

Moral crusaders and lawyers with do-gooder inclinations tend to approach corruption in a vacuum, oblivious of its social context. In a number of countries, however, corruption is an endemic bacillus; it belongs to a family of social interactions—not all of them healthy, but not all dangerous or life-threatening, either—that, taken together, can be loosely classified as clientelism.

To call the transition economies “corrupt” remains a therapeutic means of preserving Western self-esteem, of maintaining its sense of moral superiority. The cheapest form of such therapy consists in disdain for “the countries in the East.”

The difference between Eastern and Western Europe is not that between a robust and a corrupt public morality. It is neither the “Balkan culture of corruption” nor the “destruction of morals by atheist communists” that makes the difference. The difference lies in the pattern of opportunities.

... political or government corruption is not simply about corruption in the public/political sphere, or about bribery in governmental offices and parties. Rather, corruption becomes political in the sense that it is the political structures themselves that enable and often necessitate corrupt practices. To put the matter another way, corruption can be seen as a betrayal of public trust by public officials; it also constitutes patterns of behavior dictated by the basic operation of government and political structures, further encouraged by the transition.

– EXCERPTS FROM THE PREFACE AND THE INTRODUCTION

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Political Corruption in Transition  
Edited by Stephen Kotkin and András Sajó

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# Political Corruption in Transition

A Sceptic's Handbook

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## Corruption: An Analytical Map<sup>24</sup>

Diego Gambetta

Can we identify a specific social practice that we can justifiably call "corruption," and, if so, what are its distinct analytical properties? Given the multiplicity of definitions found in the literature and the considerable confusion over what exactly we should understand corruption to mean, this question, which forms the object of this essay, has neither a straightforward nor a formalistic answer.

In common usage the word "corruption" and its ancillary terms "corrupt" and "corrupting," carry several meanings, three of which seem to me to be the most relevant. First, "corruption" refers to the degradation of agents' ethical sense, to their lack of moral integrity or even to their depravity. Certain motives or character traits of an agent can thus be called "corrupt" in this sense and "corrupting" may be called the negative effects that derive from the actions prompted by these motives and characters on other people's motives and characters, and indirectly on their social customs or institutions.

Next, "corruption" generically describes an array of *social practices*, regardless of how these are motivated, which either emerge from, or bring about, a state of degradation in certain institutions. In this sense, the meaning of the word does not focus so much on the moral failings of individuals as on the social premises and consequences of their behavior.

Finally, some such *practices*, such as bribery or kickbacks, are themselves called "corruption," not so much because of their premises or consequences, but specifically by virtue of their own features.

There could be nothing particularly worrying about this multiplicity of meanings were it not for the fact that they become entangled not just in common parlance but in the scholarly literature itself. A powerful source of confusion, for instance, derives from the conflation between the last two meanings, namely between the premises and consequences of certain practices and the properties of the practices themselves. In the literature, "corruption" is often applied to forms of wrongdoing—such as kleptocracy, patronage, white-collar crime, and organized crime—which, while they thrive in corrupt institutions and may have corrupting consequences, differ from corruption as a practice in critical ways. Not all practices that have corrupting effects or which spring out of social degradation can themselves be accurately deemed to be cases of corruption. Here I will

try to show that corruption understood as a *practice* is a *sui generis* phenomenon with specific properties that distinguish it from other forms of wrongdoings that may have corrupting effects, and that demands to be analyzed in its own right.

In so doing I explore in depth how corruption, especially corruption as a market, differs from other violations and how forms of corruption differ among themselves. At the same time, I will try to weed out some redundant distinctions found in the literature, showing how these can be reduced to basic analytical attributes.<sup>25</sup>

The properties that I have in mind are *behavioral* and *relational*. They are properties of agents' strategies when dealing with one another under certain constraints and rules that govern their actions. They are neither properties of social systems or of institutions, nor those of individuals' characters and internal states.

Furthermore, I will be searching for invariant features that make corrupt practices recognizable across times, countries and domains. I will also try to keep the defining features separate from legal, ethical and efficiency considerations, which are often entangled with them. While, of course, these are of relevance in order to analyze how corruption works and to motivate and legitimate the fight against it, they are orthogonal to the analytical definition of the phenomenon. As I argue in the concluding section, even though most corruption is illegal, and morally and economically wrong, there are corrupting acts that would be hard to regard as unethical. There are also forms of corrupt exchange that, while illegal, increase economic efficiency; and yet other instances about which the law of the state says nothing and yet corruption occurs.

The aim of this article is likely to be met by a relativist objection, voiced in virtually every discussion of corruption, and worth confronting without delay. Since the notion of what is legitimate or legal varies from country to country and time to time, the definition of corruption, it is argued as if it were an obvious inference, must vary accordingly, and there cannot be one for all. In one country, for instance, electoral donations to parties are against the law and are thought of as bribes. In other countries it is not so, and under certain conditions they are acceptable. In yet other countries matters are controversial. In Italy the socialists argued that the bribes they took were for their party rather than for personal gain, and that, since there is no other way for them to finance their electoral campaigns, donations should be legalized. There is no question that peo-

ple wrangle over rules, and much interesting work can be done on the shifts of what counts as corrupt in one place and not another.

To infer, however, that a stable definition of corruption is therefore out of reach conflates variations in the content of an action with variations in the type of an action. Even just to be able to detect variations in content we must logically possess a prior notion of type. The behavioral properties presented here refer to the *type* of actions that can be regarded as corrupt. That what counts, say, as private property in any one domain shifts from place to place and time to time does not affect our basic understanding of what private property is. Analogously, what is deemed as constituting the institution of marriage varies widely across different normative and cultural systems, but that does not prevent us from detecting the *same* phenomenon through its different incarnations.

Here I try to make a similar operation possible for corruption by trying to improve the conceptual clarity of what exactly we mean when we call a practice corruption. The main purpose of this exercise is that of thereby improving our chances of achieving cumulative results across different studies and disciplines, and of developing a robust understanding of how corruption works.

## The Standard Case Defined

### *The Agents of Corruption*

Even the simplest episode of a corrupt exchange has a richer texture than a simple market exchange. First of all, it involves three agents rather than two. I shall call them the truster (T), the fiduciary (F), and the corrupter (C).<sup>26</sup> T may be an individual, such as an employer, or a collective body, relying on the expectation that people in certain positions are bound to follow given rules. F may be anyone who agrees to act on behalf of T—a single voter or an entire government department, a journalist or a prison guard. C is anyone whose interests are affected by F's actions.<sup>27</sup>

Above all, a corrupt exchange is richer in terms of the relationships between these agents. In a nutshell this is how the standard case of corruption can be described. C wants certain resources that F is *not* supposed to deliver to him, given the conditions of his relation to T. Examiners are not supposed to reveal the questions to candidates before the exam. Goalkeepers are supposed to do their best to prevent

rival teams from scoring goals. Spies are supposed to work for their country. Students, rival teams and enemy countries, respectively, gain if these fiduciaries violate their duties. Offering a bribe to F is one way to achieve that.

The standard corruption case does, however, have the features of a market exchange. Both F and C freely choose whether to exchange and do so if they both expect to be better off as a result. In the standard case no pressure is applied by F to force C to pay a bribe to F, or by C to force F to accept a bribe (the case in which F applies pressure is considered in the section "Two Other Forms of Corruption"). It would be a neat little market except that it has one victim, T. If they decide to exchange, F and C jointly cheat on T. Rules are clear and everyone involved knows what F should or should not do. F is bribed by C *to violate the rules* in C's favor. Thus, by definition, corruption is not a Pareto improvement, as T is worse off, even though F and C are better off.

Corruption of any conceivable kind assumes the existence of a system of rights and consequent expectations under which T, if not the owner has at least a legitimate claim to regulate the allocation of the resource in question, whereas both F and C are excluded from its control. If the coveted resource belonged to F then F would be free to sell it to whomever he likes, and C would be a buyer rather than a corrupter, and, if it belonged to C, he could just seize it without anyone's permission. This assumption does not, of course, pertain to the notion of corruption alone. It is required to define all property violations and, thus, the notion of a market exchange itself. Rather than simply grab something, one can either *misappropriate* or *buy* it, only in so far as it does not belong to one in the first place.

### *Corruption as a Breach of Trust*

A corrupt exchange between F and C can occur if, and only if, a certain relationship between T and F pre-exists. The best way to describe this relationship is in the context of a *basic trust game* between T and F (fully defined in Bacharach and Gambetta, 2000).

T accepts the entrusting of some resources to F, if T expects F to serve T's interests rather than F's 'raw' self-interest. (The interests of T may be altruistic and coincide with the public interest.) Here I do not discuss why T trusts F. It is just the case that T sometimes believes that F has some

trustworthy making property. This can be because of how much T pays F, how easy it is for T to monitor and enforce F's performance or how F's character is. These conditions are irrelevant to the definition, even though they are crucial for understanding how corruption works.

T and F agree on a set of rule-bound actions,  $a_T$ , which F must perform when allocating the resources entrusted to him. The agreement rules out another set of *wrong* actions,  $a_W$ . The basic preference ordering of T over the outcomes is naturally that  $a_T > a_W$ . In the typical case  $a_W$  will also be worse than 0. This implies that, if T's expects F to do  $a_W$ , T is better off not to deal with F at all.

(In some situations T's preferences may be less stringent and  $a_W$  may still be better than nothing. This implies that if A chooses to do the wrong thing T gets a sub-optimal rather than a disastrous result. It obtains if, say, A picks a corrupt candidate for the job, but if no other candidate would have done better than the chosen one (everyone is corrupt), *and* if it is better to have someone in the job, albeit corrupt, than no one at all.)

To distinguish willing breaches of the rules from accidents or misunderstandings, F must know T's preference ordering namely  $a_T > a_W$ . Furthermore, corruption amounts to a breach of trust if T and F both know that T's acting in the way T does by trusting F gives F the opportunity to do  $a_W$ . Were it not for T's trust in F, F would not have the opportunity to act corruptly. In the typical case T and F must also know that if F chooses to do  $a_W$  T is worse off than if T had not trusted F in the first place (Bacharach and Gambetta, 2000). Corruption is one way in which F breaches trust by doing  $a_W$ .

A football team (T) recruits a goalkeeper (F) if, and only if, T expects F to do his best to keep the ball out of the team's goal net. If, say, T expects F to accept bribes, from opposing teams, T does not recruit F. F, in turn, can accept bribes if and only if, he is recruited. The relationship of trust between T and F gives F the power over the resources that interest C. If this relationship were not to exist F would have no opportunity to act corruptly. By acting corruptly, F trades away resources entrusted to him by T. This feature obtains in all forms of corruption. In order to have anything to sell to C, F must be believed by T to be his trusted agent.

Other agents' welfare may further depend on the expectation that F will do  $a_T$ . Citizens expect juries to deliberate according to the evidence. Fans expect players to fight for their team. University trustees expect selection committees to pick the best candidates. The mining firm's

shareholders expect the prospector not to reveal new mineral sites to competing firms, and citizens trust Amnesty International to include, without exception, all countries that, to the best of their knowledge, deserve to be included in their annual list of human-rights abusers. Typically, therefore, the game between T and F will be nested in other trust games, in some of which the truster becomes the fiduciary.

Not all trust relations between T and F, however, provide an opportunity for a corrupt market. To do so they must negatively affect the interests of a third party. In the standard case that I am considering here, C prefers F to do  $a_w$ , which benefits him more than  $a_r$ . C wants what, under the rules that bind F to T, C cannot have. T's desired outcome clashes with C's interests if F does  $a_r$ . The interests of C and T are opposed. Consider a journalist who writes the truth about C's misdemeanors; a civil servant who gives a public contract to the best applicant rather than to C; a committee which denies permission to C to market his harmful medicine. All these rule-governed actions are bad news for C. C has the reverse preference order of T: he wants F to do that subset of  $a_w$  instead of  $a_r$ , which benefits or does not harm him.

### *Corruption as Mimicry*

The breach of trust that goes with corruption is shrouded by an act of deceitful *mimicry*. F relies on T's belief that F is his agent even though F is covertly working for C. One may think of it in this way: suppose a mobster would like to be acquitted by a judge. He could kidnap the judge and replace him with an impersonator. However, it is simpler to try and bribe the actual judge. The corrupt judge looks like the same old judge, even though he is not a judge at all but a payee of the defendant. He mimics his role without the additional burden of having to mimic a person, as an impersonator would have to do.

For a corrupt exchange to succeed from C's viewpoint, mimicry has to work long enough for the good exchanged to be consumed successfully by C, before T can do anything about it. There may be, say, secrets that are of use to an enemy country even if it becomes known that they have been sold as soon as they have been sold. The discovery of a corrupt exchange will not, in this case, detract from the value of the resource that C bought from F. However, in most circumstances, when F's corruption is unmasked, T can counteract the consequences and

make sure that little or no benefit accrues to C. F cannot thus reveal himself to T as the agent of C, or else the very commodity he is selling evaporates. T would terminate his relationship with F and when feasible invalidate whatever C obtained from F. By losing his position with T, F will not be able to practice further corrupt exchanges. Mimicry must successfully persist for F to be able to continue being corrupt in his position. A corrupt F typically acts as a double agent and mimics his own position for some time.

In cases of systemic corruption, when corruption is rife and everyone knows and accepts that at least some of it will occur all the time, mimicry becomes thinner and mutates into generalized hypocrisy. Everyone will pay lip service to the rules that everyone knows are systematically broken.

### *One Strategy in a Set*

C can employ a number of strategies other than bribery to induce F to act in his favor, notably intimidation and deception. F may reveal his country military's secrets out of gullibility or threats rather than greed or lust. A referee can grant a nonexistent penalty because fooled by a player's acting skills or bullied by the fans rather than because he is bribed. A culprit can threaten a judge or fabricate false evidence to get acquitted. A prison guard can allow jailed mobsters to use mobile phones out of fear rather than of corruption.

Conceptually, therefore, corruption is part of a larger family of strategies; it is one option in a set that can be employed to persuade F to do  $a_w$ . Also, it is not an exclusive option, in that it can occur in combination with intimidation and deception. C can threaten a reluctant F into accepting a bribe. If F accepts, this does not make it less of a case of corruption but less of a free exchange. F's payoffs are altered by C not just by offering the bribe but by promising retaliation in case the bribe is not accepted. The extreme case consists of C just threatening retaliation while offering no bribe at all. In this case the threat of violence, which forces F to do  $a_w$ , is a pure alternative to corruption.

Modeling corruption choices therefore requires the identification of both the feasible set of strategies open to C to alter F's actions and the decision mechanisms that govern C's choice of one strategy over another. C's decision to choose corruption over other alternatives generally depends on whether C expects that there exists an amount of some cur-

rency ( $\pi^*$ ), which C is able and willing to pay if the benefit he expects, is sufficient to reverse F's payoffs (such that  $a_w + \pi^* > a_r$ ) and motivates F to do  $a_w$ . Whether this obtains, and F accepts an offer, depends on whether his payoffs are modifiable by C's offer. He may reject because the bribe is too small relative to the cost he incurs by doing  $a_w$ , or because of integrity: there might be no amount of any currency for the sake of which F is prepared to violate his duties to T.

### *The Motives of Corruption*

F may do  $a_w$  instead of  $a_r$  for a variety of motives, not all of which involve an exchange with C. Some motives, such as laziness or resentment against T, do not even require the intention of benefiting C. F can also do  $a_w$  because he holds values or dispositions antithetic to T's interests. A soldier may refuse to shoot civilians even if they did not bribe him or a judge may acquit a defendant of theft because the culprit was starving even though the law makes no allowance for that. In 1946, a customs official allowed Isaiah Berlin to take out of the Soviet Union prohibited books by Anna Akhmatova out of awe: he noticed they were personally inscribed by her. Many British agents who worked for the KGB betrayed their country because they were communist, not corrupt. An Italian judge of the Court of Cassation acquitted many Mafiosi by not upholding the verdicts of lower courts on technicalities. He did that not because he was bribed, or at least not only. He did that because he believed that the Mafia is an independent "ordinamento giuridico," a legal system unto itself in which another system, that of the state, enjoys no legal right to justify its "intrusion."<sup>28</sup>

Doing the wrong thing may also be used as a signal of one's power in the eyes of an interested audience. A principal who, against the rules, succeeds in promoting an incompetent agent over more competent ones to a higher position and goes unpunished, shows his clout, his ability to deliver despite the rules that bind his actions. The incompetent agent benefits without bribing, since he is merely an object in F's signaling ploy.

These cases of wrongdoing may qualify as corrupt in the sense of being practices, the consequences of which may be corrupting of morals, customs or institutions, but do not qualify as a corrupt exchange, for they come about regardless of C's bribery, even though C may benefit. Corrupt outcomes can thus coincide with outcomes motivated different-

ly. Interestingly, therefore, the key to identifying corruption must lie in *the motive* that persuades F to do  $a_w$ . It does not so much involve identifying an outcome as beneficial to C as evaluating the motives of the action that brought that outcome about. *There has to be an exchange between F and C such that C's bribe to F is the motive for F to do  $a_w$ .*<sup>29</sup>

### *When Fiduciary and Corrupter are the Same Person*

A special case occurs when  $F = C$ , a case in which the same person or collective unit of self-interest covers both roles. Suppose F is entrusted to allocate school places or public contracts according to merit. If F sells school places or contracts regardless of merit to C the case fits the definition of a corrupt exchange. Suppose now that F, in his capacity as parent or moonlighting as a contractor, does the same for his offspring or himself. We are naturally inclined to understand this as a corrupt practice, of the nepotistic variant, namely bestowing benefits on one's kin and friends. However, even though F violates T's rules, self-serving or nepotistic corruption misses two key features of a corrupt market. There is no bribery involved, and thus the bribe cannot be what motivates F to do  $a_w$ . Nepotism, in the strict sense at least, occurs regardless of whether one expects to be paid. The outcome of the violation itself is the 'payment' to F, in terms of satisfying F's self-interest, vanity or affection. Furthermore, this case does not require any particular action on the part of C, other than just being who he is. It can occur without a corrupter, that is. In nepotistic corruption C may be unaware of the way in which certain beneficial outcomes occur, and in certain instances, C may even be opposed to receiving special treatment from F and this may be forced on him.

### *Monopoly over the Rules*

The elements of corruption spelled out above are as yet insufficient to disentangle it from other kinds of fraud, which also seem to fit the definition. Suppose T lends his bike to F while on holiday, and F sells it and pockets the gain. Is F being corrupt? T entrusts a resource to F on the understanding that F will look after the bike on his behalf and not sell it for profit. So the description suggests a positive answer. Intuitively, how-

ever, we know that this is not a case of corruption. F is a swindler and in breach of T's trust, but he is not acting corruptly. Suppose now that T were to 'lend' some political power to F, and F gave it away to C in return for a bribe, in what way would this case differ from that of the bike? Is the difference merely illusory and due to the triviality of a bicycle relative to the importance of political power?

A key condition for corruption to become a relevant option is that the cost of reaching a permissive domain where the rules that prevent C from obtaining what C is after do not obtain, must be more expensive for C than corrupting someone in the domain in which C resides. One may buy hard liquor or cigarettes in another state at times or ages when in one's own the law prevents it. In so far as an expedition to the permissive state is more costly than corrupting a store dealer in one's own state, corruption makes rational economic sense.

The most important instance that in practice satisfies this condition fully occurs when T has the *monopoly* over the allocation of the resource that interests C, if in other words there is no alternative domain in which C could go to satisfy his interests. If no one else is entitled to deliver what C wants, and only T can, by virtue of whatever system of rights assigns the exclusive control over the resource to T, then the cost of finding an alternative permissive domain can be described as infinite. One cannot buy a favorable verdict from a competing court or obtain a valid U.S. passport from another nation. A teenager cannot buy alcohol legally anywhere in the United States, and adults cannot buy alcohol legally in certain hours or days of the week.

One, by contrast, can normally buy a bicycle from many sources with no need to bribe anyone to bend a rule. (If C offered to pay a bribe, when cheaper options are available, to obtain what he wants, he would be foolish. If F asked a bribe in that situation he would either fail, since C would refuse, or, if he did succeed, it would have to be because he fooled C into believing that a bribe was necessary.)

Notice that the monopoly over the rules of allocation does not imply the monopoly over corrupt acts. There may be several agents privy to the information T wants to be kept secret, and they may even compete in the corruption market to sell it to C. What counts is that any F who has control over the resource is bound by the *same* rule.

In practice the existence of a monopoly over the allocation rules is what creates most corrupt markets. This is essentially why much corrup-

tion occurs in the public sphere, which works on the basis of universal rules not supposed to be for sale, and which protects the common good often at the expense of private individuals' interests. These features make the public sphere a rich pool of opportunities for corruption. The same conditions can also occur outside the public sphere, however, thereby making the distinction between public and private sphere, which is empirically relevant and analytically redundant.

Not only can corruption occur in the private sphere, the rule itself whose respect is corruptly sold need not even be opposed to the market logic. The rule can be of the form "behave as in a market." A private auctioneer, bound to sell T's goods to the highest bidder, for example, acts corruptly if he accepts a bribe for failing to do so. The *respect of the rule* rather than its content is what should not be on a market, given the terms of the agreement that binds F to T.

### *The Price of Violating Rules*

Is the monopoly over allocation rules enough though? Suppose that T is the owner of the only surviving Ferrari Pininfarina 202 GT 1946 and (unlikely) decides to lend it to F. F then sells it to C who wants precisely *that* model on which T has the monopoly, in the simple sense that he owns the only existing car of that model. Is F being corrupt? That depends on what exactly C is buying and F selling. For corruption to obtain there must be a price knowingly paid and received *for the violation of the rules* that bind F to T.

One can construe cases in which the sale of the Ferrari is undertaken without a specific price being paid by C or, if paid, without C knowing anything about the fraudulent source of the car. F can sell without a specific incentive to breach his trust with the lender. If the owner of a liquor store sells in forbidden hours at the *same* price he sells during opening hours, he must consider that profit sufficient to break the law. Only if F tells C, "I cannot really sell you that, but, if you pay 10 percent extra, I'll do it," or if C entices a reluctant F by saying: "I'll pay extra if you sell me the booze," a corrupt transaction occurs. Also, C does not necessarily need to know that, by buying the Ferrari, he is contributing to defrauding T. F may fool him into thinking that he is acting under T's instructions, or F may pass himself off as the owner and, if C knows the fraudulent source of the car, C is more likely to be a fence rather than a corrupter. A fence is in a sense the oppo-



site of a corrupter: he requires a discount to compensate for the risk *he* is taking to buy stolen goods rather than being required to compensate for the risk the seller takes. In cases of this sort, we may have wrongdoing that amounts to theft, fraud, receiving stolen goods, but not corruption.

In conclusion, the *corrupting act* by C consists in freely offering to pay a price in some currency to compensate F specifically for a violation. The *corrupt act* by F consists in exacting a price for that violation. Both acts make rational sense if, and only if, C cannot obtain the desired outcome legitimately, or more cheaply, otherwise. Finally, for corruption to obtain, both parties must know that they are violating an allocation rule set by the relationship which exists between T and F and that the bribe is the price C pays to persuade F to infringe it.<sup>30</sup>

## Two Other Forms of Corruption

### *The Price of Sticking to the Rules*

The standard case, of which I have eviscerated the defining features above, covers a large share of actual cases, which both the scholarly literature and the common parlance dub as 'corrupt'. In much literature, however, corruption is understood as involving a different component, namely extortion. In his monumental book on bribery, for instance, Noonan (1984) defines a bribe as "an inducement improperly influencing the performance of a public function meant to be gratuitously exercised" (p. xi), (even though his examples cover other types as well). Actual examples are not rare. Passport applications can become stuck at the bottom of the pile. Garbage collectors can 'forget' your house unless you bribe them. A film producer can ask you to be nice to him if you want the part, even if you are the best actress for it. A share of Italian corruption that emerged from recent investigations was of this kind. In order merely to be considered for a public contract, firms had to pay kickbacks to political parties: it was a 'pay to play' policy. The Lockheed affair, as described by Karl Kotchian, one of its protagonists, was also a case of this kind: "(...) the pledge of money was like the admission to a ball game and if you didn't pay the admission, you were not even qualified to participate in the game" (Noonan, 1984, p. 671).

Here C, whom we shall label C\* to distinguish him from the agent in the standard case, wants something that *he is supposed to receive* from T, but which F can artfully refrain from delivering, unless C\* pays him a

bribe. F puts pressure on C\* who, unlike the previous case, is a victim of extortion rather than a corrupter seeking to obtain something he should not have. F asks to be bribed for *sticking to the rules*.

This case differs from the standard one. C\* here pays extra for what he should get free of that charge. Also, in this case F initiates the exchange by issuing a threat while in the standard case matters are symmetrical and C and F both have an incentive to exchange and are free not to do so. This case no longer retains the feature of an ordinary market.

There is another fundamental difference. In the extortion case, T's and C\*'s interests are not opposed. C\* wants  $a_T$  just as T does. F, by using his discretionary power, chooses whether to refrain from doing  $a_T$  and damage C\*. If C\* yields and accepts to pay, the outcome will still look the same which T wants,  $a_T$ . This should decrease the chances of detection and, hence, increase the attractiveness of this form of corruption. On the other hand, if C\* refuses to pay and F's threat not to deliver is carried out then the outcome is  $a_W$ , which T does not want, but here T and C\* can join forces against F while they would not in the rule-violating case.

A final difference is that, unlike the standard case, the monopoly condition is very likely to extend to F and not just to T, or else the extortion would not work. C\* must be constrained to obtain what is due to him from one source only. If one F denies C\* something only if C\* cannot get it anywhere else the pressure to pay grows. If there is more than one F who can supply what C\* is due, if one official denies it, one can go to the next official in the hope he is not corrupt.<sup>31</sup> Except in cases in which C\* cannot afford searching for the first honest official and opts for bribing, corrupt extortion is possible only if all Fs are corrupt *and* collude to keep T in the dark about their corrupt activities.

### *The Price of Improving on the Rules*

There is a further form of corruption often mentioned in the literature, which differs from both the standard and the extortionate case. C\* wants something that he is supposed to receive from T via F but upon the quality of which F has some discretion. A citizen is entitled to receive his passport if he satisfies the prerequisites and the passport office is supposed to supply him with one. If the office has discretion over the time it takes to hand the passport out, a corrupt office may charge extra to citizens who want their passport in one week rather than in six months.

C' is the victim of a low-quality service provided by T, and F is bribed to *act outside the rules* rather than against them, as in the simplest case, and provide a better service. This form of corruption thrives on inefficiencies and ill-defined regulations. In the acting-outside-the-rule case the resource offered to C is of low quality and F can privately agree to supply a higher-quality version. Economists refer to this case when they claim that corruption can increase efficiency. Under the circumstances, C' may be unhappy but still better off by paying for a *better* service than he would otherwise receive.

In this case T may be indifferent and allow a private market to develop on the side accepting *de facto* an increase in F's compensation extracted directly from customers. This may have its attraction in that it maintains a façade of equality and universality of treatment while silently allowing differential rewards and better allocation of resources and efforts. This form of corruption can thus occasionally be stable.

However, this case of corruption tends to unravel by being legalized or to collapse into either or both other forms of corruption. T may prefer to cash in the extra income directly and openly by legalizing differential services at correspondingly differential costs, thereby neutralizing the opportunities for this kind of corruption. For instance, in the U.K., if one wants a passport more quickly one can legally apply for this and pay a higher fee, or in Russia people can legally pay for extra police protection.

Furthermore, while the better service can conceivably come at no cost to others, in many cases this is not so. Even assuming that inefficiencies are not artfully manipulated by F in an extortionate way, this type of corruption can easily generate negative externalities: in order to provide a better service for those who bribe, F ends up offering a lower quality service to those who do not. A better service for some may thereby imply a breach of, say, the rule 'first come first served' and thus amount to the first case in which someone obtains something he is not supposed to have, in this case jumping the queue.

Those who do not pay, on the other hand, come under pressure to pay just to keep up. Even if F says nothing, they will be subject to an objective extortionate pressure. If everyone ends up bribing, everyone ends up paying extra for what they should have for free as in the extortionate case. One pays simply in order not to be stuck at the end of the queue. This effect undermines whatever efficiency corruption might have injected, and simply increases the cost of the service for everyone to the advantage of F who pockets the gain.<sup>32</sup>

## Further Distinctions and Complications

The three forms of corruption defined above, especially the standard and the extortion case, represent the elementary forms of the phenomenon. They emerge from different situations and interests, and must therefore have their own distinctive dynamics. By spelling out their properties and their differences we can be clear about what, minimally, for each case we need to model in theory, and research in practice, to understand how corruption works.

## Composite Cases

In reality, there is, however, a host of more complex cases in which those forms merge with each other or with yet another form of wrongdoing. Especially if we introduce competition among Cs and among Fs the plot thickens. For instance, if F plays with both C\* and C at the same time, F can threaten C\*, who deserves the resource, by saying that C, who does not deserve it, is prepared to pay him a bribe. F threatens to do the wrong thing to extract from C\* a bribe to do the right thing. Not only does F have the option of which form of corruption to engage in, but he actually uses one to make the other more likely.

Or consider "Corruption with theft" (at the expense of T), a notion introduced by Shleifer and Vishny (1993): a state official may charge C *less* than he should if he applied official tariffs for a given service, and keep *all* the money without passing any to the state. The official breaks the rule and C is happy to connive with him in exchange for a lower total price. "I have to charge you X, but I can charge you only  $Y < X$ , and thus give you a discount you shouldn't have, if you help me to defraud the state." The bribe here is paid by C in terms of complicity and compensated by F in monetary form by a discount.

There are also instances in which the standard and the extortionate case become indistinguishable. If there is competition among many Cs, for instance, F can in principle choose to reward someone who offers the highest bribe or the best guarantees of behaving reliably. The rewarded agent may or may not be whoever should have been selected according to the rules. If C deserved the reward under the rules, then he is subject to extortion—he is paying extra for something he should obtain for free. Else we are in the rule-violating case, and C pays for something he was not

entitled to receive (with the excluded top candidate as the further victim). However, not even that much is known in some cases, for often C's relative position is unknown unless one compares it with the other competitors' qualifications. So one does not even know whether one is bribing for something one should or should not get, and the difference becomes irrelevant. This may in the end never be known, for it may be against agents' interest to work it out or make it known. This form of corruption is not, however, very stable for it can create dissatisfaction, and those who rightly or wrongly feel victimized can respond by unmasking the ploy or by colluding with each other.<sup>33</sup> It often requires intimidation to be sustained, which ultimately drives other competitors out of the market.

The family tree of corrupt practices is widely ramified and grows entangled with other vegetation—such as fraud, theft, intimidation, or collusion, but precisely because of this complexity, knowing the properties of corruption of elementary forms—those forms that cannot be reduced to simpler ones—is essential to make one's models and research take into consideration the necessary distinctions.

### *Distinctions*

Our conceptual map provides the opportunity to clarify how corruption as a practice differs from other phenomena. Some of these one may wish to call 'corruption' in terms of their consequences on the fabric of society and its institutions, but still they differ from the practice that we can call 'corrupt' and the market that derives from it.

*Theft.* Casting corruption within a basic trust game and its 'positional obligations' allows us to distinguish it from crimes that violate natural rights, such as theft, in which everyone is bound to respect universal obligations. A theft can be construed as having one direct victim, the person whose property is stolen, and an indirect one, namely the law and all those who trust others to respect it. Thieves, in the ordinary case, are not agents of the victim, and the victim does not choose to deal with them. Nor are they agents of the law in any strict sense. The victim is simply hit while going about his business, as it were, under the general expectation that his life and property should be respected. It does not make any difference if a third party commissions a theft. For corruption to obtain, T must entertain specific expectations with respect to F, and F must undertake to comply with them.<sup>34</sup>

*Fraud.* There are cases in which F abuses his position with T, such as when F defrauds T in various ways, say, by embezzling the funds of his employer, making private use of office resources or charging higher prices to unaware customers to pocket the difference. Even though this qualifies as a fraudulent breach of trust, F acts by and for himself alone rather than for a third party. These cases, however, do not amount to a corrupt market, as there is no exchange with a third party that compensates for the violation. For instance, Shleifer and Vishny (1993) define "government corruption as the sale by government officials of government property for personal gain." If a policeman secretly sells confiscated drugs this would count, according to this definition, as corruption. This seems to me a case of fraud, namely theft of state property and abuse of trust at the same time, and not one of corruption. One may choose to call this 'corruption' generically, but corruption proper is more specific in that it has to do not so much with seizing goods for oneself or for sale to others as with selling one's failure to comply with T's rules.

*Patronage.* The discretionary or arbitrary allocation of resources over which someone has full control—such as an absolute ruler or a wealthy person—does not qualify as corruption (although someone behaving as if he were a patron when in fact he is bound to T's rules, does qualify as corrupt). Here we have only two agents, one who is in a position to make the rules according to his whims, or the other who simply does not follow any rule, nor is bound to do so, and allocates rewards at his discretion to the other.

*Kleptocracy.* This is the obverse of patronage in that punishments rather than rewards are meted out arbitrarily by agents who are not bound to a T; we find practices as petty as extortion and as grand as kleptocracy. These are predatory activities by which racketeers or a state and its incumbents tax subjects aggressively and arbitrarily, with little or no relation to the services they supply.<sup>35</sup>

*Selective incentives.* In an interesting paper Goda (1999) describes how Hitler during the war showered his senior officers with monetary gifts designed to sustain their loyalty. This he calls 'bribery'. However, here we have only two agents—Hitler and his officers—rather than three, and Hitler, an admittedly rather *sui generis* truster, was paying his officers-trustees to do what they were already supposed to do for him in any case.

*Organized crime.* Contrary to a common view, the practice of corruption is not the defining feature of Mafia-like groups. These are best seen

as agencies that supply protection to illegal transactions. Mafia protection is supplied in many different markets, without necessarily involving the market of corruption, and corrupt exchanges occur all the time without Mafia protection. When available, however, Mafia protection fosters corruption by lubricating the corrupt exchange between F and C; by strengthening illicit cartel agreements, which have to rely on corruption to function properly. On the other hand, when widely available, Mafia protection *competes* with corruption in that it provides people with an alternative option to persuade F to do  $a_w$ , namely intimidation, thereby lowering the price of corrupt acts (Gambetta, 1993, 1997).

### Conclusion

Readers interested in the big picture and in historical synthesis may think that there is not much to gain from dissecting the notion of corruption in such detail as I have done above and providing a conceptual map of the main forms of the phenomenon. Since corruption depends on the existence of clear rules of conduct, if these happen to be obscure, shifting or controversial we may find that the definition becomes inapplicable—as if, for instance, there are conflicting sub-rules, all of which comply with T's general rules. The governor of a central bank can raise or lower interest rates, and justify either action as the most beneficial to the common good by invoking different economic policy principles even under the same economic conditions. The fact that Wall Street will be advantaged in one case and the exporters in the other, is no evidence that he is colluding with the beneficiaries. A pervasive case of the sort—that invariably yields disputes and charges of corruption—is urban planning. Whatever one does, someone will gain and someone else will lose, and in many cases alternative plans are justifiable on different grounds.<sup>36</sup> In these cases we lack a clear distinction between  $a_T$  and  $a_w$ , even in principle. Here corruption tails off into conflict of interest and disputes over principles while  $a_w$  loses focus oscillating between what different groups consider against their interests.

An even greater difficulty occurs if the expectations of T are inchoate, and may be given sharper focus by F's activities. This is especially so in politics where those we trust also help shape our expectations of the character of this trust and of the nature of their responsibilities. Elected politicians are bound to implement their electoral promises on behalf of voters, but on issues outside

the electoral manifesto, politicians can vote as they like and claim reasons of principle even if secretly otherwise motivated. The positive analysis of corruption is here toothless as there is no set of T's interests and rules which is not partly defined by and given substantive content by F's behavior.<sup>37</sup>

The study of conflicts over rules is at least as interesting as that of how people flaunt them. Yet, to exploit these instances to claim that the exercise of defining corruption is thereby futile is to miss the point. Clearly, in countries of merry promiscuity there is little use for the notion of marriage; or where goods are common property there is little use for the notion of theft. However, it certainly does not follow that these notions are therefore useless in the countless circumstances in which marriage and property are regulated. Even where local *mores* make notions such as property, marriage or corruption inapplicable, one still needs them to measure the degree of contrast from the usual case.

The advantage is not just that we know what we are talking about when we speak of corruption. By being clear over the notion of corruption we gain generalizability, and thus the possibility of comparing instances of the *same* behavior in different times, countries and domains. This we can achieve by relying on the behavioral and relational elements of the definition. In so far as we can trace the three main characters and their positions relative to each other then, *mutatis mutandis*, nothing prevents us from identifying the same *type* of corrupt episodes in ancient Greece, Tsarist Russia or modern Britain, in the private or the public sphere.

### Morality, Efficiency and Legality

The generalizability of the notion is further enhanced once we consider that, as I mentioned at the outset of this article, the morality of motives, the efficiency of outcomes and the legality of rules are not, contrary to much literature, necessary elements of a behavioral understanding of corruption. True, many, perhaps most, forms of corruption are unethical (because the rules it breaks are perceived as fair), inefficient (because it thwarts the optimal allocation of resources), and illegal. Still, corruption need not be so. Let us briefly consider each in turn.

Wanting a bribe need not be motivated by strict self-interest. In countries where the extended family matters and there is a strong sense of family altruism, *rejecting* a bribe is seen as selfish and disapproved of. One would



subtract additional income to the other family members with whom bribes are divided 'merely' for the sake of one's moral principles. Familism provides a normative system that favors corruption, while individualistic societies may paradoxically provide no such normative justification to act corruptly, for one is more transparently doing it for self-interest alone.<sup>38</sup> Analogously, corrupt agents, when caught, have claimed that they were doing it for the sake of their party, rather than to line their own pockets.

Paying a bribe, too, is not necessarily motivated by self-interest. One can do so to enhance the welfare of someone else. Wittgenstein paid Nazi officials to spare his sisters, and Lincoln instigated the bribery of some members of Congress in order to achieve the required majority to pass the Thirteenth Amendment. Thorny moral issues of this kind often arise in case of bribery of informants in enemy countries in times of war; and in case of bribery of foreign officials by home corporations in competition with other suppliers, as in the Lockheed affair (Noonan, 1984, pp. 455 and 686).

Altruism, however, does not coincide with morality. Taking a bribe for familial altruism or party's sake may still go against the common good. Similarly, an action can be morally justified and self-interested at the same time. Had Wittgenstein paid to save himself rather than his sisters I doubt we would consider that immoral. The corrupter is morally objectionable only in so far as T's goals are not so. If we consider what F is supposed to do to comply with T as morally objectionable—predatory, unjust and cruel—we may consider the corrupting act as the lesser of two evils. The man in Kosovo who paid one thousand marks to a Serb paramilitary to spare his life was protecting himself from an act that we cannot regard as in any way justified. There are instances in which we can be morally justified to exploit the corrupt motives of others. Most corruption does, however, tend to break rules that are considered to be fair or lawful and it is of major concern for the functioning and legitimacy of institutions because of that.

The position of the corrupt fiduciary is, by contrast, *always* of dubious moral standards in one respect: F invariably breaks trust. The breach can be more or less severe depending on how willingly F entered a contract with T. Still, even a conscripted soldier who accepts a sum of money to let someone free is doing that for gain rather than because he objects to T on moral grounds. He does the right thing for the wrong motives. (Or, if we deem wanting to make money as not a bad thing per se, he does it for at least an unprincipled motive, in that, if someone paid him even more to

shoot the civilian, if money were all that mattered to him, he would do it.)

Also the element of mimicry makes corrupt fiduciaries despised even by corrupters: "There is one thing worse than a crook," Al Capone is supposed to have said, "and that is a crooked man in a big political job. A man that pretends he is enforcing the law and is really taking 'dough' out of somebody breaking it, even a self-respecting hood hasn't any use for that kind of a fellow. He buys them like he would any other article necessary for his trade, but he hates them in his heart."<sup>39</sup>

The relations between corruption and economic efficiency are similarly complex. In the standard case F and C are both better off at the expense of T and the outcome is not Pareto optimal. In some cases, however, T's economic payoffs and ideological or moral preferences diverge. Economically, it may be the case that, even for T,  $a_w > a_r$ , while ideologically T's preferences are reversed. This means that T binds F to act on inefficient principles, as was the case perhaps in the USSR distribution system. In these cases corruption—especially if there is competition among agents—could bring about a better resource allocation than compliance, and thus increase total welfare. In this case T is a victim because his principles are violated rather than because he is made materially worse off. In this instance corruption (and hypocrisy) can more easily become universal—everyone pays lip service to the official will, while no one abides by it—as it does not undermine the resources on which it thrives. Overall, from a sheer materialistic point of view, the outcome is worse than one created by efficient rules and no hypocrisy, but, once there are inefficient rules, it is still better than one produced without corruption.

An analogous reasoning applies to the illegality of corruption. In so far as the rules that govern the allocation of certain resources are inscribed in the law, corruption is of course illegal. This obtains both directly or indirectly. A law can, say, rule that a judge cannot sell a verdict, or that an agent cannot sell whatever he has agreed not to sell in a legal contract. There are also agencies, however, which are not under the control of the law in which corruption of the standard type does occur. Consider the following true story: D's father has a food-producing firm. He labels his goods 'kosher', even though they are not. He thinks that the label attracts even gentile customers for they think it is purer and safer food generally. How does he get the right to use that label? He has a rabbi visit his food plant once a year. On that day alone, the whole process is arranged in such

a way as *to look 'kosher'*. The rabbi gives his seal of approval, and gets a large donation in return. The rabbi is supposed to follow certain rules when deciding whether food is 'kosher'. He is an agent of these rules that are universally upheld by the community of other rabbis and are in turn trusted by Jewish and gentile consumers alike. According to my source, the rabbi knows what goes on but does not care. Playing on the ambiguity of motives, if challenged, he can claim that he was duped by D's father.

In most states there is no law that sets out the conditions under which a good can be declared 'kosher' (which is different from a law saying that one should not deceive customers by displaying false information.) The rabbi's act, therefore, rather than illegal is just improper with respect to the rules of his own community (even though the use that the food producer makes of it may be illegal).

### *Some Empirical Predictions*

Finally, by inference from the features of the definition, we can generate a number of empirical predictions about the emergence of corruption and the opportunities for its detection.

Corruption is parasitic on the existence of trusting relations; corruption corrupts first and foremost the trust between T and F, and, by implication, between T and whoever else trusts T's rules of allocation. It follows that *the greater the number of trusting relations, the greater is the potential for corruption*. A society that is more corrupt in absolute terms is not, therefore, necessarily worse than a society that is less corrupt, in that lower levels of corruption may result from fewer opportunities and greater lack of trust rather than from good behavior. Conversely, it also follows that corruption has an upper limit, for, if lack of trust is pervasive, the opportunities for corruption must eventually cease to exist. This limit is purely notional and offers little consolation since beyond *that* "threshold the whole fabric of society may start to unravel" as it may have been the case in the decline of ancient Rome (see Elster, 1989, pp. 270–271).

For F to engage in extortionate corruption a number of conditions must obtain. F must enjoy a certain amount of impunity and be sheltered from T's intervention. Alternatively, he must be sufficiently threatening to discourage C\* from informing T; or C\* must be in some predicament such

that he cannot afford to waste resources reporting F's wrongdoing. *The level of lawlessness, lack of proper supervision, intimidation and collusion required tend to be high for this form of corruption to emerge*. There is, however, a certain amount of petty extortionate corruption that involves small bribes and high cost for C\* of informing T. C\* may thus accept to pay as it is not worth the bother.

That *motive*, rather than just outcome, distinguishes corruption from other forms of wrongdoing has some interesting corollaries. First, it makes corruption harder to unmask. Agents can play on the uncertainty and justify their actions by claiming error, intimidation, or even alternative principles in order to pass off corrupt acts as something else. *The opportunities for doing so are greater the more error-prone or generally turbulent a society is*. At the same time, the relevance of motive in establishing a case of corruption makes the identification of corruption particularly susceptible to interpretation and thus to beliefs about other people's dispositions. *The more people are prone to believe that other people are corrupt the readier they will be to classify dubious outcomes as corrupt*. In turn, this is at the root of the self-fulfilling nature of corruption, for *the more widespread is the belief that corruption is rife, the greater is the incentive to engage in it*.

*The opportunities of detecting corruption are inversely correlated with the opportunities of mimicking trustworthiness successfully*. If there is a clear and observable distinction between the outcome of  $a_T$  and the outcome of  $a_W$ , F can only exploit the multiplicity of motives and causes that bring about  $a_W$ . In other words F can construe  $a_W$  as the result of some mistake rather than of bribery—not all goals are the result of a corrupt goalkeeper—but cannot really pretend that  $a_W$  is  $a_T$ , for failure is observable regardless of motive. We may not know *why* the goalkeeper has let the ball in, but we often know whether he has made a mistake. If that happens often enough, the goalkeeper would be out, whether or not he failed because he was bribed. Mimicry has a low "natural" limit and so does corruption. A corrupt act has an unavoidable cost for F and this constrains his actions. One can only fail a limited number of times or else T will relieve F of his position.

In other situations there is a clear distinction between  $a_T$  and  $a_W$ , but it may be arduous to know in practice which is which. We expect an art expert's opinion on the authenticity of a painting to be based on good evidence of authorship, but non-experts find it arduous to form an independent

opinion on the quality of the evidence and thus on the expert conclusions. That is one reason why the opinion of more than one expert is often sought. Still, there are constraints in this type of situations too. One is inconsistency: a judge can acquit because he is corrupt, but if he then sentences another defendant to jail in a similar case, his actions become suspicious.

In yet more insidious cases, the observable outcome of  $a_w$  does not differ from that of  $a_p$ , and the evidence of wrongdoing is simply not available for independent scrutiny unless one of the parties reveals all. If a teacher leaks the exam questions in advance, chances are that he will not be detected. Mimicking is thus easy and corruption can continue undetected for long periods of time. T's best chance is to devise a number of indirect strategies to prevent cheating. As Schelling suggested, the agreement between T and F may have to be expressed in terms of something observable, even though what is observable is not the intended object of the bargain. One may have to pay ( . . . ) a salesman a commission on sales, rather than on skill and effort; to reward policemen according to statistics on crime rather than on attention to duty; or to punish all employees for the transgression of one. And where performance is a matter of degree, the bargain may have to define arbitrary limits distinguishing performance from non-performance; a specified loss of inventory treated as evidence of theft" (Schelling, 1960, p. 44).

An analogous device in the case of teachers and exams could be to expect a pyramid in the distribution of marks. If all students get 'A' there may be something wrong that may not necessarily be corruption; still, if marks are well distributed this at least ensures that corruption has not spread beyond individual cases.

## Political Corruption, Democratization, and Reform

*Mark Philp*

### Defining Political Corruption

This paper examines a series of problems associated with analysing and controlling corruption in the process of democratization, with special reference to political transition in Central and Eastern Europe. It takes for its point of departure a definition of political corruption that centers on the abuse of public office. This is relatively uncontroversial.<sup>40</sup> The paper then turns to examine the conditions under which public office can function with some autonomy, and the impact on this functioning which democratic transition can have. A common assumption in the literature is that increasing democracy provides the basis for enhanced political legitimacy, increased access to decision-making processes, and greater accountability. In practice, however, democratization can weaken the authority and legitimacy of political institutions, it can open the system to more extensive forms of corruption, and it can turn mechanisms for the formal and political accountability of the political system into highly politicized weapons whose effect is destabilizing. Whether or not these consequences accompany transition depends on a wide range of factors, only a few of which can be examined here. Instead, the paper outlines a set of distinctions that can help clarify the nature of a state's corruption problems, together with a series of suggestions as to how different types of corruption may be targeted.

Core cases of corruption involve four key components:

1. a public official (A), who, acting for personal gain,
2. violates the norms of public office and
3. harms the interests of the public (B),
4. to benefit a third party (C) who rewards A for access to goods or services which C would not otherwise obtain.<sup>41</sup>

Activities which meet all four criteria are corrupt, although there are also many cases where only three of the four elements are present but where we are justified in claiming that the action/relationship is corrupt. It is contestable whether kleptocracy requires a third party benefiting, yet few doubt that such a regime is corrupt. Similarly, the rewards to C may be something C has a

