Cooking Books and Limiting Responsibility: The Goldman Sachs Playbook in Malaysia

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Managing a bank will always be a more lucrative criminal enterprise than raiding one but this Brechtian styled analysis only goes so far. A closer look at the extraordinary nature of Goldman Sachs and its operations reveals not merely a bank but a cult of considerable proportion, brazen in its operations and indifferent to authorities. While states have been surrendering their functions to banks with more regularity than unconscious organ donors, the catch-up was bound to happen. In Malaysia, a country at times irritable with the liberties taken by financial institutions, a retaliation of sorts is taking place.

The Malaysian government now claims that the bank's subsidiaries, two ex-bankers from Goldman Sachs and Malaysian financier Low Taek Jho, engaged in an enterprise of misappropriation to the tune of $2.7 billion. To that can be added claims of bribery and supplying false statements. But Goldman remains an old hand at this, already doing what it is famed for: minimising any alleged role of impropriety.

Wherever one turns to this mercenary of the finance world, the pattern is tried and familiar. Clients of varying moral persuasions are targeted; books and accounts are cooked to order; loans and purchases are arranged. The result is often murky and often seedy.

Examples of this proliferate in the financial jungle. Greece stands out as one such client, entering into derivatives contracts with Goldman permitting a part securitisation of debt that evaded European Union rules on reporting. This came via cross-currency swaps on a historically implied foreign exchange rate, meaning that a weaker Euro rate was used to obtain more Euros in exchange for Greece's Yen and Dollar reserves. The derivatives effectively functioned as loans from Goldman to the Greek government, enabling an easy fudge on deficit and debt figures.

Malaysia, with its suitable stable of malleable figures and functionaries keen for the quite literal steal, was also ripe for arrangements.

> "We cannot have an egalitarian society – its impossible to have an egalitarian society," claimed former Malaysian prime minister Najib Razak in September 2013 before an audience at the Grand Hyatt in San Francisco.

Najib is now chief target of Malaysia's current Mahathir administration.

That meeting also had another addition. Tim Leissner, one of the anointed from the Goldman Sachs Group, was there. In his role as Southeast Asia chairman, he presided over a financial empire with smooth channels of access to those in power. Najib's coming to office in 2009 saw an approval of Goldman's application to conduct fund management and corporate finance activities. Then came the deals with the state fund 1Malaysia Development Bhd (1MDB). Goldman made a stunning $600 million in raising $6.5 billion for 1MDB in 2012 and 2013 on three bond sales. Its justification for such a figure lay in the underwriting of risks undertaken by the bank itself.

The matter with the 1MDB fund started going off. It was rumoured that money was not going to the necessary infrastructure projects but making its way into private accounts. Najib is now the target of a corruption case that has legs linking him to a former subsidiary of IMDB, namely SRC international. Swiss prosecutors are investigating suspected misappropriations from the 1MDB amounting to $4 billion.

Leissner, like Najib, is out of favour, pleading guilty to US bribery charges in August. Investigators are now interested to see whether Goldman Sachs had the temerity to mislead bondholders and break anti-corruption laws.

The bank is attempting to run by the old playbook of limited responsibility. (It should be rebadged limitless irresponsibility.) Isolate the virus; defer focus and accountability. The rogue employee argument becomes the default position in such a manoeuvre. Leissner and managing director Ng Chong Hwa, have been singled out as the villainous architects, while Andrea Vella has been put out to grass – for the moment.

Such a tactic is known and questionable.

> "No matter how senior you are," opined an anonymous former Goldman employee to CNBC, "there's always somebody above you. So a lot of people had to decide they were comfortable committing billions of dollars to this."

Individuals like chief financial officer Stephen Scherr would have had a say, not to mention current CEO David Solomon and his predecessor Lloyd Blankfein.

That approach is also supplemented by the added incentive of libelling the client. When things go wrong, the customer is not always right. How, argues the company, could they have known that the raised revenue would be misappropriated? In a statement from Goldman,

> "Under the Malaysian legal process, the firm was not afforded an opportunity to be heard prior to the filing of these charge against certain Goldman Sachs entities, which we intend to vigorously contest."

The institution knows it will get into regulatory hot water and insures against it. That's the Goldman way. It will bet against the very same derivatives it sells to clients while using mortgage investment schemes that are immune to success. It will engage in insider trading and, as happened in April 2012, be fined a mere $22 million.

The sheer audacity of this financial institution is finally captured by its confidence that failings, when not given minor punishment, might well be rewarded by the state. Goldman Sachs is the sort of institution which has thrived on the largesse of government assistance – the old socialise your losses but privatise your gains sort of philosophy runs through its operational philosophy. It knows, whatever the weather, it will always be guaranteed a safe place to moor.

As the financial crisis of 2008-9 began to bite with ferocity, the banking concern received some $10 billion, followed by $12.9 billion in credit default swap insurance via the bailout of AIG. As John Lanchester pointed out at the time, the sensitive, well-thought out response of gratitude duly followed: the bank paid itself $16.7 billion in pay and bonuses for the first three quarters of the year. That's bankocracy for you.

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