

Who Monitors the 'Monitors' in the Public Sector? A Combined Theoretical Agency-Structure Approach

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Abstract

Based on the extended Agency-Structure model, this article addresses the issue of public sector board accountability. It examines the public sector board-CEO relationship, corruption and accountability in state owned enterprises. Findings suggest that it is not always the case that agency dominates, it is also neither that structure dominates. In a given situation, either can dominate and within a given context, agency or structure's dominating effects can change.

Introduction

The 1980s attempt to reform the public sector by reducing the size of it and its costs appeared to have assumptions on the proper conduct and sense of public service (Doig, 1995). Reforms brought about establishments of boards of directors of public sector institutions; these have been modelled around private sector boards (Farrell, 2005). Whether these have 'worked' is not clear. For one, the pre-reform and the post-reform performances need to be assessed with the same measuring tapes. This does not seem to have been done so far. Compounding the problem of measurement, is the recent revelations of 'ethical scandals' in state owned enterprises. This warrants an examination of ethical leadership in public sector organizations (Hassan et al., 2014). Such scandals also prompt the strengthening of existing public accountability arrangements and the designing of new ones (Bovens et al., 2008). Existing literature highlight both accountability 'deficits' as well as 'overloads' (Bovens et al., 2008).

This article examines the role of board of directors' as monitors, and their relationships with CEOs in the public sector. The article's benchmarks are the role and responsibilities of boards specified in literature, and the recent developments on Agency-Structure debate aimed at a

better understanding of corporate governance in public sector entities. Some cases from the Fijian public sector would be examined. Institutional cases are useful for contextualized analysis examining typical and atypical public sector board-CEO relationships and accountabilities. The unique challenges faced by developing island public enterprises have dimensions that set them apart from the corporate sector of other countries.

Specifically, this article extends the Agency-Structure debate by combining the two theories to the public sector setting. The Agency Theory concerns the behaviours when a 'Principal' hires an 'Agent' for acting on its behalf or to provide some service. The theory deals with *agent opportunism*, where the agent begins to optimise its/his own profits/gains at the expense of the principal. The principal tries to control the agent by creating incentives and/or investing in information systems to monitor agent activities. According to the theory, a board of directors represents the key internal control mechanism to align agent interests to that of the principal. Agency theory has been used to explore and describe risk-sharing among individuals and groups (Eisenhardt, 1989); it has also dominated the public sector accountability research (Schillemans and Busuioac, 2015).

Given that a board is the monitoring entity as per Agency theory, there is an ongoing debate between Agency and Structure. According to the Structuration Theory, agency and structure enable as well as constrain each other where structure includes rules (which guide and provide directions on how and what activities should be carried out by agents) and resources (which assist agents in carrying out activities). While rules and resources enable agent activities, these also constrain agency since agents have to act within rules and resource usage has restrictions.

This article advances this debate using both the theories. Structure is useful given that not only top management but boards as monitors have also been alleged to fail in their monitoring role in favour of their personal interests.

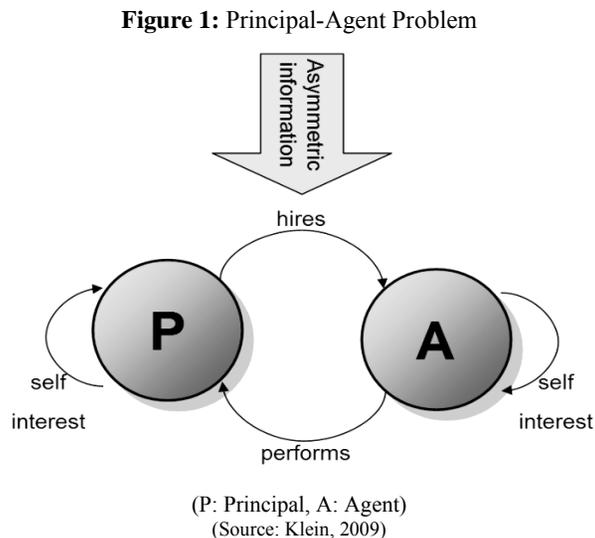
Theoretical Underpinnings

Agency Theory (AT) has become the dominant theory in corporate sector management studies and research. While AT has for long been employed to explain performance of management and boards in the private sector, the effort to extend AT and research to not-for-profit organizations has been more recent; now public sector accountability research is dominated by AT (Schillemans and Busuioac, 2015). This article applies and extends the Agency-Structure debate by drawing factors from the

public sector, board and Agency-Structure literature to include key factors in the proposed model. The article employs the Agency-Structure debate as a framework for the public sector board monitoring role and their relationship with CEOs. No such theory currently exists. While there may be other perspectives available, this article makes use of the Agency-Structure debate because this appears the most important and relevant to the research question.

The origin of the Agency Theory goes back to the 1960s and early 1970s as economists explored and described risk-sharing among individuals and groups (example Wilson, 1968; Arrow, 1971 cited in Eisenhardt, 1989; Eisenhardt, 1989).¹ Eisenhardt recognises Ross (1973) and Jensen and Meckling (1976) as those who broadened the risk-sharing literature to agency problem that emerges between cooperating parties with different goals and division of labour. According to Mitnick (2006), Stephen Ross and Barry Mitnick were the earliest scholars to clearly propose the Theory of Agency. Mitnick introduced the viewpoint that institutions form around agency and evolve to deal with agency while Ross initiated the Economic Theory of Agency (Mitnick, 2006).

The key actors in the Agency Theory are the principal and the agent. Figure 1 illustrates the basic idea behind Agency Theory.



The 'Principal' is the party that pays the 'Agent' for either the agent to act on behalf of the principal or the agent to provide some service to the principal (International Energy Agency-IEA, 2007). For instance, an owner or employer (principal) pays an employee (agent) to act on his or its behalf. The employee is required to provide a service such as production of goods for sale (IEA, 2007).

Central to this theory is the assumption that the agent may begin optimising its/his own profits/gains at the expense of the principal. This is called *agent opportunism*. In this way, Agency Theory reminds us that much of the organisational life is based on self-interest, particularly of the agents (Eisenhardt, 1989). The agent may optimise its profits at the expense of the principal as it may not share the principal's goals (Hadi and McBride 2000). Any lack of partner compatibility and goal incongruence can result in conflict and opportunistic behaviour (Moeller, 2010; Wickramasinghe and Lamb, 2002). The principal, thus, needs to guard against such agent opportunism or agent's 'sub-optimal behaviour'.

An agent displays opportunism or 'sub-optimal behaviour' when it carries out activities which are not in line with what the principal wants (Wickramasinghe and Lamb, 2002). Such a situation is possible because the agents have more knowledge or information than the principal, on account of the fact that they are the ones carrying out the activity on behalf of the principal on a day to day basis; they have a certain level of information empowerment (Hadi and McBride, 2000). Agency Theory suggests that while economic inefficiency cannot be avoided in principal-agent relationships, there are ways in which relationships between these two key parties can be made efficient (IEA, 2007). The principal can, for example, control the agent by creating incentives to persuade and encourage the agent to efficiently perform the principal's wishes (Hadi and McBride, 2000).

Another assumption of Agency Theory is that the principal tries to guard against agent opportunism by investing in information systems to control agent opportunism, specifically trying to get enough information on agency activities through investing in monitoring systems (Eisenhardt, 1989). The Theory suggests that the board of directors represents the key internal control mechanism for the principal that can be used to align the divergent interests of the managers (agents) to that of the shareholders (principal). One of the other assumptions of Agency Theory is that independent outside directors in a board can lessen insider opportunism as well as lessen insider (management/employees) influence over the board.

¹ This section relies on Narayan, Singh and Naz (2015: 38-40).

The Debate

Wendt (1987) is an early paper on the Agent-Structure debate in management literature. The heart of the debate was on the relationship between agents and structures. Structuration theory argues that agency and structure enable as well as constrain each other (Gould, 1998). According to Giddens (1979), each shapes the other. Giddens used rules and resources to explain structuration. Rules lay the conditions and in turn allow individuals to intervene to respond to choices offered by the rules. Thus rules convert individuals into agents (Gould, 1998: 81). Wendt had argued that while rules are necessary for agency, Structuration 'lacks a fully developed mechanism capable of explaining the means by which agents and structures constitute one another' (Gould, 1998: 80). Overall, four approaches have emerged from the ongoing debate; these are reductionist, determinist, conflationist and relationist (Reed, 2003).

The reductionist theorists often reduce structure to agency; generally agency is seen as the summative outcome of structure which marginalizes if not erases the significance of structure (Reed, 2003). In contrast, the determinist approach argues that it is structure that dictates agency, as it programs, controls, as well as directs agent actions (Reed, 2003). For these theorists, structure is independent, unaffected by agency whereas agency is subservient to structure (Reed, 2003).

The third approach is that of conflationism. Here, a structure collapses into agency and is only traceable as ongoing strips of social interaction, i.e., structures are reproduced through social practices (Reed, 2003). While Giddens and Bourdieu insisted on mutual and equal co-determination of agency and structure, they rejected any conception of structure. To them structure does not pre-exist, it is only in practice, in agents' memory, thus generally collapsing structure into agency (Reed, 2003).

The relationist approach views agency and structure as interrelated but separate components as it formulates a conception of agency and structure (Reed, 2003).

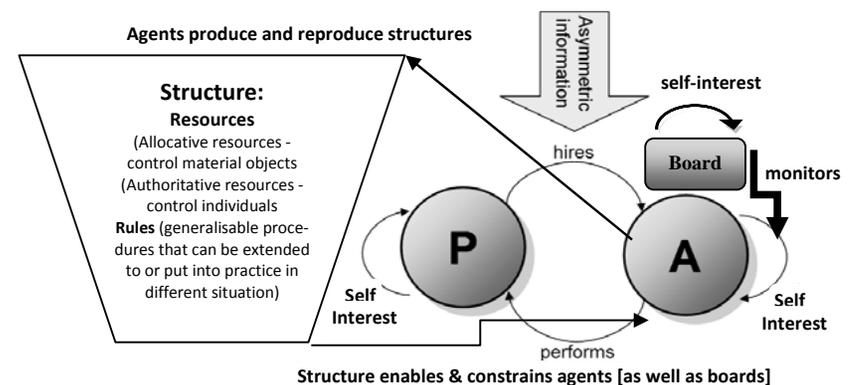
Researchers like Ashforth, et al. (2008) suggest some blending of agency and structure. After all, important components of corporate crime relate to both agency and structure. What is now emerging are theories that aim to unite agency with views of structure (Lane, 2001). Cockerham (2005), for example, considered both agency and structure, placing emphasis on restoring structure to its appropriate position. There is a need for an analytical framework that coherently links the two.

This article applies and extends the Agency-Structure debate by

drawing elements from the public sector, board and Agency-Structure literature for the proposed model. A combined Agency-Structure model for the public sector has been a critical omission in public sector studies. Inquiries on this basis can enrich our understanding of relative dominance of agency and structure. This article argues that detailed empirical assessments using the extended model may shed light on issues and accountability challenges facing public enterprises. While the empirical study for this paper is grounded in Fiji, the study does have potentially wider application for public enterprises elsewhere.

As per the research question and in keeping with the literature reviewed, the following theoretical model was developed, illustrating the relationship between agency and structure in the setting of a public enterprise depicting board monitoring role and board-CEO relationship and their self-interests. The agency diagram (on the right) with the factors of principal, agent, self-interest and asymmetric information is drawn from the study of Klein (2009). Principal is the party that pays the agent for either a) the agent to act on behalf of the principal or b) the agent to provide some service to the principal (International Energy Agency-IEA, 2007). This diagram is modified to add boards (as monitors) and their self-interest (board members can also have self-interest). Structure (on the left) includes factors of: rules and resources, structure being produced and reproduced and, agency enabled and constrained drawn from studies of Giddens (1984) and Lane (2001).

Fig. 1: Combined agency-structure theoretical model



Methodology

This article employs institutional case based approach and is based on interdisciplinary literature review of role of boards and Agency-Structure debate, coupled with illustrative discussions of senior level public sector corruption. The article uses content analysis of specific relevant public enterprise documents and a few in-depth semi structured face-to-face interviews. Enterprise annual reports, cabinet decisions, legislation and parliamentary reports, newspapers and reputable magazines were examined for relevant information and for formulation of certain organization specific questions for interviews as well as for cross-checking interviewee responses. For interviews, convenience and snowballing non-random sampling techniques were used whereby individuals who were the easiest to reach out to were interviewed first (convenience); these interviewees recommended others who could be interviewed (snowballing). In this way, information was gathered from many sources enabling triangulation among different data sources (Eisenhardt, 1989).

The Ministry of Public Enterprises, Tourism and Communication (MPETC) was initially approached for interviews. Altogether, thirteen in-depth interviews were conducted. A detailed description of the interviewees is withheld given political and job security concerns. Before the actual interviews, interviewees were informed that the purpose of the interview was academic research and that respondent names will not be disclosed nor stated in later publications. Anonymity encouraged the interviewees to give out relevant information without the fear of being questioned later on their responses. For this reason, interviewee names are withheld; quotations do not indicate the designations of interviewees. This is also in line with research ethics.

The interview sessions were for forty-five minutes to one hour fifteen minutes in length, keeping in mind the respondents' time and concentration. The researcher noted issues related to the board/CEO and corruption from archival search for certain interview questions given that interviewees may not or cannot recall certain events or would simply want to avoid talking about some adverse events.

This research called for a flexible and unrestrictive questionnaire structure. Questions were thus asked in an open-ended manner to allow for sufficient flexibility so that interviewees could respond in their own way. Tape-recording was not given importance in this research because interviewees do not feel comfortable with their views being tape-recorded; they speak more freely when no hard evidence (taped responses) is collected. For this reason, notes were manually recorded on

paper. After the interviews, the researcher rephrased the interviewees' responses to capture the gist of what was understood by the researcher; attention was paid to ensuring that the receiving, understanding and interpretation of information were the same as expressed by the interviewees (Wilkinson and Birmingham, 2003).

Collected information was analyzed on the basis of findings from the case studies in forms of responses from the interviewees and relevant documents which helped the researcher document and explain findings. Evidences, discussions and conclusions on this scope were based on content analysis. This research used the logic of analytic rather than enumerative induction and thus used Gillham's (2001) transcription and analytical framework for the recording, verification and analysis of data. Substantive statements in each interview note and extra details (furnished during the interviews) were highlighted while repetitions, digressions and irrelevant materials were put aside. Similar statements made by interviewees were noted as similarities and dissimilarities were marked. After going through interview notes, the researcher went back to these notes the second time to highlight substantive statements that might have been missed out in the first reading. Following this, the researcher went through the collected documents to highlight noteworthy information. The researcher then went back to the entire interview notes and documents to note the highlighted statements and categorized these as the key events. For validity and reliability reasons, statements were cross-referenced between interviewees' responses' and with documents such as company and ministry documents, published interviews in reputable magazines and newspaper articles. Dissimilar statements were marked as queries and after a few days, queries were clarified through quick repeat interviews, emails or telephone inquiries.

The article is limited in terms of sector and sample size; only one country was studied. As such findings are not as readily generalizable unlike larger sampled studies. Also, case study evidences achieved are valid only for the concrete cases under analysis. Nevertheless, given the reform related transformations currently underway in public enterprises across the world, studies such as these are not only timely but can have policy implications in the area of the role and accountability of boards and anticorruption legislation. The article does offer insights for future comparative studies of countries with similar developing status. Further research may carry out larger scale studies and also make comparisons between public and private organizations. The major contribution of this research is the elaboration on the ongoing Agency-Structure debate and the combined agency structure theoretical model.

Results

Post Fiji Limited (PFL)

Since its inception until 1989, Fiji's postal operation was a division of a government department - the Department of Posts and Telecommunications. In January 1990, the department was corporatized as Fiji Posts and Telecommunications Limited (FPTL). In June 1996, the much awaited separation of Posts and Telecommunications was formalized resulting in two new enterprises, Post Fiji Limited (PFL) and Telecom Fiji Limited (TFL).

The PFL is led by a government nominated Board of Directors. All directors except for the Managing Director (MD) / Chief Executive officer (CEO) have been outsiders. The directors are experienced individuals from various business sectors, having served in various other boards. In 2007, *The Fiji Times* newspaper reported that the PFL audit reported serious allegations of malpractice of the former MD; it was claimed that upon his resignation in February 2007, he was paid a gross compensation of \$246,479.89, a net of \$122,481.39 after deductions. In addition, he received \$24,000 as gratuity, a payment he was neither entitled to nor allowed for in his contract. It is further claimed that this payment was not even approved by the Higher Salaries Commission. Even the then board chairman was alleged to have received allowances not entitled to. It was also alleged that the former MD approved a payment of \$75,000 for the purchase of an external Seiko clock for PFL building from a company owned by the chairman without following proper tender procedures. Allegedly, the board chairman allowed this to happen, failing to disclose his interest and relationship with the company (The Fiji Times, 2011). The chairman claimed he knew nothing about the discussions on the purchase of the Seiko clock. The court convicted both, the MD and the Chairman (Nasiko, 2011a, 2011b). Accordingly, a new board was appointed. The chairman and three new board members were appointed in May and June 2007. Only one of the previous board members continued while three others resigned in December 2006, before the audit period. The five member board was told by the Public Enterprise Ministry to seriously consider the recommendations of PFL's audit report during their board induction session. In 2007, an acting CEO was appointed by the new board following the exit of the former MD on 28 February 2007. In January 2009, a former executive from the Colonial National Bank was appointed as the CEO. This CEO also left PFL. The earlier alleged corrupt practices and board inductions led to changed

relations between the board and top management. The interviewee stated:

The way activities are currently carried out at PFL can be described as stringent. For instance, the CEO is not part of the board but a representative of PFL who makes presentations to the board. The board then discusses the presentations amongst themselves for final decisions. Board meetings are held every month. Representatives from the Ministry of Finance and MPETC also sit in board meetings.²

The CEO also does not have the discretion to approve funds of above \$10,000 needed for capital purchases. All capital purchase requests of above \$10,000 require board approval. In addition, the board needs to be kept informed on everyday affairs even operational matters. For example, matters such as the qualification and experience requirements of senior vacant positions are also determined by the board. The CEO is thus not given full autonomy.

PFL's board is heavily involved in the operations of PFL. However, the board-management relationship is quite good. All requests are thoroughly looked into before final endorsements but at times further information is requested before approvals. This drags approvals onto the next monthly meeting. It is this delay that is problematic. Coming from a commercial environment, the PFL environment proved restrictively different for the outgoing CEO.

Fiji Ports Corporation Limited (FPCL)

The FPCL was formally known as Ports Authority of Fiji (PAF). Ninety-five per cent of imports and exports in Fiji are traded through the FPCL ports handled by its subsidiary, Ports Terminal Limited (PTL). FPCL was established after dual reforms in the port industry, a change

² This presence is purportedly under s64(5) of the Public Enterprise Act (1996):

A shareholder may at any time or times, by written notice to the secretary of a Government Commercial Company, authorise (on such terms and conditions as are specified in the notice) such person as the shareholder thinks fit to act as the shareholder's representative at any or all of the meetings of shareholders of the Government Commercial Company or of any class of such shareholders, and any person so authorised shall be entitled to exercise the same powers on behalf of the shareholder as the shareholder could exercise if present in person at the meeting or meetings.

initiated by the government through the public sector reform programme (Interviews with GM Finance and GM Ports Terminal Limited). The re-organization process involved a split of PAF into two enterprises, a Commercial Statutory Authority (CSA), called the Maritime and Ports Authority of Fiji (MPAF), and a Government Commercial Company (GCC) named Ports Terminal Limited (PTL) (Interview with GM Finance). The FPCL was established during the second reform of PAF which saw the amalgamation of PTL and MPAF into one GCC, FPCL (Interviews with GM Finance and GM Ports Terminal Limited). FPCL began operations from 1 July 2005 (Interview with GM Finance).

FPCL and its subsidiary are governed by a Board of Directors that oversees the company's performance. The first set of directors was appointed on 4 February 2005 by the Minister for Public Enterprises. The first CEO was also appointed in February 2005. A former board chairman was charged with one count of abuse of office by the Fiji Independent Commission against Corruption (FICAC) for which he appeared in court. He was alleged to have approved \$177,000 in payment to the then CEO between 7 and 13 December 2006. The problem with this payment was that it was neither approved by the board nor by the Higher Salaries Commission (Fiji Village, 2008). As a result of the allegations, the chairman was removed from the board of FPCL. In November 2006, the then CEO was also sent on leave to allow for investigations into his alleged mismanagement. It is also alleged that he was paid during this investigation period. On 28 February 2007, a new chairman was appointed for a term of three years. Another board member was appointed on 4 February 2005. The deputy chairperson who was appointed later on 28 February 2007 was relieved of board duties from 30 June 2008. Two other members appointed on 16 and 28 February were also terminated on 30 June 2008. A director who was appointed on 30 June 2008 passed away on 9 December 2008.

Like PFL, the earlier alleged corrupt practices and changes in board and CEOs led to changed relations between the board and top management. One of the interviewees explains:

Overall, FPCL cannot be described as a private sector firm. It cannot really operate independently given interferences and challenges. It is part of the government, thus has to be mindful of the government as well as its own policies. The board is very active and the key decider. Some speculate that the board lacks relevant qualification and that board appointments are also political in nature. There are also claims that there may be better people around.

The relationship between the board and management is also not so amicable. The situation is tight, so much so that the senior management almost unanimously voiced out disagreements but only to get suspended. As matters took a turn for the worse, MPETC interfered. Resultantly, the CEO and the GM Finance were suspended. An interviewee complains:

Management is not allowed to manage. A high level of bureaucracy is present in forms of government dictation and political interference. This is the biggest challenge for FPCL. All decisions have to go through the government. New innovative strategies are often declined. FPCL has many plans but these remain plans because the government, as shareholder tells them what to do.

In August 2009, the chairman resigned from the board after his attempts of solving the ongoing internal bickering failed and went out of control. He was quoted as saying that he resigned in order to protect the independence of the board and the integrity of the position of the chairman (The Fiji Times, 2009).

Fiji Hardwood Corporation Limited (FHCL)

In March 1998, FHCL was established as a GCC to administer the commercialization of the mahogany forest resources. From its inception until 2003, FHCL remained dependent on government funding. FHCL reported fluctuating losses, these being the highest in 2007. It only reported profits twice in the years 2008 and 2010. An interviewee informs:

The year 2008 marked the first year of profits for FHCL. Credit for these positive changes goes to the Administrator and the then appointed Sri Lankan Financial Manager who worked closely to identify loopholes and put in place financial controls.³

As at 31 January 2011, debts of FHCL totalled about \$26 million. Out of this, about \$16.8 million was guaranteed by government (Nasiko, 2011c). The interviewee explains:

Because FHCL is about 80 to 90 percent export based even when it is yet to fully develop its export market, global crisis has had a significant adverse impact on it. FHCL is the most controversial of all public enterprises. Marred with landowner and political interference and the 2000 coup after-effects, FHCL was never entirely left on its own to function commercially from the outset. It was never really given a commercial environment to work in.

³ This appointment was done formally through advertisement.

After the 2000 coup, there was a change in government. This government set up a new board for FHCL (Fiji Mahogany Act 2003: Online Resource). The changes to the board and the CEO incumbents at FHCL has seen a 'come and go' trend. The first CEO was an expatriate from New Zealand who held office from September 2003 to December 2003 (MPETC, 2009). According to his successor, the first CEO left because he felt restrained by government interference. In 2004, the second CEO was appointed. This CEO also resigned after two years. The second CEO also admitted his frustration with such meddling. He complained: 'there is a lot of bureaucracy around. The issue is highly politically charged, it always has been, I think it always will be' (ABC Radio National, 2004). The third CEO was appointed in 2005 (MPETC, 2009). In May 2006, a new board was appointed. In November 2006, the employment of the third CEO was terminated while he was abroad. According to the board, the termination of the CEO's contract marked the start of FHCL's reorganization exercise. This came as a surprise to the CEO who was away in Australia. He exclaimed, 'I don't know what's going on' (The Fiji Times, 2006). The board claimed it terminated the contract when the CEO's health deteriorated (and because of a police enquiry) six weeks before the termination (Fiji Mahogany Act 2003: Online Resource). As per the MPETC (2009c), the third CEO was terminated on grounds of poor performance. While FHCL engaged in exports and appeared to be doing well, in reality this was not so. FHCL's insolvent status was brought out into the open. An interviewee gives the following details:

It was alleged that a former GM Manufacturing was underselling Fiji's product overseas for a commission in Hong Kong. The FHCL board did not take it up any further except for declining to renew his employment contract. The board decided not to waste time in investigations but took note of lessons learnt.

FHCL was said to have achieved exports of containerized dressed mahogany timber (timber with premium finishing - very accurately sized with a very smooth surface, allowing coatings to be applied easily) within a short span of time. According to some staff, six containers were exported every week. Based on these reports, FHCL should have generated at least \$12 million in income annually. But this was not so. Before the end of 2005, FHCL ran out of funds because the cost of production of mahogany timber was much higher for FHCL than the revenue it earned by exporting timber.

According to the interviewee, only when the insolvency of the company was brought out into open, that the board came to know about such issues. The rushed transition of FHCL into its extended role to a sawmill operator since 2005 gave way to abuse of office, leakages and anomalies at the top management level. As per the interviewee, boards were competent all along but if the data presented to them was inaccurate or if the needed information could not be processed from the data held by the enterprise, then the board will not be able to make effective decisions.

This view notwithstanding, a competent Board would have been monitoring production and commercial aspects of the business. For any business of this nature, a mandatory part of reporting would be technical and financial performances reporting in every Board meeting. If the CEO or management were not providing detailed reports on these, then a competent board would have raised concern and directed management to provide this regularly and without delay. Failing this, internal audit could have been relied upon, the Board did no such thing.

By the time police could question the CEO, he was said to have fled Fiji (Fiji Mahogany Act 2003: Online Resource). FHCL was technically insolvent in 2006. Also a former board chairman of FHCL, who was the coup instigator in the year 2000, was alleged of bribe-taking from a company he aggressively promoted for strategic partnership with FHCL. His bank statements revealed that two separate payments of \$A5,000 were made to his Australian bank account; he was dismissed for alleged bribe-taking (ABC Radio National, 2004; Feizkhah, 2001).

A review of FHCL's operations was then carried out (*The Fiji Times*, 2006). As a result, the Board adopted 5 strategies, which included: the termination of the contract of the CEO to refocus and restructure FHCL, recruitment of an excellent CEO, engaging an accounting firm (PricewaterhouseCoopers (PWC)) on a short-term basis, maximization and sustainable exploitation of hardwood forests to enhance export levels and earnings and, seeking government support towards financial assistance for FHCL. The board, when announcing the above changes and strategies, also indicated that it had assumed executive control from then onwards. An officer from PWC was appointed as the FHCL Administrator between December 2006 and February 2008. An expatriate was also formally appointed to the position of the Financial Controller (MPETC, 2009). Together, the PWC Administrator and the expatriate Financial Controller highlighted internal anomalies at FHCL. The interviewee states:

For the fourth time in February 2008, a new CEO was appointed. However, in November 2008, the board chairman resigned. He

expressed his disagreement on the new direction/set up for FHCL that was decided by the cabinet in June 2008. The chairman feared chaos and doubted the effectiveness of the new set up.

An interim CEO was appointed in May 2011. In May 2010, a three member board was appointed which increased to seven members in May 2011.⁴

Discussion

The theoretical model prepared for this research is supportive of the findings. Central to agency theory is the argument that the agent may optimise its profits at the expense of the principal (agent opportunism). In the case studies, the principal is the Fiji Government while the agents are the top management and the employees. As per the Agency Theory, the government (shareholder) is the principal; the agents are the top management and employees, whereas the Board is the internal control mechanism – the monitor.⁵ Agent opportunism has been well illustrated in the case studies of FPCL, PFL, FHCL where the top management and/or the board members were engaged in transactions that benefited them personally.

At Posts Fiji Limited, four former executives were charged with various offences ranging from abuse of office, extortion, aiding and abetting abuse of office, and false certificate. Malpractice of a former MD was also highlighted. The former board chairman was alleged to have received allowances not entitled to. In addition, a former GM approved a

⁴ There are considerable uncertainties on the legality of board appointments. The relevant legislation under which FHCL operated in 2010 is not clear. In 2003, under the Fiji Mahogany Act (2003), the 'Fiji Hardwood Corporation Limited, a Government Commercial Company declared under the Public Enterprise Act and incorporated under the Companies Act, shall be transformed into a privatised Company for the purposes of developing the mahogany industry in Fiji, including the harvesting and processing of mahogany forests'. The legal requirements on board composition would be in the company founding documents. This is not available.

⁵ This view needs re-examination. While the Board is the 'monitor' in effect, the Board functions as the agent of the shareholder. The shareholder, through the Minister, provides the legislation to the Board which contains the objectives of the entity which are to be met by the Board. The shareholder may also give directives to the Board. The Board will need to determine the compliance of such directives with the law. But in conduct, the Board remains the agent of the shareholder. In turn, however, the Board hires employees (management) to deliver on the objectives. In the Board-Management relationship, the Board assumes the role of the principal, and the management becomes the agent.

payment for the purchase of an external clock from a company owned by the chairman, without following proper tender procedures. Allegedly, the board chairman allowed this to happen, failing to disclose his interest and relationship with the company, claiming that he knew nothing about the discussions on the purchase of the clock.⁶

At Fiji Ports Corporation Limited, a former board chairman was charged with one count of abuse of office and was alleged to have approved a payment to the then CEO which was not formally approved. Also, a former CEO was sent on leave to allow for investigations into his alleged mismanagement but was paid during this investigation period. He was removed from the CEO position. According to Sebatik (2013), former board chairman and the deputy chairman walked free given lack of evidence

At the Fiji Hardwood Corporation Limited it was alleged that a former GM Manufacturing was underselling Fiji's product overseas for a commission. A former FHCL board chairman was alleged to be bribetaking from a company he aggressively promoted for strategic partnership. The third CEO was also terminated on 'grounds' of poor performance at the cost of production of mahogany timber was much higher than the export revenue. According to the interviewee, the FHCL board did not take this matter up any further in terms of due investigation and necessary followup like prosecution. The interviewee states that board decided to not waste time in investigations but take note of lessons. In the absence of any investigation in the performance of the CEO, a claim of non-performance remains a claim. The likely reason for the Board to not take up the matter is that any further investigation would have shown that the Board itself failed to carry out its monitoring role seriously, at the least by not asking for and/or not examining the mandatory reporting on production and financial performances. This itself would be dereliction of duty of a Board.

Agency theory also highlights that the principal tries to guard against agent opportunism by investing in information systems to control opportunism. The theory indicates that Board of Directors is one such

⁶ See, for example, *Mahendra Motibhai Patel v FICAC Criminal Appeal No. AAU0039 of 2011*; *Fiji Independent Commission Against Corruption V. 1. Tevita Peni Mau 2. Mahendra Motibhai Patel Crim. Case No: HAC089 of 2010*; *FICAC v 1. Mahendra Motibhai Patel, 2. Tevita Peni Mau, 3. Dhirendra Pratap Criminal Case No. HOC 005/2010*; *Fiji Independent Commission Against Corruption V. 1. Tevita Peni Mau 2. Mahendra Motibhai Patel Criminal Case No: HAC089 Of 2010*.

relevant system for monitoring executive behaviours. A board is the key internal control mechanism. The case study enterprises were all led by board of directors who were outsiders. Agency theory asserts that independent outside directors in the board can lessen insider opportunism as well as lessen insider influence over the board. This article argues that while a board is established to oversee management and to control agent opportunism, in the empirical cases, it became party to opportunism. Board members can collude with management for personal gains – leading to not only agent opportunism but also incapable of monitoring opportunism. As such, boards at times may not be the best control mechanisms. Hence, the presence of a board does not translate into prevention of opportunism.

ADB (2011, 2014) states that while Fiji has a sound public enterprise legislation (Public Enterprise Act 1996), it still lacks specific guidelines on director appointments, and monitoring staff, and monitoring conflict of interest by those sitting in Boards as observers. Observers from the Ministry, comprising ministry employees, can be deemed to be the eyes and ears of the ministry, making their presence make the board members wary of their performance. But the fact that the Ministry has to send observers to Boards is a clear indication of the lack of confidence which the Ministry, as the appointing authority, has on its own appointees.

At root, the problem remains at the level of the principal. First, the principal does not take its responsibility as the shareholder seriously. In state enterprise situations, the principal's representative, being the Minister, is not personally affected by the performance of the enterprise. As such, the behaviour of the representative would be open to negligence, representative optimisation by rewarding his political supporters with board appointments, or a more sinister criminal intent of using the board member(s) to further the pecuniary, personal or political interest of the representative.

Second, the principal's representative may not be fully or partially in compliance with the law. The FHCL case is indicative – where for one year (May 2010 to May 2011), only three members were on the Board which was later raised to seven.

The role of the principal in a state enterprise setting requires greater and detailed investigation. This is beyond the scope of this paper.

This paper argues that the greater the opportunism, the greater the adverse impact on the principal. An organization will be on the losing side if opportunism is substantial and remains undetected. In such situations, the benefits that should accrue to the organization fill the pockets of

the agents and/or monitors, and may impact adversely on an organization's financial performance. The FHCL is a case in point. Under the leadership of the third CEO, FHCL was reported insolvent. Based on export reports of mahogany timber, FHCL should have generated at least \$12 million in income annually. In contrast, before the end of the year 2005, it ran out of funds because the reported cost of production was much higher than the revenue recorded. A former GM Manufacturing of FHCL was also alleged to be underselling the FHCL's product overseas for a commission; this information was not verified, and remains unverified to date. According to the interviewee, the board did not take this matter up. This is indicative of possibly greater problems than would meet the eyes, ranging from incompetence of the Board to negligence and fraud by a greater number of people than the GM. When a person, more so a representative of the public, does not take allegations of fraud to lawful authorities, the person would be deemed as aiding and abetting fraud. Thus, while the impact of agent opportunism can even be more serious if opportunism remains undetected, a fuller picture needs to be obtained by looking at the behaviour of the Board itself. This is where structure can be of much importance as it strikes back at agency by way of audits.

This article agrees with Agency theory that agents may optimise their profits at the expense of the principal but it disagrees with the explanation that a board can be an effective mechanism to curb agent opportunism. It is argued that an independent audit is a better mechanism, unless auditors are corrupt and collude with corrupt agents or board members. The Public Enterprise Act 1996 (s100(3)) provides that the Board can appoint an auditor or the Ministry of Finance may direct the appointment of the Auditor General as the auditor. The annual audited financial reports are presented to the public through the Parliament. However, by the time the annual reports are audited, significant time elapses, during which fraud and agent optimism may remain undetected.

While agent opportunism is clearly illustrated in the empirical studies, structure, by way of audits did strike back to take to task some opportunists. Audits can even expose the doings of a board. This article thus argues that while agent opportunism cannot be totally prevented, they can be detected through external audits or a regulatory agency. The Structuration theory argument of structures constraining agents thus holds true. When an audit discloses corrupt activities, the public enterprises ministry investigates the matter. When allegations are proved correct, the accused is suspended or sacked. In this way the board, the top management and the employees are not free to conduct activities as they please. The proposed model of this article is supportive of this finding since it extends

structure constraining not only agents but also boards. The board, the top management and the employees are bound or as the Structuration theory explains, are constrained by the enterprise-specific rules and regulations. When such rules are ignored, the accused is taken to task. Some accused board and top management executives have had to face court proceedings and/or removal from their positions. Such structural controls, monitoring and actions on agent opportunism not only discourage agents' self-interest and encourage them to work towards principal's interest but also keep inline the so called monitors – the boards. This can positively impact on financial performance since reduction in opportunism will mean less corruption. Also, employees and board members would know that they will lose their jobs, reputation and future job prospects if they promote self-interest and get caught.

While structure may not totally prevent corrupt practices, it does catch up with agency by way of audits. This is parallel to the argument of Cockerham (2005) who asserts that agency is no doubt important but structure can act back on individuals affecting their lifestyle patterns in particular ways. This implies that agency can dominate until an element of structure catches up with it. At this point, structure will have an upper hand as it is able to expose and initiate actions to take to task the corrupt agents. This article goes further than the argument of Cockerham (2005) and argues that if an organization is unable to recover what it had lost because of agent opportunism or if the auditors become party to corruption themselves, then agency will dominate. If structure is more powerful then it can enhance organizational performance by reducing agency thereby protecting the interests of the organization. Thus, if structure dominates then agency will be restricted, punished and loss will be recovered which will protect the interest of the organization. If agency is more dominant, then agent opportunism can continue without being detected. The greater the agent opportunism, the greater the loss to the principal. If agency remains undetected, an organization will lose out with accumulating higher losses as agents continue to increase their share of personal benefits at the expense of the organization. However, even when agency is detected, it can still be problematic and dominate if the principal is unable to recover from the agents what it had lost and when agents are set free and not punished or when agents' corrupt acts do not fully justify their punishments. This clarity in elaboration is a new and noteworthy contribution of this article, however more and larger scale research is required to substantiate this claim. However, this point is somewhat in line with Fleming and Zyglidopoulos's (2009) view that important components of corporate crime include both agency and structure elements in setting the condition for es-

calation of corrupt practices.

As it is, the recent ethical scandals of governments warrant further research on ethical leadership in public sector organizations (Hassan et al., 2014). It is thus suggested that the role, responsibilities and accountability of boards be strengthened. For instance, at the time of appointing board members, they should be thoroughly informed on how exactly they will be dealt with if caught practicing opportunism. This may include on the spot termination, litigation, strict jail terms, hefty penalty and even blacklisting. This is parallel to Bovens' et al. (2008) suggestion of strengthening existing public accountability arrangements and designing new ones. At PFL and FPCL, governments taking actions on top management as well as board members and these being widely publicised by the media led to strained board and CEO relations. In one of the cases the board became over controlling, leading to top management feeling micro managed. While adequate control over top management is desirable, too much control discourages initiative and innovation leading to poor performances as well as quick turnover in senior staff. Much more research work still needs to be done to address accountability issues.

Contribution and Limitations

There are three theoretical contributions of this article. First, the study extended the Agency-Structure debate to the context of public sector board/CEO opportunism. This combined model was briefly empirically tested and was supportive by the interviewee responses and court judgments. However, detailed examinations of board papers and affidavits could not be carried out as these were not made available. The proposed model utilized both agency and structure elements since both agency and structure set the condition for escalation of corrupt practices (Fleming and Zyglidopoulos, 2009). Whereas the role of the board has long been debated, research efforts continue to suffer from deficiencies like lack of an overarching theoretical perspective (Hendry and Kiel, 2004). Second, this model helped to better understand how boards as monitors may not always be the best control mechanism for accountability. This paves the way for development of even more effective models. Third, this article sheds light on board and CEO collusion which have not been given due consideration in many public management studies. In addition, unlike the earlier study of Cockerham (2005), this article argues that dominance of either agency or structure cannot be predetermined and will depend on situations – even if structure catches up by way of audits, agency will still dominate unless damage to the corrupt agent is more

than that of the principal. While rules are necessary for agency, the structuration theory cannot resolve the debate (Gould 1998). Situations may also differ where structures help the principal recoup all that has been lost and agent punishment fully justifies the corrupt act, in which case structure will dominate. This requires further research which could build a more effective and holistic theory.

The study should not be taken to exemplify the entire scenario of public sector corruption as it only briefly considers three public enterprises of one country. In addition the three enterprises discussed were 'troubled' enterprises, not necessarily representing the totality of public enterprises in the country. The experiences of one country or few public enterprises may not be readily applicable to other countries/organizations. Caution thus must be exercised when making generalizations. It is envisaged that this article will inspire scholars to further examine the subject matter, using extended or combined theories in other countries.

Conclusion

This article examined the public sector board-CEO relationship, corruption and accountability, based on the extended Agency-Structure debate. The combination of the two widely debated theories helped utilize this debate in an important context within the public sector setting in Fiji. Findings suggest that it is not always the case that agency dominates, it is also neither the other way around where structure dominates. In a given situation, either can dominate and within a given context, the dominating effects can change. What can be stated, however, is that until agent opportunism (agency) is detected, for example through external audits or a regulatory agency (structure), agency tends to dominate. Once structure catches up with and appropriately deals with agency, structure will then dominate. However, if structure does catch up with agency but is unable to recoup what agents have opportunistically gained and agents are not adequately punished, then agency still wins.

There is an added dimension which can be looked into in future research – the representative of the principal can themselves be optimizers of their personal political and/or financial and/or communal interests. Ultimately, the fact remains that for public enterprises the representatives of the 'principal' are in effect nothing but agents of the real owners, who are the taxpayers and the state. A complete model would require this to be factored in.

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