Philippine law follows the public-office definition of graft and corruption and includes those acts that are clearly private-regarding as well as those which may only appear to be so. The bureaucratic-legal norms are in marked contrast with personalism which the culture demands. The incongruence between legal and cultural standards is such that what are deemed unacceptable by law fall within the ideal and acceptable behavior according to the culture, and vice-versa. Nevertheless, the persistence of graft and corruption in Philippine society does not necessarily manifest a legal-cultural conflict since the most problematic form of corruption involves cash payments, which are both not legally and culturally acceptable.

Two hundred years ago and in another clime and culture, Edmund Burke warned:

Constitute government how you please, infinitely the greater part of it must depend upon the exercise of the powers which are left at large to the prudence and uprightness of Ministers of States.

The Philippines, heeding such advice and other forms of the Western tradition (e.g., Lord Acton's "Power corrupts") and bucking some rhetoric of its own has passed increasingly stringent laws regulating the exercise of powers of ministers of states and lower-ranking bureaucratic personnel. Yet graft and corruption still undermine government, even under the present dispensation.

For instance, in the fifties, Senate President Jose Avelino was reported to have said to then President Elpidio Quirino, "Why did you have to order an investigation, Honorable Mr. President? If you cannot permit abuses you must at least tolerate them. What are we in power for."

An index of this is the continuing need for laws to regulate the conduct of civil servants. This subject has been promulgated: P.D. No. 6, Discipline of Government Officials; P.D. No. 677, Requiring the Yearly Submission of Detailed Statement of Assets and Liabilities; P.D. No.

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One reason that has been put forward to explain its persistence is the lack of congruence between what is sanctioned by law and the idealistic statements of office-seeking politicians (not the Avelino type) and what the society regards as acceptable, even valued, behavior by its bureaucrats. Another is that the administrative machinery shows little desire to combat it, an argument that on closer analysis echoes the legal-ethical conflict of the first reason, i.e., government being an institution existing in a given social milieu cannot completely overturn what is supposedly supported by the culture. Other explanations may be cited but we will center on these in this paper in the hope that the discussion will not only shed light on the reasons for the persistence of graft and corruption but also assist us in arriving at its clearer and more universally acceptable definition.

Accordingly, this paper will attempt to tackle the following questions:

(1) What is the legally recognized area of graft and corruption? How should a civil servant act given these strictures?

(2) What are the cultural expectations regarding interpersonal, and especially bureaucrat-client, behavior? What, then, would be acceptable behavior by a child of the culture?

(3) Wherein lies the conflict and how can it be explained? Also, how much of the legal and cultural norms have been internalized and are still operative? What is the possibility for a reconciliation and an effective definition?

I hope to show here that conflict between ethics and law does exist in two ways: (1) in the commission and acceptance of what may be termed "favor corruption" where bureaucrats and clients are bound by the cultural requirements of reciprocity and particularistic relationships, and (2) in the social acceptance, or at least tolerance, of the fruits of graft and corruption, of whatever kind, whether the act was initially sanctioned by the culture or not. As such, they provide ammunition for the persistent assertion that strictures against graft and corruption are Western impositions on a country that values gift-giving and personalism.

This being clarified, however, I would argue strongly that many if not most acts of graft and corruption are not ethically acceptable. These are those acts where money is the most frequently used medium.
of exchange. These acts—what may be called “true corruption”—manifest the congruence of ethics and law in Philippine society.

This paper relates primarily to the Philippine situation and is thus based on legal and social norms obtaining therein. However, the analysis and discussion would utilize and relate factors of more general application and hence may be able to offer some contributions to a comparative study.

The Concept of Graft And Corruption

Regulation of the conduct of Filipino civil servants has been written into Philippine law books since the American colonial legislature passed the first administrative code in 1916. However, it was not until 1960 that a separate anti-graft law was enacted amidst much controversy, including several conflicting versions, a presidential veto and the dropping of certain provisions before final approval by both Houses and the President. The acts falling within the legal definition of graft and corruption are catalogued in Section 3 of Republic Act No. 3019 and in Presidential Decree No. 1, Section 1.

Graft and corruption so defined is such a long, tedious list that only administrative lawyers may be expected to read it thoroughly. It may be better understood if analyzed in two ways: (1) by identifying the definition from among Heidenheimer's three broad categories, and (2) by studying the type of bureaucratic-legal norm each act departs from.

Arnold Heidenheimer had identified three main approaches to the concept of graft and corruption extant in the literature. These are: (a) the market-centered school which studies behavior from the vantage point of the supply-demand model; (b) the “public office” type, the core of which is the "concept of public office and the norms binding on its incumbent"; and (c) the "public interest" approach which judges an act by its compatibility with the public interest.

The literature Heidenheimer cites are theoretical-empirical rather than the law itself, as I do here. However, looking at the provisions as a definition and then locating it in this property-space may provide insights as to its breadth and focus.

Jacob Van Klaveren likens a corrupt civil servant to a businessman who uses his office as a tool for the maximization of his income. As such his definition belongs to the first approach; so does Robert Tilman's which introduced the concept of a black-market bureaucracy. According to Tilman, the modern civil apparatus is a centralized allocation mechanism which may break

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[8] The actual provisions are reproduced in Table 1.


down because of a serious imbalance between demand and supply. In that event, clients would be willing to pay higher costs in exchange for the assurance of needed government services, even if there are risks (such as facing known sanctions) in the process. The market-centered definition thus focuses on the allocation of services in the bureaucracy and on the economic motivation that tends to underlie it. This view deals with the process of corruption but provides a rather limited view as to its cause. The Philippine law already introduced does negatively sanction certain clear acts of exchange (e.g., R.A. Act No. 3019, sections 3(b) and (c)) but generally goes beyond the market-centered concept's limited view.

Two examples under the second category are given by Bayley and Nye, respectively:

Corruption... is a general term covering misuse of authority as a result of consideration of personal gain which need not be monetary. The third perspective is represented by Carl Friedrich and Rogow and Lasswell:

...corruption can be said to exist whenever a power holder... is by monetary or other rewards not legally provided for induced to take actions which favor whoever provides the rewards and thereby does damage to the public and its interests.

A corrupt act violates responsibility toward at least one system of public or civic order... A system of public or civic order exalts common interest over special interest; violations of the common interest for special advantage are corrupt.

The "public office" and "public interest" distinction is not clearcut, as for instance, in Syed Alatas' definition of...

...corruption... [as] the subordination of public interests to private aims involving a violation of the norms of duty and welfare, accompanied by secrecy, betrayal, deception and a callous disregard for any consequence suffered by the public straddles both approaches which shows aspects of both. However, the Nye and Bayley definitions can easily be recognized as focusing directly on the actor, while "public interest" proponents worry more about the consequences of the

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9Heidenheimer, op. cit., p. 6.

10Ibid.


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act. The Philippine anti-graft catalogue centers on the actor and his acts, although the spirit of the entire legislation certainly would embrace the enhancement of the public interest. Nonetheless, it is interesting that, with the exception of the press which was a vocal outsider to the proceedings, the participants (Senators, Representatives, the President) tended to dwell on specific negative acts which could constitute graft and to worry about how it would affect persons (hypothetical or real) rather than the larger though amorphous public interest. From this perspective, the anti-graft definition is a variant of the "public office" type highlighting as it does the behavioral choices of civil servants. Note, however, that unlike Bayley's, Nye's and Alatas' concepts, all of which tend to posit a private-regarding motivation, the Anti-Graft Law is even more strict in that lack of intent or monetary gain does not absolve a person of the crime. For instance, R.A. No. 3019, Section 3(g)

is explicit that graft is committed when an official enters into, on behalf of the government any contract manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby. The Supreme Court had further clarified this provision, in one of its rare anti-graft case decisions, as follows:

It is the commission of the act prohibited by the law and not the character or effect thereof that determines whether or not there has been a violation of the provision...

Note also that Section 3(i) prohibits having any interest, direct or indirect in any transaction requiring the discretionary approval by a board of which one is a member, even if he votes against the same or does not participate in the action of the board..." As a legal luminary clarified in an interview: "Under our law you must not only be honest, you must convince others of your honesty. Appearances are important."

At the same time, the latest legal definition, like those of Nye and company, highlights the motivation behind the act, i.e., P.D. No. 6 states:

Receiving for personal use... a valuable thing... in the hope or expectation of receiving a favor or better treatment than that accorded other persons....

Read for instance, President Garcia's veto message: "While in principle I am in accord with the above-mentioned bill, I noticed that some of the provisions are harsh, oppressive, and violative of the fundamental rights of individuals who happen to be related to any one of the four highest officials of our government. It also contains provisions which are highly unreasonable and unjust to whoever may be President of the Philippines and to the members of his cabinet." See Gabriel U. Iglesias, "The Passage of the Anti-Graft Law," in Raul P. de Guzman (ed.), Patterns in Decision Making (Manila: College of Public Administration, University of the Philippines, 1964). p. 47 and pp. 1-54 passim.

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16Jose Bengzon, retired Supreme Court Justice, November, 1976.
Thus the Philippine definition as we have surveyed it here, comes out as a strict, all-embracing set of acts committed by a public officer which are dishonest, preferential to himself and others close to him or appearing to be such.

Types of Bureaucratic Legal Norms

In an earlier paper I have identified several types of norms that are supposed to govern the conduct of any bureaucrat. These are (a) universalistic, (b) priority, (c) efficiency, (d) technical, (e) jurisdictional, (f) propriety, and (g) secrecy norms. These flow directly from Max Weber’s classic work on the bureaucratic ideal-type. Because I will provide contrasts with the cultural norms later, it is also instructive to view them in the light of Talcott Parsons’s pattern variables. What is striking is the similarity not only of Weber and Parsons who are describing different things (i.e., organization and society, respectively) but particularly the congruence of the norms idealized in the anti-graft law and the Weber-Parsonian factors.

Universalistic norms require that the general good be upheld. Operationally this calls for treating a person sine ira et studio and for disregarding personalistic ties when relating to clients. When one deals with an unshod peasant, a pretty girl, and a first cousin in the same way, he will pass the test. Most of the acts listed in the Philippine law relate to this norm. The law prohibits receiving or soliciting for any material benefit in exchange for one’s services an act which is assumed to give a client undue advantage, whether it actually rebounds to his welfare or not.

The second norm is a variant of the first, but with time as a salient factor. It may be called simply priority norms. Since everyone is treated equally, an important organizational rule is: “first come, first served.” A bureaucrat would not give a latecomer any preference except in special cases. Thus patients wait their turn in a clinic, but the queue is disregarded when an emergency case is brought in. This implies that the bureaucrat is not a machine and can make alternative decisions in the light of the problem at hand. There are thus accepted criteria which would justify deviations without exposing the bureaucrat to charges of corruption or favoritism. These criteria are themselves rooted in universalism, i.e., there are various classes of special cases and all instances in each class

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17 See Ledivina V. Carino, “Bureaucratic Norms, Corruption and Development,” Philippine Journal of Public Administration, Vol. 19, No. 4 (October 1975), pp. 278-292. The last two were not recognized as separate norms then but on reexamination appear to be worthy to appear on their own.


activate the same special rule. No specific provision relates to priority but various violations of universalism may take the form of giving precedence to latecomers.

The third includes efficiency norms. A bureaucrat is supposed to deliver the service in as little time and with as little cost to the public as possible. However, he may delay service through absenteeism or malingering, by losing relevant papers, by improper information to clients as to what are needed, and by other conscious or unwitting forms of ineffectual work. R.A. No. 3019, Section (3)f, citing a bureaucrat's neglect or refusal to deliver the service after a reasonable time, is a good example of a violation of this norm.

The fourth type has to do with the use of a person's skill or professional training in serving a client. Parsons would recognize this as the utilization of the achievement criterion. The customs agent who describes gold jewelry as brass—whether by honest mistake or collusion with the importer—is guilty of violating a technical norm. The law regards violation of rules and regulations [Section 3(a)], entering into disadvantageous contracts [Section 3(g)], or giving licenses to the unqualified [Section 3(j)] as a corrupt act which can only occur when a person blindfolds his expert eye. The first three norms are applicable throughout the bureaucracy but the relevant technical norm would depend on the function of the person in question.

The fifth norm concerns one's jurisdiction. Weber separates the office from the person and implies a function-bound definition of one's sphere of power. This is akin to Parsons's pattern variable of specificity. If a person is employed as a guard and performs the duties of an assessor—perhaps to reduce the tax of a friend, then he has gone against jurisdictional norms. In that case, he is not qualified to evaluate the commodity technically and cannot strictly be bound by professional standards. Employes over-reaching their functional boundaries are not uncommon. That role is frequently called "fixing" and is most prevalent in agencies which ban all clients from all places but the reception lobby of their offices. In this case, an insider can, for a fee, follow up one's papers and in all the channels they go through, urge quick approval even though he does not know the first thing about the criteria being employed. More specifically, the law recognizes the possibility of corruption through the violation of jurisdictional norms in Section 3(a).

Related to jurisdiction is the norm of propriety. Besides following Weber's rule of keeping the office separate from the person, one must also take care that it appears so. Propriety norms are not directly discussed by Weber; perhaps the issue of conflict of interest
Table 1. Types of Bureaucratic-Legal Norms and Philippine Anti-Graft Provisions

| Bureaucratic-Legal Norm | Section | Philippine Anti-Graft Provisions
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Universalistic</td>
<td>R.A. No. 3019, 3(b)</td>
<td>(b) Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the government and any other party, wherein the public officer in his official capacity has to intercede under the law.</td>
</tr>
<tr>
<td>Priority</td>
<td>3(c)</td>
<td>(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained or will secure or obtain any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of this Act.</td>
</tr>
<tr>
<td></td>
<td>3(e)</td>
<td>(e) Causing any undue injury to any party, including the government or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. His provision shall apply to officers and employees of offices of government charged with the grant of licenses or permits or other concessions.</td>
</tr>
<tr>
<td>Presidential Decree No. 6, Section 1 (i)</td>
<td>(i) Receiving for personal use a fee, gift, or other valuable thing in the course of official duties or in connection therewith when such fee, gift, or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded other persons, or committing acts punishable under the anti-graft laws.</td>
<td></td>
</tr>
<tr>
<td>Efficiency</td>
<td>R.A. No. 3019, 3(f)</td>
<td>(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly from any person interested in the matter some pecuniary or material benefit or advantage or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.</td>
</tr>
<tr>
<td>Bureaucratic Legal Norm</td>
<td>Section</td>
<td><strong>Philippine Anti-Graft Provisions</strong></td>
</tr>
<tr>
<td>------------------------</td>
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<td>-----------------------------------</td>
</tr>
<tr>
<td>Technical</td>
<td>3(a)</td>
<td>(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter or allowing himself to be persuaded, induced or influenced to commit such violation or offense.</td>
</tr>
<tr>
<td></td>
<td>3(g)</td>
<td>(g) 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.</td>
</tr>
<tr>
<td></td>
<td>3(j)</td>
<td>(j) Knowingly approving or granting any license, permit, privilege or benefit in favor of any person, not qualified for or not legally entitled to such license, permit privilege or advantage; or of a mere representative or dummy of one who is not so qualified or entitled.</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>3(a)</td>
<td>(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority.</td>
</tr>
<tr>
<td>Propriety</td>
<td>3(h)</td>
<td>(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.</td>
</tr>
<tr>
<td></td>
<td>3(i)</td>
<td>(i) Directly or indirectly becoming interested for personal gain or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member and which exercise discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group.</td>
</tr>
<tr>
<td></td>
<td>3(d)</td>
<td>(d) Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination.</td>
</tr>
<tr>
<td>Secrecy</td>
<td>3(k)</td>
<td>(k) Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date.</td>
</tr>
</tbody>
</table>
did not seem to be as controversial or as significant in Weber's time as it does today. Though strictly not a bureaucratic norm, propriety norms are clearly a legal norm that works on the principle of prevention being worth more than sixteen times its weight in cure. [See Section 3(d), (h), and (i)].

The bureaucracy also requires that an employee keep official secrets secret not only to preserve its power but also to be able to follow the strictures of universalism which warn against giving undue advantage to any person. There is a special mention of the violation of the secrecy norm in Section 3(k).

Table 1 summarizes these norms and the salient passage in the anti-graft provisions of Philippine law. These are the acts constituting graft and corruption in the Philippines, as legally defined.

The Philippines follows a public-office definition which focuses directly on bureaucratic behavior and embraces a very wide range of acts—from those clearly private-regarding to those which might only appear to be so. In his performance then, a bureaucrat is expected to follow norms which are required by the organization he is serving so that it may be as a rational instrument for the achievement of its goals. The norms are also wide-ranging and are characterized by factors very similar to Parson's pattern variables and nearer the pale of the so-called "advanced society." Bureaucrats are supposed to be universalistic and to follow priority and scheduling rules, manifest efficiency, guard their jurisdiction and also not encroach upon others' territory, and to keep official secrets secret. In addition, it is not enough that these norms are followed in letter and in spirit, but the law requires also that the essence of fairness and incorruptibility be made visible by a manifest cleanness, an obedience to the norm of propriety. It is a very difficult law to obey. As Senator Roseller Lim voiced out during the Senate deliberations: "We will have an ideal bill but we ourselves will be afraid to vote for this bill because for even the most innocent thing we may do we will be subject to censure." The very idealism of the legal definition sets the arena for its conflict with the culture.

The Norms of the Culture

The Weber-Parsonian norms have been regarded as the idealized extreme of societal rules of behavior. Arrayed against them are norms of particularism, ascription and diffuseness where individuals are treated as whole persons instead of being segmented into roles. The norms of Filipino culture appear to follow this mode. Even a cursory review of the literature on the Filipino's values and preferred interpersonal patterns would support the notion that the ideal Filipino would lie at the opposite pole.

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THE DEFINITION OF GRAFT AND CORRUPTION

from the ideal bureaucrat. Bonifacio asserts that personalism is in fact the most dominant symbolic feature of Filipino social behavior. In his interactions with others, the Filipino gets involved as a total personality, not separating its various segments or roles. Thus a criticism of an idea a man espouses is often received as an attack against one's entire being. Similarly, when a Filipino bureaucrat denies a request by a client, he is deemed to have rejected the latter's character, family and positions also. Because of the cultural imperatives, a Filipino is expected to take account of all facets of an individual's personality and memberships in dealing with him. As he does so, he is also expected to treat persons according to the closeness or congruence of their group memberships and their other similarities to him.

Writing directly about the bureaucracy, Frank Lynch describes the same interpersonal pattern as producing a civil servant "entangled" with the culture and thus unable to contribute to the effectiveness of the bureaucracy. Personalism may also be regarded as the overarching norm which is manifested, as Jocano asserts, in such values as hiya and utang na loob.

Bonifacio explains the dominance of personalism as being rooted in "our basic social and moral commitment...to the kinship." Thus a person's actions must always be viewed against the backdrop of how it will affect his family. However, the particularistic orientation may embrace not only blood relatives but also the relations sanctified by ritual (e.g., compadres), or even simply by propinquity (e.g., neighbors) and frequency of interaction (e.g., friends), or even suki (a regular patron or customer). Nevertheless, it always connotes the primacy of ingroup or parochial interests over an abstract "general good."

Personalism operates, according to Jocano, to enhance and render face-to-face interactions most effectively. They had evolved as a way of cementing the solidarity of a community and a means of protection against hostile outside tribes when interpersonal relations could involve only such direct dealings with people. For the most part, personalism can be a welcome touch in a com-

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21Manuel Bonifacio, "An Exploration into Some Dominant Features of the Filipino Social Behavior," a revised version of a paper read at the Symposium on the Filipino Personality, 12th Annual National Convention, Psychological Association of the Philippines, Manila, May 9-10, 1975, p. 4.
23See F. Landa Jocano, paper submitted to the Department of National Defense Study of Philippine Values, (November 1976), pp. 1-19. Hiya is the norm of shame and implies keeping one's (or the family's) relationship with another in good favor. Utang na loob is the norm of reciprocity that involves a relationship of gratitude.
21Bonifacio, op. cit., p. 10.
plex society grown cold. Indeed, the Western fad of communes has emerged as a partial attempt to recreate such human relationships. Nevertheless, personalism can be discordant in a bureaucracy where relations are supposed to be governed by institutional rules and general interest rather than particularistic considerations.

The bureaucratic-legal norms lie a great distance from the demands of personalism. The contrast is very marked and I shall illustrate this using an earlier empirical study of a regulatory agency which I called the Bureau of Resource Management (BRM). As the bureaucracy requires universalistic and collectivity-oriented decisions, so the culture asks for particularism and self-orientation. Thus, many administrators regard parochial considerations as primary, and use their discretion so as to enhance their group interests rather than the national goal. For instance, an employee may even withhold performing his ministerial function of opening up an area for exploration and exploitation until a favored applicant has been informed of the bidding and is in a position to bid or negotiate, violating universalistic and secrecy norms. In addition, he may antedate the application of that client to give him unearned precedence over the others, thus disobeying priority norms.

To continue the contrast: as the bureaucracy and the law demand behavior based on expertise and achievement, following the technical norm, so the culture asks for preference given to ascriptive and non-technical characteristics. Consider the following difference:

27 This is a comparison of the required procedure in this Bureau and the actual procedure followed according to our informants. See ibid., pp. 286-287.

<table>
<thead>
<tr>
<th>Prescribed Step</th>
<th>Corruptive Deviation from Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Committee on Awards Composed of three members from different technical divisions evaluates bids and makes its recommendations. And order granting the awards is also prepared by the Committee.</td>
<td>The recommendation may be delayed or withheld until the (favored) applicant who has lost in the bidding is able to win the award through political interference, mediation of powerful interest group or cash payments.</td>
</tr>
</tbody>
</table>

Note, however, that only the first two means—political interference and interest group mediation—would be supported by cultural norms, and then only if the basis for one's intervention is rooted in kinship, reciprocity or another cultural value. I will return to this point later.

The jurisdictional and propriety norms relate to the Parsonian variable of specificity, each role activated in its own sphere, an official's act distinguished from his choice

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26 Cariño, op. cit. In this paper, I prepared a "manual" showing how corruptive deviations from required procedures were usually carried out in that office.

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as a father, friend or neighbor. However, the culture would blur those boundaries, and would rather diffuse personal relationships so that they permeate every involvement. This is in fact the main defining characteristic of personalism even as it remains the opposite of Weber's "separation of the office from the person." I had cited no violation of a jurisdictional norm in our study of the BRM because of the highly systematized nature of corruption therein and because this type of violation can be idiosyncratic. An additional reason is the omission of conflict of interest in the analysis. Nevertheless the pervasiveness of diffuse relationships in the society is evidenced by the fact that many a Filipino, before transacting business with any agency, public or private, would first seek out a friend, or finding none, will then go to an intermediary who does know somebody there. Explaining this behavior, Jocano argues:

While (other) social scientists perceive this mode of operation as a means of corruption..., Filipinos see their own actuations as a means of personalizing impersonal interactions and adapting to a system alien to his (sic) manner of interaction.28

In addition to the conflict between the law and society, there is also the difficulty of recognizing the connection of certain culturally prescribed acts to graft and corruption. Thus many Filipinos fail to see how their particularistic demands on government officials may lead the latter to commit corruption.29 These include such things as asking a ranking official with limited (even if high) income to contribute to all sorts of social and cultural events without recognizing that he is thus asked to make an investment which should yield some returns. This type of legal-cultural conflict is more difficult to recognize because the culture does not impinge directly on the deviant decision but only provides the cause for it.

One must bear in mind, however, that the conflict arises only in the bureaucratic situation. In other areas the law may even encourage the cultural norm, as in the rules concerning strengthening the family and one's devotion to kin.

The Incongruence of Culture and Law

Corpuz in his description of two faces of corruption30 suggests that since there are two social standards, an act may be considered both ethical and illegal at the same time. The discussion in the earlier part of this paper has shown how that situation can come about.

To further illumine the issue, I shall introduce three types of behavior according to their acceptability:

28Ibid.

29Mary R. Hollnsteiner, "Philippine Bureaucracy: The Interplay of Two Legitimate Value Systems," paper read at the 3rd Session of the Philippine Executive Academy, College of Public Administration, University of the Philippines held at Baguio City, February 9, 1966.

The cultural imperatives seem to operate against the realization of the ideals of the law. By the same token, strict application of the legal standard calls for universalism, specificity and achievement to prevail. It would regard as acceptable those situations where a person acknowledges his debt to a client as long as it does not conflict with his obligations as a civil servant (e.g., treating him to lunch). It would certainly be legally unacceptable for a civil servant to give unfair advantage to that person in his professional decisions. (Refer to R.A. No. 3019, Section 3.)

On the other hand, utang na loob is a dominant Philippine value stressing one's obligation to reciprocate goodwill shown by another. The more difficult or inconvenient the favor received, the deeper is ego placed in alter's debt. By its very nature, utang na loob demands particularism, ascription and diffuse-ness. The culture ideally expects that ego go out of his way to repay the other person and to accord him special treatment. It would still be acceptable behavior if he simply acknowledges it and does what he can without disobeying rules of the agency. However, it would be unacceptable and unethical for him to ignore alter or forget his debt to him. The cells produced by the combined application of legal and cultural norms are shown in Table 2.

From the table it would appear that there is indeed some incongruence between legal and cultural standards. Some of what are deemed unacceptable by law fall within the ideal and acceptable behavior according to the culture. And vice versa: some of what are ethically deviant are behaviors ideal or at least acceptable under the law.

I may first stress the presence of a set of positive congruencies, where both law and culture accept the behavior or where one regards as acceptable what is ideal to the other. My preference is to expand the individual situations where these obtain and to decrease the frequency of the illegal but ethical activities. It is cells 7, 8 and 9 that most people mean when they refer to graft and corruption.31

The cultural imperatives thus seem to operate against the realization of the ideals of the law. By the same token, strict application of the

31At least this was the consensus of our small (10) but distinguished panel of experts.
The Definition of Graft and Corruption

Table 2. Bureaucratic-Legal and Cultural-Ethical Norms, by Types of Acceptable Behavior

<table>
<thead>
<tr>
<th>Cultural Ethical Norms</th>
<th>Bureaucratic-Legal Norms</th>
<th>Unacceptable (Illegal)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ideal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>No example. Law does not require utang na loob to be acknowledged</td>
<td>Utang na loob shown in extra-bureaucratic situations and decisions</td>
</tr>
<tr>
<td>Acceptable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Utang na loob shown only where it does not hurt other clients</td>
<td>Introducing alter to agency personnel—to help dispel strangeness of impersonal organization — without endorsement or comment</td>
</tr>
<tr>
<td>Unacceptable (Unethical)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Treating alter like anybody else (e.g., abstaining from decision affecting alter on grounds of conflict from agency)</td>
<td>Abstaining from decision affecting alter after due suggestion</td>
</tr>
<tr>
<td>6</td>
<td>&quot;True&quot; corruption-when a person does not show utang na loob, deviation from law will have other bases</td>
<td></td>
</tr>
</tbody>
</table>

Law can be resorted to achieve the same cultural imperatives. However, the fact that such a law was passed in Philippine soil by a Filipino legislature appears to contradict an assertion that a concept of graft and corruption would be completely alien to the culture. Such legal norms have to be known and acceptable to some degree at least to some members of society. At one extreme, one may claim that the law is proof that the traditional cultural precepts have already been superseded. However, in view of the recency of the references above and given my own knowledge of Philippine society, this position is rather unlikely. Instead, there is neither full knowledge and acceptance of the bureaucratic-legal strictures nor full disregard of them.

Knowledge Apart from Behavior

Two moderate positions appear to be relevant. First is the level of simply knowing about and accepting the legal norm without allowing this knowledge to inform one’s behavior. The latter involves the congruence of knowledge and behavior where law and culture do not conflict. In accord with the first
position, it has been found that contemporary Filipino administrators regard graft and corruption as the foremost object of national shame. Similarly, another survey reports that the general populace found it a problem second only to general economic issues like rising taxes, increasing imports and high cost of living. According to the same study, many bureaucrats stated that citizens have low regard for their government because of graft and corruption. Also, peasants and elites of two municipalities surveyed in 1970 criticized their local government as corrupt. Clearly, this condemnation cannot be made unless some believe that engaging in certain prescribed practices is really wrong. There is here little ignorance about and in fact some acceptance of the legal norm. For instance, Alfiler's thesis on the agency regulating land transportation showed that both drivers and bureaucrats easily take the universalistic (and legal) choices in given interactions.

Yet acceptance seems to fall short of behavior. One reason is that following the law is inconvenient. In Stone's study of the concept of public and private property among sidewalk vendors, squatters, merchants and drivers, he found them consistently distinguishing between the "legal" and the "effective" ways of dealing with policemen and other agents of the law. Graft and corruption does grease the machinery of governments and save a client time and expenses. In the BRM, clients graciously payed the extra-legal fee to save demurrage costs that could pile up the longer their shipment remains in port.

In turn, an important reason behind the convenience of graft is its low risks. Enforcement is at best random, even, in some agencies and at various periods, nil. And the reasons behind this are two: (1) the law's conflict with culture, and (2) the problem of power.

The former I have already described above. The problem of power relates both to the lack of teeth of the enforcement machinery and the cavalier treatment of such violations and violators as have been brought to light. This implies that the government can increase the congruence of law and behavior if it puts more authority behind its enforcement. The marked discipline

32Jose V. Abueva, "Administrative Culture and Behavior and Middle Civil Servants in the Philippines," in Edward Weidner, op. cit.

July-October
of civil servants at the institution of Martial Law and the promulgation of P.D. No. 6 and at various periods following the purges testify to the power of power to translate knowledge into behavior. Indeed Jocano shows that the orientation to authority is also one of the major anchorage points of the culture.\textsuperscript{37}

Another reason acceptance falls short of behavior relates to the dictates of the economic system. In a free enterprise economy like the Philippines, businesses survive on the basis of their profits, regardless of the means used to get them. From that viewpoint, bribery may be regarded as simply another cost that has to be borne because it after all buys franchises, saves demur­rage costs, etc., and is in that sense "profitable." Besides, engaging in such corrupt acts may be necessary to survive, since the competition would not be above doing the same things either. The problem here then is not so much the ethico-cultural norms as the pressures of the economy.

Knowledge and Acceptance Manifested in Behavior

The first level of congruence is akin to the layman's use of the word "theory" to refer to a situation not descriptive of reality. The second level—that of knowledge and acceptance manifested in behavior—he would call "practice." Because the Filipino is still personalistic, the basic key to reaching this level lies in his development of specificity in personal relations. This is a big order since diffuseness is at the heart of the personalistic culture. However, evidences of departures from diffuseness are already available. In Jocano's study, most of the respondents were able to separate utang na loob, kinship and friendship ties from the demands of the office and to choose to follow the dictates of the latter over the cultural expectations. Admittedly, this is still verbal adherence rather than behavioral manifestations. However, a selected group of development-oriented individuals also shows this capacity.\textsuperscript{38} They may presage a trend towards what Lynch calls "the less entangled civil servants."

Towards a Definition—Corruption Without Cultural Support

The case seems to be proved: graft and corruption persists because the culture nurtures it. I would reject such a conclusion, however, for the following reasons:

1. Many acts of corruption are condemned by cultural precepts as well as the law;
2. The particularistic norm followed by those who commit "favor corruption" violates another ethical rule—that of fairness.

\textsuperscript{37}Jocano, op. cit., pp. 84-85.

\textsuperscript{38}Aurora Carbonell, "Towards a Concept of Development-Orientedness" (M.P.A. thesis, College of Public Administration, University of the Philippines, 1974).
The Nature of “True Corruption”

To say that corruption is an ethico-cultural precept misrepresents both the strength of the hold of the culture and law in Filipino behavior. In Table 2, it may be recalled that there was cell 9 where both law and culture coincided in labeling an act “deviant” or “corrupt.” That cell may be called the area of “true corruption.” In that instance, a bureaucrat cannot hide behind the cloak of societal ethics to legitimize or excuse his action because the culture itself would not support it. In the violation of a technical norm in the BRM, I called attention to the fact that only two could conceivably have cultural support. However, the third, the use of each cash payments, is definitely not ethically supported. Yet it is the most frequent medium of exchange in “true” corruption. (Another would be violence or the threat of it.) What in fact distinguishes “true corruption” from “favor corruption”—that using particularistic ties—is its impersonality, a far cry from the cultural precept. Here is segmentation of personality idealized by Parsonsian specificity, but against bureaucratic ideals. Graft surrounded by familistic and parochial considerations with occasional invocations of bureaucratic values are set in the community and recipients of this favor become in turn tied to the bureaucrat with a newer link in the utang na loob chain. However, instances of true corruption are definitely staged in the market, and bribery can hardly exist as a culturally blessed favor.

We may hazard a guess that most graft acts are of this type. For instance, in unstructured interviews with twenty regular clients of the the BRM we found only one who got his license without resorting to some cash payments. True corruption violates universalistic norms but the recipients of its favors need no particular identification except cold cash.

The Unfairness of the Particularistic Norm

One problem with “favor corruption” is that while it is used as a rationalization by participants on both sides of the bureaucratic encounter, it is not so readily condoned by those who are not its direct beneficiaries. In fact, activating the kinship factor is not seen by others as a question of moral obligation as much as an attempt to put one over the rest of the clientele. In this sense, then, kinship (or another ascriptive relation) becomes used as a commodity of value (just like money) and is exchanged in the market like any other.

Because the availability of relatives is not randomly distributed throughout the bureaucracy, there are a few who can benefit from particularism and many more who will suffer. The exception in the BRM is a local official related to a higher-ranking national official.
His case calls attention to another type of corruption which is not ethically supported—that where power and status considerations operate to give unfair advantage to an unqualified or later-coming qualified applicant. Those disadvantaged may thus invoke norms of justice and fair play which is also a moral obligation according to the culture.

The unfairness of particularism would not preclude anyone from activating his ascriptive ties if they are available, since it yields more direct personal benefits. It does mean, however, that that act is probably not regarded as ethical by the rest of the society.

Other Norms of the Culture

Nevertheless, there are other norms and values which may have the effect of facilitating or encouraging the commission of graft. For instance, since success is conceived in terms of conspicuous consumption and other economic indicators, successful practitioners of corruption find that they are not ostracized, although suspicions of the source of their wealth may be gossiped about. Adulation may even be forthcoming because they now have success on two counts: in amassing wealth, and in not being caught in the process.

A second value is that of having people who have had success (whether “earned” in corrupt ways or not) to share their wealth with their less fortunate kinsmen or colleagues. Many a politician and administrator who starts out with good intentions of remaining clean finds that demands for their presence, contribution or sponsorship of everything from babies to beauty contests, may force them to augment their income by whatever means. Anthropologists have traced this “blowout” mentality to the cultural value of social leveling, an attempt at making everyone equal, because success after all comes by luck or fate, not by personal effort or will.\(^{39}\)

A Public-Office Centered Definition

If pressed for a definition then, this is how I would define graft and corruption Philippine style:

A public official is corrupt if he accepts money or money's worth for doing something that he is under duty to do anyway, that he is under duty not to do, or to exercise a legitimate discretion for improper reasons.s\(^{v}\)

Note that this is in fact McMullan's public-office concept, and my use of it as a summary of the analysis should emphasize the fact that the graft and corruption that the Philippine culture depreciates is the same behavior unacceptable in the West. We have therefore come to a full circle. While recognizing that some parts of Philippine law would


probably remain unimplementable because of the acceptability of the condemned behaviors to the society, some other parts—perhaps the greater bulk—are equally unacceptable to law and ethics, and are unimplemented because of pressures other than the culture. The persistence of graft and corruption in Philippine society, then, is not necessarily or even primarily a result of conflict in the legal and cultural spheres. Moreover, as the internalization of knowledge and acceptance of bureaucratic-legal norms proceeds apace into more frequent behavioral manifestations, so the area now condemned as graft and corruption by the culture will expand.