

## **Anti-Corruption Measures for the Prosecution Service: The Singapore Perspective**

### **1. An Overview: Political Will & Singapore's Zero Tolerance Approach to Corruption**

*"We have to keep our own house clean. No one else can do it for us"*

- Minister Mentor, Lee Kuan Yew -

When Singapore attained internal self-government in 1959, we inherited from the British an efficient but corrupt public service. Corruption was rife and permeated all sectors of society. Syndicated corruption was common especially among law enforcement officers.

When the present Singapore government took office in 1959, it had a deep sense of mission to establish a clean and ethical government. Recognizing that corruption poses a serious development challenge, the People's Action Party ('PAP') came into power on a strong anti-corruption platform which made ethical and incorruptible leadership a core issue in their election campaign. *"Stay clean: dismiss the venal"* remains a key basic principle that guided, and continues to guide the PAP Government in office.

The new political leaders took it upon themselves to set good examples for public officers to follow by divesting themselves from financial and commercial ties and by working harder than their subordinates. They were willing to submit themselves to scrutiny over their honesty and integrity; showed leadership, conviction, commitment, stamina and tenacity in fighting corruption. In essence, they demonstrated strong will to reject graft and political patronage. In 1979, Mr Lee Kuan Yew, then Prime Minister of Singapore stated:

The moment key leaders are less than incorruptible, less than stern in demanding high standards, from that moment the structure of administrative integrity will weaken, and eventually crumble. Singapore can survive only if ministers and senior officers are incorruptible and efficient [...] Only when we uphold the integrity of the administration can the economy work in a way which enables Singaporeans to clearly see the nexus between hard work and high rewards. Only then will people, foreigners and Singaporeans, invest in Singapore; only then will Singaporeans work to improve themselves and their children through better education and further training, instead of hoping for windfalls through powerful friends and relatives or greasing contacts in the right places.

Such personal example is critical in establishing the moral authority to root out corruption. It sets a climate of honesty and integrity. The Singapore Government has never hesitated to prosecute government ministers and civil servants at all levels for corruption. Even today, incorruptibility remains a key prerequisite of legitimacy for anyone who aspires to political relevance in Singapore.

Arising from firm action taken against corruption since self-government and independence, Singapore has gained prominence in being relatively corruption-free since the 1960s and has ranked consistently among the least corrupted nations in various international surveys and studies conducted. There is no doubt that the low corruption rate is due mainly to the political will to fight corruption, the strong anti-corruptions laws and an effective corruption agency that is given a free hand to act against the corrupt.

## **2. The Role of the Corrupt Practices Investigation Bureau**

The Corrupt Practices Investigation Bureau, or the CPIB as it is commonly known, is an independent body which investigates and aims to prevent corruption in the public and private sectors in Singapore. Established in 1952, it derives its powers of investigation from the Prevention of Corruption Act. The bureau is headed by a Director who is directly responsible to the Prime Minister. If the Prime Minister, for some reason, chooses not to get the CPIB to proceed with a prima facie case, there is a provision allowing the President to direct the CPIB to do so. Hence, the incorruptibility of the government is assured, as the CPIB can perform its function without fear or favour.

The CPIB is responsible for safeguarding the integrity of the public service and encouraging corruption-free transactions in the private sector. It is also charged with the responsibility of checking on malpractices by public officers and reporting such cases to the appropriate government departments and public bodies for disciplinary action. Although the primary function of the bureau is to investigate corruption under the Prevention of Corruption Act, it is also empowered to investigate any other seizable offence under any written law which is disclosed in the course of a corruption investigation.

Besides bringing corruption offenders to book, the bureau prevents, or at the very least, stifles corruption by reviewing the work methods and procedures of corruption-prone departments and public bodies to identify administrative weaknesses in the existing systems which could facilitate corruption and malpractices, and recommends remedial and prevention measures to the heads of departments concerned. Also, in this regard, officers of the bureau regularly conduct lectures and seminars to educate public officers, especially those who come into contact with the public, on the pitfalls of and the avoidance of corruption.

### **3. The Independence of the Public Prosecutor**

*“A system for ensuring the independence of a prosecutor can be beautifully designed and still fail miserably. There is no foolproof way to ensure that his judgment is not warped by ambition, avarice or prejudice. In the final analysis, independence can be guaranteed in only one way: appointing a person who has the integrity and courage to stand up for what is right.”*

- The Attorney-General of Singapore, Professor Walter Woon -

The decision whether or not to prosecute is a cornerstone of the criminal justice system in any country. The decision whether to bring a case to court is a matter for the Public Prosecutor, having taken into consideration the nature and quality of the evidence against an accused and the public interest in pursuing a prosecution. This decision may be compromised by pressure from external sources. The sources of pressure are many and varied and may come in the form of interference by the government, pressure from political activists, pressure from external parties and/or pressures of populism. Hence, it is absolutely vital to ensure the independence of the prosecutor in order to enable him to decide objectively and in accordance with the law.

When one discusses the independence of the prosecutor, the first issue that usually leaps to mind is the possibility that prosecutions will be brought in order to further a political agenda. In Singapore, the danger of a prosecution being brought in a doubtful case solely because of the accused’s political convictions is obviated by ensuring that the Attorney-General (who is *ex officio* Public Prosecutor) is not a politician. He is a non-political figure and is neither a member of the Cabinet nor a member of any political party. There are also a number of protections<sup>1</sup> designed to ensure that only competent persons are appointed to the post of Attorney-General and that he cannot be threatened with removal just because the government does not like the decisions he makes.

The converse scenario to interference from the government is pressure from the government’s opponents or pressures of populism to stop pending prosecutions. The solution to such pressures is obviously to ensure that the decision to prosecute can be justified objectively. This requires a robust, non-political system of evaluation of cases by the prosecution. In Singapore, the Public Prosecutor is not a politician, neither is he elected to his post. He is therefore able to withstand the aforementioned pressures as he

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<sup>1</sup> To ensure that political hacks are not appointed, the President of Singapore has a discretion to refuse to appoint a candidate proposed by the Prime Minister if he is not convinced that the candidate is suitable. The Prime Minister is obliged to consult the Chief-Justice, the incumbent Attorney-General and the Chairman of the Public Service Commission before proposing a candidate. The Attorney-General is appointed for a fixed period and cannot be removed from office except for misbehavior or inability to discharge his functions. This can only be done if a tribunal consisting of the Chief Justice and two Supreme Court judges concurs with the Prime Minister’s recommendation to remove the Attorney-General, and if the President agrees with the recommendation.

has the freedom to take unpopular measures, provided of course that he is willing to accept the general opprobrium involved.

#### **4. Aiming for a Corruption-Free Legal Service**

*“The Government is deeply conscious that a government cannot survive no matter how good its aims and intentions are, if corruption exists in its ranks and its public service on which it depends to provide the efficient and effective administrative machinery to translate its policies into action.”*

- Mr Ong Pang Boon (1960), then Minister for Home Affairs -

The attitude that corruption does not pay, is one that permeates the Singapore Public Service, of which the Legal Service is one component. Corruption by public servants is not tolerated at all costs, as this is tantamount to abusing the officer’s position as custodian and steward of public resources and public trust.

Integrity, impartiality, transparency and meritocracy are the four bulwarks upon which performance management in the Legal Service is premised on. It is critical that Singapore has a clean and effective Legal Service committed to the values of meritocracy and freedom from corruption and nepotism.

Meritocracy is important not *merely* because it ensures the best use of our human resources. Rather, meritocracy is a key part of our nation building efforts. It sends out a signal that Singapore is for everyone. Nepotism, the obverse of meritocracy, is corrosive of trust and confidence in the effectiveness and impartiality of public institutions, and gnaws away at the sense of public ownership which is so important to national consciousness. It distorts decision making by encouraging favouritism, and drags down efficiency both by putting incompetent people in public positions, and by sapping the morale of the competent.

One of the gravest dangers of corruption is the loss of public confidence and trust in public institutions. We have seen how the loss of confidence in corrupt public bodies has led to the de-legitimization of governments around the world, the destructive consequences of which span generations. A Legal Service free from corruption is thus essential not only to the fair and efficient administration and dispensation of justice, but also to instilling public confidence in the Government. It is a trust very difficult to regain if lost. In the long run, a strong legal system is one of the pillars of Singapore as a nation and a successful global economy.

## 5. Key Anti-Corruption Initiatives in the Legal Service: The Four Pillars

*The mission of the Legal Service Commission is to maintain a dedicated corps of officers with integrity and ability to staff the Judiciary, the Attorney-General's Chambers and the Legal Service Departments of various Ministries and other arms of Government.*

- Mission of the Legal Service Commission, Singapore -

Today, various preventive measures are in place to reduce opportunities for corruption in the Legal Service.

### ***Pillar 1: Overriding Principle of Meritocracy & Objective Assessment of Performance***

Though already mentioned above, it bears repeating that our emphasis is on meritocracy, a building block of integrity in our judiciary and legal system. *“Reward for work; work for reward”* remains a critical foundational principle in our Legal Service. There is no room for ‘free-riders’. No one is to presume upon getting ahead on the basis of connection or favour.

The selection and promotion of all Legal Service Officers are done on personal merits and job performance and not nepotism or favour. To achieve this, we have an independent Legal Service Commission (‘the Commission’) which has its powers conferred on it by the Constitution. The Commission constitutes of the Chief Justice, the Attorney-General, the Chairman of the Public Service Commission, 2 High Court judges and a number of private sector lawyers. The Commission is vested with the duty to appoint, confirm, emplace on the permanent establishment, promote, transfer, dismiss and exercise disciplinary control over officers in the Legal Service.

In the Legal Service, as in other Government departments and ministries, talent and hard work, rather than connections and privilege, are the paths to success, and thus the rewards of success would be accessible to anyone according to his contributions. To ensure that this does not remain as just another lofty ideal, the Commission has reorganized the assessment structure into two independent personnel boards – the Special Board and the Senior Board – to allow for a more sensitive assessment of service quality and performance by our officers.

The *Senior Board* constitutes the Attorney-General, Solicitor-General, one Supreme Court Judge and the Senior District Judge, and is responsible for the promotion of Legal Service Officers within the Timescale Grades. The *Special Board* constituting the Chief Justice, the Attorney-General and two judges of the Supreme

Court, is responsible for the promotion of Legal Service Officers from Timescale to Superscale and within the Superscale Grades until Staff Grade. Assessment of an officer's Current Estimated Potential ('CEP') and performance is thus done by senior Legal Service Officers who are familiar with the officer's work. While this does not eliminate all subjectivity, it will achieve a large degree of impartiality and objectivity in the assessment. This is an important element in ensuring meritocracy in the Legal Service, to the extent that it reduces subjective assessment. It follows therefore, that officers do not have to be concerned with being left behind because their merits have been overlooked.

The Legal Service has also convened regular performance appraisal workshops for officers at all levels and has institutionalized the Milestone Career Counselling Programme as well as formal twice-yearly face-to-face review sessions. These measures have been put in place to ensure that if you work hard and demonstrate promise and potential, your efforts will not be overlooked.

The Legal Service is also improving other aspects of its personnel management and development framework. Besides the Rotational Posting Exercise system which seeks to expose officers to a wide spectrum of legal and judicial work, a Talent Management Scheme and Succession Planning framework has been put in place to identify and groom promising officers into future leaders of the Service. With these programmes, every officer has the opportunity to rise to his level of competence.

This enhanced performance appraisal framework ensures that (a) Legal Service Officers will be assessed as fairly and objectively as possible for potential and performance, (b) that their potential is developed to the fullest, and (c) that they will be rewarded accordingly through promotions and performance bonuses.

### ***Pillar 2: Keeping Remuneration Competitive***

*"By giving people their self-respect and enough money in their pockets – by restoring to them, if you like, their dignity and its corresponding integrity of purpose – they are more likely to regard corruption as beneath them and less likely to abandon their public and private consciences; less likely to sell their soul to the devil."*

- Bob Crew in "On Corruption", South China Morning Post August 1973 -

The second facet of the Singapore approach is to recruit the best available lawyers and pay them market rates. To this end, the pay structure in the Legal Service remains competitive. It is impossible to create a high-quality prosecution service if one is forced to accept second-rate candidates because the pay is low by comparison to the market. Benchmarks have thus been put in place to ensure that the pay of Legal Officers

will not fall too far behind their counterparts in private service. The various components of our remuneration package are reviewed regularly in order to respond in a timely manner to changes and developments in the private sector and the economy.

In 2007, two new remuneration components, the Legal Professional Allowance and the Long-Term Incentive Plan, were introduced. Today, the Legal Service remuneration package has a basic component consisting of basic pay, 13th money pay, mid-year bonus, year-end bonus, growth bonus and annual variable increment, and a number of other variable components which are applicable to the officers' grade of service and performance. The salary ranges of Timescale and Superscale Grades were also expanded.

An additional benchmark was also introduced to closely track the salaries of young officers in their first 7 years in Service with their counterparts in the private sector. The purpose is to track the market and to peg our officers at the prescribed percentiles, and to ensure that our officers are not disadvantaged. The payment of Additional Increments are made in April each year to young officers whose salaries are behind the prescribed percentiles.

Unlike days past, the Legal Service provides an attractive and rewarding career in the law, both in terms of job satisfaction *and* remuneration. It is really a safe harbour for those who work hard and who want to do their best for their fellow citizens on the legal side of public administration.

### ***Pillar 3: Administrative Measures to Increase Transparency and Predictability***

This principle is straightforward: *"Prevention is better than cure"*. We seek to remove opportunity for corruption through clear work procedures and decision rules. As such, we have clear rules. For instance, a Legal Service Officer must not –

- (i) borrow money from any person who has official dealings with him;
- (ii) use any official information to further his private interest;
- (iii) invest in the business of anyone he has official dealings with;
- (iv) let personal interest interfere with the discharge of his duties;
- (v) do anything to the detriment of the Government such as advising an individual to exploit any loophole in the law with or without reward; and



- (vi) undertake any paid part-time employment or commercial enterprise without the written approval of the authorities.

Apart from the above, the onus is also on a Legal Service Officer to –

- (i) report any corrupt overtures;
- (ii) confine his relationship with members of the public who have official dealings with him to an official basis to avoid allegations of favouritism;
- (iii) treat all persons he has official dealings with equally and fairly without fear or favour;
- (iv) acquaint himself with the provisions of the Prevention of Corruption Act and policies and instructions of the Attorney-General's Chambers governing the conduct of its officers;
- (v) consult his superiors if in doubt as to the propriety of anything he wishes to do; and
- (vi) always be loyal to and have the best interest of the department at heart.

Apart from the above, a Legal Service Officer is also required to declare his assets (properties and investments in companies etc), including those of his spouse and dependent children, at his first appointment and also annually. This is known as the Declaration of Assets and Investments. This ensures that cases of unexplained wealth can be followed-up. If the officer owns more than one property that is not in keeping with his salary earnings, he could be queried on how he could have the means to purchase them. If he owns some shares in private companies, he could be asked to divest ownership to prevent a conflict of interest.

Further, as an indebted public officer could easily place himself under obligation and be exploited and is also more likely to succumb to corruption, an additional declaration – Declaration of Non-Indebtedness – is filled-up yearly by each officer, to declare that he is free from pecuniary embarrassment.

Non-acceptance of gifts is another measure aimed at tackling corruption. Legal Service Officers are not permitted to receive any present, in money or in kind, from people having official dealings with them. They are also not permitted to accept any entertainment that will place them under any real or apparent obligation. If a person with whom an officer has official dealings presents him with any gift, he has to reject it. Where it is not practical to do so (such as a souvenir from a visiting dignitary), the officer



can accept the gift and surrender it to his head of department. The officer, however, can retain the gift if he pays for it at the value assessed by the Accountant-General.

The various departments of the Attorney-General's Chambers have taken their own individual measures to prevent/minimize corruption within their ranks. Internally, within the Criminal Justice Division and the State Prosecution Division, the file circulation system provides for at least one layer of accountability and thus enables collective decision-making. For serious cases (i.e. murder/drug trafficking/rape) heard in the High Court, the scrutiny is even greater. For such cases, a Criminal Review Committee consisting of 3 senior Deputy Public Prosecutor's ('DPPs') is convened to consider the DPP's analysis of the evidence and concomitant recommendation. Additionally, there are at least two levels of clearance, with the Attorney-General being the highest 'check'. The multiple layers of accountability are a sound anti-corruption measure as it ensures impartiality and objectivity.

#### ***Pillar 4: Swift and Severe Punishments as Deterrence***

*"There are several good protections against temptations, but the surest is cowardice."*

- Mark Twain (1897) -

The high penalties in our laws deter corruption by making it a "high risk, low profit" undertaking. They deter those who bribe as well as those who receive. Any officer involved in corruption is dealt with severely and it is clear to every Legal Service Officer that any transgression of the strict laws against corruption will result in dismissal and public disgrace.

In Singapore, any person who is convicted of a corruption offence can be fined up to S\$100,000 or sentenced to imprisonment of up to five years, or to both<sup>2</sup>. If the offence relates to a government contract or involves a Member of Parliament or a member of a public body, the term of imprisonment can be increased to seven years<sup>3</sup>. Besides the fine and imprisonment, a person convicted of a corruption offence will be ordered by the Court to return the amount of the bribe he had accepted, in the form of a 'penalty'<sup>4</sup>. In addition, the Court is also empowered to confiscate the property and pecuniary resources which the convicted person cannot satisfactorily account for. A public officer charged in Court for corruption will lose his job and if he is pensionable, his pension and other benefits.

<sup>2</sup> Sections 5 and 6 of the Prevention of Corruption Act (Chapter 241)

<sup>3</sup> Section 7 of the Prevention of Corruption Act

<sup>4</sup> Section 13 of the Prevention of Corruption Act

The local judiciary has also adopted a stern punishment policy against corruption offenders to serve as deterrence. This policy was clearly enunciated by the then Chief Justice Yong Pung How, when delivering a verdict on an appeal against a corruption sentence in 2002:

I had no doubt that a more severe punishment was warranted to emphasize the Courts' as well as society's disapproval and abhorrence of his actions which not only had the effect of bringing the public service of which he was an integral part into disrepute, but also gravely injures the impartial workings of our criminal justice system. To lightly condone the offence in the present case would no doubt undermine the efficacy of our public service as a whole, not only diminishing the public's trust in the country's law-enforcement agencies but also setting back the government's efforts at establishing Singapore in the international community as a safe and corruption-free city state.

The penalties go beyond fines and jail sentences. Public shaming through publicity of the case is an integral part of the punishment, so that the officer not only suffers personally but also brings disgrace to his family. In a society where 'face' remains important, this is a major consideration.

*"The strongest deterrent (against corruption) is in a public opinion which censures and condemns corrupt persons; in other words, in attitudes which make corruption so unacceptable that the stigma of corruption cannot be washed away by serving a prison sentence."*

- Mr Lee Kuan Yew (1987), then Prime Minister -

To this end, the press plays an active role in publishing examples of corrupt cases involving senior civil servants or politicians, and in providing complete details of the offences and punishments meted out. This both informs the public about the consequences of corruption, as well as fosters a climate that is less tolerant of corruption.

## **6. Conclusion: The Way Forward**

There is no magic formula to banish the scourge of corruption. Corruption can never be entirely eliminated; it has existed in all of recorded history and eradication takes years of sustained effort. Even where a society is relatively corruption-free, constant vigilance must be exercised. Anti-corruption efforts can only be as strong as their weakest link. Thus the importance of first rate investigative and prosecutorial work cannot be understated. The Legal Service, particularly the Prosecution, cannot be seen to be subject to manipulation and interference. To this end, prosecutors must enforce the

law equally, irrespective of whether one is rich or poor, influential or powerless, politically well-connected or otherwise.

Battling corruption is a long-term process which must not only be openly supported from the top, but one in which attitudes and conduct must be taught and reinforced at all levels. Fighting corruption ultimately depends on values. Values of the political leadership, values of the public service and as an ultimate check, values of society as a whole.

The basics for maintaining integrity in the Public Service and the Legal Service remain unchanged and must continue to be pursued with vigour and commitment so that we can assist in building a fair and efficient legal system and uphold the rule of law for the people and the nation.

In forging the way forward for Singapore, more can and will be done to strengthen the Legal Service Officer's understanding of his role as protector of public interest and servant of public need.

*"An efficient administration can only be run by people who are content rather than discontent, fulfilled rather than frustrated, dedicated rather than disloyal, satisfied rather than dissatisfied, uncorrupt rather than corrupt."*

- Bob Crew in "On Corruption", South China Morning Post August 1973 -

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