

Is the landscape of struggle changing

Unions exist because workers choose to join them and pay subs so that their rights and interests are protected. But are they? Are union leaders sufficiently accountable? Is sufficient attention given to governance issues in unions and within corporate SA and government? Events like the Nehawu saga (culminating in ousting of its president at the recent congress) should be a catalyst for an examination of union governance, transparency, accountability and corruption. Various factions within Nehawu attempted to use allegations of corruption as a political tool to either retain or influence the elections of union leaders. The **Labour Bulletin** together with **Transparency International (SA)** seeks to stimulate debate on these issues in the hope that unions will make it part of their organisational renewal process.

Unions are often accused of not being democratic enough. There is a general acknowledgement that unions have some of the most democratic structures amongst civil society organisations. And when sociologists, former trade unionists and activists reminisce about the 'good of days' of trade unionism of the late 1970s, 1980s and early 1990s, one assumes that high levels of accountability and transparency existed as well as a real commitment to worker control. Were all these virtues really practiced in the unions of old?

There is always an assumption that these basic principles were adhered to in the past, but what of the unions in 2004? Are the basic principles of worker control, accountability and democracy still valued and do they remain relevant in unions today. A former trade unionist says that in some

unions there was a conscious attempt to ensure union leaders received proper mandates from members and that constant report backs were given. He says this was very labour intensive and required a real commitment from union officials, who in the early days, visited factories day in and day out. As unions grew, he says, the environment changed and constant meetings and report backs was not always possible.

Developments in various unions – and the list is rather long, and growing – would indicate that these principles or values are not being properly adhered to. The situation of course becomes exacerbated where union structures do not function properly. This affects union democracy. Reduced participation in union structures also affects democracy and accountability. A survey conducted amongst Cosatu shop stewards ahead of the 2004 elections revealed,

however, that some union structures remain in place – such as shop steward structures. The survey also revealed that there was support for high levels of accountability from shop stewards. But what of union leaders? As part of an attempt to defend the rights of members, do unionists consider how organisations function and whether they comply with principles of social governance as opposed to corporate governance for companies. Frans Baleni, head of the NUM's training centre explores the notion of social governance and argues that unions should be adhering to this as part of an attempt to confront organisational problems (see p12). Organisation building, he says, requires focused leadership that confront challenges head-on and respond to the needs of the constituency in real-time. Baleni raises some interesting points around the election of



office bearers and how it is often the case that those elected to leadership positions are not necessarily the most competent or who can fulfil their functions. 'In the past we knew that those who are elected in the union structures had endured the bottom of the mountain before reaching the top. Honest, committed, hardworking and disciplined cadres are some of the characteristics expected. Ultimately, a good leader is always chased by positions, whereas a weak leader chases positions. The results of elections must reflect a balanced team, which compliments one another.'

Dynamics around elections and issues around transparency was raised by Transparency International (SA) chairperson Hassen Lorgat in relation to the recent Nehawu congress. In an attempt to initiate broad debate on good governance and accountable trade unionism Lorgat said:

'Only open discussion can assist us in getting the fuller lessons of the Nehawu debacle which resulted in serious leadership change. I ask further, is this an aberration? Is it only one comrade gone wrong or are there more political, systemic issues to discuss.' The start of this debate by Lorgat on the Nehawu congress (and subsequent media reports on the developments) elicited reaction from various quarters, including the UK-based United Against Corruption (UNICORN) – a trade union anti-corruption network which is sponsored by various international trade union structures) and various trade unionists. A trade unionist responded to Lorgat's provocative input and touched on a number of issues including the challenges that unions face in remaining accountable to their members. He also raises similar issues to those highlighted by Baleni in relation to union elections (see p15).

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In response, Lorgat also commented on election politics and posed the question: 'Why is it that those people seeking to be elected for a union post will sooner get fair access to media exposure in an outside paper than within union publications? If our socialism is pluralist and democratic, must space not be allowed for all those seeking to build workers' power (organisational and in terms of ideas) be given a fair chance?'

Another issue raised by some trade

unionists is the question of the 'SACP lists'. This raises the role of political organisations in the election of union leaders.

SO, WHAT ABOUT CORRUPTION?

Government has given its repeated commitment to fighting corruption. It held a moral regeneration summit last year, has set up a national Anti-Corruption Forum and is holding a conference in November. The presidential ten-year review highlighted some of the measures introduced since 1994 to fight corruption. But is the enforcement of anti-corruption measures being consistently implemented for all? What of unions? Why should corruption be a concern and is it rife in their own structures? What are unions doing to deal with this aside from adopting resolutions to this effect?

Why should unions be broadly concerned about corruption? Ultimately, corruption can impact on development and the poor; affect the integrity of the public sector and public sector workers and undermine the attainment of an accountable democracy.

Bribery and corruption can inhibit development, an OECD report states, as it is the poor who pay for the costs of bribes, either through higher prices or lower quality services. 'Bribery also creates a democratic deficit as key decisions affecting citizens are made out of the public arena and for reasons outside the public interest,' the report says.

UNICORN argues that there is a link between corrupt countries and companies and the violation of workers' and trade union rights. In terms of its effect on public services, 'today's privatisation and liberalisation policies are increasing the opportunities and incentives for bribery and corruption.' Unions should be working against corruption in order to preserve the integrity of the public sector and public sector workers. Unions should also be encouraging and lobbying for proper legislation to cover whistleblowers – these are people who report on acts or incidents of corruption/bribery. It is in the interests of unions to ensure proper disclosure of information both at a company level and

more broadly. Therefore, they should see the importance of protecting whistleblowers from retaliation – workers and citizens who speak out in order to protect the public interest. However, ensuring and monitoring accountability at a company level and more broadly requires that unions themselves 'practice what they preach'. Why is it that unions have not embraced the principles of good governance? The King Report on corporate governance applies to companies and governments. This is not to say that they are necessarily applicable to unions. There might also understandably be some understandable reservation on the part of the unions to even consider the reports as their namesake (Merwyn King) was instrumental in slashing jobs at textile company Frame from over 30 000 to 5 000. There is also some speculation about the management practices of the company. It is interesting to note that Brait is chairperson of which King applied to be listed on the JSE security exchange SRI index (see p63) did not quite make the grade.





Hennie van Vuuren of the Institute for Security Studies explains why unions should be looking at corrupt practices in companies (see p21).

Lorgat provides an overview of the resolutions adopted by unions around corruption and accountability (see pg17). Aside from resolutions adopted, unions are increasingly being forced to talk about corruption as it affects their structures and effective operation. Last year the SA Municipal Workers Union (Samwu) broke the silence on corruption as it has emerged through attempts by microlenders to get union business. The union adopted a range of resolutions at its congress on corruption whilst the leadership attempted to discipline those involved in side deals with microlenders. Whilst this issue is happening in every union it was only Samwu that spoke out about it. At the NUM's special congress in May, the union's president spoke out about the evils of corruption and the impact it can have on unions.

He said: 'Through our history, you will learn that a vital feature was the dedication

and integrity of the founders, and subsequent leaders of our union. We know that the employers had always been prepared to use bribery as a means of gaining the allegiance of strategically placed union members and officials and, thereby, influencing the union's policies. It is possible that some individuals, who were politically unaware, were prepared to cooperate with them for a price. The amazing feature of those years, however, was the low level of corruption. Our size, power, independence and willingness to confront the employers today are evidence to our past... It is still possible for stewards, elected office bearers and officials, to serve the employers rather than our members. They do that indirectly because the greatest incentive to engage in corruption is self-interest, whereby so-called comrades siphon-off money for their own enrichment, or where they use the union as a platform to launch their own lucrative careers. There is no foolproof method of stopping this, but we can make it difficult and painful for those who are inclined to try. We must, therefore, establish mechanisms to

identify such corrupt practices.

First, we must create a culture amongst our members of zero tolerance for corruption. We must be unscrupulous in exposing and attacking it, for it is like a cancer that could spread and eat away our solidarity until we become lackeys of the employers. Our greatest protection against corruption, however, is the political consciousness of our members, leaders and officials.

This brings us back to the question of political education. I cannot emphasise too much that our ability to contribute to changing the nature of our society, so that it serves the interests of ordinary working class people rests on the quality and extent of our educational provisions. We want a membership that is continually asking questions, debating and scrutinising the work and mechanisms of the union. Corruption cannot survive in such an environment. Comrades, I propose that we consider the following steps as another mechanism of combating corruption within the union.

We the NEC has already approve a system of declaration of interests. This must happen at all levels of the organisation; in the NEC gatherings, the RCs and at branch level. The second proposal is on whistleblowing. As the presidency, we invite any member of the union, leaders and even officials who are aware of corrupt practices to bring that to our attention. The third issue is that of fund raising. As from today, this is a directive to the Secretariat that they craft guidelines and control mechanisms of fund raising. Some comrades raise funds in the name of the union, but those funds are spent in a reckless manner and there is no accountability at all!

The NUM is dealing with a number of corruption cases. A rather interesting one relates to a scheme at Evander mine (part of Harmony) where shaft stewards operated together with management to 'sell' jobs to prospective workers. Effectively workers paid to get a job on the mines.

What about other unions, aside from the

rather high-profile developments in Nehawu, which largely saw the light of day because of the personalities involved and claims that the union's president was 'close to Mbeki'? It is becoming evident that corruption is filtering through to all union structures as well as those aligned to unions such as union investment companies. Examples of the types of corruption or questionable practices around accountability/transparency or potential conflicts of interests include the following:

- Shop stewards and union officials approached by microlenders, insurance companies or pension fund administrators to promote their services in exchange for 'gifts' of various types such as 4-wheel drives, actual monetary payments and 'seminars/workshops' in rather luxurious locations. Do unions have procurement policies in place and are they properly followed?
- Should unions be taking money from organisations – such as financial service

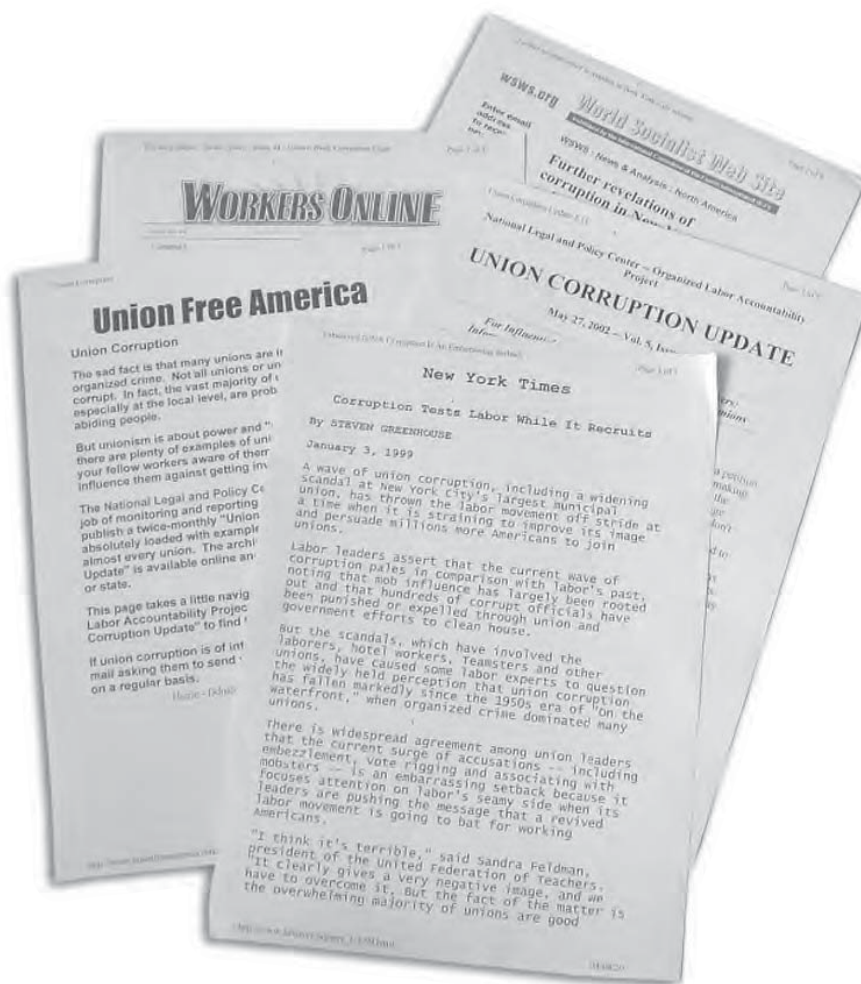
providers – who wish to get business from them?

- The provision of financial services by institutions linked to unions at uncompetitive rates such as loans at prime plus 10%?
- How transparent are unions and their investment companies in relation to the deals they get involved in? For example, there is speculation that some union leaders (in their personal capacities) and investment companies have bought into privatised entities whilst the union was challenging the privatisation. Are unions dealing properly with the unauthorised use of funds by the CEOs of union investment companies? How accountable and transparent are investment companies in relation to their unions. The *Labour Bulletin* conducted a survey amongst all the union investment companies aligned to Cosatu affiliates to ascertain the levels of transparency and accountability to their unions and



members. Out of 13 questionnaires sent out to all the union investment companies (affiliated to Cosatu unions), only four responded. The response rate merely confirms what this special report has sought to argue – that structures such as union investment companies are not sufficiently accountable to the labour movement. The union investment companies which did respond including those aligned to Numsa, Nehawu, CWU and Ceppwawu should be commended. In future the *Labour Bulletin* will run a profile on each investment company.

- Saccawu's investment company was forced into liquidation after it illegally received funding from the union's provident fund.
- Speculation about kickbacks and people 'on the take' can arise in unions when lip-service is paid to existent or non-existent procurement policies and certain companies are awarded contracts to do printing jobs etc. Numerous reports received where union leaders interfere in decisions taken around printing contracts and often contracts awarded to companies who are not competitive in terms of quality and price.
- What about the allegation of the sale of members' databases to insurance and other financial service providers by shop stewards and officials without informing members? These same members are then oversold products and land up in debt with the complicit knowledge of the union. Do members know that this could amount to an invasion of privacy?
- Officials opening up bank accounts supposedly to benefit members are not a new development but continue to occur and are the subject of investigation in some unions at the moment.
- Do unions have proper policies around loyalty programmes such as SAA Voyager miles?
- The high profile coverage of the Enver Motlala case raises questions around the involvement of union officials in liquidation cases. Are officials looking at short-term gains instead of finding innovative ways of fighting retrenchments and protecting workers' jobs?



- What about the claiming back of expenses from all structures in the union whether it be NEC members or at a branch level. Some officials, it is believed, will arrange meetings so that they can claim back expenses. A former trade unionist says that in his union some NEC members can claim back up to R8 000 in petrol expenses per month.

GLOBAL ACTION OF UNIONS

Talk about unions and corruption invariably leads to a discussion around the US labour movement, which was once synonymous with corruption and organised crime. From about the 1950s organised crime infiltrated and dominated a large number of US unions. The most famous case related to Jimmy Hoffa who led the Teamsters Union. Millions of dollars of workers' pension funds was embezzled by organised crime through the assistance of Hoffa. This not only discredited the US labour movement at a time when organised labour was under attack but it provided the US government with a legitimate excuse to intervene in the operation of unions. The only benefit of this intervention is that unions were forced to

become more accountable and transparent through the passage of the Labour-Management Reporting and Disclosure Act of 1959. This legislation forced enhanced union transparency, increased information to be made available to members and improved disclosure to members.

It would appear that the corruption remains a factor in unions today despite various attempts to clean house and oust corrupt leaders. A search on the Internet reveals that corruption still appears to plague US unions (and other unions globally) with reports of continued 'mob' (mafia or organised crime) involvement. The reports revealed that union officials have been indicted and charged for taking bribes from 'mobsters in return for helping to drive up the costs of construction projects such as city schools and bridges so that money could be skimmed off the top'.

Corruption is a global problem and requires a global solution, involving partnerships between governments and social partners, the OECD argues. This partnership approach has extended to the trade union movement with the formation of UNICORN. The Trade Union Advisory

Committee to the OECD (TUAC), the International Confederation of Free Trade Unions (ICFT) and Public Service International (PSI) have sponsored the establishment of UNICORN. Its mission is to mobilise workers to share information and coordinate action to combat international corruption.

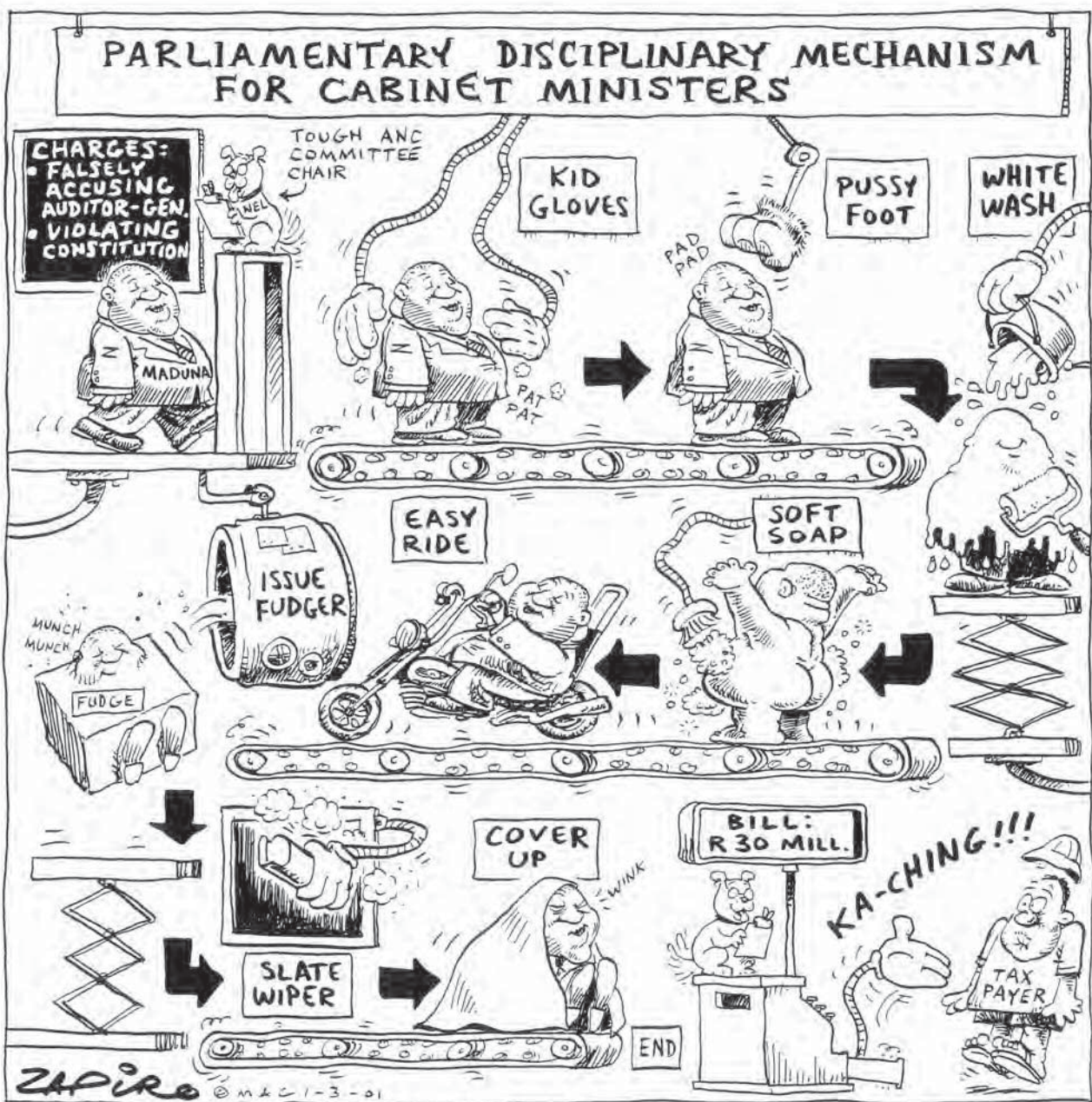
Aside from UNICORN there are other NGOs that monitor companies to ensure corporate accountability. The weakness of

union activities globally might be that they are good at keeping others accountable but it is questionable to what extent these standards apply to their own structures and leadership.

LOCAL INITIATIVES

There are a number of local initiatives which seek to fight corruption in all spheres of our society. The civil society network against corruption was set up last year and includes the

Institute for Security Studies, Idasa, Black Sash, Open Democracy Advice Centre, the Public Sector Accountability Monitor and Transparency International. Cosatu has been approached to be party to this network. Cosatu might however, wish to focus on the public sector (as is the current focus) but to also place more emphasis on the private sector. The National Anti-Corruption Forum, a full society initiative is currently preparing for its November conference.



WHAT CAN UNIONS DO?

At the outset, unions have to stop thinking that governance and accountability issues are a bourgeois agenda. If unions remain stuck in this mindset such issues will not be dealt with, workers will suffer and unions will become discredited in the event their activities are investigated by structures such as the Scorpions. What then should unions be doing to ensure democratic unionism remains in place?

- Structures, susceptible to corruption, are those which lack proper controls and do not have proper procedures in place. The situation is further exacerbated in the absence of proper leadership. Unions therefore, need to ensure appropriate governance structures are in place and that they are in line with the unions' constitution and existing practice.
- Unions should ensure that structures which represent them – even in name only, such as union investment companies – comply with basic principles of transparency and accountability and ensure proper governance structures are in place.
- Various NGOs have adopted codes of conduct. What about unions introducing codes of conduct for union leaders and members?
- What about tender procedures? Are they in place and are they being complied with?
- Unions need to review whether they are promoting internal democracy and that includes how elections are held and whether sufficient transparency exists.
- What about the former union leaders who have gone into business and who might benefit from workers through the provision of products and services which are not necessarily competitive and beneficial to workers? Should unions not consider some form of protocol around this?
- One would expect unions to be more vigilante in their dealings with labour market institutions such as the CCMA, Nedlac and Setas to ensure that workers' interests are promoted instead of their own. Unions, through their representatives, are supposed to be co-managing some of these institutions. In view of this, unions should review how they are engaging in these structures and whether their

representatives are abusing their positions in any way.

- A similar process should take place with union pension fund trustees.
- Internationally, unions have been known to be the first whistleblowers in organisations whether it be in relation to environmental or governance issues. Unions in SA tend to focus more narrowly on labour type issues. There are limited attempts to strategically utilise information they receive from workers in the broader public interest. Unions should encourage and create a culture of whistleblowing. **Stuart Harrison** outlines the laws which protect whistleblowers (see p23).
- Are unions getting involved in any anti-corruption structures? What about seeking assistance from UNICORN?
- Various studies have been done to investigate which sectors are more susceptible to corruption, such as construction, public works, education etc. Unions should familiarise themselves with such research.

CONCLUSION

Former president Nelson Mandela is on record to have said: 'The dark days of apartheid bestowed on us a legacy of crime and corruption. We inherited a justice system which itself was pervaded with the lawlessness and criminality of that era'. Unions should be playing a critical role in ensuring the legacies of apartheid are eradicated and not perpetuated. The US experience should be a harsh warning to SA unions that corruption and lack of accountability can destroy what has been built up over many years through struggle. If this agenda is taken up by unions then they can continue to play a vital role in our democracy and truly become the 'watch-dogs' of corporates, government and, more importantly, ensure that workers' retirement funds are safe. This, however, cannot happen until unions are seen to be dealing with their own internal problems. This is fundamental to democratic unionism – unions keep employers accountable and union members keep unions accountable – if that is what we are trying to work towards – the editor.

LB

The Labour Bulletin would like to thank Zapiro for showing us the 'lighter' side of corruption.

