imposed on the eight banks that received embezzled money from

1MDB, for not paying due diligence to the source and purpose of the transactions in violation of the anti-money laundering regulations. Furthermore, two private Swiss banks, the Falcon Bank owned by IPIC, and BSI have been closed. The reason was the extent to which they laundered money embezzled from 1MDB funds, and the serious misconduct of their senior managers in dealing with 1MDB transactions (Daga, 2016; MAS, 2018, p. 11).

In Switzerland, three banks (Falcon, BSI and Coutts) have been fined a total of 103 million Swiss Francs (US$105.2 million) for having "seriously breached money laundering regulations" in relation to the 1MDB scandal. Other banks which broke money laundering regulations in relation to 1MDB have not been fined, but informed by FINMA to improve their control and reporting procedures, followed by a period of close monitoring. FINMA has also warned the banks that if they do not improve their controls against money laundering, their licence to operate could be revoked. BSI, which has been the most culpable of the banks, has been taken over by another Swiss bank, EFG International. In addition, the OAGS is currently pursuing an investigation of six senior bank employees as a result of alleged personal gains from both the laundering of the embezzled money from 1MDB and accepting bribes to facilitate the money laundering (FINMA, 2017, pp. 18, 84; 2018, pp. 12, 16, 46, 72, 76).

Steps have been taken in the USA to impose sanctions on banks and individuals involved in money laundering and offering and taking bribes connected to 1MDB. Under the Kleptocracy Asset Recovery Initiative of the DOJ, complaints have been filed by the DOJ for the forfeiture and recovery of assets in the USA worth more than US$1.5 billion paid for by the embezzled money and the bribes received. Sixteen senior figures in 1MDB and its JV partners, and their associates and cronies have been mentioned in US court files for involvement in the 1MDB scandal. In addition, in November 2018 indictments were issued in New York charging Low and his associate from Goldman Sachs, Roger Ng, for conspiring to launder billions of dollars embezzled from 1MDB and for paying bribes to various Malaysian and Abu Dhabi officials. Low is still at large while Ng is in remand in Malaysia and due to be extradited to the USA. Tim Leissner, as mentioned above, has already pleaded guilty in the USA to the charges of conspiring to launder money and paying bribes. According to court filings in the USA, he was ordered to forfeit US$43.7 million (RM183.58 million) as a result of his money laundering and bribery and could be sentenced to a jail term of several years (US DOJ, 2018; *New Straits Times*, 2018).

In other countries, investigations of 1MDB are on-going with the likelihood of further charges being brought against those who were involved in the embezzlement, bribery and money laundering. These include Australia, New Zealand, Hong Kong, UAE and the United Kingdom. In these and other countries, banks, fund management companies, financial trusts and JV partners were located, which managed or guaranteed 1MDB assets, laundered the embezzled money or arranged 1MDB bond issues. In addition, in some of the countries involved in the scandal, the accounts of the shell companies were set up, in which the illicit money was deposited, or valuable physical assets were purchased from this money.

An important part of the enforcement work is the recovery of assets stolen from 1MDB and their return to Malaysia. So far, RM919 million (US$218.6 million) has been recovered. In June 2019 it was announced that civil forfeiture action has been taken by the MACC to recover a further RM270 million (US$64.3 million). Forfeiture claims are being made against 41 organisations and individuals. This is part of a long process to recover as much of the stolen funds as possible (Mackessey, 2019).

Why did the 1MDB scandal arise?

There are six reasons why the 1MDB scandal arose, as indicated below.

Firstly, the internal controls over spending, lending and investment in 1MDB were weak and reflected in a defective system of governance. This was highlighted by the AGM's report

on 1MDB in 2016. It found that management practices were in contravention of the Companies Act of 1965, the Malaysian Code on Corporate Governance and international best practices on corporate governance. Many examples were given in the AGM's report, including key decisions made by a Written Board Resolution outside of a Board of Directors (BOD) meeting and not subject to the scrutiny of a Board meeting. The Board was also repeatedly fed false and inaccurate information. Some key financial and investment decisions were made without reference to or approval of the Board at all. Nor did the management and BOD undertake feasibility studies and a proper evaluation process where these were called for, reflected not least in the absence of an Investment Sub-committee of the BOD with a remit to examine both funding and investment risks for a particular project or debt issue (AGM, 2016, pp. 313–320). Moreover, the AGM's report found that the "maintenance of records and documents in 1MDB is not satisfactory" and were marked by "serious flaws". With such a lax system of control, it is not surprising that financial checks were not undertaken to identify and prevent the embezzlement of funds (AGM, 2016, p. 325; Ali, 2018, pp. 1867–1946 passim).

Secondly, the attempts to deal with corruption in 1MDB were hamstrung by political control over the watchdog and investigative agencies. The special task force formed in 2015 to uncover evidence of corruption, was soon after side-lined and then abandoned, after incriminating evidence against Najib emerged (Wright and Hope, 2018, pp. 139, 251–253). The Attorney-General was removed from office in 2015, MACC officers were harassed and arrested, and the Public Accounts Committee's investigation into 1MDB was disrupted (Ali, 2015, pp. 137–138). The AGM's own investigation in 2016 was shackled by a lack of access to 1MDB documents compounded by being prevented from accessing 1MDB computers and servers. The AGM's original report on 1MDB in 2016 was redacted where it contained damaging evidence relating to Najib, Low and others. Moreover, it was classified under the Official Secrets Act so it could not be read by MPs, the press, and the public and acted upon by the MACC and the Attorney-General (Ali, 2016, pp. 59–68; Aziz, 2018). The MACC's own investigations into 1MDB were also restricted. In 2015 it declared that the funds transferred from 1MDB to Najib's account, were not the result of embezzlement but were a donation from Saudi Arabia, with the investigating officials removed from office. The investigation was closed in 2017 (Wright and Hope, 2018, p. 249). In fact, Tunku Abdul Aziz Ibrahim, the advisory board chairman of MACC, reportedly stated in 2015 that the MACC had suffered from "meddling" by the Government that was "ill-advised" (Sherwell, 2015).

Thirdly, the corruption was facilitated by weak internal rules against money laundering in banks in Malaysia and elsewhere, and even where such rules existed by their willingness not to adhere to these rules or to anti-money laundering laws. It appears that given the profits to be made from managing such flows of money and the belief that little action would be taken against them, banks did not take money laundering prohibitions perhaps as seriously as they should have done. This again reflects how corruption springs from a perception that such practices were low risk and high reward (Gabriel, 2018, pp. 73–74; Fox, 2019). One commentary in 2019 singled out Goldman Sachs, stating: "the reality is that Goldman Sachs allowed key internal compliance controls to be over-ridden or simply avoided and there was no manner to check on what were clearly red flags raised". The commentary continued: "there was a culture which supported doing business even if it was done illegally and others consciously looked the other way" (Fox, 2019). These observations were supported by Tim Leissner's own testimony in his guilty plea (US DOJ, 2018).

According to its own assessment, Goldman Sachs acknowledged: "the firm's business culture, particularly in Southeast Asia, at times prioritized consummation of deals ahead of the proper operation of its compliance functions" (Goldman Sachs Group, 2018, p. 89). Although it pointed the blame specifically at its leading employees in Southeast Asia, Tim Leissner and Roger Ng, for "repeatedly lying to control personnel and internal committees", little seems to have been done to check the honesty of their reports (Goldman Sachs Group,

2018, pp. 88–89). Much of this could have been said of other banks which were involved in raising loans for 1MDB and in handling illicit money transfers from embezzlement and bribery connected to 1MDB.

The fourth and most important reason was the lack of political will. With Najib as Prime Minister and Chairman of 1MDB Advisory Board and allegedly himself a beneficiary of the embezzlement, there was no political will at the top to deal with the corruption in 1MDB. In fact, any minister in Najib's government who questioned the management of 1MDB was removed from office and eventually expelled from the United Malays National Organisation (UMNO), the dominant party in the then ruling *Barisan Nasional* coalition. It was only after the change of government in May 2018, did the political will become evident to root out the corruption. This allowed the shackles to be lifted from the watchdog and investigative agencies and enabled a far reaching investigation to be conducted and enforcement action to be taken within Malaysia itself.

The fifth reason for the 1MDB scandal was the hegemonic nature of the democratic system in Malaysia until after the May 2018 general election. This was based on the continued dominance of the *Barisan Nasional* coalition, at the centre of which was the main political party UMNO. The *Barisan Nasional* in recent years used its hegemony to place constraints on watchdog and enforcement institutions, such as the MACC, the National Audit Department and the Police Force, whenever its interests were at stake, while preventing Parliament from effectively scrutinising and vetting the actions of the government. Under such hegemony, Prime Minister Najib was able to exercise his personal authority with little restraint to suit his own ends.

Finally, there existed a mind-set in high places in government and the private sector in Malaysia which considered corrupt practices leading to large financial gains as acceptable and to be engaged in when opportunities arose. This was also reflected in a previous major scandal involving the state bank, *Bank Negara* (Teh, 2018, pp. 24–29, 118–124). In recent years, corruption in Malaysia has deteriorated as its Corruption Perceptions Index (CPI) score has dropped from 52 in 2014 to 47 in 2018 (Transparency International, 2019). However, the defeat of the *Barisan Nasional* in the May 2018 general election resulted in Najib's arrest on 3 July by the new *Pakatan Harapan* government for money laundering and abuse of power. The change in government and the *Pakatan Harapan* government's strong anti-corruption stance is reflected in Malaysia's improved CPI score of 53 in 2019 (Transparency International, 2020).

Consequences of the scandal

Insolvency and bail outs

One consequence of the 1MDB scandal was to make the organisation insolvent by 2016, unable to meet key debt servicing payments. With so much money embezzled, the funds remaining for investment in many projects were insufficient to meet the interest payments on all of the borrowed funds. Subsequently, the Malaysian Government stepped in to pay RM6.98 billion (US$1.66 billion) in debt servicing payments in 2016 and 2017. The payments were met from cash generated by the sale of land by the Malaysian central bank, *Bank Negara*, and by the issue of shares by the sovereign wealth fund of the Government of Malaysia, *Khazanah Nasional Berhad* (Tay, 2018; Aziz, 2018).

Erosion of trust

The second important consequence of the scandal was the erosion of public trust in both politicians and institutions of government. A survey of 1,000 persons in Malaysia conducted by civil society group Centre For a Better Tomorrow (Cenbet) in February 2018

(before the general election), found that only 16 per cent expressed trust in Malaysian politicians and that only 29 per cent expressed trust in the Federal Government (Tho, 2018). It is likely that the emerging evidence of the 1MDB scandal had significantly decreased the level of trust, and in turn undermined support for Najib's government. The 1MDB scandal was a key issue in the campaign and certainly contributed to its defeat in the 2018 general election.

Implications for combating corruption in Malaysia and other countries

There are several implications of the 1MDB scandal which provide lessons for combating corruption in Malaysia and other countries.

Firstly, the 1MDB scandal indicates the necessity in public agencies engaged in major investment programmes, for strong internal auditing and management controls. Amongst other things, such controls can ensure that information presented to the Board of Directors with regard to the viability of investment projects, sources of funds, and disbursements of money is correct. They can ensure for bond issues with a government guarantee that underwriting fees and bond prices are close to market rates, and, where possible, private placements avoided. In this regard, action should be taken to identify if there has been bribery in setting the fees and bond prices and in the selection of investors in a private placement pool. In addition, control through a rigorous process of verification must be exercised on the remittances of money to outside bank accounts, and whether such remittances are intended to fund approved projects. Such controls can reduce the loopholes by which money is embezzled.

Secondly, it is essential that watchdog and investigative agencies in Malaysia such as the MACC, the National Audit Department, and the Attorney-General's Chambers should be protected from political interference. Such interference can only be prevented if there are safeguards both against pressure on such agencies to water down reports and remove evidence incriminating certain high level individuals in government, and also against restrictions on the availability of such reports to the public, the media and Parliament. Likewise, investigative and judicial staff should be protected against dismissal or harassment to stop them pursuing an investigation or engaging in a prosecution. This of course depends on the political will at the highest level of government to ensure such protection.

Thirdly, it is essential that banks in Malaysia and in other jurisdictions undertake thorough checks when transferring large amounts of money from a public agency to ensure that the remittance is for a legitimate purpose to fund an approved project. In addition, in the receiving banks, whether in Malaysia or overseas, due diligence should be exercised to identify the names of the recipient account holders and the true purpose for which the money was transferred so as to uncover money laundering. In this regard, internal compliance requirements in Malaysian banks and those in other jurisdictions regarding money laundering should be strengthened and strictly adhered to with the state financial services regulator or central bank (in the case of Malaysia, *Bank Negara*) monitoring adherence to both compliance standards and anti-money laundering laws.

Particular attention should be paid to accounts held by shell companies both on-shore and off-shore, to establish why, when, by whom and for what purpose such companies were registered, and to identify who are their owners. Where suspicions of money laundering arise such as when there are disproportionately large, frequent and unusual transactions involving shell companies, the accounts should be frozen or closed and information should be forwarded to the relevant anti-corruption agency and the financial services regulator or the central bank for further investigation. This is necessary given the leading role of shell companies in the transfer and laundering of embezzled money from 1MDB. It is noticeable

that the MAS in Singapore has signalled to banks the need to be pro-active in detecting and reporting suspicious transactions by shell companies and to be prepared to close their accounts in order to combat money laundering. In fact, during the past twelve months under the guidance of the MAS, banks in Singapore have closed the accounts of several shell companies after detecting unlawful transactions (Daga, 2019). This is an example that could be followed in Malaysia.

Given the international nature of the 1MDB scandal, the prevention of illicit cross-border transfers of money, the penalties imposed on culpable banks and individuals, and the repatriation of stolen assets require much closer cross-border cooperation and more consistent application across jurisdictions. For example, a more consistent and stricter approach is required in dealing with shell companies (to follow Singapore's example), in applying guidelines in banks to check money laundering and in imposing penalties on culpable banks and their senior personnel that go beyond warnings and nominal fines.

In response to the 1MDB scandal the new Government unveiled in January 2019 a five-year plan to clamp down on corruption in government, called the *National Anti-Corruption Plan (NACP) 2019–2023*. The plan, launched by former Prime Minister Mahathir Mohamad himself, would entail major changes to the appointment process for key posts, require MPs and ministers to publicly declare their assets, and ensure new laws to regulate political funding and lobbying. This sounds promising and is intended to prevent another major corruption scandal, but it remains to be seen how vigorously the plan will be implemented in practice and whether it will be also affected by political influences (MACC, 2019).

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Grand corruption scandals in the Philippines

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Abstract

Purpose – The purpose of this article is to analyse the weaknesses of governance institutions in constraining grand corruption arising from the government procurement of large foreign-funded infrastructure projects in the Philippines. The weaknesses are revealed in the description and analysis of two major scandals, namely, the construction of the Bataan Nuclear Power Plant during the Marcos era and the National Broadband Network project of the Arroyo presidency.

Design/methodology/approach – This research employs a historical and comparative case approach to explore patterns of grand corruption and their resolution. Primary and secondary data sources including court decisions, congressional records, journal articles and newspaper reports are used to construct the narratives for each case.

Findings – Top-level executive agreements that do not require competitive public bidding provide an opportunity for grand corruption. Such agreements encourage the formation of corrupt rent-seeking relationships involving the selling firm, brokers, politicians and top-level government executives. Closure of cases of grand corruption is a serious problem that involves an incoherent and politically vulnerable prosecutorial and justice system.

Originality/value – This paper aims to contribute to research on grand corruption involving the executive branch in the Philippines, particularly in the procurement of large, foreign-funded government projects. It examines allegations of improprieties in government project contracting and the politics of resolving corruption scandals through the justice system.

Keywords Grand corruption scandals, Bataan Nuclear Power Plant, NBN–ZTE scandal, infrastructure projects, Philippines

Paper type Research paper

Introduction

Grand corruption scandals are a regular occurrence in the Philippines, tainting many presidential administrations (Mathews and Wideman, 1977; Mydans, 1988; Coronel and Tordesillas, 1998; Rimando, 2000; Hutchcroft, 2008). Grand corruption refers to the "abuse of high level power that benefits the few at the expense of the many" (Transparency International, 2016). Corruption at this level usually involves large sums of financial and state resources.

Popular thinking in recent years has attributed grand corruption simply to regime types (authoritarian vs democratic). This thinking is flawed. Corruption at various levels of government is rampant in weak or inferior democracies than in well-developed ones, leading to the belief that having a democracy alone does not guarantee effective control of corruption (UNODC, 2019; Kukutschka, 2018). Similarly, the level of corruption varies across authoritarian systems, with monarchies and single-party systems tending to be less corrupt than military and personalistic regimes; in fact, as Kukutschka (2018, p. 4) points out, "a small number of non-democratic countries perform relatively well in international corruption indices." In either democratic or authoritarian systems, the commission of grand

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corruption is typically driven by personalistic and patronage-clientelistic motivations that benefit rulers and the dominant political elite, political parties and allies, cronies and friends, as well as families and relatives (David-Barrett and Fazekas, 2019; Chang and Golden, 2010).

In the Philippines, grand corruption knows no political regime; its occurrence has been observed in both authoritarian and democratic governments. Thus, instead of simply regime type, it could be argued that it is the continued weakness of governance institutions that allows the culture and agency of corruption to thrive and persist, even at the highest levels of government. Despite the proliferation of anti-corruption laws, a perennially weak accountability environment and the ineffectiveness of the country's anti-corruption agencies encourage strategic rent-seeking by private firms and individuals through deception and bribes (or income transfer) to government officials. Furthermore, an inefficient prosecutorial and judicial system, often subservient to political power, encourages corruption by failing to punish crimes of powerful individuals and firms. All this constitutes the collective inability of institutional and agency constraints to overpower the forces that create, adapt and maintain the opportunities for corruption.

The scandals that affect many Philippine presidential administrations reflect this inability of both state and society to curb opportunities for grand corruption. Scandal, according to Lowi (1988, p. vii) is "corruption revealed;" it is "breach of virtue exposed." In his analysis of scandals, Lowi (1988, p. viii) argues that the exposé of corruption (the first news break or the substantive scandal) is often followed by a more controversial cover-up phase or the procedural scandal. The cover-up extends the scandal's media coverage and further erodes a political administration's integrity and legitimacy. Hence, the unpacking of a corruption scandal could be guided by an examination of its substantive and procedural stages. The analysis should also cover the scandal's resolution or closure.

Following the theme of this special issue of *Public Administration and Policy*, this article examines and compares two corruption scandals involving large infrastructure projects of government, namely, the Bataan Nuclear Power Plant (BNPP) of the Marcos era and the National Broadband Network (NBN) project of the Arroyo presidency. These two projects are amongst the most controversial political corruption scandals during the last 50 years. Their comparison enhances the understanding of grand corruption in government-initiated projects involving foreign government and corporate entities. To construct the narratives of each case, primary and secondary sources are utilized, including court decisions, laws published in the *Official Gazette*, Senate committee reports, journal articles, biographies and newspaper reports. The following sections provide descriptive accounts of the BNPP and NBN scandals, followed by the comparative analysis and conclusion.

The BNPP scandal

In July 1973, based on a feasibility study conducted by the International Atomic Energy Association (IAEA), President Ferdinand Marcos announced his decision to build the country's first nuclear power plant in the Bataan province. Soon after the announcement, the National Power Corporation (NPC), as the main implementing agency, began the work of undertaking the necessary technical studies as well as negotiate with vendor and financing institutions.

General Electric (GE) was the first to respond and worked with NPC for months to secure the contract. On 14 June 1974, GE presented a 200-page prospectus to the NPC and Presidential Executive Secretary Alejandro Melchor, Jr. who also served as the NPC director. Accordingly, on that very day, the NPC formally approved the Westinghouse offer (Dumaine, 1986). The NPC approval was in accordance with Marcos' decision during a cabinet meeting on 6 June to give the contract to Westinghouse (*PCGG vs Desierto et al.*, 2003).

Westinghouse out-manoevered GE by employing Herminio Disini as its special sales representative. Disini was a golfing buddy of the president and was married to Imelda Marcos' cousin and family physician. Through his close presidential connection, Disini was

able to build a vast business empire in a short span of time after the imposition of martial rule. His Herdis Management and Investment Corporation (Herdis), which was established in 1969 with a bank loan of only US$3,500, was ranked 15th amongst the country's top 1,000 corporations in 1976, with consolidated assets amounting to US$140 million (Manapat, 1991, p. 316). At the time of its divestment in 1981, the Herdis group included more than 30 companies under its umbrella.

In April 1974, Westinghouse sent a turn-key proposal to Marcos. A month later, a company delegation went to the Philippines to brief the president on the proposal to supply two 620-MW pressured water reactors for a reported cost of US$500 million. NPC general manager Ramon Ravanzo claimed that during the meeting Westinghouse only provided standard advertising brochures without any detailed costs and specifications (Butterfield, 1978).

Immediately following Marcos's approval, Melchor signed a letter of commitment giving approval for Westinghouse and NPC to firm up the project contract. However, contract negotiations dragged on for more than a year. One of the issues raised by NPC was that many contract provisions were "onerous, unacceptable, or inconsistent with the turn-key approach to project implementation" (*PCGG vs Desierto et al.*, 2003).

In November 1975, the final negotiated contract was transmitted to Solicitor General Estelito Mendoza for review. Mendoza recommended the rejection of the contract because of those provisions deemed onerous and disadvantageous to the government. Notwithstanding Mendoza's objections, Marcos ordered the NPC to sign the contract with Westinghouse (*PCCG vs Desierto et al.*, 2003). In February 1976, close to two years after the approval of the Westinghouse proposal, the two parties formally signed the final contract. The U.S. government, through its Export–Import Bank, provided project financing with a US$272.2 million loan and a guarantee of an additional US$367.2 million for NPC bonds.

The final contract revealed three significant changes from the original 1974 proposal. First, the total project cost reached US$1.1 billion for one reactor compared to the original estimate of US$500 million for two reactors. Of the revised total project cost, Westinghouse would share US$677.1 million (or 61% of total cost) and NPC US$432.3 million.

Second, the parties agreed to transfer the site from Bagac, which was found to be more vulnerable to tidal waves, to Morong, which was 18 metres above sea-level but nearer a volcano. The site transfer led the parties to design a facility that could withstand an earthquake with a magnitude of 7.9 on the Richter scale. Safety considerations for the site transfer raised the cost of the original contract.

Lastly, the contract changed the scope of work for Westinghouse. Initially, it was understood that Westinghouse would only provide design engineering and project construction management services. However, in January 1975, on the basis of an Aide Memoire from Westinghouse, Marcos ordered the NPC to leave the business of construction to Westinghouse "since the concept is totally turnkey" (*Republic of the Philippines vs. Herminio T. Disini et al.*, 2012, p. 37).

Commissions and other income

It is not clear how much commissions Disini and by extension, Marcos received from Westinghouse. Subsequent reports citing bankers and former Disini associates indicated varying amounts, ranging from a few million dollars to more than US$50 million. Initially refusing to disclose information for proprietary reasons, Westinghouse eventually revealed that Disini received commissions of at least US$18 million for the period 1976–1982 (Beaver, 1994; *PCGG vs Desierto et al.*, 2003). As sums were paid to him, no bribery of top-level Philippine government officials (including Marcos) was proven, which might have otherwise made Westinghouse legally liable under the U.S. Foreign Corrupt Practices Act of 1977.

Disini's profit from the BNPP project was not limited to commissions. His companies also engaged in underwriting insurance, construction, distribution of Westinghouse products and

services as well as the setting up of communications for the power plant project (Matthews and Wideman, 1977). Further, Disini intervened to make Citicorp the lead manager of the syndicated loan partly financing the BNPP despite a presidential decree that originally gave the role to American Express Bank (Butterfield, 1978). The presidential committee on the BNPP formed in January 1988 by President Corazon Aquino alleged that Disini and Westinghouse influenced Marcos to displace the American Express Bank in November 1974 in favour of Citicorp (Tiglao, 1992).

Media exposé and response

More than a year after the contract signing, a series of reports from the *Washington Post* followed by the *New York Times*, criticized Disini's Marcos connection as well as his involvement in the BNPP. In an interview with the *Washington Post* in December 1977, Marcos reportedly said that the decision to buy the Westinghouse plant was made based on a report by foreign technical consultants and that was before Disini's involvement with Westinghouse.

That explanation did not stop U.S. media criticisms of corruption and rising crony capitalism, as represented by the BNPP, as well as the spectacular rise of the Disini business empire through presidential influence. In response, Marcos ordered the Ministry of Energy and Ministry of Justice to investigate Disini's involvement in the award to Westinghouse (Butterfield, 1978). He also directed the government takeover of three Disini firms, in which the government had substantial financial exposure. Then Press Secretary Francisco Tatad explained that the takeovers were done not because of any wrongdoing by Disini but because the government had large investments in the three companies (Mathews and Wideman, 1978).

In 1981, in the midst of an international recession and piling debt, many crony empires, including Herdis, collapsed. This led Marcos to order the government bailout and takeover of 13 major Herdis companies and transferred them to the government-owned National Development Company (Branigin, 1984). In 1982, Disini fled to Austria, a country without an extradition treaty with the Philippines. There, he allegedly acquired citizenship and a castle. He passed away in 2014 (*ABS-CBN News*, 2014).

Increased project costs

While plant construction was undergoing in March 1979, a nuclear disaster struck in the United States at Three Mile Island (TMI). The TMI accident caused a partial nuclear meltdown, therefore raising alarm worldwide about the safety of nuclear energy. Consequently, the U.S. Nuclear Regulatory Commission (USNRC) issued guidelines for the upgrading of plant design and equipment requirements as well as other disaster preventive measures (USNRC, 2018, pp. 2-3).

In response, Marcos in June 1979 ordered a stop to BNPP construction activities. By virtue of Executive Order No. 539, he established a presidential commission to enquire into the safety of the BNPP. The commission, otherwise known as the Puno Commission because it was headed by then Justice Minister Ricardo Puno, submitted its report in November 1979, recommending the continuation of plant construction subject to the incorporation of additional safety features in the revised design (Republic of the Philippines, 1980, p. 1).

For its part, in August 1980, the Philippine Atomic Energy Commission (PAEC), the country's nuclear regulatory body, submitted its own re-evaluation study, which recommended the lifting of the construction suspension order. The PAEC further required the NPC to address 33 regulatory guides, nine TMI-related requirements and two IAEA concerns (Republic of the Philippines, 1980, p. 2). Based on the recommendations of the Puno Commission and PAEC, Marcos directed the NPC to resume construction of the BNPP.

These developments arising from the TMI accident ultimately resulted in a sharp spike in project cost mainly due to interest charges, inflation, foreign exchange losses and costs of

additional safety requirements. According to former Energy Minister Geronimo Velasco, the incremental costs shouldered by the NPC following the recommendations amounted to US$844 million, which included safety upgrades (US$100 million), cost escalation (US$292 million), financing charges (US$373 million) and other contract scope changes (US$79 million). Consequently, by 1984, the revised BNPP project cost estimate reached US$1.95 billion (Velasco, 2006, p. 111).

The BNPP was completed in mid-1985 and was prepared to operate in December. However, political considerations led Marcos to postpone operations until after the 1986 snap elections. By early 1986, the total project cost had risen to US$2.1 billion, or a billion dollars more than the original contract price in 1976. It took more than 20 years before the Philippines could fully settle the NPC's BNPP financial obligations. Based on the Bureau of Treasury's statistics on debt service for the period 1986–2007, Table 1 shows that the country paid a total sum of PhP62.4 billion for the nuclear power plant (or about US$3 billion based on the February 1986 average exchange rate of PhP20.46 per US dollar). Of the total amount of payment, PhP18.88 billion were for interest (which ended in 2003) and PhP43.56 billion were for principal amortization (which ended in 2007).

Recovery of ill-gotten wealth

Days after Marcos' ouster in February 1986, Corazon Aquino issued Executive Order No. 1, creating the Presidential Commission on Good Government (PCGG) to recover the ill-gotten wealth of the Marcos family and associates. The PCGG found plausible documentary

	Interest payments			Principal amortization			
Year	Domestic	Foreign	Total interest	Domestic	Foreign	Total amortization	Total interest and amortization
1986	1,177	0	1,177	0	0	0	1,177
1987	597	1,706	2,303	1,605	882	2,487	4,790
1988	337	1,700	2,037	1,524	1,759	3,283	5,320
1989	165	1,507	1,672	1,488	1,962	3,450	5,122
1990	80	1,915	1,995	0	2,452	2,452	4,447
1991	57	1,682	1,739	0	2,789	2,789	4,528
1992	37	1,096	1,133	0	270	270	1,403
1993	20	1,386	1,406	0	5,189	5,189	6,595
1994	39	842	881	0	2,725	2,725	3,606
1995	22	1,113	1,135	92	934	1,026	2,161
1996	36	1,107	1,143	64	935	999	2,142
1997	56	792	848	112	2,273	2,385	3,233
1998	40	667	707	99	841	940	1,647
1999	30	608	638	95	1,573	1,668	2,306
2000	32	0	32	113	1,599	1,712	1,744
2001	24	0	24	125	1,654	1,779	1,803
2002	7	0	7	125	1,637	1,762	1,769
2003	3	0	3	132	1,748	1,880	1,883
2004	0	0	0	0	1,988	1,988	1,988
2005	0	0	0	0	1,970	1,970	1,970
2006	0	0	0	0	1,761	1,761	1,761
2007	0	0	0	0	1,045	1,045	1,045
Total	2,759	16,121	18,880	5,574	37,986	43,560	62,440

Note(s): Data on government payments for the BNPP prior to 1986 not available
Source(s): The author's calculations are based on the online statistics on national government debt service provided in the Bureau of the Treasury (2020)

Table 1. National Power Corporation-Philippine Nuclear Power Plant interest payments and principal amortization, 1986–2007 (in million pesos)

evidence left behind by Marcos in connection with the BNPP project. In July 1987, it filed a civil complaint against Disini, Ferdinand and Imelda Marcos, and former Herdis group president, Rodolfo Jacob. The complaint, known as Civil Case No. 13, alleged that the co-defendants colluded unlawfully to acquire and accumulate ill-gotten wealth (*Republic of the Philippines vs. Disini et al.*, 2012).

Later that year, the Aquino government sued Westinghouse and its engineering subcontractor, Burns and Roe, for bribery, fraud and racketeering before a federal district court in New Jersey (Butterfield, 1988). The government demanded US$6.6 billion in compensation from the two firms. Westinghouse, however, convinced the court that the case should stay pending arbitration by the International Chamber of Commerce in Switzerland, as provided in the BNPP contract (*Republic of the Philippines vs. Westinghouse Electric Corporation*, 1989).

In 1991, the Swiss arbitration panel cleared Westinghouse of bribery charges (*United Press International*, 1991). In May 1993, the federal court jury in New Jersey also reached a verdict exonerating the two American companies. In 1995, while cases in Switzerland and in a U.S. appellate court were ongoing, the Ramos government decided for a US$100 million out-of-court settlement with Westinghouse. Based on that agreement, the Philippine government would receive US$40 million in cash and two combustion engines worth US$30 million each. By virtue of this out-of-court settlement, all other pending cases against Westinghouse on the BNPP project were dropped (*Asian Wall Street Journal*, 1995).

In contrast, the civil suit against Disini dragged on for a longer time. Legal tactics and jurisdictional conflict among the PCGG and Office of the Ombudsman (OMB) delayed settlement by the *Sandiganbayan*, the country's anti-graft court. It took 25 years before the court could resolve Civil Case No. 13 (*Republic of the Philippines vs. Disini et al.*, 2012; *PCGG vs Desierto et al.*, 2003).

During the early course of its investigation, the PCGG successfully convinced former Herdis executives to be whistle-blowers. These included former Herdis president Rodolfo Jacob, former Asia Industries president Jesus Vergara, former vice president Angelo Manahan and former legal vice president and cousin, Jesus Disini. Jacob had claimed that Disini's commissions were deposited in his personal Swiss bank accounts and not to Herdis' accounts. Disini's cousin, Jesus, also testified that Marcos owned two-thirds of Herdis (*ABS-CBN News*, 2009).

Surprisingly in 1997, the OMB then headed by Ananiano Desierto cleared Disini of graft charges for lack of prima facie evidence (*PCGG vs Desierto et al.*, 2003). The PCGG appealed the OMB's decision before the Supreme Court. Six years later, the Supreme Court reversed the 1997 OMB order and directed the OMB to file in the appropriate court the appropriate criminal charges. Thus, in 2004, then Ombudsman Simeon Marcelo filed two criminal cases against Disini, one for bribery and the other for violation of Section 4(a) of the Anti-Graft and Corrupt Practices Act, which prohibits a private individual from exploiting close personal ties with a public official in order to gain some pecuniary or material advantage. Consequently, Disini was arrested but was later released on PhP54,000 bail.

In 2012, the *Sandiganbayan* ruled against Disini, ordering the return to the government his commissions, deemed as ill-gotten wealth, amounting to US$50,562,500 (*Republic of the Philippines vs Disini et al.*, pp. 50-51; Salaverria, 2012). However, despite establishing the fact that Marcos and Disini were close associates (and relatives by affinity) and that Marcos acted in favour of Disini as Westinghouse's special agent, the court could not find preponderant evidence that the Marcoses received any commissions from the deal. Recovery of the Disini commissions has been made even more uncertain after his death in 2014.

The NBN–ZTE scandal

The government's deal in 2007 with the Zhongxing Telecommunications Equipment (ZTE) Company, a Chinese state-controlled firm, is another political controversy arising from a

dubious big-item procurement – the NBN project. It is a complicated case arising from the quarrel for profit and commissions between two competing groups with powerful political sponsors. One group was ZTE, backed by top government officials identified with President Gloria Macapagal-Arroyo (GMA) and her husband, First Gentleman (FG) Mike Arroyo (SBRC, 2009, p. 1). At the time of the scandal, the unpopular GMA administration was already beleaguered by other election-related controversies, such as the Hello Garci scandal and the Fertilizer Fund Scam.

The other group was led by Jose "Joey" de Venecia III, son of House Speaker Jose de Venecia (JDV). De Venecia's group, Amsterdam Holdings, Inc. (AHI) submitted an unsolicited bid for a Build–Operate–Transfer (BOT) scheme, purportedly at no cost to the government. Before the scandal, Speaker JDV was allied to GMA. Associated with the House Speaker was National Economic Development Authority (NEDA) Secretary Romulo Neri (SBRC, 2009, p. 1).

On 21 April 2007, the government through the Department of Transportation and Communication (DOTC) headed by Secretary Leandro Mendoza signed a supply contract with ZTE for the NBN project. A week after, newspaper columnist Jarius Bondoc revealed the involvement of an unnamed official of the Commission on Elections (Comelec) in the allegedly overpriced deal (*ABS-CBN News*, 2009). That official was later identified as Comelec Chairman Benjamin Abalos, Jr., who lobbied for the ZTE deal. Later, Joey De Venecia led in exposing anomalies in the deal.

On 11 September 2007, acting on a complaint from a House representative, the Supreme Court issued a temporary restraining order for the project. A week later, the Senate Committee on Accountability of Public Officers and Investigations Committee (or the Senate Blue Ribbon Committee [SBRC]) began a two-year investigation of possible ethical violations. Later that month, President Arroyo suspended the NBN project and then, on 2 October during her state visit to China, cancelled the ZTE contract (SBRC, 2009, p. 32).

Despite the contract's cancellation, the SBRC decided to continue its investigation. Two years later, it recommended further investigation with the view of filing graft charges against the president and her spouse, House Speaker de Venecia and his son, Comelec chairman Abalos, NEDA Secretary Romulo Neri, some whistle-blowers and other government officials involved (SBRC, 2009, pp. 110-118).

Since the initial exposé broke out in late April 2007, the Arroyo government attempted to minimize the scandal's impact by moving certain officials and personalities involved in the deal (SBRC, 2009, pp. 32, 57). In August, NEDA Secretary Neri was transferred to the Commission on Higher Education. His friend and technical adviser, Rodolfo Lozada, was sent to Hong Kong to avoid testifying before the Senate. In October 2007, amidst the Senate inquiry, Abalos resigned from his post as the Comelec chair.

Allegation of overpricing

ZTE's NBN deal with the government was negotiated within the framework of the Philippine–China Economic Partnership, which was established in June 2006 as a result of China's diplomatic offensive in Southeast Asia. Based on this agreement, the Philippine government signed an memorandum of understanding with ZTE, allowing the latter to invest in information technology projects in the Philippines, including the NBN project (SBRC, 2009, pp. 15-16). On 7 August, ZTE formally submitted to the Commission on Information and Communications Technology (CICT) its proposal to supply equipment and services for the NBN. The CICT was the agency under the DOTC tasked to review the NBN's proposals. In September 2006, China's Export–Import Bank indicated its intention to fund the project as a loan to the Philippines. The loan component ran contrary to GMA's initial preference for a BOT scheme, as expressed in NEDA's November 2006 Board meeting (SBRC, 2009, p. 22).

The two proposals bore different implications in terms of ownership and control. AHI's BOT scheme meant that the private company would run the enterprise until its agreed date of

transfer to the government. In contrast, the ZTE proposal meant that the broadband network would be owned and operated by the Philippine government while the procurement of equipment, services, and financing would come from China (*People of the Philippines vs. Arroyo et al.*, 2016, p. 15). The DOTC later rejected the AHI's proposal because according to Secretary Mendoza, AHI was insufficiently capitalized to undertake a massive government project (SBRC, 2009, p. 54). As such, the ZTE was the only proposal left for consideration in the NBN project.

The design and cost of the original ZTE proposal submitted to the CICT was not clearly established during the Senate investigation or during the *Sandiganbayan* trial. Witness testimonies at the Senate revealed different design coverages and costs ranging from US$262 million to US$289 million. A revised ZTE proposal, incorporating the DOTC's suggestions of increased coverage and technical requirements, was endorsed by the NEDA at a contract price of US$379 million. In a NEDA board meeting, GMA ordered the modification of the proposal and removal of overlapping components of the NBN project with the Department of Education's Cyber Education Project (*People of the Philippines vs. Arroyo et al.*, 2016, p. 14). The purported final contract price signed in April 2007 by DOTC and ZTE was US$329 million.

Unethical acts

The SBRC report suggested several improprieties committed by government officials and private individuals in the deal. At the centre of the political controversy were Comelec Chair Abalos and FG Arroyo, alleged brokers who received commissions for their services. Both Abalos and Arroyo, as a private individual though married to the president, had no official capacity to intervene in the deal. A Senate witness identified other brokers particularly Ruben Reyes, a private businessman and alleged close friend of GMA's brother (SBRC, 2009, p. 62; Sabangan, 2008).

Testimonial evidence established Abalos' lobbying and bribery attempts. Neri had informed GMA of the Abalos bribe offer to him, to which the president advised non-acceptance (SBRC, 2009, p. 49). De Venecia also claimed a US$10 million bribe offer from Abalos for withdrawal of the AHI proposal. But de Venecia's insistence to pursue his proposal later led Mike Arroyo to demand that he withdrew from the project (SBRC, 2009, pp. 38-39, 42).

The SBRC report also found it improper for the president to be playing golf and having lunch at ZTE's Shenzhen headquarters in November 2006 since the company was lobbying for a contract. It further pointed out the president's tolerance of corruption, as she knew about Abalos' bribe offer to Neri as well as other irregularities in the broadband contract (SBRC, 2009, pp. 90-91).

The SBRC believed that Speaker JDV and his son likewise committed unethical practices (SBRC, 2009, pp. 113, 115). Speaker JDV tried to distance his involvement from the project by telling the SBRC that his presence in Shenzhen was due to the invitation of the president (SBRC Report, 2009, p. 76). Nevertheless, he showed his hand at influencing government by inviting the DOTC Secretary Mendoza for breakfast at his home. It was there that JDV introduced Mendoza to his son, Joey and informed Mendoza of Joey's DOTC project (SBRC, 2009, p. 48). The SBRC argued that both he and his son attempted to commit graft since by law, relatives of the House Speaker up to the third civil degree, were not supposed to intervene or engage in a business, transaction or contract with the government.

Ombudsman politics and court decision

Before the SBRC hearings ended in August 2009, the OMB released the results of its own investigation. The OMB cleared GMA and her husband but recommended the filing of

administrative and criminal charges against Abalos and Neri. Ombudsman Merceditas Gutierrez was Mike Arroyo's schoolmate in one of the country's prestigious universities. Prior to her appointment as Ombudsman, she was GMA's former justice secretary.

After Benigno Aquino III assumed the presidency in 2010, the winds of Philippine politics shifted. The persecution of GMA and other government officials began. The House of Representatives impeached Ombudsman Gutierrez and she resigned in April 2011 before the conviction trial at the Senate. She was succeeded by former Supreme Court associate justice Conchita Carpio-Morales. It should be noted that, contrary to tradition, it was the retiring Carpio-Morales who swore in Aquino as president and not then Supreme Court Chief Justice Renato Corona. Corona, whom Aquino resented for accepting GMA's midnight appointment as chief justice, was later impeached (Batalla *et al.*, 2018b, p. 133).

In December 2011, on the basis of a formal complaint by representatives of certain left-wing groups, the Ombudsman filed charges against the Arroyo spouses, Comelec Chair Abalos and former DOTC Secretary Mendoza for conspiring to commit illegal acts that culminated in the signing of the NBN–ZTE contract. The charge against GMA *et al.* was for violation of Section 3(g) of the Anti-Graft and Corrupt Practices Act. Specifically, the provision of the law prohibited public officials from "entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby" (Republic Act No. 3019, 1960). The Ombudsman argued that the contract was "grossly and manifestly disadvantageous" to the government because (1) the actual cost of the ZTE proposal was US$130 million and therefore overpriced at the signed contract price of US$329 million; (2) the ZTE project covered only 30% of the country compared to the AHI's proposal of 80% coverage and (3) the project was to be financed by a loan from China versus the AHI's BOT proposal which would not entail any cost to government (*People of the Philippines vs. Arroyo et al.*, 2016, p. 2). In hindsight, the claims advanced by the Ombudsman in its case reflected the bias favouring the previous Senate testimonies of de Venecia and others in the opposition.

In late 2011, GMA and Abalos were charged and jailed for electoral fraud. Then in March 2012, on the basis of the Ombudsman's charges related to the NBN–ZTE project, the *Sandiganbayan* issued warrants of arrest for Mike Arroyo and Mendoza. Both men were freed after posting bail on the day of their arrest.

On 1 March 2016, the government prosecution finished presenting its case before the *Sandiganbayan*. Soon after, the accused asked the court to allow them to file a demurrer to evidence. A demurrer to evidence is a motion to dismiss the case for insufficiency of evidence. On 24 June 2016, the *Sandiganbayan* granted the request and as provided by the rules of criminal procedure, gave Arroyo *et al.* 10 days to file demurrers to evidence. Consequently, the accused individuals separately filed their motions for dismissal.

On 25 August 2016, the *Sandiganbayan* issued its resolution exonerating the Arroyo spouses, Abalos and Mendoza for lack of evidence to establish allegations of overpricing, the existence of a conspiracy and the disadvantages of the ZTE–NBN contract (*Macapagal-Arroyo vs. People of the Philippines and Sandiganbayan*, 2016). Apparently, the OMB erred in its reliance on the evidence provided by the opposition during GMA's term.

Comparing the two scandals

The weaknesses of Philippine governance institutions to curb grand corruption in government procurement projects during the past half-century could be gathered from a comparison of the two scandals. Both scandals share a number of elements from the process of contracting to their resolution.

First, an opportunity for corruption existed based on executive agreements that did not undergo competitive public bidding. Although transpiring under different political regimes,

one autocratic and the other democratic, the BNPP and ZTE projects were both based on top-level agreements with foreign entities that made contracting less transparent to the public.

Second, that executive agreements could be made without competitive public bidding encouraged the formation of corrupt rent-seeking relationships at the top levels of government. The two megaprojects revealed the importance of brokers and political sponsors–promoters in such relationships. Particularly, they were crucial to easing out the competition and successfully closing deals between the rent-seeking firm and the government.

Third, the lack of transparency in government contracting made the projects susceptible to public allegations of improprieties, which served to bolster the political opposition. Foreign media exposed the anomalous BNPP contract, which drummed up local opposition not only for the corruption but also for the nuclear plant's potential harm to public safety and the environment. In the ZTE case, the media exposé alerted the public of allegations of over-pricing due to huge commissions. Negative public opinion to the project of an already politically beleaguered Arroyo presidency prompted an inquiry from the Senate leading to the project's cancellation.

The fourth element relates to the erratic behaviour and questionable competence of prosecutorial agencies dealing with grand corruption, particularly the OMB and PCGG. The PCGG was able to gather voluminous evidence against the Marcoses and their cronies. However, important pieces of evidence were not properly handled as attested by the testimonies of PCGG personnel in *Republic of the Philippines versus Disini et al.* (2012). The court found no convincing proof of Marcos' ownership of the Herdis companies or his financial gain from the Westinghouse deal.

Similarly, the two cases raise questions concerning the OMB's competence and behaviour. In 1997, Ombudsman Desierto dropped the graft charges against Disini for lack of prima facie evidence, despite the PCGG evidence. On appeal by the latter, the Supreme Court in 2003 ruled that the Ombudsman exercised grave abuse of discretion. Thus, it reversed Desierto's decision and directed the OMB to file the appropriate criminal charges against Disini (PCGG vs Desierto *et al.*, 2003). Consequently, the new Ombudsman at the time of the Supreme Court decision filed graft charges against the Marcos crony. In 2012, the *Sandiganbayan* ruled in favour of the government.

In 2009, Ombudsman Gutierrez dropped charges against GMA in connection with the NBN–ZTE project because of her immunity from being sued as the president. She also cleared GMA's husband. In 2012, when the prevailing political fervour was against the former president, her successor Ombudsman Carpio-Morales, hastily filed charges against the Arroyos, Abalos and Mendoza. Insufficient evidence to graft charges led to the *Sandiganbayan's* exoneration of the accused in August 2016. In an earlier court decision, the Supreme Court also acquitted Arroyo for lack of evidence in a plunder case involving the alleged misuse of intelligence funds of the Philippine Charity Sweepstakes Office (*Macapagal-Arroyo vs People of the Philippines*, 2016). The petition was filed in July 2012 by Carpio-Morales.

A politically subservient or accommodating judiciary might be argued to be the fifth element in the legal settlement of both corruption scandals. The *Sandiganbayan* and the Supreme Court decided on the Disini case during President Benigno Aquino's term. Aquino was of course against Marcos and his cronies. It was also during his term that criminal charges were filed against GMA. The *Sandiganbayan's* ruling on the ZTE case, issued in the early days of the Duterte presidency, favoured the Arroyos and other co-accused. In her 9 July 2019 farewell dinner speech as Congress representative and House Speaker, GMA thanked Duterte, whose presidency "provided the atmosphere in which the Court had the freedom to acquit" her of the "trumped-up charges" of his predecessor (Panganiban, 2019). Her remark was suggestive of the political malleability of the courts.

Sixth, both projects contained the element of foreign government participation, therefore entailing diplomatic considerations. In this regard, the government had to take utmost care of

relevant, confidential information in order to prevent scandals from erupting and harming diplomatic relations. It was therefore possible that discovered irregularities made it difficult for the governments involved to publicly acknowledge or outrightly denounce the projects. In the BNPP project, the U.S. government was involved directly through the project loan financing provided by the U.S. Export–Import Bank. It was also involved indirectly through the support of its nuclear export industry and support of private banks. In the NBN project, direct Chinese government participation came through the ZTE, a state-controlled firm, and the China Export–Import Bank for loan financing.

Finally, after the initial media exposés, the Marcos and Arroyo governments failed to effectively contain the scandals from further prolongation or escalation. To dismiss the Disini connection in the Westinghouse deal, Marcos explained that the decision was based on an earlier report of foreign consultants. Further, in reaction to the U.S. media pressure, Marcos immediately ordered the investigation of the Westinghouse deal and the government takeover of Disini companies, which were symbolic gestures to affirm his integrity. To be sure, authoritarian rule prevented the discovery of other incriminating evidence on the legal improprieties of the BNPP contract. However, no amount of damage control could erase the image of the BNPP project as a symbol of Marcos' corruption.

The Arroyo government's damage control included the cancellation of the NBN–ZTE contract as well as the suppression of key witnesses (e.g. Neri) from disclosing sensitive information to the public. However, such measures only fuelled further public suspicions and strengthened the justification for the SBRC's prolonged investigation of the scandal.

What obviously contrasts the two projects is that the ZTE contract never pushed through unlike the BNPP, whose liabilities had to be settled for decades. The ZTE project cancellation was the product of the system of checks and balances in post-Marcos democracy, with pressure exerted by the mass media, Congress, the courts and public opinion. However, this system of checks and balances has not guaranteed the absence of grand corruption in the country.

Despite the Government Procurement Reform Act of 2003, which mandates that all government projects to undergo competitive public bidding, the apparent loophole revealed by the ZTE–NBN experience was the government-to-government agreement, which provided an exception to the general rule. This point raised contrasting legal opinions yet to be resolved (*Suplico vs NEDA*, 2008). That rules could be changed and broadly interpreted to favour particularistic interests does not bode well for the promotion of a culture of accountability and integrity in government in the Philippines.

Conclusion

The BNPP and NBN–ZTE scandals illustrate cases of corrupt relationships formed at the highest levels of government in contracting large infrastructure projects in the Philippines. Such projects, extending to national roadworks and other major undertakings, are often susceptible to political interference for the private gain of public officials (Batalla *et al.*, 2018a).

The constancy of grand corruption scandals in the Philippines suggests deeper problems in politics and society. First, many government institutions remain malleable to negative external influences. This is because the bureaucracy, lacking in both capacity and autonomy, has long been "subordinated to particularistic elite interests" (Hutchcroft, 1998, p. 26). Despite governance reforms through decades of restored democracy, many government institutions are still easily influenced by powerful vested interests.

Second, strong incentives to commit graft persist. Such incentives are not only exclusive to politicians, political appointees and professional bureaucrats but also to foreign governments, private firms and individual brokers. The persistence of corruption incentives in many government institutions draws from underdeveloped governance

measures, the prevailing culture of corruption, low civil service wages and the low risk of detection with a promise of high returns (Quah, 2013, pp. 127-132).

Finally, there is the perceived failure of closure to past scandals by the justice system, as there continues to be a "low risk" of punishment (Quah, 2013, p. 129). With the exception of the conviction of President Estrada for plunder (though later pardoned by Arroyo), no other high-ranking official above the position of provincial governor has ever been convicted of corruption (Bolongaita, 2010). At best, high-ranking officials accused of corruption have been shamed and jailed. Some senators including Juan Ponce Enrile, Ramon Revilla Jr. and Jose Ejercito Jr. were jailed in connection with the Napoles pork barrel scam but have been either released on bail or acquitted of plunder charges. The failure of closure of past scandals encourages corrupt practices by top officials, who regard government as a lucrative source of private wealth and power. The scandals provide a constant reminder of the long unattended opportunity of effectively reforming the political system.

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Combating corruption in Singapore: a comparative analysis of two scandals

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Abstract

Purpose – The purpose of this paper is to compare two corruption scandals in Singapore to illustrate how its government has dealt with these scandals and to discuss the implications for its anti-corruption strategy.
Design/methodology/approach – This paper analyses the Teh Cheang Wan and Edwin Yeo scandals by relying on published official and press reports.
Findings – Both scandals resulted in adverse consequences for the offenders. Teh committed suicide on 14 December 1986 before he could be prosecuted for his bribery offences. Yeo was found guilty of criminal breach of trust and forgery and sentenced to 10 years' imprisonment. The Commission of Inquiry found that the Corrupt Practices Investigation Bureau (CPIB) was thorough in its investigations which confirmed that only Teh and no other minister or public official were implicated in the bribery offences. The Independent Review Panel appointed by the Prime Minister's Office to review the CPIB's internal controls following Yeo's offences recommended improvements to strengthen the CPIB's financial procedures and audit system. Singapore has succeeded in minimising corruption because its government did not cover-up the scandals but punished the guilty offenders and introduced measures to prevent their recurrence.
Originality/value – This paper will be useful for scholars, policymakers and anti-corruption practitioners interested in Singapore's anti-corruption strategy and how its government handles corruption scandals.

Keywords Corruption scandals, Corrupt Practices Investigation Bureau, Teh Cheang Wan, Edwin Yeo, Singapore

Paper type Research paper

Introduction

Singapore is the least corrupt Asian country according to Transparency International's Corruption Perceptions Index (CPI) from 1995 to 2019. In 1995, Singapore was ranked third amongst 41 countries. In 2019, Singapore shared joint fourth ranking with Sweden and Switzerland amongst 180 countries with a score of 85 (Transparency International, 1995, 2020). However, this does not mean that there are no corruption scandals in Singapore (see Yeo, 2014). Scandal is defined by West (2006, p. 6) as "an event in which the public revelation of an alleged private breach of a law or a norm results in significant social disapproval or debate and, usually, reputational damage." A corruption scandal refers to the public exposure of corruption offences that result in social disapproval and reputational damage of the offenders.

This article analyses the corruption scandals in Singapore involving Teh Cheang Wan, the Minister for National Development during 1979–1986, and Edwin Yeo, an Assistant Director of the Corrupt Practices Investigation Bureau (CPIB), which resulted in adverse

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consequences for them. These scandals are selected because both individuals were respectively, the most senior People's Action Party (PAP) minister and CPIB officer charged with committing corruption offences. A comparison of these scandals demonstrates how the CPIB investigates corruption complaints and explains why corruption has been minimised in Singapore. The scandals are analysed first before identifying their consequences and the implications for combating corruption in Singapore.

Teh Cheang Wan scandal

Teh Cheang Wan was born in China and left in 1935 for Penang, Malaysia, where he received his primary and secondary education. After graduating in architecture at the University of Sydney in 1956, he worked as an architect with the Public Works Department and Housing Commission in New South Wales before working with the Housing Trust in Kuala Lumpur and the Penang City Council in 1957. In August 1959, he joined the Building Department of the Singapore Improvement Trust (SIT) as an architect. When the SIT was replaced by the Housing and Development Board (HDB) in February 1960, Teh was promoted to the position of Chief Architect. He became the HDB's Chief Executive Officer in 1970 and the Chairman of the Jurong Town Corporation in September 1977. He relinquished both positions to participate as a PAP candidate in the Geylang West constituency by-election in January 1979. He was returned unopposed and appointed as the Minister for National Development in February 1979 (Ngoo, 1983, p. 8).

CPIB's investigations

In April 1984, the CPIB received from an anonymous source a copy of Pek Chee Kee's affidavit of 22 February 1984 alleging that his father, Pek Tiong Seng, had paid S$560,000 to three non-existing companies to prevent Hock Tat's property from being acquired by the government in 1981. Pek Chee Kee informed CPIB officers on 5 September 1986 that he complained against the three directors of Hock Tat Company for paying S$560,000 without authorisation and documentation. He indicated that S$500,000 was taken from this sum and given to some persons but he refused to identify them. When the CPIB officers questioned the directors on 19 November, they confirmed that the money was withdrawn from Hock Tat but did not know what the sum was used for. After further questioning on 20 November, Pek informed the CPIB officers that the S$500,000 was paid through a person named "Liew" to Teh, the Minister for National Development. "Liew" was later identified as Liaw Teck Kee by Tan Boon Pow (Parliament of Singapore, 1987, pp. 25-26).

Liaw was interrogated by CPIB officers on 20 November for 34 hours and initially denied that he had received money from Hock Tat. On 21 November, Liaw admitted that he had received S$500,000 from Hock Tat for himself but could not prove this. When his request to the CPIB officers to see the prime minister to reveal the identity of person who received the money was rejected, Liaw disclosed that Teh had received the S$500,000. Liaw also revealed that he had acted as a middleman for Ho Yeow Koon and gave a bribe of S$500,000 to Teh in 1982 for the alienation of a parcel of State land to Keck Seng Singapore Private Limited. When the three directors of Hock Tat were informed of Liaw's disclosures, they admitted to the CPIB officers that they had given S$500,000 to Teh for his assistance through Liaw (Parliament of Singapore, 1987, pp. 26-27).

On 20 November, Evan Yeo, CPIB's Director, informed Prime Minister Lee Kuan Yew of the allegations against Teh. Lee agreed that the CPIB should continue to investigate discreetly and stressed that Teh had to be prosecuted if he had accepted bribes. Liaw informed the CPIB officers on 25 November that Liu Cho Chit, a friend of Teh, wrote a letter to offer him US$500,000 to persuade him not to implicate Teh. When he was questioned by the

CPIB officers, Liu admitted that he had offered US$500,000 to Liaw at Teh's request and that the money would be provided by Teh. Liu was then arrested by the CPIB officers. On 27 November, Yeo submitted a detailed report to Prime Minister Lee and requested his approval to initiate an open investigation by questioning Teh and other relevant persons or witnesses. The CPIB's practice was to conduct an open investigation if there were good reasons to avoid damaging the reputation of the person being investigated. Lee approved the CPIB's request for an open investigation on 28 November (Parliament of Singapore, 1987, p. 27).

Teh was questioned at the Istana Villa on 2 December 1986 by CPIB's Director, Evan Yeo and his colleague, Senior Assistant Director Tan Ah Leak. Teh was taken to the CPIB headquarters for further questioning and released on 3 December at 3 a.m., after 16 hours of interrogation. In his written statement to the CPIB, Teh admitted that he had assisted Hock Tat to retain one-third of its land but denied receiving any money from Hock Tat or Keck Seng. He took full responsibility for Liaw's misdeeds because their friendship had given the impression that Liaw was his agent for collecting bribes. He also offered to return the sum of S$800,000. The CPIB officers searched Teh's office and residence but did not find any incriminating evidence. They obtained from the Attorney-General on 3 December a Notice under Section 20 of the Prevention of Corruption Act requiring Teh to provide the CPIB within two weeks a sworn statement indicating all property owned by him and his family in and outside Singapore during the last seven years and any money or property sent out of Singapore by him during the past seven years. Teh was served this Notice on 5 December (Parliament of Singapore, 1987, pp. 27-28).

The CPIB completed its investigations on Teh on 10 December. On 11 December, CPIB's Director Yeo forwarded the investigation papers to the Attorney-General and recommended that Teh be prosecuted because there was sufficient evidence to do so. On 13 December, Teh sent a letter to Prime Minister Lee asserting that he was morally obliged to help Hock Tat recover part of the land acquired for the Ministry of Defence but he did not assist the developer of Riverview Hotel in the sale of the State land. Even though he was innocent of the allegations against him, Teh was willing to accept full responsibility and the prime minister's decision on the matter. Teh also sent a letter to Yeo claiming that he had not asked or received any bribes from Hock Tat or Ho Yeow Koon as alleged by Liaw Teck Kee, that Liaw had taken advantage by persuading Hock Tat and Ho to pay the S$1 million which he pocketed, and that Liaw's plan was to frame him if Liaw were exposed. On 14 December, Teh committed suicide at his residence by taking an overdose of Amytal barbiturate, without having to comply with the Notice to provide the CPIB with a sworn statement of all his assets (Parliament of Singapore, 1987, pp. 29-30).

Commission of Inquiry

On 4 March 1987, Chiam See Tong, the opposition Member of Parliament (MP) for Potong Pasir, asked Prime Minister Lee Kuan Yew whether he would initiate a public inquiry into the Teh Cheang Wan scandal. On 26 March, Professor S. Jayakumar, the Second Minister for Law, informed Parliament that the President had appointed a three-member Commission of Inquiry on the previous day with three terms of reference. First, the Commission had to ascertain whether the CPIB was thorough in its investigation of the bribery complaints against Teh and to confirm that no other minister, parliamentary secretary or government officer were involved in these two cases. Its second term of reference was to investigate the circumstances which enabled Teh to accept the two bribes of S$400,000 each, to ascertain whether other persons were involved with the two bribes, and to review the system used by the Ministry of National Development (MND) for the acquisition or alienation of land, the receipt and acceptance of tenders and the operations of the MND and related companies. The Commission's third term of reference was to refer any persons implicated in the two bribes to

the appropriate authorities and to make recommendations to address any shortcomings of the MND and its companies in preventing corruption (Parliament of Singapore, 1987, pp. 4-5).

Senior State Counsel, Lawrence Ang, was appointed on 6 April 1987 as Counsel to the Commissioners. The inquiry on the first term of reference began on 19 August 1987 with the testimony of Evan Yeo, CPIB's Director, as the first witness. Yeo continued with his testimony on 20 August, and was followed by his colleague, Tan Ah Leak, who provided details of his interview of Teh on 2 December 1986. The third witness, Liaw Teck Kee, described his role in collecting and giving Teh the two bribes given by Hock Tat and Ho Yeow Koon. In his closing speech on 21 August, Ang concluded, based on the evidence provided to the Commission that: (1) the CPIB was thorough in investigating the two allegations of corruption against Teh and (2) the CPIB had pursued all useful leads by interviewing all the public officers and persons involved with the allegations and confirmed that none of them had implicated any other Minister, Parliamentary Secretary or public officer. The Commission also found that Teh accepted bribes by abusing his position as the Minister for National Development to do favours for Hock Tat Development Pte Ltd and Ho Yeow Koon by ignoring established procedures and overriding the views and recommendations of his officers, and that there were no other bribes (Parliament of Singapore, 1987, pp. 6, 24, 34, 41, 55).

The CPIB officers had interviewed 157 persons in their investigation of the bribery allegations against Teh and recorded statements from 134 of them. Before Teh's death on 14 December, 15 senior CPIB officers were involved in investigating Teh's case. However, after his death, all the 43 investigators in the CPIB were assigned to investigate Teh's case. The CPIB officers had also examined and cross-checked the hundreds of entries in the seven bank accounts of Teh's family, the MND files relating to the Hock Tat case, the Ho Yeow Koon case and the successful tenders for the HDB contracts of Hoe Huat Engineering (Parliament of Singapore, 1987, pp. 30, 44).

Edwin Yeo scandal

Edwin Yeo joined the CPIB in 1998 as a Senior Special Investigator and was appointed in September 2006 as the Head of the Field Research and Technical Support (FRTS) Branch, which provides technical support for the CPIB's investigations and operations. His role was to supervise and provide oversight of the FRTS Branch's functions and to release funds for the payment of monthly operational and ad hoc expenses such as goods and services. As cash cheques were issued by the CPIB's Administration and Support Department to the FRTS Branch to pay for its operational expenses transacted in cash, he applied for an Internet banking account to enable him to access funds meant for the FRTS Branch between 2009 and 2012. The Deputy Public Prosecutor, Navin Thevar, revealed that Yeo had concealed his offences by "rolling over", i.e. by paying off earlier expenses with new funds meant for the FRTS Branch. Yeo had also requested his staff members to persuade some vendors to accept delayed payments of the sums owed to them (Chong, 2014, p. A1; Singapore District Court, 2014).

Yeo's offences

Yeo began in 2008 by misappropriating S$1,200. When his misconduct was undetected, he was emboldened to misappropriate much larger sums of money from 2009 until he was caught in September 2012. Ironically, he was awarded a Commendation Medal in 2010 by the Prime Minister's Office (PMO) (Yeo, 2014, p. 29). The 21 charges brought against Yeo are described in Table 1, which shows that the amounts misappropriated have increased from S$94,703.64 in 2009 to S$1,233,709.40 in 2012. Apart from the eight charges of misappropriating S$1,760,053.35 and one charge of forgery, Yeo was also charged on 12 counts of spending a total of S$241,030 on gambling from 4 May to 8 September 2012.

No	Year	Description of charges	Total amount misappropriated for year
1	2008	Misappropriated S$1,200	S$1,200
2	2009	Misappropriated S$94,703.64 on many occasions	S$94,703.64
3	2010	Misappropriated S$56,002.11 on many occasions	S$106,827.11
4		Misappropriated S$50,825 on 20 March	
5	2011	Misappropriated S$323,613.20 between 24 January and 16 November	S$323,613.20
6		Forged payment receipt of S$370,755 in March	
7	2012	Misappropriated S$716,768.37 between 15 February and 28 August	S$1,233,709.40
8		Misappropriated S$470,265.03 between 4 May and 31 August	
9		Misappropriated two cars and two motorcycles with a gross value of S$46,676 in June	
10		Spent S$11,950 on gambling on 4 May	
11		Spent S$10,900 on gambling on 1 June	
12		Spent S$45,550 on gambling on 3 June	
13		Spent S$6,950 on gambling on 4 June	
14		Spent S$16,650 on gambling on 13 July	
15		Spent S$8,250 on gambling on 30 July	
16		Spent S$30,450 on gambling on 11 August	
17		Spent S$23,500 on gambling on 12 August	
18		Spent S$9,100 on gambling on 31 August	
19		Spent S$32,400 on gambling on 3 September	
20		Spent S$32,750 on gambling on 7 September	
21		Spent S$12,580 on gambling on 8 September	
		Total amount misappropriated from 2008–2012	S$1,760,053.35
		Total amount spent on gambling in 2012	S$241,030.00 (13.7%)

Source(s): Compiled from the information provided in Singh (2013a, p. A6).

Table 1. Description of 21 charges against Edwin Yeo, 2008–2012

Yeo's offences were discovered on 14 September 2012 when the CPIB received information that several operational expenses incurred by the FRTS Branch were overdue. He was suspended from duty on 15 September after preliminary investigations. The CPIB reported Yeo's offences to the Commercial Affairs Department (CAD) of the Singapore Police Force on 18 October to prevent a conflict of interest and to ensure that the investigation would be conducted independently and impartially.

CPIB's weak internal controls

Yeo's transgressions for nearly four years reflect poorly on the CPIB's internal controls and procurement procedures on several counts. First, it is indeed surprising that the CPIB's internal audit controls are ineffective in spite of the Auditor-General's repeated recent reminders to ministries and statutory boards in Singapore to strengthen these controls. Jones (2002, p. 31) contends that the Singapore government's procurement policy is shaped by the three principles of following fair practices for all would-be suppliers, ensuring that the public is given value for money in purchasing goods and services, and maintaining the highest standards of probity in the procurement process to minimise the possibility of corruption. Clearly, the third principle of probity was not followed as Yeo deceived his colleague, Sze Chinyu, CPIB's Assistant Director of Administration and Support, that he had paid an equipment supplier by forging a payment receipt of S$370,755 in March 2011 (Neo, 2014, p. 1). Yeo's ability to forge a payment receipt without being detected indicates the CPIB's lack of effective internal controls governing procurement, including the detection of forged receipts and invoices.

Second, it is also surprising that Yeo was allowed to ignore the management's instruction requiring two persons to authorise transactions for a FRTS Branch bank account by applying for Internet banking facilities, which enabled him to transfer S$470,265 from the FRTS Branch account to his personal bank account between May and August 2012 (Neo, 2014, p. 1; Singapore District Court, 2014). As CPIB's Director is responsible for maintaining an effective system of internal controls, Eric Tan, who became CPIB's Director in October 2010, apologised for these lapses in internal control under his watch. When Tan became CPIB's Director, he tightened the CPIB's work processes but these improvements failed to detect Yeo's misconduct until September 2012 because the "new measures were not implemented well and were circumvented" (Toh, 2013, p. A6).

Third, according to paragraph 112 (1) in section L on "Staff and Discipline" in the *Instruction Manual 2: Staff,* a permanent secretary has to ensure that all the officers in his ministry declare whether they are financially embarrassed when they are first appointed, before they are out on the pensionable establishment, and annually on 1 July or another date decided by the ministry. Like all civil servants in Singapore, CPIB officers are also required to file an annual declaration of indebtedness for unsecured debts of more than three months of their monthly salary and to confirm that they are not financially embarrassed (Quah, 2014, p. 204). Obviously, in Yeo's case, he did not file the annual declaration of indebtedness for four years or his declarations were not properly verified. The CPIB has admitted that there were instances where the procedures and annual declarations were circumvented by Yeo.

Fourth, Yeo's case also illustrates the risks involved in the CPIB's reliance on limited closed tendering, when some reputable suppliers are invited to make submissions for the supply of goods and services without calling for an open or selective tender (Jones, 2002, p. 39), because the reduced transparency provides opportunities for backroom deals and procurement officers might be drawn into close relationships with suppliers involved in these deals. Procurement officers in Singapore are required by *Instruction Manual 3: Stores, Works and Services* to avoid personal contact and face-to-face dealings with the suppliers (Jones, 2014).

Finally, the most troubling aspect of Yeo's case is that as a CPIB officer, he was allowed to visit the two casinos in Singapore and not required to declare these visits to CPIB's Director. As civil servants in Macau are only allowed to visit the casinos there during the first three days of the Chinese Lunar New Year, it is surprising that the Casino Regulatory Authority (CSA) did not recommend restrictions on civil servants visiting the casinos in Singapore after their fact-finding trip to learn from Macau's experience in regulating casinos. Apart from CSA officers and those police officers involved in investigating casino-related cases, who are banned from visiting the two casinos, all police and Central Narcotics Bureau officers are required to declare their visits to these casinos.

Internal controls are necessary to ensure ethical government by reducing opportunities and incentives for corruption and by facilitating its detection. Apart from screening carefully candidates for appointed positions to prevent persons with a record of ethical violations from being appointed, the internal control system must ensure that more than one official is responsible for "authorising, processing, recording, and reviewing transactions." If possible, each of these functions should be performed by a different officer. Top-level supervisors should also review the internal controls periodically to ascertain their effectiveness (Zimmerman, 1994, pp. 216, 223).

Consequences of the two scandals

Lowi (1988, p. viii) distinguishes between substantive and procedural scandals. The substantive scandal refers to the breach of an actual norm and the procedural scandal involves the subsequent actions to cover-up or minimise the breach. A comparison of the two

scandals shows that the PAP government did not cover-up both scandals but instead initiated investigations to ascertain why they occurred and introduced measures to prevent their recurrence. In terms of duration, Teh's scandal, which occurred from April 1984 to December 1986, was shorter than Yeo's scandal, which lasted from 2008 to February 2014. There were adverse consequences for both offenders as Thompson (2000, p. 249) observed that "a scandal may culminate in a resignation, prosecution or some other form of career-diminishing and life-demeaning outcome."

Consequences of Teh's scandal

During his interview with CPIB officers on 2–3 December 1986, Teh admitted that he had assisted Hock Tat Development to retain its land but denied receiving any money from Hock Tat or Keck Seng. On 13 December, Teh sent letters to Prime Minister Lee Kuan Yew and CPIB's Director Evan Yeo to assert his innocence. The CPIB completed its investigations and forwarded the investigation papers to the Attorney-General on 11 December with a recommendation for Teh's prosecution as there was sufficient evidence to do so. However, before Teh could be charged for his offences, he committed suicide on 14 December without providing the CPIB with a sworn statement of all his assets (Parliament of Singapore, 1987, pp. 28-30). Teh's sudden suicide saddened and shocked many Singaporeans because "corruption allegations against prominent members of the PAP have been rare" (*Asiaweek*, 1987, pp. 19-20).

The CPIB's investigations revealed that Teh's family owned two houses in Singapore. Its examination of the seven bank accounts of Teh and his family also revealed that a total sum of S$7,296,891.15 was credited in their accounts from September 1976 to December 1986 (Parliament of Singapore, 1987, pp. 31-32). However, as the Prevention of Corruption Act does not provide for the confiscation of the estate of an offender if he obtains his benefits from corruption, an important consequence of Teh's scandal is the introduction of new legislation to plug this loophole. Accordingly, the Corruption (Confiscation of Benefits) Act 1989 was enacted on 3 March 1989 and Section 4 (1) enables the court to issue a confiscation order against a defendant's estate if he had derived such benefits from corruption.

The Commission of Inquiry found that the CPIB was thorough in its investigations of the bribery complaints and confirmed that no minister or government official was involved except for Teh, who accepted the bribes by abusing his position as the Minister for National Development and ignoring established procedures and overriding the views and recommendations of his officers. The Commission submitted its report to President Wee on 18 December 1987. In his memoirs, the late Prime Minister Lee Kuan Yew (2000, pp. 187-189) observed that Teh's downfall was "most dramatic" because:

> We had established a climate of opinion which looked upon corruption in public office as a threat to society. Teh preferred to take his life rather than face disgrace and ostracism. I never understood why he took this S$800,000. He was an able and resourceful architect and could have made millions honestly in private practice.

Consequences of Yeo's scandal

Yeo committed his first offence in 2008 but all his misdeeds were only discovered on 14 September 2012. He was suspended from duty on the next day after preliminary investigations were conducted. The CPIB referred Yeo's offences to the CAD for an independent and impartial investigation on 18 October 2012 to prevent a conflict of interest in investigating one of its senior officers. After the CAD completed its investigations, Yeo was charged on 24 July 2013 for misappropriating S$1.76 million. On 20 February 2014, he admitted to four of the 21 charges and was sentenced to 10 years of imprisonment.

As most civil servants in Singapore, including CPIB officers, were not required to declare their visits to the two casinos before the exposure of Yeo's offences, this serious omission enabled Yeo to satisfy his gambling addiction by making 372 trips to the casinos over two and a half years. He lost S$478,583.45 at the casinos between April 2010 and September 2012, and S$263,699.20 through betting with Singapore Pools during 2008–2012 (Singapore District Court, 2014). If Yeo were required to declare his visits to the casinos, his frequent visits would have alerted the CPIB to his gambling addiction and resulted in closer supervision of his duties. This glaring omission was rectified when the Public Service Division (PSD) announced that all civil servants were required from 1 October 2013 to declare their visits to the casinos in Singapore. Civil servants who visit the local casinos more than four times a month and those who have an annual pass, which allows unlimited visits for a year, are required to declare their visits to their superior officers within seven days. However, those officers in positions which are vulnerable to bribery must declare every visit to a local casino. The PSD introduced these new rules after reviewing Yeo's offences to strengthen measures to reduce the risk of fraud and corruption. Furthermore, from January 2014, all officers occupying positions which are vulnerable to bribery and exploitation would be rotated every five years. Those officers involved in "transactional work" are required to take at least five consecutive days of leave per year to enable those officers covering their duties to review their work procedures (Chang, 2013, p. A1).

On 24 July 2013, the PMO announced that Prime Minister Lee Hsien Loong appointed an Independent Review Panel (IRP) to investigate the causes of Yeo's offences and to prevent their recurrence by strengthening the CPIB's financial procedures and audit system. The IRP found that supervisory lapses in the CPIB resulted in "deficiencies in internal controls and the loss of public funds" from Yeo's ability to misappropriate S$1.76 million for almost four years. The IRP's recommendations were implemented by the CPIB without revealing what these changes were (PMO, 2013a, p. 1). As these supervisory lapses occurred during the terms of CPIB's Directors Soh Kee Hean (July 2005 to September 2010) and Eric Tan (October 2010 to September 2013), they were given formal letters of warning by the PMO for their failure to supervise adequately Yeo and the FRTS Branch. As Tan's term as CPIB's Director ended in September 2013, he was succeeded by Wong Hong Kuan, who was appointed on 1 October 2013 by Prime Minister Lee to "maintain public trust and confidence in CPIB" and to implement the IRP's recommendations (PMO, 2013b, p. 1). Tan's replacement by Wong shows "how seriously the Government views the lapses at the CPIB" and its intolerance of such lapses (Tham, 2013, p. A1).

In August 2013, Tharman Shanmugaratnam, Deputy Prime Minister and Finance Minister, informed Parliament that the procurement lapses reported by the Auditor-General's Office (AGO) were due to "non-compliance with rules, rather than gaps in the rules." These lapses resulted from "a lack of knowledge, carelessness or poor supervision, with no evidence of fraud or corrupt intent." He also announced that the new reporting system required permanent secretaries and heads of government agencies to report to the Ministry of Finance annually their assessment of the findings of procurement audits conducted by the AGO or the agencies themselves (Goh, 2013, p. A6). In January 2014, the Ministry of Finance formulated a government procurement code of ethics and professional conduct standards which identified the values and expected behaviour of procurement officers (Ong, 2014, p. B8). The implementation of the IRP's recommendations to strengthen the CPIB's financial procedures and audit system by its new director Wong should enhance its internal controls and procurement procedures.

As trust is a "relatively fragile resource" which can be depleted by a corruption scandal (Thompson, 2000, p. 252), the revelation of Yeo's misappropriation of S$1.76 million has shocked many Singaporeans and tarnished the CPIB's public image (Quah, 2015, p. 96). To be

effective, the CPIB must be incorruptible for two reasons. First, if its personnel are corrupt, such corruption would erode the CPIB's legitimacy and public image as they have broken the law instead of enforcing it. Second, corruption amongst CPIB officers prevents them from performing their anti-corruption functions impartially and effectively. Consequently, any CPIB officer found guilty of corruption must be punished and dismissed. Furthermore, details of such punishment must be widely publicised in the mass media to deter other officers to demonstrate the CPIB's integrity and credibility to the public.

Yeo is the third CPIB officer who has been found guilty of corruption offences. Gopal Ramachandran, a CPIB officer with 10 years' experience, was jailed for two years in July 2002 for leaking information to two corrupt policemen on how they would be investigated (*Straits Times,* 2002, p. 8). A CPIB senior special investigator, Chan Toh Kai, was jailed for one year in 1997 for cheating a businessman of S$8,000 (CPIB, 2003, p. 5.39). However, Yeo's misappropriation of S$1.76 million was not detected for nearly four years. The detection of Yeo's offences on 14 September 2012 was untimely for the CPIB as it occurred four days before the CPIB's 60th anniversary celebrations on 18 September.

Fortunately, Yeo's scandal did not result in irreparable damage to the public trust in the CPIB as a comparison of the findings of the public perceptions surveys commissioned by the CPIB in 2013 and 2016 in Table 2 shows that there is a two percentage decrease of respondents providing a positive evaluation of Singapore's anti-corruption efforts and those respondents who could trust the CPIB to keep Singapore corruption free. On the other hand, the proportion of respondents who believed that the CPIB is effective in maintaining Singapore's low level of corruption has increased by one per cent, those respondents indicating that the CPIB has done well in solving corruption cases has risen by three per cent, and those respondents believing that the CPIB is impartial in its investigations has increased by four per cent. Singapore remains the least corrupt Asian country on the CPI from 2013 to 2019, indicating that the revelation of Yeo's scandal in September 2012 has not adversely affected public perceptions of the CPIB's effectiveness.

Implications for Singapore's anti-corruption strategy

On 26 January 1987, Prime Minister Lee Kuan Yew spoke in Parliament on Teh's suicide on 14 December 1986. He reminded the MPs that "there is no way a Minister can avoid investigations and a trial if there is evidence to support one." Teh "chose death rather than face a trial on the charges of corruption which the Attorney-General had yet to settle." Lee attributed Singapore's effective system of combating corruption to four factors:

Survey item	Percentage of respondents agreeing with statement 2013	2016	Change
Positive evaluation of Singapore's anti-corruption efforts	91%	89%	−2%
The CPIB is effective in maintaining Singapore's low level of corruption	77%	78%	+1%
The CPIB has done well in solving corruption cases	73%	76%	+3%
The CPIB is impartial in its investigations	67%	71%	+4%
The CPIB can be trusted to keep Singapore corruption free	73%	71%	−2%
Total number of respondents	1,016	1,001	–

Sources: Compiled from CPIB (2017a, pp. 9-10) and the 2013 CPIB's public perceptions survey findings provided by the CPIB

Table 2. Public perceptions of the CPIB's effectiveness in curbing corruption, 2013 and 2016

> First, on the law against corruption contained in the Prevention of Corruption Act; second, on a vigilant public ready to give information on all suspected corruption; and third, on a CPIB which is scrupulous, thorough, and fearless in its investigations. For this to be so, the CPIB has to receive the full backing of the Prime Minister under whose portfolio it comes. But the strongest deterrent is in a public opinion which censures and condemns corrupt persons, in other words, in attitudes which make corruption so unacceptable that the stigma of corruption cannot be washed away by serving a prison sentence (Parliament of Singapore, 1987, p. 2).

Even though the number of corruption-related complaints received by the CPIB has declined during 2006–2011, several high-profile corruption scandals were uncovered in Singapore in 2011 and 2012. Ng Boon Gay, the Director of the Central Narcotics Bureau (CNB) was arrested by the CPIB for "serious personal misconduct" on 19 December 2011. He was charged on 12 June 2012 with four counts of corruptly obtaining sexual favours from a former information technology (IT) sales manager, Cecilia Sue, between July and December 2011 (Lim and Tham, 2012a, p. A1). Ng claimed trial for the four charges and the trial began on 25 September 2012. He was acquitted on 14 February 2013 because there was no evidence to show that he was aware that Sue's employer, Hitachi Data Systems, was involved in a contract that he had approved as CNB's Director (Tham and Lim, 2013, p. A1).

On 4 January 2012, Peter Lim, the Commissioner of the Singapore Civil Defence Force (SCDF), was arrested by the CPIB and charged on 6 June on 10 counts of corruption involving sex with three female IT executives, who were seeking government contracts for their companies (Lim and Tham, 2012b, p. A1). Lim's trial began on 18 February 2013 and he was found guilty of corruptly obtaining sexual gratification from the former General Manager of Nimrod Engineering in exchange for business favours with the SCDF on 31 May and sentenced to six months' imprisonment on 13 June (Spykerman, 2013; *Today online,* 2013). On 21 June 2012, the Ministry of Foreign Affairs revealed that its chief of protocol, Lim Cheng Hoe, was suspended by the Public Service Commission because he was being investigated by the CAD for making improper expense claims for some of his trips abroad (Lim, 2012, p. A1).

As Yeo's offences were discovered by the CPIB on 14 September 2012 after the revelation of the scandals involving Ng Boon Gay, Peter Lim and Lim Cheng Hoe, the PMO requested the CAD and CPIB in 2013 to conduct a study of those civil servants investigated for corruption and other financial crimes during 2008–2012 to ascertain whether there was any change in their number or profile (PMO, 2013a, p. 2). Table 3 shows that, an average of 80% of the cases investigated by the CPIB came from the private sector, with the remaining 20% originating from the public sector. The number of public sector corruption cases investigated by the CPIB ranges from 31 in 2011 to 49 in 2009, with an average of 39 cases during 2008–2012. However, the number of private sector corruption cases has declined from 194 in 2008 to 144 in 2012.

In his opening speech at the CPIB's 60th anniversary celebrations on 18 September 2012, Prime Minister Lee Hsien Loong reaffirmed his government's commitment to a policy of zero

Year	Public sector cases	Private sector cases	Total
2008	45 (18.8%)	194 (81.2%)	239 (100%)
2009	49 (20.9%)	185 (79.1%)	234 (100%)
2010	37 (18.0%)	169 (82.0%)	206 (100%)
2011	31 (22.5%)	107 (77.5%)	138 (100%)
2012	35 (19.6%)	144 (80.4%)	179 (100%)
Average	39 (20.0%)	160 (80.0%)	199 (100%)

Source(s): Singh (2013b, p. A8)

Table 3.
Corruption cases investigated by the CPIB by sector, 2008–2012

tolerance for corruption. According to him, "incorruptibility has become ingrained in the Singaporean psyche and culture" because of the CPIB's impartiality in enforcing the anti-corruption laws, its thorough and efficient investigation of corruption cases and the punishment of those found guilty of corruption offences. He indicated that the CPIB's investigation and arrest of Ng Boon Gay and Peter Lim reflected his government's "determination to clamp down on corruption and wrongdoing even when it's awkward or embarrassing for the Government" (Lee, 2012, p. A23).

Prime Minister Lee justified his government's unequivocal stand against corruption in this way:

> Let me be quite clear: We will never tolerate corruption and we will not accept any slackening. Anyone who breaks the rules will be caught and punished – no cover-ups, no matter how senior the officer or how embarrassing it may be. It is far better to suffer the embarrassment and keep the system clean, than to pretend that nothing went wrong and let the rot spread. ... And part of the solution has to be that if you do it, we will catch and punish you. ... Political leaders must continue to set high standards of honesty and integrity. The society must continue to reject corruption – not just because of rules and penalties, but because this reflects the society we want to live in, and the values we hold ourselves to (Lee, 2012, p. A23).

Conclusion

The effectiveness of Singapore's policy of zero tolerance for corruption and the CPIB's impartial enforcement and punishment of all offenders, regardless of their status, position or political affiliation, is reflected in Singapore's status as the least corrupt Asian country on the CPI from 1995 to 2019 and the continuing trend of declining number of corruption cases investigated by the CPIB during 2013–2018. It can be seen from Table 4 that the number of corruption cases investigated by the CPIB has declined from 152 in 2013 to 107 in 2018. On average, there were 125 cases during 2013–2018, with 16 (13%) public sector cases and 109 (87%) private sector cases. The average number of corruption cases investigated by the CPIB has declined as Table 3 shows that, there was an average of 199 cases during 2008–2012, with 39 (20%) public sector cases and 160 (80%) private sector cases.

The continuing decline in the number of corruption cases investigated by the CPIB from 2008–2018 indicates that it has been effective in minimising corruption in Singapore. However, this does not mean that there are no corruption scandals in Singapore as shown by the Teh and Yeo scandals, and other scandals. The growing importance of private sector corruption cases from 2008 to 2018 increases the likelihood of future private sector corruption scandals. To address this trend, the CPIB has published a simple four-step guide for business owners to develop and implement an anti-corruption system in their companies in January 2017 (CPIB, 2017b). The CPIB has also developed ISO 37001 on Anti-Bribery Management Systems to assist private companies in Singapore implement an anti-bribery compliance

Year	Public sector cases	Private sector cases	Total
2013	24 (16%)	128 (84%)	152 (100%)
2014	20 (15%)	116 (85%)	136 (100%)
2015	15 (11%)	117 (89%)	132 (100%)
2016	17 (14%)	101 (86%)	118 (100%)
2017	8 (8%)	95 (92%)	103 (100%)
2018	13 (12%)	94 (88%)	107 (100%)
Average	16 (13%)	109 (87%)	125 (100%)

Source(s): CPIB (2016, p. 6; 2019, p. 5)

Table 4. Corruption cases investigated by the CPIB by sector, 2013–2018

programme in April 2017 (CPIB, 2017a, p. 16). As the CPIB is responsible for investigating corruption cases in both the public and private sectors in Singapore, it should continue its effective approach of investigating thoroughly and impartially all future corruption scandals and punishing the guilty offenders according to the law, regardless of their status, position or political affiliation.

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