

WESTERN EDUCATION AND EASTERN DEVELOPMENT:  
ENSURING EFFECTIVE DEVELOPMENT ASSISTANCE IN EAST  
ASIA THROUGH CAPACITY BUILDING

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INTRODUCTION

The level of corruption in a country is a direct consequence of a weak rule of law and poor governance; the latter, in turn, impedes the ability of foreign aid to achieve its desired impact of creating sustainable development due to leakages in the government's financial and budgeting systems, and a resilient bureaucratic substructure. In the Philippines, for example, it was observed that poor long-term economic performance reflects flaws in public sector governance, and that these failings are rooted in weaknesses in the structure of public administration and in features of the broader political economy within which such structures function.<sup>1</sup>

Some points are obvious: that development in the East Asian context will almost always involve external aid, whether in the form of technical or financial assistance; and that this assistance is normally attached to a conditionality of adopting principles, policies and systems that are commonly perceived to be western in origin, *i.e.*, trade liberalization, privatization and open market economies. A primary issue that is often underestimated is whether these conditionalities are acceptable to the local population, and a graver concern lies on the fact that the recipient country may have the tendency to become dependent on foreign aid and thus run the risk of failing to establish within its own economic and political structures the necessary elements of self-sustainable development. In this scenario, the end-result that is hoped to be achieved through foreign aid is not realized, and the need for more assistance is created—thus starts the vicious cycle.

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1. THE WORLD BANK GROUP, PHILIPPINES: FROM SHORT-TERM GROWTH TO SUSTAINED DEVELOPMENT 11 (2005).

This paper will deal with the problem of aid ineffectiveness as a direct consequence of a failure to achieve support, at both national and local community levels, for critical legal and institutional reforms that are meant to address loopholes and plug leakages in the system. In so doing, it will discuss the most basic ingredient of effectiveness—that of gathering support through capacity building. It will trace hindrances to popular acceptance of a reform agenda all the way back to their roots in the classroom, where the mindsets of both the decision-maker and the general public have been formed, and will present a practical approach to forging a harmonious link between a generally western reform principle and the eastern context in which it is sought to be applied. As it turns out, the formula for such a feat is not at all beyond the reach of East Asian decision-makers and executives—most of whom, by the way, hold advanced educational degrees in the west (or in developed countries, for that matter).

The approach presented in this paper will be based on actual experiences, failures and successes, specifically showing how legal and institutional reforms aimed at fighting corruption and improving aid effectiveness in the Philippines were either ineffectively or successfully launched through various initiatives. As these initiatives were intended to introduce “western” principles, it will become apparent that the ultimate impact upon the country hinged on how well these have been acclimatized to local communities. I will discuss how capacity building efforts could be utilized to engage the various stakeholders, not only at the national level, but also—and more importantly—at the regional and local government levels. I will also discuss the value of the U.S. application of the Socratic Method whereby individuals are encouraged to participate in the development of a professor’s conclusions, and how it can be applied to gather stakeholder participation and galvanize their ideas so that these stakeholders are not only considered contributors to the thought process, but indeed become owners of the entire reform agenda.

This approach is not without problems, and so I will also point out areas of difficulties and continuing concerns, most especially in approaching decentralized local government units enjoying the constitutional right of local autonomy.

In discussing the topic of corruption, due to the fact that this subject matter takes different forms and can cover diverse activities, depending on where it occurs, its scale and intensity, and the behavior involved,<sup>2</sup> I will focus

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2. See Shiela S. Coronel & Lorna Kalaw-Tirol, ed., *Investigating Corruption: A Do-It-Yourself Guide* (Philippine Center for Investigative Journalism 2002), for a more detailed discussion on the various

on those involving the public sector, specifically grand-scale corruption on the expenditure/procurement side (as opposed to the revenue-generating side), not only because these involve large amounts and tend to have a stronger impact upon the lives of a country's constituents and its economic standing in the international community, but most especially because this type of corruption has a direct and negative consequence on aid effectiveness. At any rate, this paper is not intended to be an exhaustive treatise on corruption, and so any discussion on this subject will be limited to those aspects that are relevant to the coverage discussed above.

#### CORRUPTION IN EAST ASIA: FOCUS ON THE PHILIPPINES

Some economists have observed that informal institutions still manage to bring in impressive economic performance among East Asian countries, such as the cases of China, Indonesia, Korea, the Philippines and Thailand. These countries have attracted large flows of private investment over a long period, despite being featured prominently in the "world's list" of most corrupt countries.<sup>3</sup> This observation has since been challenged by the occurrence of the East Asian financial crisis. In fact, it is now recognized that the East Asian financial crisis was rooted, among others, in the absence of adequate formal and institutional systems that, in effect, have created an atmosphere of favoritism and non-transparency in government and financial transactions. Indeed, this absence led to the proliferation of informal and non-legal arrangements to fill the void, and while these have attracted private investments, the profile of these investments were either short-term or took the nature of "sweetheart deals" between government and favored firms. According to the Philippine Center for Investigative Journalism (PCIJ), while these "sweetheart deals" resulted in spectacular economic growth; over the long term, however, the sustainability of such a growth has been put in doubt, especially after the East Asian economic crisis in 1997.<sup>4</sup> Jose Edgardo Campos reports that "[T]he East Asian financial crisis has heightened the concern not only over good governance but also over the relationship between governance and corruption. Many critics of the Asian miracle have argued that

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types of corruption.

3. JOSE EDGARDO CAMPOS, ED., *THE BOOM AND BUST OF EAST ASIA: CORRUPTION 2* (Ateneo de Manila University Press 2001).

4. Coronel & Kalaw-Tirol, *supra* note 2, at 17.

the governance structures underpinning the East Asian economies have been largely responsible for the crisis.”<sup>5</sup>

As seen above, while the East Asian financial crisis was the result of an amalgamation of various financial, political and economic factors, systemic corruption played an important role in the outflow of short-term investments from such countries as Vietnam, Indonesia, Thailand and the Philippines, and thus contributed as well to the collapse of the financial markets in these countries. Views on the root causes of the crisis range from those that blame the prevalence of close government ties with business elites that gave rise to regulations based on relations and “crony capitalism,” to those that see the crisis as a result of premature liberalization of capital markets and the activities of speculators rather than to excessive investment encouraged by moral hazard.<sup>6</sup> I tend to take the former position, because of the inherent uncertainty that a corrupt administration fosters, both on the side of the investor and on that of the government.

With respect to the investors’ side, the absence of legal and institutional frameworks that adequately protect private property rights and ensure open and transparent competition to access government projects have created an atmosphere of uncertainty, because public officials would lack the backing of credible institutions to convince legitimate business firms that investing in the country would not be a risky venture. And even if firms were willing to commit funds—whether through legitimate means or “sweetheart deals”—the type of investments that a corrupt bureaucracy tends to attract are those with a get-rich-quick attitude. In other words, corruption inhibits a government’s ability to garner secure and long-term investments—as opposed to short-term investments and favored public contractors propped up by sovereign guarantees. As observed by Susan Rose-Ackerman:

The corrupt nature of the deal may give the firm a short-run orientation. There are two reasons for this. First, the concessionaire (or contractor) may fear that those in power are vulnerable to overthrow because of their corruption. A new regime may not honor the old one’s commitments. Second, even if the current regime remains in power, the winner may fear the imposition of arbitrary rules and financial demands once investments are sunk. It may be concerned that the ruler will permit competitors to enter the market or worry that its contract will be voided for reasons of politics or greed. Having paid a bribe in the past, the firm is vulnerable to extortionary demands in the future.<sup>7</sup>

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5. Campos, *supra* note 3, at 1.

6. See Gregory W. Noble & John Ravenhill, *Causes and Consequences of the Asian Financial Crisis*, in *THE ASIAN FINANCIAL CRISIS AND THE ARCHITECTURE OF GLOBAL FINANCE* at 8-9 (Cambridge University Press 2000).

7. SUSAN ROSE-ACKERMAN, *CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES AND*

Corruption not only generates uncertainty on the part of the contractor or investor, but also on the part of the public officer in power. For example, when I was in Thailand in May 2005 to speak before public officers on the benefits of assessing public procurement systems, national newspaper headlines were then focused on a controversy over the procurement of the baggage handling system for the new Suvarnabhumi Airport, as allegations of bribery of government officials rose all the way up to Prime Minister Thaksin Shinawatra, and eventually led to calls for his resignation.<sup>8</sup> A year later, swelling demands for Thaksin's resignation on allegations of corruption reached its climax with a coup d'état that ousted him from power on September 20, 2006—Thailand's first in 15 years, but only one among many military takeovers in the nation's modern history.<sup>9</sup> Thaksin's ouster and the allegations of corruption against him are quite intriguing, as these come in spite of his noted achievements on pro-market reforms in the Thai economy; and more so, because the coup has reportedly created even more uncertainty over the future of Thailand, initially raising concerns among business leaders and investors on the country's democracy and a slowdown in its economy.<sup>10</sup> Needless to say, the type of corruption that normally generates this type of uncertainty would have to be grand scale. PCIJ reports another example involving former President Joseph Estrada of the Philippines, where, in 1999, the government paid the development corporation of a well-known religious leader P1.22 Billion (US\$23.5 Million) for land that was going to be affected by the construction of a highway, in effect paying over P15,000 (US\$288) per square meter, when zonal values were less than a third of that amount and market values of land in nearby areas were much less.<sup>11</sup> According to the same report, Estrada had a direct hand in the transaction, because the amount reached the threshold for government contracts that required the President's prior approval, that he himself directed the Toll Regulatory Board to acquire the property from the "favored" corporation, and that he signed the final approval of the deed of sale and the contracts for land acquisition.<sup>12</sup> Estrada was eventually ousted from power on January 20, 2001, through a popular

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REFORM 34 (Cambridge University Press 1999).

8. See The Nation (May 24-25, 2005), [www.nationmultimedia.com](http://www.nationmultimedia.com).

9. The Philippine Star, *Thaksin Ousted in Coup (AP)*, at 1 (Sept. 21, 2006).

10. The Philippine Star, *Thai Economy Faces Slowdown Over Coup (AFP)*, at B-12 (Sept. 26, 2006). See also Alex Magno, *Coup*, THE PHILIPPINE STAR, at 12 (Sept. 21, 2006).

11. Coronel & Kalaw-Tirol, *supra* note 2, at 13.

12. *Id.*

uprising labeled “People Power II” under allegations of graft and corruption, and is currently facing criminal charges before the Philippines’ Anti-Graft court, the *Sandiganbayan*.

The story of corruption and the uncertainty it fosters does not necessarily end with the ouster of the chief executive. For example, even with Estrada facing graft charges, and much to the dismay of the general public, the succeeding administration also appears to have its share of allegations and scams, one of the latest being the Supreme Court’s January 2004 nullification of a P1.2 Billion (US\$23 Million) purchase contract by the Commission on Elections (COMELEC) of nearly 200 ballot counting machines that would have modernized the Philippines’ antiquated electoral system, known to be riddled with opportunities for poll fraud.<sup>13</sup> Among the grounds and irregularities cited by the Court was the provision of an unrealistic technical compliance requirement (99.9995% accuracy rating) in the bidding documents, and the award of the contract to the winning bidder despite its failure to meet the requirements. The Court stressed in *Information Technology* that:

[T]he essence of public bidding is violated by the practice of requiring very high standards or unrealistic specifications that cannot be met—like the 99.9995 percent accuracy rating in this case—only to water them down *after* the bid has been awarded. Such scheme, which discourages the entry of prospective *bona fide* bidders, is in fact a sure indication of fraud in the bidding, designed to eliminate fair competition.<sup>14</sup>

This was followed recently with recommendations issued by the Ombudsman for the filing of graft charges and the dismissal of COMELEC officials, as well as the recommendation by the Ombudsman for the impeachment and the filing of graft charges against one of the COMELEC’s Commissioners.<sup>15</sup>

At the same time that corruption breeds illicit interests and contracts, it also effectively wards off legitimate investments due to increased costs of doing business and measures that either limit competition, or utterly prohibit outsiders from participating in public contracts. The latter case is exemplified in local government procurement contracts where bidding is limited to favored suppliers or contractors. At times, the favoritism is brazenly “legitimized” through issuances by local mayors requiring suppliers and contractors to

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13. See *Information Technology Foundation of the Philippines v. Commission on Elections*, 419 SCRA 141 (Jan. 13, 2004).

14. *Id.* at 188.

15. See *The Philippine Star, Borra, Five Other Comelec Execs Liable in “Mega” Deal* (July 1, 2006).

set-up offices within the locality and to secure local permits as a pre-condition to being able to participate in biddings of the local government concerned. The reason for this type of restriction in some localities is obvious. When I reviewed the procurement contracts of a particular Provincial Government in the Philippines, covering the period from 2003 to 2005, I found out that when outside firms were allowed to participate in its public biddings, contract amounts were lower by around 20% than when competition was limited to firms from within the vicinity.

Moreover, when competition is limited, the direct effect would be overpriced projects and contracts with inferior quality. In a report that I was tasked to draft for the European Union Commission in 2005 through 2006, I revealed that Provincial Governments in the Philippines are generally unable to achieve satisfactory levels of competition (less than 5 bidders) in their public biddings, that local governments generally lack adequate accountability measures to ensure that collusive and fraudulent practices are properly addressed, and that there exists a common weakness in establishing accurate contract cost estimates.<sup>16</sup> Taken together, these findings lead to an overall negative impact on the level of economy that local governments in the Philippines are able to achieve.<sup>17</sup> This conclusion complements a 2003 PCIJ report that exposed how local governments were wasting public funds, mostly based on reports from the Philippines' Commission on Audit (COA). Some of the salient portions of the PCIJ report are shown below:<sup>18</sup>

1. A Municipal Government lost more than P135 Million (US\$2.6 Million) in 13 irregular deals and projects it undertook in 2000 and 2001.
2. A City Government purchased furniture in 2000 and 2001 that was found to be excessive in quantity and overpriced by more than P110 Million (US\$2.1 Million). It also had an allotment of P152,910.00 (US\$2,940) for 1,699 pieces of standard pencils—which is roughly P90 (US\$1.7) for each one, where the normal price is just P4.50 (US\$.09) per pencil.
3. In 2001, a City Government paid P850,000.00 (US\$16,346) for dental chairs that were never delivered.

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16. See European Union Commission, *Improving Efficiency of Provincial Procurement in Ten Provinces* (May 2006).

17. *Id.*

18. See Philippine Center for Investigative Journalism, *While Congress Hounds the Supreme Court, Local Governments are Off the Hook* (Nov. 3-4, 2003) <http://www.pcij.org/stories/2003/localprocurement.html>.

4. A scanner worth around P500,000.00 (US\$9,615) was purchased by a Municipal Government in 2001 for P1.4 Million (US\$26,923), and it had yet to be used when the COA team visited it in late 2002. This same municipality also bought real estate for P25 Million (US\$480,769), which the COA said was P8.6 Million (US\$165,384) more than the land's real value. Although the site was intended to be a multilevel housing project, the multimillion-peso lot has since been turned into a garbage dump.

The above figures clearly show that if a public officer were suffering from a weak moral fiber, it would be easy for him to accept bribes in an environment that shows no sincere effort at fighting corruption, especially if he were faced with tempting incentives. Similarly, a private firm has several reasons to pay off officials for procurement contracts. As Rose-Ackerman describes:<sup>19</sup>

First, a firm may pay to be included in the list of pre-qualified bidders and to restrict the length of the list. Second, it may pay for inside information. Third, bribes may induce officials to structure the bidding specifications so that the corrupt firm is the only qualified supplier. Fourth, a firm may pay to be selected as the winning contractor. And fifth, once a firm wins the contract, it may pay to get inflated prices or to skimp on quality.

In the case of the procurement of Thailand's baggage-handling system, it was reported that the contracted CTX machines were far more expensive than the rival 6500 machines, made by L3 Communications, and that the Airports of Thailand Plc. (AOT) could not tell how the former were better than the latter.<sup>20</sup> As mentioned above, the immediate result of corruption in public procurement is that the public receives overpriced projects with either inferior quality or, at the least, questionable technical advantage; but on a larger scale, systemic corruption on the expenditure side eventually distorts the allocation of economic benefits from the state, as decisions on the choice of projects are then based on the ability to offer a higher return to the public officer involved, rather than on the need of his constituency. In the end, the biggest losers are the poor who need these services the most, as money is taken away from education, health care and public services, and spent for useless "white elephants" and infrastructure projects.<sup>21</sup> To place the discussion into perspective, PCIJ tells the story of a mother whose daughter was about to give birth prematurely at a city-owned hospital but had to wait in line for an

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19. Rose-Ackerman, *supra* note 7, at 27-28.

20. The Nation, *Scanner Scandal: Contractor says it won't pay big fines*, at 4A (May 25, 2005).

21. Coronel & Kalaw-Tirol, *supra* note 2, at 18-19.

available incubator. Given the shortage of the machines, the mother had to sign a waiver freeing the doctors of liability in case anything happened to the infant while waiting for an available incubator.<sup>22</sup> According to the same report, there would have been no shortage of incubators had the City Government been more careful with its expenses and procurement planning, considering that the city lost nearly P62 Million (US\$1,192,307) on overpriced equipment and hospital beds, such as the purchase of 188 beds for P36.4 Million (US\$700,000), despite the fact that importation documents obtained from the Bureau of Customs showed that the real cost should have only been P2.4 Million (US\$46,153).<sup>23</sup>

Grand scale corruption usually involves major government projects and programs, because corrupt actors frequently transfer large financial benefits to private firms through procurement contracts and the award of concessions. Of course, a share is always allotted to the corrupt official, so that in total, these cases have a staggering impact upon the government's budget and the country's growth prospects.<sup>24</sup> In the Philippines, a 1998 study on projects funded from congressional initiatives, such as the Countrywide Development Fund (CDF), Congressional Initiative Allocations (CIAs), the Public Works Fund (PWF) and the School Building Fund (SBF)—otherwise known as “pork barrel” funded projects—provide a clear picture of how the pie is cut among the numerous actors, and how much remains. It was reported that for public works, 12% to 20% of the budget for the project goes to the lawmaker, 1% to 2% can go to the Department of Budget and Management (DBM) personnel responsible for releasing the budget, 10% goes to the head of the implementing agency, 7% goes to the mayor, and 3% goes to the local community leader—leaving roughly 63% for project implementation.<sup>25</sup> For medical supplies and educational materials, 40% to 50% of the budget for the project can go to the lawmaker, 1% to 2% can go to the DBM personnel, and 10% goes to the head of the implementing agency—leaving around 40% to the supplier. It is thus clear that, for pork-barrel funded projects, corruption systemically cuts across several agencies and branches of governments, as legislators would have to depend upon budgeting and implementing agencies to get the pork through—but not without first slicing and sharing it among all

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22. PCIJ, *supra* note 18.

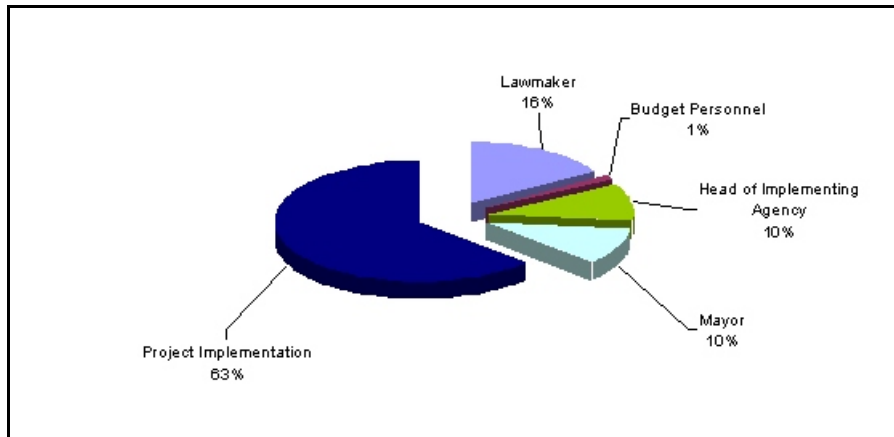
23. *Id.*

24. See Rose-Ackerman, *supra* note 7, at 27.

25. Sheila S. Coronel, ed., *Pork and Other Perks: Corruption and Governance in the Philippines*, pp. 38-43 (PCIJ 1998).

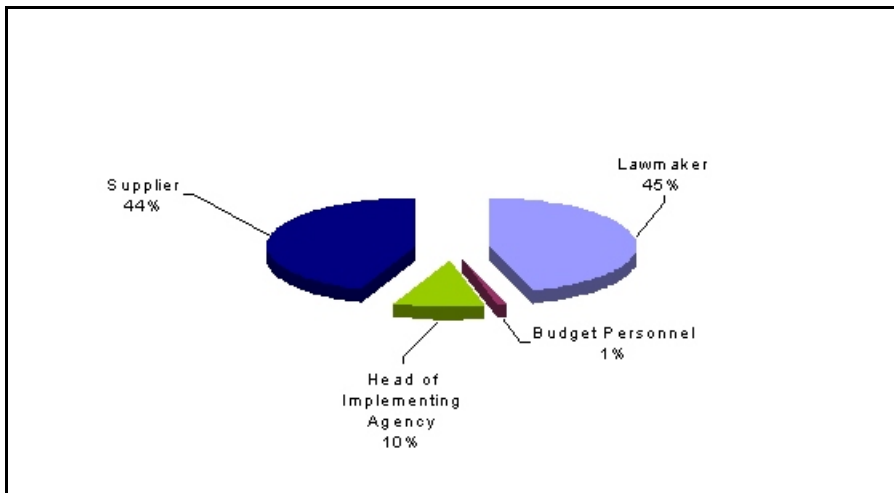
those involved. The following pie charts provide a more graphic illustration of how pork is shared in the Philippines:<sup>26</sup>

**Illustration 1: The pork in public works projects:**



*Source: Philippine Center for Investigative Journalism.*

**Illustration 2: The pork in the supply of medical supplies and educational materials:**



*Source: Philippine Center for Investigative Journalism.*

26. *See id.*

Given all these, it is not surprising that in a survey conducted by the Social Weather Stations (SWS) in June 2000, more than three-fourths of the respondents said that from 30% to 50% of Philippine government funds were being wasted due to corrupt practices involved in public projects and procurement. Assuming a conservative estimate of 20%, what this means is that in 2001 when the Philippine Government's public procurement budget amounted to P82 Billion (US\$1.6 Billion) for the national government and P22 Billion (US\$423 Million) for local governments, an estimated P21 Billion (US\$403 Million) was the potential leakage due to corruption.<sup>27</sup> Five years later, not much has changed in the Philippines. In a 2006 SWS survey, it was reported that public sector contracts usually allow 15% to 20% for bribes, and that 18% of the enterprises surveyed admitted to having been asked by government officials for a bribe in the supply of goods and services.

On a regional scale, a 2005 World Bank report shows the Philippines and Indonesia ranking very poorly, in comparison with their East Asian neighbors, with respect to corruption.<sup>28</sup>

**Table 1: 2003 Corruption Rankings in East Asia:**

Country	Corruption Ranking 2003 (Lower rank reflects lower perceived level of corruption)
Singapore	5
Hong Kong	14
India	83
Taiwan	30

27. Jose Luis C. Syquia, *The Legislative History of Republic Act No. 9184, and the Policies and Principles Behind Procurement Reform in the Philippines*, 11 THE LAWYERS REVIEW 5 (Nov. 30, 2003), citing the Sponsorship Speech delivered by Senator Edgardo J. Angara for the Procurement Reform Bill, entitled "Building Honest Roads to Progress" (Oct. 24, 2002).

28. The World Bank, *supra* note 1, at 12, citing Transparency International and Credit Lyonnais Securities Asia.

Korea, Rep. of	50
Malaysia	37
Thailand	10
China	66
Philippines	92
Indonesia	122

*Sources: The World Bank, Transparency International and Credit Lyonnais Securities Asia.*

To sum it up, one major cause of aid ineffectiveness in East Asia is the fact that bureaucratic corruption creates leakages within the system, so that only a diminished percentage of the original budget gets to reach the intended recipients and beneficiaries, and that the projects are not identified on the basis of necessity but rather on the amount of returns it could provide the corrupt actors.

Having considered all these, one may be tempted to think that it would be best for donor countries and institutions to consider withdrawing assistance to developing nations that exhibit the propensity for leakages and wastage; but this approach obviously fails to take into account the value of economic assistance, and the impact that an economic crisis within a country may have upon an entire region and across the globe. One need only look back at the 1997 East Asian financial crisis. As noted by Gregory Noble and John Ravenhill, “[T]he contagious effects of the crisis spread to financial systems beyond East Asia—first Russia and then Brazil suffered massive capital outflows.”<sup>29</sup>

Indeed, East Asian countries are well aware of the barriers to development created by weak governance structures, and the effects these bring upon the economy. In Vietnam, for example, substantial and earnest efforts have been undertaken to push forward in the country’s transition from a closed to a market economy, such as its endeavor to join the World Trade

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29. Noble & Ravenhill, *supra* note 6, at 1-2.

Organization (WTO) and the recent passage of various laws by the National Assembly to fight corruption and increase foreign investments. These laws include a new Procurement Law, a new Investment Law and a new State Auditing Law. Vietnam has also been receiving more Official Development Assistance (ODA) through the years, where disbursements increased from around US\$ 400 Million in 1993 to more than US\$ 1.6 Billion in 2000.<sup>30</sup> However, the issue in Vietnam is the same as others—impact. Just recently, for example, a Vietnamese newspaper report cited the ineffective use of ODA as a continuing problem in the country.<sup>31</sup> The State Auditing Agency of Vietnam had itself released a more telling account on the issue where, in a 2005 audit report, it stated that the government’s state budget lost VND 4.5 Trillion (US\$ 281,250,000) in that year due to inappropriate spending decisions, particularly in basic construction projects, and misconducts at all stages from the planning stage to the delivery stage (practically covering the entire procurement cycle), among others.<sup>32</sup>

On the part of donors, all these have also contributed to a heightened interest on governance and the rule of law among international financial institutions (IFIs) with large investments in East Asia. It was widely believed that institutionalized corruption was made possible by a dysfunctional, politically malleable legal system.<sup>33</sup> In 2005, the World Bank reported the following observation for the Philippines:

An explanation that is influential among researchers and policy circles in the Philippines is that poor long-term economic performance reflects flaws in public sector governance. These failings are rooted in weaknesses in the structures of public administration and in features of the broader political economy within which such structures function. The instability and disappointing development outcomes of the “weak state” have undermined the effectiveness of public institutions to work for the common good and weakened the sense of a meaningful social compact. More specifically, they have constrained policy implementation, contributed to the fiscal problem, undermined the investment climate and, by reducing the effectiveness of service delivery, diluted the benefits of the growth that has occurred.<sup>34</sup>

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30. The World Bank, *Country Procurement Assessment Report: Vietnam, Transforming Public Procurement*, p. 1 (Oct. 2002).

31. Vietnam News, *Awareness needed to curb ineffective use of ODA*, p. 2 (Oct. 20, 2006).

32. Vietnam Financial Times, *Shocking Losses!*, p. 17 (Sept.–Oct. 2006).

33. See Campos, *supra* note 3, at 2.

34. The World Bank, *supra* note 1, at 11.

## HITTING THE SPOT THAT MATTERS

More than ever, after the 1997 crisis, institutions such as the World Bank, the Asian Development Bank (ADB) and the United States Agency for International Development (USAID), were not only interested in offering assistance for the construction of roads, school buildings, and the purchase of textbooks and medicines; but were also providing technical assistance and grants for the improvement of public sector management and governance, including public procurement and financial management reforms, improvement of service deliveries through improved local government performance, professionalization of the civil service, improving the performance of the internal revenue agency, and strengthening regulatory capacity. In the words of the World Bank, “[S]trengthening governance in public institutions and reducing opportunities for corruption will be important to boost investor confidence and to deliver services more effectively.”<sup>35</sup> There is indeed a compelling reason for concern on the part of both the development partners and the developing countries. In 2006 alone, it was reported that the Philippines received commitments for US\$10.08 Billion Official Development Assistance (ODA) loans, whereby a majority of these have a blended grant element comprising more than half (54.84%) of the total overall value.<sup>36</sup> The share of loans among the development partners in the Philippines is provided below:<sup>37</sup>

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35. *Id.* at 5.

36. Asian Development Bank, *Asia Aid Effectiveness Forum Preparatory Materials—Philippines Procurement Reform*, p. 3 (Draft Report dated July 26, 2006), citing National Economic Development Authority, *14th ODA Portfolio Review* (2006).

37. *Id.*

**Table 2: 2006 Official Development Assistance to the Philippines:**

Source	Number of Loans	Total (US\$ Millions)	Share of Total
Government of Japan	67	6,145.00	60.95%
Others	40	1,597.74	15.85%
ADB	28	1,216.74	12.07%
World Bank	23	1,121.92	11.13%
<b>Total</b>	<b>158</b>	<b>10,081.39</b>	<b>100</b>

*Sources: ADB and National Economic Development Authority, Manila*

In Mindanao, Southern Philippines, financial assistance for roads and infrastructure projects from development partners, such as the World Bank and the ADB, have been substantial, but as reported by Marites Danguilan Vitug, these projects have been slowed down by delays and misbehaving contractors, corruption, political patronage and the inability of the Department of Public Works and Highways (DPWH) to discipline erring firms—regardless of whether these projects are locally or internationally bid out.<sup>38</sup> Vitug’s reports further show that large contracts from World Bank funded projects in Mindanao, “won through international bidding and supposedly under the strict guidelines of the World Bank, can still be bogged down by problems caused by incompetent management. More importantly, these cases reinforce strong doubts about the integrity of the prequalification and bidding process, in particular, and the DPWH, in general.”<sup>39</sup> While the report generally covers projects funded from 1993 to 1998, it appears that the problem still persists to this day. For example, I recently assessed a foreign-assisted project for the construction of a farm-to-market road in which the beneficiary was a municipality in Mindanao. During the assessment, the team discovered that there were no documents to validate that the contractor had a valid contractor’s license, and that a recently approved change order had

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38. See Shiela S. Coronel, *supra* note 25, at 186-212.

39. *Id.* at 191.

deleted major items and effectively reduced the contractor's scope of work to mere clearing and grubbing. Upon site inspection, we discovered further that although a written report had shown that the project was 80% accomplished, the road was not passable, major excavations had not been done, and that the contractor had concentrated on extending the road from its original length of 4.5 km. to 5.5 km., instead of fulfilling its obligations under the original program of works (See Illustration 3). To top it all, we began to question the need of the entire project, considering that it was located deep within a mountain, and that, in order to reach it, the team had to go through rough road that was more than twice the length of the project and almost impossible for a 4-wheeler to traverse.

**Illustration 3: Trying to pass through a road in Southern Philippines that was reported as 80% complete:**



It is apparent that while ensuring aid effectiveness requires the improvement of public sector management and governance, in general, special attention has to be given to public procurement, not only because this area is especially prone to grand-scale corruption, but also due to the fact that funds skimmed of from local and ODA projects have the effect of lessening their desired impact upon the intended beneficiaries and end-users. More importantly, this negative impact cannot simply be viewed on a one-to-one percentage correspondence, whereby 1% percent taken from project funds would mean that the public is losing out by exactly 1% of the contract value; because the direct effects of corruption can cost much more than the amount stolen from the public, especially when it involves the social sector—such as

ghost deliveries of vaccines to a particular rural community that would have to suffer higher mortality rates as a consequence, or the under-delivery of desks and armchairs to provincial elementary schools whose students would have to continue to bear sitting on the floor.

It is also evident that fighting corruption, whether in public procurement or in other areas of governance, not only requires reforming legal and institutional frameworks, but also—and more importantly—addressing the human element. Surely, no matter how perfect a law may be and no matter how well an institution utilizes information technology, there would always be another person on the other side of the counter. Conversely, no matter how faulty a government's processes may be, if government officials have incorruptible values, graft and corruption would not be as problematic as it is now.<sup>40</sup>

#### LAYING THE GROUNDWORK FOR REFORMS IN PUBLIC PROCUREMENT

Given the common goal of fighting corruption, plugging the leakages in public expenditure and improving governance, the Philippine Government and its development partners mapped out various strategies to move forward. One major achievement thus far remains to be the legislation of the Government Procurement Reform Act, Republic Act (R.A.) No. 9184, which was signed by the President on January 10, 2003, and took effect on January 26, 2003. The law itself was part of a broader public procurement reform program, for which the Philippine Government took full ownership. This program primarily focused and achieved equally substantial results in addressing the following objectives:

1. To address calls for good governance by reducing the opportunities and level of corruption in public procurement;
2. To streamline the procurement process and develop a single omnibus law that would eliminate the numerous procurement laws, rules and regulations in existence;
3. To provide for effective policy guidance on public procurement through the creation of a top-level inter-agency Government Procurement Policy Board (GPPB), with a Technical Support Office (TSO) that would perform the needed groundwork and undertake the actual tasks of monitoring the implementation of procurement reforms;

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40. Jose Luis C. Syquia, *Reforming Government Procurement and Going Electronic*, 10 THE LAWYERS REVIEW 11, 12 (Oct. 31, 2001).

4. To develop a cadre of procurement professionals in all national agencies and local governments, through capacity building and training programs, including a professionalization program;
5. To increase transparency in public procurement through increased civil society participation in both monitoring activities and policy formulation;
6. To provide specific criminal, civil and administrative sanctions for corrupt, collusive and fraudulent practices in public procurement; and
7. To incorporate information technology in the procurement process through the development and operation of the Government Electronic Procurement System (G-EPS).<sup>41</sup>

In recognition of the Philippines' initial achievements on the public procurement front, World Bank country director to the Philippines, Joachim von Amsberg, recently acknowledged that "[T]he Philippines has one of the best procurement laws of any country and if it was implemented for all public procurement there will be huge savings. . . . [A]nd it has brought down the cost of textbooks, brought down the cost of roads, of infrastructure."<sup>42</sup> Clearly, the passage of the procurement reform law has been a landmark and major achievement in the Philippines—effectively linking both administration and opposition politicians to focus on one common goal. However, while the observation of von Amsberg gives due recognition to the efforts of all the reformers within and outside the government who have been feverishly and unceasingly fighting corruption on public procurement on all fronts for almost 6 years now, it brings to fore an equally important challenge: implementing the reforms effectively.

Initial reports and assessments have shown that a number of corruption and criminal cases relying upon the provisions of the new procurement law have already been initiated or filed. For example, very recently (early September 2006) the Office of the Ombudsman ordered the preventive suspension of a City Mayor in Metro Manila, his Vice-Mayor and 10 City councilors, for approving several contracts for garbage collections and disposal without the benefit of public bidding. The laws that were reportedly used as bases for the criminal investigation and the eventual suspension were the Philippines' Anti-Graft and Corrupt Practices Act, and the Government Procurement Reform Act.<sup>43</sup> However, the ultimate test of success of the

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41. See Jose Luis C. Syquia, *Institutionalizing Public Procurement Reforms Through the Government Procurement Policy Board and the Technical Support Office*, 8 THE LAWYERS REVIEW 4 (Aug. 31, 2003).

42. The Philippine Star, *WB Urges "Quality Spending" for RP*, at 1 and 8 (Aug. 11, 2006).

43. The Philippine Star, *Peewee Won't Give Up City Hall*, at 16-17 (Sept. 3, 2006).

procurement law is not the number of cases filed under it, but whether it has effectively lessened corruption in public expenditure, and lowered the costs of contracts—so that all agencies and units of government are able to attain the “biggest bang for the buck,” so to speak, from both local and foreign funded projects. Undoubtedly, this requires the full cooperation of critical players in both the national government and local government units; and, as mentioned earlier, would thus require reaching out to the human element of the reforms.

Having established the legal and institutional frameworks, the next logical step is selling the reforms to the various political units and implementers in the field, and cascading these to all levels of government, down to the smallest local communities—clearly a step in which capacity building would prove to be especially relevant

#### THE SOCRATIC METHOD APPLIED

There are several reasons for aid ineffectiveness—and thus continued reliance thereon—but one major cause is that policy-makers in developing countries take the effort to adopt western policies that they may have learned about from the west or other developed countries, but fail to sell the idea to the public at large. In effect, while policy-makers take the first step towards policy development by pushing aside the “old ways,” no certainty exists as to whether the “new ways” would appropriately fill the void, and expectations that arise among the different kinds of dissatisfied people will often be in conflict.<sup>44</sup> As intimated earlier, poor people in developing countries see very few foreign aid dollars that donor countries spend on their behalf, and—excluding leakages—one major reason for this is that these dollars have to go through recipient governments that use the aid for their own set of purposes, which can be (and often are) at variance with the welfare of the general populace.<sup>45</sup>

Distrust from the general public may even arise, so that foreign aid is regarded as a way by which western powers influence policy-making within a developing country. Indeed, foreign aid is now commonly viewed as a way through which a donor government’s wealth is recycled back to it with interest, through conditionalities that require the recipient government to

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44. See David Cushman Coyle, *National Development and How it Works*, at 12 (New American Library 1963).

45. Melvyn Krauss, *How Nations Grow Rich: The Case for Free Trade*, at 62 (Oxford University Press 1997).

purchase equipment manufactured within the donor country or to hire its consulting firms.<sup>46</sup> The Philippines is not an exception to this inclination, as exemplified in 2003 when a Senate inquiry looked into suspicions that the United States was meddling into Philippine economic policies through a USAID (United States Agency for International Development) project called “Accelerating Growth Investment and Liberalization with Equity,” or AGILE, which had at that time satellite offices within key Executive Departments, including the Departments of Finance, Budget and Management, and the Central Bank. Needless to say, the contract of the U.S. consulting firm that took the lead for the project was no longer extended, and a new project was introduced in its stead.

Clearly then, there is a need to address the problem of aid effectiveness, so that not only roads, bridges and school buildings are built, but also that the underlying principles of an effective democratic institution are fully integrated within a developing nation’s society—not in the context of merely photocopying western principles and systems, but through localized concepts that have seamlessly developed within indigenous environments. This is a challenge for donor governments and organizations that have adopted what has been referred to as an “in-out” approach, whereby initiatives are introduced in a developing country by the donor through the creation of parallel institutions that are not necessarily representative of the people. For example, in certain areas, some donors have had the propensity of supporting the establishment and initial operations of non-governmental organizations (NGOs), so that money is channeled through these NGOs instead of through existing public institutions. While these NGOs may be successful in advocating for some reform measures, this approach would not necessarily have the impact of reforming government institutions and behaviors, because the reform initiative would be regarded as external and would not have attained the full trust, confidence and—most importantly—ownership of critical players from within the government. In addition to this, once the donor funds have been exhausted, it is not uncommon to see several of these NGOs deviate from their original altruistic visions and missions, and turn into high charging consulting firms—particularly in the case of those that have failed to come up with sustainability plans.

Of course, working through government institutions has its own challenges, because while this approach may be more effective in garnering

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46. Interview with Mr. Miomir Serbinson, former Director of International Public Sector Development, European Branch, Price Waterhouse Coopers (Sept. 15, 2006).

local ownership, it would require some sense of “letting go” on the part of the donor, so that the views of the recipient agency are expressed to some extent. In the Philippines, the position of the procurement reformers was that it would be better to have a less-than-ideal reform with strong government ownership, than a “state-of-the-art” reform with little or no ownership, as the latter has very little chance of succeeding.<sup>47</sup>

This means that any lasting solution to aid effectiveness should not only factor in the problem of corruption, but also the issue of authentic participation from all the stakeholders.

Given all these, one cannot expect to successfully cascade public reforms by simply creating parallel institutions. Rather, this would involve the difficult task of getting the buy-in of everyone involved in the reform process—from those working within the government to the simple folk living in far-flung localities—a task that would require addressing certain nuances that are normally overlooked by an executive living within the confines of his office. So that the effort towards attaining effective development assistance now takes the form of a hard sell, and a truly reform-minded policy-maker may have to remove his bureaucrat’s cap in favor of that of a street-smart salesman.

As one travels down to the trenches of institutional reforms, he would realize that development is first and foremost an educational matter—that an efficacious reform presupposes an educated public that not only understands the reform, but also believes in it wholeheartedly. This leads us back to the classroom, because in both instances, the mindset of all the actors, including the policy-maker, becomes critical at this point.

#### IN THE CLASSROOM

It is a truism that children learn what they live, and that they tend to follow actions more than words. In East Asia, when a reform initiative is generally perceived to be western in origin, support cannot be won by simply requiring compliance with legislation, especially when the law merely reflects a foreign approach. This is very much similar to a student who is simply spoon-fed textbook materials versus one who feels part of the thought process that led to the professor’s conclusions. This analogy is more realistic than academic, because an eastern policy-maker who may have been educated in

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47. Asian Development Bank, *supra* note 36, at 10, citing Jose Edgardo Campos & Jose Luis Syquia, *Managing the Politics of Reform: Overhauling the Legal Infrastructure of Public Procurement in the Philippines*, p. 10 (The World Bank 2006).

the West, but who has only digested the learning materials without inculcating the approach by which he was educated, runs the risk of failure. A common source of frustration is the discovery that the knowledge he brought back with him has found little or no market in his own country.<sup>48</sup> The problem here is that the policy-maker has merely adopted western principles in his policies without adapting these to his environment; and as experience would bare, the road towards successful reform is a long and arduous one, and requires considerable patience and a carefully thought-out strategy for managing the politics of the process.<sup>49</sup> This is especially true in an environment rife with a culture of corruption, because mere words would not be sufficient to cut through an established mindset.

It goes without saying that good and sturdy morals that are able to counter corrupt temptations and inclinations are best taught during a child's formative years, and that this has to be constantly nourished through good examples. However, this does not mean that one has to throw in the towel when confronted in the ring by a bureaucracy of adult players. Provided that the necessary legal and institutional frameworks exist to break the layers of moss so that the sunlight of transparency shines on an otherwise murky environment, I believe that public officers, regardless of their age, may also be "taught" how to behave appropriately, or at least work within a system that is perceived to be functioning effectively—whether through a revived motivation to do the right thing, or a pressure to go with the flow. However, unlike a child in class, a public officer is not expected to have a *tabula rasa*, and may be expected to have a frame of mind that is formed in accordance with existing customs and "standard operating procedures" within his particular agency. This means that while instruction would still have to be maintained as a primary method of learning, it would have to give in to more participative and ownership-building approaches, so that even opposing factions are regarded as partners in the entire process.

Speaking of the classroom, having gone through the Philippine education system, I can certainly say that I have been fully immersed in the concept of "recitation"—a process whereby a student is asked, or ordered as it were, to stand up in class and answer questions thrown at him by the teacher. I was introduced to this system as early as my Preparatory year at age 4, where an answer of "I don't know because I played over the weekend and forgot to

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48. See also Coyle, *supra* note 44.

49. See Jose Edgardo Campos & Jose Luis Syquia, *Managing the Politics of Reform: Overhauling the Legal Infrastructure of Public Procurement in the Philippines*, at 30 (The World Bank 2006).

study” would merit a spank on my palm with the teacher’s ruler. This process would continue on through my Elementary years (6 years at the time), and on to High School (which would normally take 4 years to accomplish). During all these years, we were trained to speak when called upon, and although we were allowed to raise our hands and volunteer, there was the constant fear of giving the wrong answer. Of course, as we grew older, the fear of spanking turned into fear of humiliation and a failing mark.

By the time I took undergraduate studies in the University, the recitation system had taken root in us, but we were finally taught during the first year of College that this approach found its basis and justification in the so-called “Socratic Method.” This was the first time I had heard the term, and I remember wondering why this was never explained to me earlier, since it had been an integral part of the system that formed my mind. I merely dismissed my question by telling myself that I was probably too young to understand such a complex principle, and that it was effective in instilling discipline within the class. At any rate, by the time the Socratic Method was explained to us, we were made to understand by experience that this method was intended to show how little a student knew about a subject matter through the process of squeezing and testing his knowledge until a mistake is exposed, so that—having accepted the need for knowledge—the student is now open to learning more. The Socratic Method indeed involves knowledge seeking by questions and answers, and is a process whereby a teacher refutes narrow definitions given by a student through counterexamples designed to show the uninformed or restrictive nature of the given definition.<sup>50</sup> However, the Socratic Method is not supposed to end with the teacher telling the student “you are wrong, sit down . . . this is the right answer.” I do not see that it was supposed to be used for purposes of determining whether or not a student has properly memorized his book. On the contrary, it is supposed to use the technique of the counterexample to mount a series of questions meant at expanding the number of examples, cases and particulars to be included in a given definition, so that at the end of the process, the student acknowledges the limitations of his original definition, but is involved in the process of crafting a more accurate and encompassing one.<sup>51</sup>

In College, I decided to major in Philosophy knowing fully well that this would mean having to face more recitations than students majoring in other studies, such as Communication Arts and Journalism. Despite this risk, I

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50. See T.Z. Lavine, *From Socrates to Sartre*, at 22 (Bantam Books 1984).

51. See *id.* at 23.

decided to pursue the course, because I believed that I would finally be able to argue my thoughts and beliefs in class, and challenge ideas thrown upon me by my professors. With some disappointment, but with more resignation than ever, I found out that this would not be the case in most instances. For sure, I was made to stand in the middle of the classroom, but this was not so much as to debate a philosophical issue with another student or with the professor, than to once again be asked to recite passages from books, based on memory. Looking back, I should have taken my cue from the fact that the term “recitation” has its root from the word “recite,” and not “debate,” “argue” or “expound.” The fact that it was not called “Socratization” should have been a dead give-away.

I entered Law School right after College, and the fact that the same approach was taken by my law professors did not surprise me at all. More than ever, I was made to stand in class and recite, verbatim, sections of various laws. In some cases, a group of us would be required to keep standing during an entire class for several days in a row with our books closed. During all my years at Law School in the Philippines, I cannot remember a time when I actually had the opportunity to argue a case with my professor in class, and when I was asked about my opinion regarding a particular decision so that this could be laid open for discussion and debate. Instead, I was either required to recite case facts and decisions, or provide answers to questions asked by the professor; whereby an answer not found in the books would automatically mean an embarrassing remark from the professor and that someone else would be given the privilege to speak. It goes without saying that my memory seemed to have worked more than my understanding during these years. But at times guesswork would sometimes be resorted to, as it was not uncommon for a professor to ask questions with answers that could not be found in the assigned readings.

Having exclusively gone through an educational system that was supported by the practice of recitations, I expected to find the same approach when I decided to pursue my Master of Laws (LL.M.) in the United States. In fact, for me, the entire thought of reciting in a U.S. classroom was almost a *parti pris* that I did not even have to dwell on. So, during my first day in class at the University of Pittsburgh School of Law, imagine my surprise when I was not required to stand in order to “recite,” and when the professor did not bother grading each of my “recitations.” To top it off, when I decided to ask around about the style of “recitations” in U.S. institutions of higher learning, I was shocked to find out that people had not heard of such a term in relation to the context I had given it in the classroom, as they referred to it more as “class participation.” Slowly, I realized that the reason behind this was that a

student's views were sought not only to determine whether he read or memorized a particular case, but more importantly so that a professor could gather and galvanize various opinions that he could use to expound on a particular subject matter within the classroom.

This meant a world of difference for me, because I was now able to share with the class my opinions on various assigned cases, more than merely letting the professor know whether or not I had read and memorized these. I felt that I was part of the thought process that flowed through everyone in the classroom. It seemed that the role of the professor was to toss a pebble of a subject matter to the class and guide it as it rolls into a snowball of ideas. I felt capacitated within the classroom, because I no longer had the feeling of being spoon-fed definitions, but was now rather part of the process of developing concepts and approaches.

At first, I felt that recitations were much more difficult than class participation, and that I was at an advantage over my American counterparts, as I had been trained to memorize and recite with my books closed. However, I soon realized that class participation had its own challenges, because it required understanding cases and situations on top of memorizing facts and decisions. Although the system I had been accustomed to had its strengths in building my courage to stand up and answer questions under pressure, it had not taught me to understand the environment and situations surrounding a particular case, or to appreciate the various approaches that could be taken in resolving a conflict. I was trained to present and argue a given principle, but I had not been trained to think outside the box. Equally important was the realization that, although I was accustomed to pointed remarks from my professors, I was not trained to accept criticism from peers within the classroom in a way that allowed me to distinguish the negative from the positive. Conversely, I also had to learn how to disagree without being disagreeable, how to attack an issue without focusing on the person propounding it.

#### IN PRACTICE—INITIAL EFFORTS AT SELLING PROCUREMENT REFORMS IN THE PHILIPPINES

While in the safe confines of academic institutions, I was told that the classroom was supposed to be a training ground for real life; that, to an extent, a class was supposed to reflect the realities of life in a microcosm. However, I have always thought that these statements pertained to the various interactions among students and between students and professors, and that the lessons of life could exclusively be found within the pages of my textbooks.

It was only after several years into my practice that I realized the actual level of impact that a classroom experience could have upon the developmental psyche of a country.

Certainly, during my first years in the Philippine academy as a teacher, force of habit led me to treat my class in the same manner as my previous college and law professors—education through recitation with established solutions and approaches. However, as I was further immersed in development and policy reform, I realized that, while such an approach was successful in fostering discipline within the class, it had the tendency of creating varied apprehensions in the field—both on the side of the policy reformer and on the side of the audience.

First—the policy reformer who focuses too much on a fixed formula. It has been implied earlier that an effective policy-maker is also a good communicator, because he has to successfully sell the reform to his constituents and develop a network of entrenched champions who could further push and cascade the initiatives to the various national and local units of the government. He should thus be considered as a credible advocate of the reform, and should recognize the fact that policy advocacy and implementation is rarely a linear process. As communicating reforms deals with persons over institutions, one has to accept the possibility that an effective approach to any situation could easily vary depending on the personalities involved. Derick Brinkerhoff and Benjamin Crosby believe that while policy statutes set goals and objectives, the extent to which those are clearly stated in terms of a sequence of cause and effect can vary and, as a result, policy implementation can often be multidirectional, fragmented, frequently interrupted, unpredictable, and very long term.<sup>52</sup> This is exemplified by the public procurement reform efforts in the Philippines where, despite the completion of the legislative process and the enactment of the new procurement reform law, the members of the reform coalition knew that “a long and precipitous road remained to be trudged,” as they faced the daunting challenge of getting the new law implemented effectively.<sup>53</sup> With this realization in tow, an effective reformer knows that, in order to keep up, he should avoid acting like a traditional and legalistic bureaucrat, but should rather be a creative manager who is able to think outside the box.

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52. DERICK W. BRINKERHOFF & BENJAMIN L. CROSBY, *MANAGING POLICY REFORM: CONCEPTS AND TOOLS FOR DECISION-MAKERS IN DEVELOPING AND TRANSITIONING COUNTRIES* 23 (Kumarian Press, Inc. 2002).

53. Campos & Syquia, *supra* note 49, at 30-32.

While modern management courses train students to “think outside the box,” this concept is not common in traditional legal educational institutions, particularly in the Philippine setting, where students are trained to study long established legal principles and provisions, and adopt jurisprudential interpretations and applications thereof. The graduate of a traditional law school may thus know the answers to a problem, but would not be expected to know how to manage an issue, at least as far as policy advocacy and reform are concerned. Clearly then, one has to distinguish between approaches meant to ensure compliance with statutory provisions and those aimed at advocating for a policy and implementing it. While a traditional legal expert would comfortably navigate through issues arising under the former, his natural tendency to focus on established interpretations as foundations upon which to build legal arguments may hamper his ability to compromise, adapt and innovate. On the other hand, while a progressive policy manager may not be equipped with the tools to interpret and argue specific provisions of a law, the absence of a fixed and singular approach allows him more flexibility to view a policy from the standpoint of all the stakeholders.

In other words, while a traditionally trained legal expert would comfortably argue a case or an issue involving infractions of a given law, he may encounter difficulties and apprehensions when asked to find a solution to the ineffectiveness of the same law to curb violations—because then he would be stepping beyond his comfort zones.

In the Philippines, the effectiveness of training programs for public procurement practitioners recently faced criticisms due to its failure to capture the concerns of local governments. The complaint was that the case studies and examples provided were based on high profile national projects, and were naturally more complex than regular local government requirements—thus making it difficult for the participants to apply these in actual cases. Although donor institutions readily offered grants to address this gap, I remember that the initial reaction of a particular government executive was to question the need for the grants and the relevance of the trainings, as in her view all that had to be done was to require stricter compliance with the law on the part of the local governments. This executive makes a good example of the dichotomy mentioned earlier, because there was an apparent failure on her part to dig deeper into the cause of the problem and appreciate it from the point of view of the local governments as stakeholders. The initial reaction reflected a traditional classroom mentality whereby the audience were expected to automatically comply with legislated reform measures and work out their own difficulties in comprehending—and thus applying—the concepts that have been lectured to them through the training programs.

Although there was a need to simplify the training materials, it was again initially felt that this meant merely deleting portions that were not applicable to local governments and small communities, without realizing that simplification actually meant having to adapt the materials to the situation of local communities that did not have to implement large and complex infrastructure projects, but were still faced by a different set of issues and difficulties. More importantly, a major consideration that was missed during the discussions was the fact that the lack of a strong support for the law from the local governments arose from a general view that they were not consulted during the policy development stage. Had this historical aspect been considered, it would have immediately been apparent that the initial approach would not have addressed the root cause of the problem, because it obviously did not address the point of conflict, which would then be allowed to fester. As such, a policy manager should have seen this as an opportunity to garner the support of the local governments, because if the training programs could be properly reconfiguration to capture and reflect their situation, these trainings may be effective communication tools to demonstrate the position of local governments as important stakeholders in the entire reform process.

Second—the audience, where apprehensions may arise due to a lack of consultation. As mentioned above, in the case of public procurement reforms in the Philippines, despite the importance of the local government units as primary stakeholders, there was a failure to establish appropriate consultations with them during policy formulation. Admittedly, while an effective policy reform requires taking time to involve all the appropriate stakeholders in government, critical time elements and deadlines in the advocacy and legislation of the law limited the extent of technical consultations with the local governments. For this reason, while the law had successfully passed Congress, the effect of this lack of consultation was immediately felt in the form of apprehensions from the local governments against the new requirements and procedures. It was no surprise that within the same year the law was passed (2003), some leagues of local governments issued a manifestation requesting the President for the suspension of the application of the law upon them. Although the call for suspension was legally untenable, it exposed an anxiety that had to be addressed if the reforms were to be effectively cascaded to the local governments and *barangays*.<sup>54</sup>

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54. In the Philippines, a *barangay* is the basic political unit which serves as the primary planning and implementing unit of government policies, plans, programs, projects and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled.

Even before the enactment of the law, there already existed a realization that one principal measure to communicate the procurement reforms to the local governments was through orientation and training programs. For this reason, a year before the procurement law was passed, as an initial step to garner support from the local governments and the regional offices of national agencies, a small group of technical experts from within the government was formed for the purpose of running a nationwide orientation/training program on procurement reforms. There were 5 in the team, including myself, and most of us held Director positions within our respective agencies—the Department of Budget and Management, the Department of Public Works and Highways, and the National Economic and Development Authority. Despite the miniscule size of our team, we faced the daunting challenge of orienting the procurement, budget and finance officers of 79 provinces, 117 cities, 1,493 municipalities, and 41,939 *barangays* nationwide. Needless to say, given the sheer size of the coverage area, despite all the orientation programs we undertook, these were simply not enough to even cause a dent on the local governments, even as successes were well underway with respect to the line agencies of the national government.

After the passage of the procurement law, the purpose of our training programs shifted from orientation and selling, to actual technical instruction. Having failed to sell the reforms to the local governments, the five of us directly felt the brunt of the resistance from these stakeholders, because we had in effect given the procurement reforms a face in the provinces outside Metro Manila. Given the strong resistance, most training sessions turned into day-long policy and technical debates, where each of us had no choice but to patiently engage and address all issues thrown at us—all the while leveraging on our technical knowledge and experience. Each session was nowhere close to the typical atmosphere of a classroom that we were all used to, and any approach that appeared to thrust the law unto the audience obviously had the risk of further aggravating an already tense and anxious crowd that could range from 100 to 1,200 participants per “class.” Clearly, the Socratic Method, where the teacher—or speaker/lecturer as it were—called upon participants to speak up for the purpose of exposing weaknesses in an argument, had no room in such a situation. What seemed to work, however, was a consultative approach where, instead of trying to limit and avoid the influx of comments, we managed the gathering of views and complaints, thus allowing the participants to consider our training sessions as opportunities to be heard, engaged their issues with answers backed by experience and technical analysis, and—with their ideas in hand—reached a conclusion or output that

either addressed the issue, or assured them that their concerns were valid and had reached the proper ears.

Since the law had already been passed, we had to assure the audience that, for issues that could not be resolved, we had the authority to gather their concerns and present these to the GPPB—the central regulatory and policy-formulating agency—for appropriate consideration, otherwise the entire process would have appeared to be simply farcical. As Brinkerhoff and Crosby note, “[I]t is important that public agencies employing consultation convey the message that they are sincerely interested in stakeholder views, not simply looking for ‘rubber stamp’ approval of decisions already made.”<sup>55</sup> Indeed, while this approach would not strictly coincide with that of the Socratic Method, both are intended to reach the common goal whereby, at the end of the process, the student or audience is involved in the process of crafting a more accurate and encompassing concept—in our case, a policy developed through empowered participation.

By 2004, despite our regular sorties, there was still so much ground to cover and, as the new law gained ground, the need for more in-depth trainings multiplied. To address this, the newly formed GPPB created several composite training teams comprised of regional directors of the DBM, budget officers, auditors and procurement practitioners within the various regions of the Philippines, to continue the training program in their respective jurisdictions. The GPPB also tapped the State-owned Universities and Colleges (SUCs). With this set-up, all that the GPPB had to do was to train and monitor these trainers, so that the latter may effectively train both national agencies and local government units in the provinces on its behalf. To apply this, our original team of lecturers was requested by the GPPB to conduct a series of “training-of-trainers” on the new procurement law for the composite team members, from February to March 2004. This activity was made possible through funding from a World Bank Institutional Development Fund (IDF) grant. This was followed by another training program from October to November 2004 on the newly issued standard bidding documents, as harmonized with the procurement rules of the World Bank, ADB and the Japan Bank for International Cooperation (JBIC)—three of the largest development partners in the Philippines. In August 2005, with funding from a grant managed by the World Bank under the 2nd Asia Europe Meeting (ASEM2), the GPPB conducted refresher workshops for the composite teams and SUC trainers, for purposes of ensuring that the trainers remained

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55. BRINKERHOFF & CROSBY, *supra* note 52, at 66.

knowledgeable of the procurement law and were updated on recent developments.

Armed with continuous trainings and certificates to prove that they were authorized by the GPPB, the composite teams and SUC trainers were expected to be a major factor in rolling out the procurement reforms to the various regions of the country, especially those outside Metro Manila. However, two years later, it seemed that the trainings fell short of expectations. Feedback from the local governments revealed that:

1. The trainings were too theoretical, and that the lecturers did not appear to be too knowledgeable of actual scenarios;
2. The quality of the trainings and the lecturers were unsatisfactory, with several incidences where the lecturers would not be able to answer the questions asked;
3. The trainings were insufficient with respect to depth of substance;
4. The trainings were not being properly managed, that the number of participants per session were too many, and that the costs were too high, thus creating the impression that the regional trainers were more interested in getting compensated rather than in effectively conducting the trainings;
5. There were numerous unsynchronized trainings where the lecturers not only contradicted each other, but even made statements that did not seem to be in line with the policy and technical opinions of the GPPB;
6. The training modules were not customized to fit the local government situations; and
7. The trainings have not been cascaded to the *barangays*.

These problems may have initially come as a surprise to the GPPB, especially as it had just recently conducted revalidation workshops for the composite teams and SUC trainers in April, May and July 2006. However, I believe it should have been apparent that some lapses existed with respect to the selection of the trainers, the format of the training program, the monitoring and evaluation of the trainings, and the content of the modules; and that these lapses were too serious to ignore. Given the crucial role that capacity building had in the government's procurement reform program—as a central communication tool—a failure in this aspect would erode the little support the reformers had generated so far in the provinces, particularly in the local governments.

## FOLLOW THROUGH: HOW TO BRING THE CLASSROOM TO THE TRENCHES

Although the new legal framework had an appropriate institution to implement it, i.e. the GPPB, and although the idea of running regional training programs for public procurement officials was generally considered to be an appropriate implementation initiative, it seems that the approach and methodology were flawed from the beginning, so that the implementation of the program did not produce the results that had originally been intended. While the training program was just supposed to be a preliminary step leading to a full-blown professionalization program for procurement officials in government, its importance could not be underestimated for the following reasons:

1. A professionalization program would involve substantive certificate courses composed of in-depth modules on procurement and related topics, and so it is naturally wieldier to implement than short courses in the smaller communities at a shorter time.
2. The objectives of a training program as a strictly capacity building initiative are different from when trainings are utilized as communication tools, and each would thus be governed by a different set of indicators to measure effectiveness. For this reason, although a professionalization program would definitely be more effective in terms of creating a cadre of professionals in government agencies, it may not necessarily be as effective as shorter training courses in gathering support from the local communities and regional offices, especially during the birthing stages of the reform.

In the case of procurement reforms in the Philippines, some factors may have contributed to the overall ineffectiveness of the regional training program. First of all, while the pool of lecturers should have been composed of individuals whose profile exhibited both technical knowledge of public procurement procedures and experience as teachers, in actuality those recruited were either technical personnel in their respective government agencies or academicians—not both. The former were the members of the regional composite teams, while the latter were the professors tapped from the SUCs. This meant that the discussions were either too technical and esoteric, or too theoretical and non-situational. To make matters worse, there were several reports that the lecturers' discussions conflicted with the opinions of the GPPB. This may have involved lecturers who were also procurement practitioners in their own agencies, and who were using their own practices as examples, regardless of whether or not these were actually in compliance

with the new rules. And then there were the complaints about conflicts between lectures given by the auditors of COA—the state auditing agency of the Philippines—and those of the GPPB. While the latter had the legal mandate to issue all policies and opinions pertaining to procurement, the former had the authority to allow or disallow public contracts. The danger was that a practical-minded procurement officer in an agency would tend to follow a mistaken advice from a COA auditor so as not to risk a disallowance of his transaction. The end product of all these were confusion among the targeted audience and a concomitant lack of any single solid support from the provinces and local governments.

Secondly, the materials used for training the pool of lecturers were generally the same materials used by the original group of lecturers for the information campaigns. What this meant was that, although the training program for the composite teams and the SUC trainers were labeled as a “training of trainers,” it was more of a technical training with practically no provision on the development of trainers’ skills. As a result, when these “trainers” were finally sent back to the field, most of them ended up either leveraging excessively on their own personal experiences on procurement or “parroting” the original lecturers. On one hand, the trainers who based their lectures on their own practices eventually encountered difficulty in discussing the principles behind the materials, and could not reconcile the materials with their personal views. While these trainers may have been able to relate to the problems and technical issues of the implementing agencies, their failure to relate to the principles behind the reforms and their tentativeness made them ineffective channels of communication. On the other hand, those who merely copied the manner by which the original materials were presented could not engage and address technical issues, and were therefore not regarded as credible authorities by the audience.

Finally, there was practically no monitoring and evaluation conducted by any central authority, because the GPPB had not yet established a practice by which selective field visits would be conducted, as well as a system by which the trainers would be rated by both the participants and the GPPB. It was not until recently (in June 2006) that the GPPB conducted random field interviews to assess the effectiveness of the training program, and thus realized first hand the problems that have, by then, festered for some time. As mentioned earlier, revalidation workshops were undertaken in April, May and July 2006, with the objective of gauging the knowledge and effectiveness of the trainers; but, once again, it seemed that these failed to achieve the purpose, and were in fact negatively received by several trainers. There were a couple of reasons for this, namely: (i) that it was conducted in a manner that was reminiscent of

undergraduate years, whereby the trainers were required to go through graded written examinations and mock presentations before the class, and had to answer questions posed by several junior staff of the GPPB, thus failing to consider the fact that the participants were themselves professors and senior government officials, some of whom were even Deans of colleges and Directors of government agencies; (ii) that the ratings were based solely on the answers and presentations given during the workshops, and not on actual ratings of the trainers' participants—thus failing to capture an accurate picture of how these trainers actually perform in the field; (iii) that the question-and-answer portion after each presentation was conducted more like a classroom recitation that only involved the presenter and the GPPB panelists, thus preventing any form of interaction between the presenter and his peers, and a sharing of ideas within the entire class; and (iv) that although the workshops were originally intended to screen off the ineffective trainers, as determined by their grades, GPPB management eventually decided not to pursue this approach—thus making any grading system moot and academic.

For these reasons, the revalidation workshops not only failed to generate any meaningful management decision based on accurate evaluation results, but even generated hesitation or outright resistance from several trainers, especially the senior public officials in the teams, who felt that junior personnel with little or no field exposure on procurement and no experience as educators had no right to question them and critique their manner of teaching. Those responsible for the revalidation workshops downplayed the impact of such a flawed approach, but they failed to consider the fact that the trainers were our champions in the provinces, and that, as such, any resistance on their part would have the effect of multiplying the resistance in the field by the number of their audience. In one instance, one trainer complained that the examinations should have been given to them before they were sent to the field, instead of after they have already conducted several lectures. Since the decision was made not to remove any trainer garnering a failing mark during the revalidation workshops, this particular trainer felt all the more that grading them merely placed all the trainers in a tenuous position. According to her, although an assurance was made that the results would be kept secret, there was no certainty that the grades would not be leaked out or viewed accidentally by others; and, as such, if one were to get a low mark, this would only have the effect of raising doubts in the minds of previous and future audience about the trainer's capability and her lectures, in particular, as well as the entire program, in general.

Some lessons are worth considering from the Philippine government's initial attempts to garner the support of the agencies in the provinces and the

local governments for procurement reforms through a capacity building program:

#### PROFILING AND CAPTURING THE AUDIENCE

In cascading the reforms to the local governments, one has to acknowledge the reality that policy change decisions on both national and local levels remain to be political, so that there will be policy winners and well-entrenched losers that would—in several cases—involve the local chief executive. According to Brinkerhoff and Crosby, “[T]he existence of powerful opposition helps explain why it is often so difficult to get policy change processes moving, or in some cases why it stalls before it can begin.”<sup>56</sup> Indeed, this observation is exemplified in the case of procurement reforms that seek to topple established practices and cultures within local governments that have gotten accustomed to decentralized authority. As such, similar to policy reform advocacy in the national government level, it would be prudent to identify possible champions within the local government who could network with external and national level champions, support the reform from within, and push these further to their component units. In effect, under a well-oiled and fully functioning reform program, the national government would be able to rely on the Provincial Governments to implement the reforms and push these down to its component cities and municipalities. In turn, the City and Municipal Governments could be relied upon to reach out and promote effective reforms in their respective *barangays*. This latter portion is especially important, because local townsfolk are apt to be suspicious of strangers who try to persuade them to experiment with something unfamiliar.<sup>57</sup> As such, securing their buy-in as the ultimate beneficiaries of a reform program may need the support of familiar faces, such as their *Barangay* Captains or their Municipal Mayors.

There have been occasions where we were fortunate enough to receive the support of a Governor or a Mayor. In these instances, we experienced minimal problems in the implementation of internal reforms, and in cascading these to the *barangays*. By its very nature, this situation is well propped to be considered as a pilot case study to achieve early successes for confidence building. Unfortunately, it continues to be an exception rather than the general rule in the Philippines, as local chief executives and their families tend to be

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56. BRINKERHOFF & CROSBY, *supra* note 52, at 19.

57. Coyle, *supra* note 44, at 30.

well entrenched within their jurisdictions, and thus stand to lose so much more by faithfully implementing an anti-corruption program such as the procurement reform law. As PCIJ reports: “The devolution of powers and resources since the enactment of the Local Government Code in 1991 means that local governments have much more clout and much more money now than in the past. The potential for abuse is therefore also greater.”<sup>58</sup>

There are also instances where a newcomer manages to unseat a ruling family in a local government, whether through a miraculous victory in a legitimate electoral process, or through more radical measures, such as the criminal conviction of the local chief executive and his family or a popular uprising—thus ushering in a new breed of politicians in that particular locality. In this situation, the politician and his technical team are generally new to the game of politics, and are backed-up by a platform that promises sweeping reforms. This situation opens a rare opportunity to push for anti-corruption reforms within that local government. Once again, this opens a window of opportunity for a pilot case that would record early successes to build confidence, and which may be communicated to the other stakeholders during the training program. To succeed, however, one must bear in mind that, while reform-minded newcomers are neither burdened with entrenched political and financial interests, nor dictated by existing cultures of red tape, they are also very likely to be unfamiliar with the local government’s administrative structures, unaware of the time and energy required to overcome bureaucratic inertia and resistance, and unschooled in using the levers of power to accomplish change.<sup>59</sup>

For these reasons, one has to target primarily those most actively involved in policy formulation within the local governments, whose decisions are based on maximizing scarce resources rather than on political trade-offs, and those who are expected to stay long after a politician vacates his office, and would thus make decisions beyond a term of office. In other words, one has to be able to connect with the technocrats within a region, province or local government unit. An approach that has proven to be effective is to identify a group of highly motivated individuals from among the participants of regularly conducted training courses, so that they may be formed into a well-bonded network of champions through specialized workshops, such as training-of-trainers workshops, with a fully functioning support system.

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58. Shiela S. Coronel, ed., *Betrayals of the Public Trust: Investigative Reports on Corruption*, at 276 (PCIJ 2000).

59. BRINKERHOFF & CROSBY, *supra* note 52, at 20.

This is exemplified by our experience with the Integrated Multi-Sectoral Capacity Building Program for the Autonomous Region in Muslim Mindanao (ARMM), undertaken by the Asian Institute of Management (AIM), with assistance from USAID and the Japan International Cooperation Agency (JICA). This course was developed to address the ARMM's need for management and management-related capabilities to be able to think through, develop, design, implement and nurture a wide range of related social, political and economic, growth and development projects, programs and advocacies.<sup>60</sup> The training programs were not only targeted to the governance hierarchy of ARMM, but to other stakeholders as well, such as civil society organizations and local governments, and was undertaken in partnership with Mindanao-based training institutions in order to sustain the intervention.<sup>61</sup> To achieve the objective of strengthening the leadership and strategic management capability of the ARMM executives, and enhancing their managerial competencies in managing development, the design, approach and the learning materials used for the training courses reflected AIM's belief that the professional development manager should have basic functional, personal, organizational and environmental management skills, as well as the ability to analyze and systematically process information in an integrative manner for decision-making purposes; and so three types of customized training interventions were designed under the project, namely:

1. Leadership and Strategic Management Briefings for Top Executives of the ARMM in Mindanao;
2. Middle Management Course for Development Managers of the ARMM in AIM's Manila campus; and
3. Basic Management Courses for Development Managers of the ARMM in Cotabato City, Mindanao.<sup>62</sup>

Some modules of the AIM training courses included subjects on development and governance perspectives, decision-making, human resource management, local experiences on management, and finally an action plan for collaboration and development in the ARMM. It may be observed that the courses focused substantially on developing personal management skills that were sensitive to the prevailing sentiments of the Muslim communities in Southern Philippines,

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60. Asian Institute of Management, *Integrated Multi-Sectoral Capacity Building Program Overview* (2005).

61. *Id.*

62. *Id.*

which generally exhibited that of minority groups, such as the feeling of neglect and isolation. The courses were also structured to overcome internal weaknesses and address external threats to the success of development programs, such as negative traits that normally characterize communities suffering from protracted armed conflicts. To top it all, during the courses, the facilitators kept tabs on those participants who exhibited a high level of interest on the subject matter, were able share relevant experiences during class, actively participated during the discussions, challenged issues with an open mind, and who generally showed good potential to be trainers themselves. This handful of individuals were then invited to a special training-of-trainers workshop some months later, with the clear objective that they would be tapped to echo the knowledge gained during the basic management courses to their Muslim brothers and sisters. The workshop was intended to provide these future trainers with the proper tools to cascade the basic management trainings to their communities, and thus included more intensive management modules, complemented by modules intended to develop the trainers' skills on handling class presentations and participation—including a live case study on how to prepare, organize and conduct PowerPoint presentations, with myself as the unwitting subject. To ensure continuity and effectiveness, the trainers were then provided a support system by AIM, whereby they could seek guidance from its roster of professors and take advantage of its network of alumni, until they gained sufficient confidence to roll-out the trainings and undertake development programs on their own.

#### BUILDING SUPPORT

The intended overall end result of any policy reform initiative that seeks to impact the implementation of development programs and projects—such as procurement reform—should be not only to attain the buy-in of the central agencies, but also to secure the meaningful participation of the communities, not only as the ultimate end-users or beneficiaries of the program or project, but also as the bedrock of authentic democratic institutions. From experience, we learned that cascading reforms require capacity building where all stakeholders believe that they have been truly involved in the process; and such belief has to translate into full-fledged ownership by the community, in particular, and by the nation, in general. As Coyle observes: “The community improvement programs in many underdeveloped countries are not only of considerable economic value; they are even more valuable as exercises in ‘basic democracy,’ the town-meeting type of natural democratic action that

under favorable circumstances can serve as the foundation for national democratic institutions.”<sup>63</sup>

The problem is that resistance from local governments against a particular national policy that appears to intrude into their decentralized powers is not unusual. This explains why there exists a need to identify and coalesce the champions from within and among them. However, this is not a simple task, because most of those from the audience would either be lukewarm to the reform or opposed to it, depending upon the level of resistance. This was our experience in pushing for procurement reforms in the Philippines, because although it was easy to identify, motivate, and mobilize champions in the legislative and executive branches of government, we found practically no strong and consistent support from among the local governments.

With this scenario, it appears that resistance would not be dissipated by a lecturer who is viewed to be a hardliner, as he would provide no appealing option to an obstinate official, and would only induce the lukewarm local officials to take a side which—given the imposing character of the lecturer—would most probably be in support of his own unit and peers. The effect discussed here is reminiscent of the resistance encountered from the trainers themselves during the revalidation workshops, and I believe that both types of reactions can be traced back to the problem of using the typical teacher-student mindset of the classroom in a scenario that calls for persuasion and participation rather than compulsion or dictation.

In other words, it should be clear to the trainers that while they have a responsibility to instruct their local government participants on the rigors of the law, this is not their sole role, and that their ultimate objective should not be one of imposing compliance, but rather one of painstakingly building support and eventual ownership. This objective would not be achieved by lifeless lectures and one-way discussions to a crowd of 100 or more disconnected spectators, but rather through stimulating discussions managed by a lecturer with less than 50 participants, whereby issues and views are properly raised, debated upon and considered in light of the current local environment.

In some instances, to secure the buy-in of some critical stakeholders, certain compromises would have to be made, but one should bear in mind that any such compromise does not automatically guarantee certainty of support. We learned this lesson quite early during the congressional debates for the procurement reform bill, as one such compromise currently appears in the

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63. Coyle, *supra* note 44, at 30.

body of the law—that of provincial preference for contractors and suppliers for priority projects (a.k.a. pork barrel funded projects). The legal section that was the subject of the compromise provides that, within 5 years from the effectivity of the procurement law, a contractor who participates in the bidding of a provincial priority program or infrastructure project, whose principal office is within the same province conducting the bidding, and who submits the lowest bid among the provincial bidders, but whose bid is still higher than the lowest bid made by a contractor from outside the province, shall be given the right to match the said outside lowest bid.<sup>64</sup> This effectively gives firms from within the province conducting the bidding the right to match bids from outside firms until January 26, 2008. We believed that this would lessen resistance from the regions and provinces, as it was their congressmen who asked for it; but despite this, the local governments still exhibited strong resistance to the law when it was passed, and some City Governments even went to the extent of requiring a Mayor's Permit to do business in the city, as a precondition for eligibility to participate in their biddings.

#### PROFILING THE TRAINER AND PROVIDING THE TOOLS

It is probably obvious by now why a technical expert would not necessarily be a good trainer for a capacity building program that doubles up as a communication tool, and why an experienced teacher would not be an effective mouthpiece to an audience composed of seasoned field officers and implementers—and why the regional training program for procurement reforms in the Philippines was flawed from the beginning. It is also becoming obvious that traditional teaching methodologies in Philippine classrooms do not work when the objective is to effectively communicate policy reforms to seasoned public officials and build their capacity to implement these reforms. A couple of reasons have been surfacing:

First and foremost, while a traditional teacher generally instructs and educates students on a subject matter that he presumably knows more about than his students in all aspects, a policy trainer should be able to both instruct his participants and accept ideas and approaches that may be unfamiliar to him. Simply stated, a policy trainer should realize that he does not have a monopoly of knowledge—even in the classroom.

Second, while a traditional teacher is used to managing class recitations, he may not necessarily be adept in managing class participation. While the

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64. Republic Act No. 9184, Art. XIII, Secs. 44-45.

former is basically a one-way process of eliciting answers to test students' knowledge of a topic, the latter is a two-way process by which knowledge is shared, and the student becomes involved in the thought process. Moreover, capacity building deals more on practical applications over theoretical approaches, and so if a trainer were to win over his participants, it is not sufficient for him to be well read on the latest resources, but he should be able to show in-depth experience on the subject matter. A couple of years back, during my first year as an adjunct professor of AIM, in Manila, I was asked to discuss a couple of modules on public procurement before a class composed of seasoned implementing officers of World Bank projects. These modules were part of a 2-week program called Project and Procurement Management Course (PPMC), offered by AIM's Center for Development Management (CDM) globally, with participants normally coming from the Philippines, China, Indonesia, Vietnam, Lao PDR, Sri Lanka, Maldives and other countries in East Asia, the Pacific Islands and Africa. My initial hesitation came from the fact that, although I had substantial experience on public procurement policy formulation, monitoring, evaluation and technical assistance dealing with Philippine procurement laws, and although I was well versed on all the procurement guidelines of ADB and the World Bank (having been involved in efforts at harmonizing the Philippines' procurement rules with those of ADB, the World Bank and JBIC), I had practically no experience on operations at that time, particularly on World Bank projects. My fears turned into reality as the participants raised detailed technical and operational issues they have been encountering in the field, such as those involving community-based projects. Suffice it to say that the participants saw right through my lack of operational experience despite my substantial knowledge of policies, and that, since then, I made it a point to immerse myself in both aspects of public procurement, if only to be an effective trainer.

Thirdly, even though a participatory system of education—as that adopted in the U.S.—approaches a topic through a sharing of ideas rather than through the mode of recitation, and thus takes an extra step to involve a student and the entire class; it is still necessarily confined to the established principles and jurisprudence supporting the subject matter found in the assigned readings and texts. For this reason, while a participatory classroom discussion actively galvanizes various thoughts and ideas from the students, it is still basically linear in that the entire class is being guided through a particular doctrine by way of contextual examples and cases. On the other hand, although a capacity building program would normally state as one of its objectives that, by the end of the course, a participant would be able to know or understand a given set of principles and applications, it is rarely a linear and coherent process,

especially when it is utilized as a communication tool. This is reminiscent of the manner by which policy change is managed, and is a clear example of the classroom reflecting reality; because, in the same manner that policy reform and advocacy is generally described as unpredictable, fragmented and composed of winners and losers, these same winners and losers will be the very persons sitting in the training courses. As such, the term “class participation” is pushed up a notch further into the area of ownership and constituency building, which means that the trainer should be able to reach out to the participants and bring them into the policy process. This ability to reach out is not more of a technical concern than a management concern, so that a trainer should be well versed with the various participation options at his disposal for policy legitimization and ownership building, such as, information-sharing, consultation, collaboration, and joint decision-making, and should be able to utilize these in varying degrees within and outside the classroom so that critical stakeholders feel empowered to take ownership for policies—thus making implementation easier and increasing the chances for sustainable policy change.<sup>65</sup>

Fourth, as mentioned earlier, in extreme circumstances, the trainer should, in fact, be prepared to be flexible in certain areas and approaches that he knows for certain fall within the bounds of the law. Most importantly, his willingness to take in and consider the views of his participants as probable alternatives should be obvious to all, in a way that does not erode his authority and conviction, in particular, and the policy’s objective, in general. An effective trainer is therefore primarily both a teacher and manager at heart. Furthermore, speaking of the trainer’s ability to manage participation within a class, pushing policy reforms to the provinces and cascading these to the local communities through capacity building programs require trainers who have the mentality of strategic managers, rather than traditional managers. The latter are internally focused, prioritize technicalities and administrative requirements over substance, are overly concerned with day-to-day bureaucratic routines, and generally suffer from a tunnel vision. On the other hand, the former are outwardly focused, able to adapt to external environments, even when circumstances are unpredictable and processes are nonlinear, and are able to step out of the box to obtain a broader perspective. One important difference between the two types of characters is also the fact that while traditional managers are basically unwavering hardliners, strategic managers do not find it difficult to accept other points of view and tend to see

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65. See BRINKERHOFF & CROSBY, *supra* note 52, at 54-70.

opportunities for improvements in what may otherwise be seen as mistakes. In policy reform, it is much harder to gather support and promote implementation once lines are drawn. Once again, Brinkerhoff and Crosby provide for four excellent guiding principles of strategic management which, I believe, may be applied in developing the profile of an effective policy reform trainer:<sup>66</sup>

1. The strategic approach is oriented toward the future. It recognizes that the environment will change. It has a long-range orientation, one that tries to anticipate events rather than simply reacting as they occur. The approach leads managers to ask where their organizations and their collaborators are at the present, where they want to be after a certain period, what they need to get there, how to develop strategies and the means, and how to manage those strategies to achieve their stated goals and objectives. It recognizes that the future cannot be controlled but argues that by remaining strategically focused and anticipating the future, organizations and their stakeholders can help to shape and modify the impact of environmental change.
2. The strategic approach has an external emphasis. It takes into account several components of external operating environments, including technology, politics, economics, and the social dimension. Strategic thinking recognizes that each of these can either constrain or facilitate the organizations involved in policy implementation.
3. The strategic approach concentrates on assuring a good fit between the environment and policy implementation organizations, and attempts to anticipate what will be required to assure continued fit. Under conditions of rapid political, economic, social, and technical change, strategies can quickly become outmoded. Resources traditionally available to implementing organizations may dwindle or evaporate suddenly.
4. The strategic approach is a process. It is continuous and recognizes the need to be open to changing goals and activities in light of shifting political, economic, and social circumstances. The process is not a one-shot approach—it is ongoing—and thus requires attention to emerging needs and changing circumstances as they arise, and to the development of strategies to respond to those needs.

A good example on the difference between traditional reformers and strategic reformers, as well as the implications of their characters on building ownership, is the initial advocacy for procurement reforms in the Philippines, as reported by Campos and myself:

USAID eventually provided the assistance needed to jumpstart and shepherd the procurement reforms. Two U.S.-based procurement experts were brought in to work with the DBM in conducting an analysis of the problems of the government's procurement system and in preparing a draft omnibus law that would address these. Working feverishly, the consultants completed the study within six months, interviewing many officials while scouring mountains of documents. They completed a draft law shortly

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66. *See id.* at 40.

thereafter which covered practically everything that had to do with government procurement. . . .

By August 1999, the DBM had two hefty documents necessary to initiate reforms in public procurement. As a critical first step in the process, it had to get the support of the major procurers within the Executive branch. The history of legislation suggested that, unless the Executive presented a united front to the Congress, Congress would not act favorably on its proposals. However, within the DBM, there seemed to be little support for the initiative. As it turned out, a major problem with the consultants had emerged during the whole preparatory process.

While they had done an excellent job analyzing the problems and preparing an all encompassing draft law, they had failed miserably to secure “buy-in” from key DBM staff, including the undersecretary to whom they had to report. They had alienated practically every government official they had interviewed and/or to whom they had presented earlier drafts of the study. The consultants were not entirely to blame. They were completely unfamiliar with the culture in the government: their experience was limited to countries where dealing exclusively with the Minister was the *modus operandi*—and through “command and control” the rest would follow. In the Philippines, however, a considerable amount of painstaking ownership-building within an agency is necessary, and, for a proposal of this magnitude, within the Executive. Given the political sensitivity of procurement, this was paramount. As a result, the study and the draft law were shelved.

Among the first tasks of the TA team was helping the budget reform task force (BRTF) rekindle the procurement reform project. In close coordination with the BRTF, the TA team had to formulate a strategy to bring officials from both DBM and other key agencies to the table once again and gain their support and assistance for a new encompassing procurement law. After talking to members of the task force and other officials within DBM, the TA team learned of the short, colorful history behind the shelved reform and the resulting deep hole out of which the BRTF would have to dig. Many hours of discussion and brainstorming among the team and task force members eventually led to an innovative approach. Because the procurement consultants drew the ire of most if not all the senior procurement experts within government, the team and BRTF concluded that they could entice these officials to revisit the procurement reforms by inviting these officials to a series of workshops to “shoot down” the consultants’ study section by section, line by line, and then develop their own version of the procurement reform law.<sup>67</sup>

The “shoot down” workshop proved to be a great success, because it once again brought the technocrats to the drawing table and involved them in the entire process. At the end of the workshop, the participants had completed a set of principles which they agreed should guide the formulation of an omnibus law, and they prepared and committed to an action plan for taking the process forward, which involved: (i) the formation of a technical working group (TWG); (ii) the conduct of continuous workshops of the said group; and (iii) participation of members of the TWG in congressional debates.<sup>68</sup> More

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67. Campos & Syquia, *supra* note 49, at 8-9.

68. *Id.*

importantly, these technocrats eventually gained full ownership over the entire procurement reform program, became our strongest champions, and continued to be involved long after the legislation of the procurement law. In fact, a clear sense of camaraderie developed among the members of the group, which had by now been institutionalized into the Technical Working Group (TWG) of the GPPB. Even public officials from other agencies that eventually became involved with the TWG through the expanded membership of the GPPB attested to the amity and solidarity they have been experiencing each time the GPPB TWG convened. It thus comes as no surprise that up to now, the TWG continues to meet regularly every month to thrash out and address policy issues and implementation problems encountered in the procurement reform program, and to continue to push the program forward—without the need of any form of compensation, monetary or otherwise.

In other words, an effective and self-sustaining reform coalition had been organized at the national level, able to deliver effective technical solutions and feed into policy improvements. All these evolved from a simple two-day “shoot down” workshop through which a once amorphous and opposed assembly of technocrats were transformed into a unified, well-coordinated and empowered team of dedicated reformers, with the assistance of focused facilitators who strategically managed the thought process.

The profile of an effective policy reform trainer and the characteristics of a capacity building workshop may be summed up as follows:

1. The trainer should have the mind-set of a strategic manager; and
2. He should be armed with sufficient technical knowledge and tools pertinent to the reform being implemented;
3. Capacity building programs should be supported by workshops with defined outputs that not only deal with technical matters, but are also meant to foster the creation of teams of dedicated individuals bonded by shared aims; and
4. One of the outputs of the capacity building workshops should be an action plan to for pushing the reforms forward.

The latter may not be achieved without planning an adequate approach, but this approach would need room for flexibility, as it may have to shift mid-stream to fit the environment. An example of this is the innovative “shoot down” workshop discussed above, as this was not initially planned by the reform coalition, but was nevertheless used as a remedial measure.

Finally, one more lesson could be learned from our experience with the “shoot down” workshop. As mentioned earlier, by the end of the workshop,

the participants had agreed upon a set of principles that served as their guideposts in pushing the reforms forward. This set of principles is as important for the trainers as it is for the policy advocates, and every person involved in the reform program would have to learn it by heart. Indeed, while a trainer has to be flexible and willing to compromise certain personal standpoints for the sake of establishing an authentic consultative atmosphere; he should also be careful not to go to the extreme and lose any vestige of a position—lest he lose his credibility. Moreover, it should be kept in mind that the ability to compromise is greatly hampered within the classroom (or training room, for that matter), and so a trainer involved in a capacity building program that also forms part of an overall communications strategy should be able to know the boundaries of his ability to compromise, drawn by a determination of when a particular approach would be a clear violation of policy “non-negotiables.” He should remember that whenever he conducts trainings in the provinces and rural areas, he represents both the policy initiative and the institution behind it; and so, in a very real sense, he puts a face to the reforms. Having said this, any weakness on the trainer’s part will easily be regarded as a weakness of the reforms in general; and once he stands in front of an unfriendly group of participants, it may be very easy for the trainer to give in to the temptation of taking the path of least resistance. For this reason, ownership building requires both an open mind and the determination to defend a position during debates—as well as the wisdom of knowing when a particular approach would have to be applied. This wisdom may only be had when the trainer is armed with non-negotiable principles to serve as guideposts.

#### CONCLUSION

This paper is not about being able to sell an idea, but rather about selling an able idea. It is not about the need for more reforms on legislative, regulatory and institutional frameworks, but the need for more implementers of reforms—the need for people who are not only willing to think outside the box, but people who are willing to walk the talk.

All sectors of society in developing countries—whether public, private, civil society, and even religious—have constantly been encountering such concepts as good governance, sound economic policies, trade liberalization, globalization, and other similar terms all too often that some or all of these “buzz” words are now an indispensable part of any development manager’s toolkit of ideas. These concepts frequently appear in the form of loan conditionalities propped up by grants and varied types of technical

assistance—all for the purpose of ensuring that these “principles” are adopted and practiced by implementing agencies. But what do these really mean to the end users and the actual recipients of the assistance? While the practice of these concepts have often been hailed as success stories in the urban cities and capitals, have these even caused any dent of an impact upon the life of a typical poor family living the rural barrio? From what I have gathered in my visits, assessments and interviews with local communities in the Philippines, it appears that improved economic figures and policies reported by our President have largely failed to better the lives of our farmers, fishermen and townsfolk—most of whom still regard themselves as marginalized by “imperialist” Manila. There is indeed a disconnection between figures and experience, and this is further amplified by constant complaints about the actual effectiveness of foreign aid, and views that most of these have only managed to benefit a few local corporations, enrich international firms, proliferate NGOs with identity crises, and continue to line the pockets of a few third-world wealthy families. Until reforms are undertaken to address these perennial problems, and until the rationale and benefits of these reforms are effectively communicated to the local communities, foreign aid will remain ineffective, whether in actuality or in the minds of the general public.

As I was wrapping up this paper, the headlines of the business section in the Philippines’ major newspapers announced that our country recently received a US\$410 Million loan from the World Bank for education, health and local government development projects.<sup>69</sup> Based on the reports, World Bank country director to the Philippines, Joachim von Amsberg, apparently following up on his encouraging remarks about reforms in the Philippines, said that “[T]he country’s improved fiscal policies made the increase in World Bank investments in the Philippines possible,” given that investments of multilateral institutions in the country are often dependent on implementation of fiscal and economic reforms, and the government’s ability to fight corruption.<sup>70</sup> The program will also fund revenue improvement and enhancement programs of LGUs, including fiscal and management improvements to ensure financial stability.<sup>71</sup> As I read on, I was impressed by the fact that these loans allowed the recipient institutions to directly finance high-priority line items under the regular national budget, and that these were veering away from the traditional project-based development assistance

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69. Malaya, *RP get \$410M loan from WB*, at B9 (Oct. 4, 2006). See also *Philippine Daily Inquirer*, *RP gets \$410M in loans from World Bank*, at B1 (Oct. 4, 2006),

70. *Id.*

71. *Id.*

approach.<sup>72</sup> My optimism was further buoyed by reports that the Philippine Peso had climbed yesterday to a 4-year high of P49.88 against the US Dollar—up from a low of about P56 to US\$1 in early 2005!

On my way to the airport to catch a flight to Hanoi, Vietnam, I excitedly related the story about the World Bank loan to my driver, but all he had to say to me on the matter was simply: “another burden for our people.” In my mind, I began to justify my driver’s pessimism by thinking that he was probably uninformed about the true nature of this loan. I thought that he would not have made his comment had he been aware that this loan was aimed at supporting our national program for basic education, to improve the quality and learning outcomes in primary education, and will allow a more equitable access to health insurance and health care, so that the needs of the poor are more efficiently addressed. I felt comforted by this justification for a few moments until I moved over to the front page of the newspapers in my hand and read the glaring headlines: “Ombudsman reversed SC decision: Salonga, solons shocked by ruling clearing Comelec execs”<sup>73</sup> and “Ombudsman decision a case for Ripley’s.”<sup>74</sup> These stories were related to my earlier account about how, in June 2006, the Philippines’ anti-graft agency (the Ombudsman) recommended the filing of graft charges and the dismissal of COMELEC officials, as well as the impeachment and the filing of graft charges against one of the COMELEC’s Commissioners, for entering into a P1.3 Billion poll automation deal that was nullified by the Supreme Court for certain anomalies and for failing to comply with the procurement law. Apparently, in a move considered by several officials as “outrageous and shocking,” “an unthinkable reversal” of the Supreme Court’s decision, and a “brazen somersault,” the Ombudsman reversed its original recommendation and absolved all officials of the COMELEC and the private company that won the bidding from any criminal or administrative liability whatsoever. Right then, it hit me that maybe I was the one who was uninformed, that I—with all my energies focused on national policies and figures—was the one who could not see the realities in the field; and that my driver knew all too well that without any significant and sincere efforts on the part of our government to fight corruption and hold corrupt actors liable, any additional loan will only further enrich these actors while pulling the poor and their children deeper into debt. I also realized that the absence of such sincere efforts on the part of our

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72. *Id.*

73. PHILIPPINE DAILY INQUIRER, at A1 (Oct. 4, 2006).

74. Malaya, at A1 (Oct. 4, 2006).

government was what fuelled the cynicism in majority of our people—such as my driver—because they see things for what they really are, undisguised by national policies, commitments and economic figures.

Indeed, there have been a few poignant success stories and experiences, such as when a strategically oriented high-ranking official of the Department of Education (DepEd), former Undersecretary Miguel Luz, organized innovative partnerships with NGOs, media, the private sector and church groups to ensure that textbooks were actually being delivered to the public schools. Before being unceremoniously relieved of his post (for reasons that were perceived to be political), Undersecretary Luz even managed to enter into an agreement with Coca Cola Co. on the use of its delivery trucks for the distribution of textbooks to public schools in the far-flung rural areas—as these trucks have the capability to reach even the remotest localities in the Philippines (See Illustration 4). Also, my good friend and mentor, Procurement Service Director Estanislao Granados, Jr., constantly reminds me of another incident involving an official trip we both made to an elementary school deep in the mountains of Southern Philippines, known to be infested by rebels. Despite the distance, the quality of the road and his age (although he would never admit to this), Director Granados asked that we go check on the deliveries of about a half dozen computers to that particular school. When we finally reached the site and talked to the teachers and students, it struck me how grateful they were that, despite their remoteness, they finally had computers with access to the Internet. But they also reported that one computer did not appear to work for several months now, because the closest available technician was living in the lowlands and had no means of getting to them. As I scoured the connections of the computers to see if I could offer any assistance, imagine their surprise when I found out that the cause of their problem was only a disconnected network cable! Though I made little of this incident, as it involved such a small matter, Director Granados helped put things in perspective for me as he said: “Imagine how important a single computer is for these people and how they were deprived of its use for so long, then you would realize how important your role was that day . . . simply by connecting that cable.” I then saw the wisdom behind my mentor’s words—as far as those students and teachers in that far-flung public school were concerned, my simple act of connecting a cable that day was probably more valuable than all that we have achieved with the passage of the procurement reform law—that, to a larger extent, foreign aid and national policy reforms will not amount to much if one does not get his hands dirty in the trenches, where the impact of even the smallest act is multiplied beyond expectation on a personal level.

