**Civil Society Perspectives on Corruption and Human Rights: The case of Papua New Guinea**

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**Introduction**

Let us be clear. Corruption kills. The money stolen through corruption every year is enough to feed the world’s hungry 80 times over. Nearly 870 million people go to bed hungry every night, many of them children; corruption denies them their right to food, and, in some cases, their right to life. A human rights-based approach to anti-corruption responds to the people’s resounding call for a social, political and economic order that delivers on the promises of ‘freedom from fear and want’. (UN 2013: 3)

Navi Pillay’s speech in her then role as UN High Commissioner for Human Rights sums up a central dilemma of the politics of anti-corruption. On the one hand, it is quite uncontroversial to state that ‘corruption is an enormous obstacle to the realisation of all human rights’ (ibid: 8). On the other, Pillay portrays anti-corruption as a response to a ‘call for a social and political and economic order that delivers on the promises’ of liberal democracy – something that would require enormously wide-ranging and fundamental changes in countries where corruption is rife, even those that are formally constituted as democracies. The Commissioner’s call to link anti-corruption and human rights policies signals a recognition that measures to tackle corruption by strengthening and harmonizing legal mechanisms – as in the UN Convention Against Corruption – produce little demonstrable effect (Altamirano, 2007). The UN also sees ‘a strong and engaged civil society’ as necessary to fighting corruption (UN, 2013: 5). ‘Civil society’, however, takes many different forms, from single-issue reformist lobbying to broad-based ‘people power’ campaigns for accountability (Beyerle, 2014).

This chapter illustrates the relation between corruption and human rights by drawing on research on civil society and state crime in Papua New Guinea (PNG). The research was part of the International State Crime Initiative (ISCI)’s project ‘State Crime and Resistance: A Comparative Study of Civil Society’, and concerned the ways in which civil society organisations (CSOs) in countries with high levels of state violence and corruption defined and resist state crime. [[1]](#footnote-2)

In PNG, even more than in the other countries in the study (Colombia, Tunisia, Kenya, Turkey and Burma/Myanmar), corruption is central to patterns of state crime, which following Green and Ward (2004), we define as state organizational deviance involving the violation of human rights. As many commentators on PNG have noted, the misappropriation of state assets occurs on a massive scale, is barely concealed, and is regularly exposed by official inquiries and a relatively free press. It was to be expected, therefore, that many interviewees would mention corruption as one of the main problems they faced. What is perhaps more surprising is that the interviewees did not dwell on glaring and well-documented examples of bribery and embezzlement. On the contrary, their references to corruption are nearly always marked by ambiguity. They concern the ‘grey area’ between corruption and legitimate economic and political behaviour.

This feature of our data from PNG illustrates an important point about corruption and its relationship to human rights. It is not just that corruption is an inherently ambiguous concept, though it clearly is. There is a core of behaviour that almost anyone would recognise as corrupt, but the boundaries of corruption are vague and contested. More importantly, the main threat to human rights in PNG, as in many other areas, comes not from simple and visible acts of bribery and theft, but from systemic features of the state: its close and collusive relationships with business, and the pervasiveness of clientelistic networks in which political support is exchanged for political benefits. These systemic features elude any attempt to draw bright-line distinctions between corrupt and non-corrupt transactions. Indeed any such bright-line division is politically suspect; it legitimizes too many transactions that undermine democracy and harm the interests of citizens. This point links to a criticism that is often made of mainstream anti-corruption organisations like Transparency International (TI) (see for example Hindess 2009; de Sousa 2009): that their single-issue focus and strategy of ‘coalition building’ tends to ally them to neo-liberal ideas of ‘good governance’ rather than a politics even mildly critical of capitalism.

My colleague Kristian Lasslett carried out 34 interviews in 2013 with members, staff and lawyers from various organisations in PNG, most of which represented people whose interests that were under threat corporations and the government. A particularly important category of threatened interests are those of ‘landowners’, which in PNG usually means the members of clans who collectively own land under what the PNG legal system recognises as customary law. This chapter draws mainly on interviews with groups promoting some combination of environmentalism and protection of landowner/community rights: the Madang Indigenous People’s Forum, Bismarck Ramu Group, Eco-Forestry Forum and CELCOR (Centre for Environmental Law and Community Rights). It also draws on interviews conducted by Lasslett in 2010 and 2012 with senior figures in Transparency International PNG.

The next two sections of the chapter discuss the definition of corruption and its relationship with human rights, illustrating the argument with examples from PNG. I then look more closely at the specific forms that corruption takes in PNG before turning to two forms of opposition to it: the global anti-corruption ‘industry’ and its PNG representatives, and that of the CSOs in our own study.

**Defining Corruption**

The once standard definition of corruption as ‘the abuse of public officefor private gain’ has now been largely superseded by the definition that TI adopted in 2000, ‘the abuse of *entrusted* *power* for private gain’ (Hindess, 2009). This definition recognises that corruption can occur in the corporate and NGO sectors without necessarily involving public officials. The concept of ‘abuse’ is vague, but in relation to ‘entrusted power’ it appears to cover not only illegal behaviour but conduct that violates the informal norms on which relations of trust are based. The main limitation of this definition is the emphasis on *private* gain; this does not easily fit *institutional* corruption, which benefits officials in their capacity as officials, politicians, or corporate executives, rather than in a private capacity (Philp 1997). A good example of institutional violation of informal norms of trust was provided by a PNG civil society worker reflecting on his former career as an official of PNG’s Department of Environment and Conservation:

Government gives you a duty, says ok, you go out to this particular community and you get these people to sign these agreements. [….]And, and the way I see it is also, there is a level or corruption, it’s not explaining to people, and getting people to sign agreements which are not—they don’t understand. And I see, I’ve seen that very much in the Department of Environment. (Interview, John Chitoa, Bismarck Ramu Group, 13 August 2013.)

In a narrow sense, this was not corrupt at all: officials were simply doing their ‘duty’ to secure the agreements with logging companies necessary for the government’s development policy. But it could reasonably be defined as corrupt in the sense that it violated the expectations of citizens that they would receive honest and impartial advice, and did so for purposes of gain on the part of the state and the logging industry. Chitoa also noted the difficulty of distinguishing between regulatory failures due to corruption and those which resulted from simple ‘laziness’ – a reluctance to make one’s life difficult by challenging logging company activities. In a similar vein, two interviewees (Kenn Mondiai of Eco-Forestry Forum and Rosa Koiann of Bismarck Ramu Group) pointed to the importance of food in building excessively cosy relationships between the regulators and the regulated.

In an important recent study, Beyerle (2014: 25) suggests the following definition of corruption:

a system of abuse of entrusted power for private, collective or political gain – often involving a complex, intertwined set of relationships, some obvious, others hidden, with established vested interests, that can operate vertically within an institution or horizontally across political, economic and social spheres in a society or transnationally.

Both in its inclusion of collective or political gain and in its emphasis on systemic behaviours and relationships, this definition does better than the standard one in capturing the kinds of corruption that concerned our respondents in PNG. The difficult question is what distinguishes *abuse* of entrusted power from the alliances of vested interests that are a feature of politics in any capitalist democracy. Beyerle goes some way to answering this by writing that corruption ‘can also be defined from a human rights framework – through the eyes and experiences of regular people’; it is ‘a form of oppression and loss of freedom’ (Beyerle 2014: 25-6). It is unlikely that many *systems* of abuse falling within her definition fail to violate human rights; but ‘a human rights framework’ and ‘the eyes of and experiences of regular people’ are not synonymous.

Walton (2015) explored ‘regular people’s’ views of corruption in discussions with focus groups of PNG citizens. He found that some residents in the poorer villages did not perceive the widespread practice of buying votes to be necessarily corrupt. It is common for politicians to use ‘slush funds’ to distribute money in their constituencies (Dinnen, 2001). So long as it was done openly, this did not violate the norms of PNG’s patrimonial form of politics, as these were understood in remote rural areas. The hypothetical case of a woman drinking home-brewed alcohol and selling sex, on the other hand, was widely seen as corrupt by Walton’s respondents. She was not ‘abusing entrusted power’, but she transgressed the norms governing her role in community life for economic gain.

The general approach to state crime adopted in our study implies that we must take account *both* of human rights norms *and* of informal social definitions of deviance (Green and Ward, 2004). To count as ‘state crime’ in our sense, corruption must be a systemic part of the way state agencies operate, and it must cause the kind of harm to basic human interests that we would class as violating human rights. Other forms of corruption may not be systemic (there can be isolated instances of bribe-taking in generally honest agencies), and may not violate human rights (officials can breach the trust placed in them by their superiors in ways that are harmless or benign from the standpoint of ordinary citizens). Corruption is a form of deviance, so it must violate the social norms of at least some important audience in the relevant society – as the distribution of ‘slush funds’ does, however acceptable it may be to the recipients. There is no completely ‘objective’ definition of corruption; in defining corruption, civil society also defines the norms that corruption violates. ‘Civil society’ includes criminological research: ISCI is not merely a passive observer or corruption in PNG but actively intervenes in the debate (see e.g. ISCI 2014).

**Corruption and human rights**

In speaking of human rights, we adopt a normative framework which assumes that there are certain basic human interests which any legitimate government must protect. Treating human rights as an ethical/political rather than a legal construct, we can identify three kinds of rights that corruption may violate. First there are the basic civil and political liberties: the right to life, bodily integrity, freedom of expression etc. Secondly, there are economic, social and cultural rights, including a right to be free from ‘severe poverty’, which seriously limits the capacities of human agents (Pogge, 2002), and a right to preserve the cultural frameworks within which human lives are meaningful. Thirdly, and of particular significance in relation to corruption, there is a right to political participation (Steiner, 1988) – the right to make some contribution to political decisions that affect one’s vital interests. The case of PNG illustrates how corruption leads to violations of all three kinds of rights

In defending their corrupt interests, states often violate basic rights such as bodily integrity and freedom of expression. Lasslett (2012) provides an example in his study of the demolition of the Paga Hill settlement near the PNG capital Port Moresby. The land on which the settlement of 3,000 people stood had been publicly owned and formed part of a national park. Its sale to developers and the subsequent failure to reverse this unlawful transaction was described by the parliamentary Public Accounts Committee as ‘a good illustration of the failings and corrupt conduct of the Department of Lands and Physical Planning…the continued acquiescence of the Department in corrupt dealings and … the extent to which private interests control the Department at the expense of the State and the citizens of Papua New Guinea’ (PAC 2006: 3.35-3.36). After the developers apparently bribed two residents to sign a spurious ‘consent order’, purportedly on behalf of the community, the police attempted to evict the residents and demolish the settlement. Their methods included beating and cutting residents with sticks, metal bars and machetes, firing on unarmed protestors (fortunately without causing injury) and assaulting a senior opposition politician (Lasslett 2012).

There is little doubt that corruption plays a major part in perpetuating chronic severe poverty in PNG. The 1990s and early 2000s saw PNG’s GNP increase while poverty increased and public services declined disastrously, leaving many citizens with little access to roads, education or health care (Cammack, 2008). The head of Task-Force Sweep, the anti-corruption agency whose government funding was cut off in 2014 after it obtained an arrest warrant against the Prime Minister, estimated that ‘at least 40 per cent of our national budget is lost through corruption, wastage and mismanagement annually’ (quoted by Bonjui, 2013).

Another major assault on economic and cultural rights has been the theft of land from its customary owners and the Special Agricultural Business Lease scheme. This allows the state to lease land from its customary owners then lease it out to businesses, ostensibly for agricultural development but in practice usually for the clear-felling of timber. An official inquiry (Numapo, 2013) found that most of these leases were unlawful for lack of informed consent from the landowners. The officials who were supposed to investigate the leases received ‘allowances’ from the companies concerned – justified on the ground that there was inadequate public funding to pay for their investigations – and invariably decided in the companies’ favour. Though some form of consent was usually obtained it was often from individuals who had no right to give it, and the first many residents knew of the deal was when the bulldozers arrived (Lawson, 2012). The campaign against these leases was probably the most successful activity of the CSOs in our study, although at the time of writing the PNG government is stalling on its commitment to revoke the leases (PNGexposed, 2015).

PNG has been a parliamentary democracy since independence in 1975, but governments have been weak and unstable owing to the tendency of MPs and parties to shift allegiances for political and personal advantage. Elections, including the most recent general election in 2012, have been characterized by ‘inaccurate voter rolls, electoral fraud and malpractice, bribery and coercion of voters in some parts of the country, and election-related violence’ (May, 2013: 168). Observers have expressed concern about the growth of ‘money politics’, with ‘reports of candidates boasting about the millions of kina they had to hand out, and of amounts as high as PGK3000 [about US$1,000] being handed to individual voters for their loyalty’ (Commonwealth Observer Group, 2012: 19). Elections attract large numbers of candidates who are drawn to politics as one of the few opportunity structures that afford access to wealth and status in PNG society:

In the absence of alternative sources of material advancement, political office becomes to key to gaining access to public and private resources. Resources acquired in this way can be used to promote the interests of individual leaders and their small voting base. This environment encourages candidates and their supporters to engage in both vote-buying and intimidation (Dinnen, 2001: 174).

This emphasis on short-term gain and local patronage networks undermines any meaningful right to political participation in the formulation of policy goals. It also undermines principles of equality and non-discrimination that are central to international human rights law (Kumar, 2011: 46-8).

**Bribes and scams in PNG**

The most unequivocal forms of corruption in state agencies are bribery and the embezzlement of public assets. Both appear widespread in PNG. In the latest (2013) edition of Transparency International’s ‘Corruption Barometer’, 37% of PNG respondents reported that they or someone in their household had paid a bribe to the police in the last 12 months, and 20% to ‘the judiciary’, which may mean court clerks rather than judges. Lawrence Stephens of TI PNG said that while it was ‘just taken for granted in the law firms’ that ‘you have to pay bribes in court in order to get your paperwork processed’, he had previously had confidence in the professionalism of the judges themselves; but, he added, ‘in the last few years, that’s been more and more problematic’ and he suspected that some ‘scatty’ judicial decisions might have been paid for (interview, 29 July 2012). Needless to say, this would negate the right to a fair trial.

Larger-scale bribery is harder to document. One major example is the bribery of officials in the Department of Health by medical suppliers. This had grave human rights implications because hospitals were starved of supplies so as to create an ‘emergency’ that allowed officials to bypass the normal tendering process. According to local media, ‘all health centres and aid posts in the six districts of Madang Province had run out of drugs, forcing patients to go to pharmacies in town to buy their medicines, with three children dying as a result’ (IRIN, 2011).

As Walton (2013: 152) observes, despite widespread rumours of grand corruption in the mining sector, very little is known about any corrupt practices. Mining interests were clearly implicated in the worst episode of systematic human rights abuse in PNG’s history, the armed conflict in Bougainville between 1988 and 1997 (Lasslett, 2014). While there is ample evidence that the Rio Tinto subsidiary which ran the huge Panguna mine on the island had a close working relationship with the government and subsidized the security forces’ operations, this relationship did not depend on anything so crude as bribery. As Rose-Ackerman (1999: 122) points out, where a country is heavily dependent on a multinational firm, and the firm is in a strong position to make demands on the government, ‘One may not see much overt corruption … but the harm to ordinary citizens may nevertheless be severe’.

The other major form of unequivocally corrupt behaviour is the siphoning-off of government resources through various forms of fraud. Such scams are facilitated by the clientelistic networks known as *wantoks,* made up of people who share ‘one talk’, a common indigenous language among the 850 or so spoken in PNG (Lasslett, 2014: 39). Two of the main types of scam are payments to ‘shell’ companies for fictitious services, and spurious legal claims which are settled out of court by the government (Sharman, 2012). Some of these claims concern matters which, if true, would be serious human rights violations, such as a police raid in 1995 alleged to have a resulted in a death, two rapes and ten serious assaults, as well as extensive damage to property (Commission of Inquiry, 2009: 226). Whatever the truth of this particular matter, which was settled for PGK 1.7m (over US$600,000) it is a salutary reminder of the ‘commodification of victimhood’ which can distort outwardly worthy actions against state and corporate crime (MacManus, 2014).

If a proportion of *legitimate* state revenues will find its way into the pockets of senior politicians and officials, they may have corrupt incentives to reach lucrative bargains with corporations even if no direct kickback is on offer. The PNG government has been criticised for negotiating a deal with Exxon Mobil and other corporations (including one owned by the PNG state) for the construction of a liquid natural gas pipeline which was unduly advantageous to the corporations and placed too many risks of the project on the shoulders of the state and its citizens (Jubilee Australia, 2012). Some ministers have spoken of being under such pressure that they had ‘no alternative but to conform to the will of the developer’ (quoted ibid: 29). As Jubilee Australia’s (2012) report implies, given the PNG state’s track record it would be surprising if a substantial proportion of the revenues from this major project did not end up being stolen. There is also every likelihood that it will lead to more of the same human rights violations we have already noted: failure to deliver health and education services, loss of indigenous people’s land rights, and the risk of further violent conflict between dissident landowners and the state-corporate complex. Even in the absence of corruption, however, same results might follow from the state’s need for revenue to balance its books. The boundary between corrupt and non-corrupt forms of corporate power is difficult to identify.

**The Politics of Anti-Corruption**

Corporations that do not rely on bribery to influence states may well find it useful to present a ‘clean’ image by supporting anti-corruption campaigns such as Transparency International (TI). TI operates a ‘franchising’ system with a secretariat based in Berlin and numerous national chapters (de Sousa, 2009), including one in PNG. Like other TI chapters, TI PNG ‘focuses primarily on building coalitions’, embracing government departments, the private sector and NGOs (Peter Aitsi, interview, 28 July 2010). Critics of TI (e.g. Hindess, 2009; de Sousa, 2009) see it as an ally of a neo-liberal politics of and ‘good governance’ and privatization – which Peter Aitsi saw as one way to tackle the ‘criminality’ of the public sector, though he acknowledged its ‘cost aspect’ (interview, 28 July 2010). Walton (2013) found that TIPNG was dependent on funding from local businesses, which secured its independence from the state and enabled it to campaign quit effectively against measures such as a proposal to increase the discretionary ‘slush funds’ available to individual MPs, but which Walton suggests explains the organization’s lack of criticism of corporate involvement in corruption. He makes similar points about the (now defunct) Australian aid organization AUSAID, and argues that both organizations were broadly supportive of a neoliberal agenda.

While TI epitomises what Sampson (2010) calls the ‘anti-corruption industry’, the CSOs in our study were more akin to what he characterises as a ‘craft’:

Craftsmen work with a limited set of tools, are sensitive to local variation and adapt their work to local conditions. A crafted product lasts longer and feels more authentic than an imposed, standardised industrial product. Craftsmen pass on their knowledge in a traditional, practice-oriented form, improvising as they go along…. They figure things out locally, in their context. (Sampson 2010: 277.)

Groups such as MELSOL (Melanesian Solidarity) and the Bismarck Ramu Group see their struggle as rooted in customary law and more broadly in Melanesian culture with its strong sense of collective attachment to the land. In contrast to Transparency and AUSAID, and also to some local environmentalist NGOs, activists in these groups expressed vehement opposition to the encroachment of corporate power, particularly that of foreign corporations seeking to exploit PNG’s resources:

They are thinking that they own this province or this country or what. So they go on their own way. And you have to—even our government have to come and submit to them. That is—that is why I hate them. I really hate them. (Interview, Alfred Kaket, Chair of the Madang Indigenous People’s Forum, 1 August 2013.)

Interviewees from these groups struggled, however, with the concept of ‘corruption’, recognising the definitional difficulties it involved. Tony Fofoe of MELSOL said that he did not know the ‘real meaning’ of ‘corruption’, but the biggest problem facing PNG society was ‘how the wealth is going away’ that was supposed to bring services to the people (interview, 28 July 2013).

One effect of this lack of services, as Wina Kayonga of Bismarck Ramu Group pointed out, is to increase the dependence of local communities on exploitative corporations:

These corporations are coming in and trying to exploit these people because of corruption. These people are desperate for health services, education, the basic health services. That, that’s why they will have to allow logging companies to build roads. If there wasn’t corruption, the government would have provided roads. […] It’s because of corruption. People have no choice. They have been forced into that corner that they will have to make such decision. It is because of corruption that there is no medicine. People are dying of curable diseases. So this is the consequences. People making decisions that they shouldn’t make, just because of corruption. (Interview, 5 August 2013.)

When civil society activists talk about state-corporate relations they do not always distinguish clearly between corruption (in a narrow sense) and the common interests of political and business elites. Frank Don Jnr of Madang Indigenous People’s Forum thought that

…the most corrupt government in the – possible, you could find in PNG. Because, you know, instead of people getting […] basic services such as school, health, water supply and power and the other things, I mean, those basic government services, yeah - instead of [that] they fly in and out of Moresby to other countries in [the] west. Stole mining from the people and all this. (Interview, 8 August 2013.)

Although corruption in a narrow sense is undoubtedly a factor in the lack of services he describes, what he condemns is the cosy and mutually beneficial relationship between the political elite and foreign businesses. In another interview, a trade union organiser commented that ‘the money’s flowing in, the senior civil servants are pocketing it and they have no interest, therefore, to act as an independent arbitrator’ (group interview, Alfred, Joe and Julius, 31 July 2013). This could be an allegation of embezzlement but in the context of the discussion it more likely means simply that legitimate corporate revenues benefit the national government bureaucracy rather than local people – although part of that benefit is the creation of opportunities for embezzlement.

Some respondents bemoaned the lack of clarity in norms about state and corporate behaviour. Wina Kayonga of Bismarck Ramu Group said that people rarely spoke of state or corporate ‘crimes’ because

[what] I would say is that, it is an acceptable frame. Framed by the model of development to accept that, so what I would [say] is that the people that are faced up with these challenges see it as normal. Acceptable. (Interview, 9 August 2013.)

Alfred Kaket of the Madang Indigenous People’s Forum thought that police corruption and subservience to corporate interests could be defeated if communities were able to present a united front, and appeal to values that the police shared as men who also had land rights under customary law (interview, 1 Aug. 2013). Asked what he saw as the main threats to his group, Kaket replied:

I see my threat is that I don’t want my members to be bribed. That’s how I see. That’s my only threat. Being bribed and then just, just leave all their awareness and everything and they go away. Because since we don’t have the money to do that, that’s how my threat is. They will use a lot of money to do bribe.

Kenn Mondiai of the Eco-Forestry Forum and Partners for Melanesia spoke of being offered a very large amount of money to abandon his defence of the indigenous residents’ land rights, and one NGO, the Environmental Law Centre, have become ‘consultants’ to Exxon Mobil. A major problem for the environmentalist/landowner groups was how to dissuade customary landowners from literally selling out to logging, mining or other corporations. For the Bismarck Ramu Group, this could only be accomplished by cultivating a sense of pride in indigenous culture, with its strong sense of connection to the land: as the Group’s slogan puts it, ‘Land is Life’ (Barry Lalley, interview, 11 August 2013).

While customary rights formed much of the basis for resistance to state and corporate power in PNG, activists did not always connect these customary norms to more universalistic ideas of legality and human rights. Two interviewees referred explicitly to human rights as an emerging new discourse which they needed to learn to employ:

But slowly we’re becoming—we’re starting to realise that those rights of those indigenous people are actually breaches of human rights. And are breaches by the state, you know. Slowly, even the NGOs are coming to realise that. Not all of them are [….] it’s probably just the legal NGOs now. (Interview, Mary Boni, Eco-Forestry Forum, 13 July 2013.)

Marjorie Wairo Santo of CELCOR, the Centre for Environmental Law and Community Rights, said that her organization had recently started a project to identify the human rights implications violations of local communities’ property rights, and that ‘being exposed to like, generally, the human rights values and all that stuff, kinda opens your mind….’ (Interview, 16 July 2013).

 This is linked to the point made in the quotation from Wina Kayonga above. The pressure on individuals and communities to ‘sell out’, to succumb to what others might interpret as bribery, is increased if they are desperate to see the economic development and public services which the state, due largely to corruption, is failing to provide.

**Conclusion**

Though it could be said that civil society in PNG has not been very sophisticated in its efforts to conceptualize the relations between corruption, human rights violations and corporate power, the ambiguity of the activists’ view of corruption reflects their accurate sense that there is no clear distinction between corruption and the ordinary influence of economic interests over the political process. Both pose threats to human rights: to economic, social and cultural rights, as economic development damages land rights, the environment and traditional cultures; to civil and political rights as state repression is mobilized to protect corporate interests; and to political participation as economic power undermines democracy. From a human rights perspective, the task for both civil society and criminology is to identify the threats to human rights from the interweaving of economic and political power, and to seek to define those threats as unacceptable and in that sense corrupt.

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