# REVISTA SEMESTRAL DE DIREITO EMPRESARIAL

## Nº 18

Publicação do Departamento de Direito Comercial e do Trabalho da Faculdade de Direito da Universidade do Estado do Rio de Janeiro

Rio de Janeiro **janeiro / junho de 2016** 

#### REVISTA SEMESTRAL DE DIREITO EMPRESARIAL

Nº 18 janeiro / junho de 2016

Publicação do Departamento de Direito Comercial e do Trabalho da Faculdade de Direito da Universidade do Estado do Rio de Janeiro (Prof. Alexandre Ferreira de Assumpção Alves, Prof. Eduardo Henrique Raymundo Von Adamovich, Prof. Eduardo Takemi Dutra dos Santos Kataoka, Prof. Enzo Baiocchi, Prof. Ivan Garcia, Prof. João Batista Berthier Leite Soares, Prof. José Carlos Vaz e Dias, Prof. José Gabriel Assis de Almeida, Prof. Leonardo da Silva Sant'Anna, Prof. Marcelo Leonardo Tavares, Prof. Mauricio Moreira Menezes, Prof. Rodrigo Lychowski e Prof. Sérgio Campinho).

Editores: Sérgio Campinho e Mauricio Moreira Menezes.

Conselho Editorial: Alexandre Ferreira de Assumpção Alves (UERJ), António José Avelãs Nunes (Universidade de Coimbra), Carmem Tibúrcio (UERJ), Fábio Ulhoa Coelho (PUC-SP), Jean E. Kalicki (Georgetown University Law School), John H. Rooney Jr. (University of Miami Law School), Jorge Manuel Coutinho de Abreu (Universidade de Coimbra), José de Oliveira Ascensão (Universidade Clássica de Lisboa), Luiz Edson Fachin (UFPR), Marie-Hélène Bon (Université des Sciences Sociales de Toulouse), Paulo Fernando Campos Salles de Toledo (USP), Peter-Christian Müller-Graff (Ruprecht-Karls-Universität Heidelberg) e Werner Ebke (Ruprecht-Karls-Universität Heidelberg).

**Conselho Executivo:** Carlos Martins Neto, Enzo Baiocchi, Leonardo da Silva Sant'Anna, Mariana Campinho, Mariana Pinto e Viviane Perez.

**Pareceristas Deste Número:** Adem Bafti (UNIVAP), Caroline da Rosa Pinheiro (UFRJ), Davi Antônio Gouvêa Costa Moreira (SEUNE), Jacques Labrunie (PUC-SP), Milena Donato Oliva (UERJ), Sergio Negri (UFJF), Samuel Max Gabbay (UFRN) e Vitor Monteiro (UFAL).

#### **PATROCINADORES:**



MOREIRA MENEZES . MARTINS . MIRANDA

#### ISSN 1983-5264

### CIP-Brasil. Catalogação-na-fonte Sindicato Nacional dos Editores de Livros, RJ.

Revista semestral de direito empresarial. —  $n^{o}$  18 (janeiro/junho 2016)

. — Rio de Janeiro: Processo, 2007-.

v.

**UERJ** 

Campinho Advogados

Moreira Menezes, Martins, Miranda Advogados

Semestral

1. Direito — Periódicos brasileiros e estrangeiros.

94-1416.

CDU — 236(104)

<sup>\*</sup> Publicada no segundo semestre de 2017.

### **CORRUPTION**<sup>1</sup>

## **CORRUPÇÃO**

## Robert Klitgaard

Abstract: What is "corruption"? Is corruption a Western concept that ill fits the global south and east? Second, how could we ever measure corruption? Since bribery is illegal and secretive, hard evidence about its extent and effects is episodic at best. And again, doesn't Western bias enter? Third, how harmful are various forms of corruption? Finally, what can a leader or anyone else do about corruption?

*Keywords*: Corruption. Public Policy. Methodology. Comparative Politics.

Resumo: O que é "corrupção"? Seria a corrupção um conceito ocidental que não se encaixa no sul e no leste do globo? Além disso, como é possível mensurar a corrupção? Considerando que o suborno é ilegal e secreto, verifica-se que, no melhor dos cenários, é esporádico existirem fortes evidências de sua extensão e de seus efeitos. Então, novamente, conclui-se que esse viés ocidental não se encaixa? Ademais, quão prejudicial são as diversas formas de corrupção? Por fim, o que um líder ou qualquer outra pessoa pode fazer a respeito da corrupção?

<sup>1</sup> Artigo recebido em 08.08.2017 e aceito em 29.12.2017.

*Palavras-Chave*: Corrupção. Políticas públicas. Metodologia. Políticas comparadas.

Sumário: 1. Introduction. 2. What is corruption? 3. Measuring corruption. 3.1. Incoherent and fractured up close. 3.2. Coherent and integrated from afar. 3.2.1. Impartiality. 3.2.2. Rule of law index. 3.2.3. Public administration corruption index. 3.2.4. "Letter grades". 4. How harmful is corruption? 5. What can be done? 5.1. What successful strategies share. 6. An optimistic prediction.

#### 1. Introduction.

In Brazil and around the world, corruption is a remarkably salient political issue. In 2013, for example, WIN/Gallup International surveyed almost 70,000 people in 69 countries, and corruption was deemed the world's number one problem. In autumn 2014, the World Economic Forum and several collaborating institutions surveyed 1089 people aged 18 to 34 in 102 countries. Seventy-two percent of respondents agreed that "corruption is holding my country back" and that "corruption is causing lost opportunities for my generation". Only 10 percent agreed with the statement "corruption is a necessary part of functioning in society"<sup>2</sup>. In the *American Economic Review*, David Benjamin<sup>3</sup> and his colleagues assembled 136 different attributes of wellbeing. Then they asked individuals for their *tradeoffs* among pairs of these. Among all the public goods (or policies) rated by respondents, the most important contributor to people's wellbeing

<sup>2</sup> UNITED NATIONS OFFICE ON DRUGS AND CRIMES et al. *The Impact of Corruption:* Perspectives from Millennial Voices. Trondheim, 2015. Available at: "http://widgets.weforum.org/partnering-against-corruption-initiative/". Access on: aug. 5<sup>th</sup>, 2017.

<sup>3</sup> BENJAMIN, Daniel J. et al. Can marginal rates of substitution be inferred from happiness data? Evidence from residency choices. *American Economic Review*, v. 104, issue 11, p. 498-528, 2014; BENJAMIN, Daniel J. et al. Beyond happiness and satisfaction: Toward well-being indices based on stated preference. *American Economic Review*, v. 104, issue 9, p. 698-735, 2014.

was "freedom from corruption, injustice, and abuse of power in your country".

Many elections feature corruption as a key issue, and protests against corruption are widespread. In early 2014, I asked Kasit Piromya, the former foreign minister of Thailand, how his Democrat Party could be opposed to democratic elections. "What has been happening in Thailand during the past ten years," he answered via email, "is similar to Turkey, Tunisia, Egypt, Russia, Ukraine, Venezuela, etc., namely elected governments have become illiberal, abusive; using the argument of the majority voice to overcome and ignore the concept of check and balance, rule of law, independent media and judiciary." Soon after, Thailand experienced a military coup, which the generals excused in part by the need to counter corruption.

Political leaders are also speaking loudly about the fight against corruption. In 2014, Chinese President Xi Jinping told a closed-door meeting of the Politburo that he is disregarding "life, death and reputation" to combat corruption<sup>4</sup>. Bhutan is one of the least corrupt of the developing countries, yet its government perceives corruption as a threat. On December 17, 2014, King Jigme Khesar Namgyel Wangchuck focused his National Day Speech on the topic.

The main aspiration of the people is that the 11th plan will succeed, and prosperity will grow all around the country. The realization of this goal depends more than ever on the government's commitment to good governance, which should include check and balance, openness and transparency [...] The highest probable risk to development that I foresee is corruption. Our national development efforts will be hindered by unchecked corruption. Corruption is unambiguous – there is no great or small corruption. And no one can be above the law.

<sup>4</sup> ZHAI, K. Xi's 'shockingly harsh' politburo speech signals tensions over anti-graft crackdown. *South China Morning Post*, Politics, aug. 5<sup>th</sup>, 2014. Available at: "http://www.scmp.com/news/china/article/1567026/xis-shockingly-harsh-politburo-speech-signals-tensions-over-anti-graft?p age=all". Access on: aug. 5<sup>th</sup>, 2017.

Note one of the key costs of corruption that the King identified:

But there is an even greater threat – ignoring corruption. When the corrupt are not held to account, those who observe due diligence, work hard and professionally are most likely to be discouraged. We mustn't allow the latter to lose morale by rewarding everyone indiscriminately, irrespective of his or her performance. That is why, corruption must be curtailed and, more than ever before, extraordinary service must be recognized and rewarded.

But what is it, exactly, that the King, President Xi, and people in Brazil and around the world are talking about?

- (i) What is "corruption"? Isn't the concept hopelessly diffuse? And isn't it culturally specific? In particular, isn't corruption a Western concept that ill fits the global south and east?
- (ii) Second, how could we ever measure corruption? Since bribery is illegal and secretive, hard evidence about its extent and effects is episodic at best. And again, doesn't Western bias enter? Many prevailing measures concern "perceptions" of corruption. Whose perceptions? Westerners'?
- (iii) Third, how harmful are various forms of corruption?
- (iv) Finally, what can a President, a King, or anyone else do about corruption?

## 2. What is corruption?

Almost all concepts that matter in the social and behavioral sciences, and in public policy, are latent and contestable. By "latent" I mean something we cannot directly measure. "Contestable" means that people do not agree on definitions, and perhaps never can. Consider these: mental health, democracy, economic development, sus-

tainability, intelligence, and happiness. Even seemingly technical terms like "unemployment," "literacy," and "poverty" are latent and contestable. Just after winning the 2015 Nobel Prize, Angus Deaton, an expert on poverty lines, said, "Focusing on the number of people who are below the line is like chasing a unicorn through the woods"<sup>5</sup>.

So, with regard to corruption, let's not begin with an abstract definition. Let's start instead with real examples.

- A President wins an election thanks to fraud. His campaign and the fraud were importantly financed by organized crime.
- (ii) Procurement for road building is ostensibly competitive, but actually there is a parallel system where some unqualified firms can pay to be qualified, where losers in the competition can pay to be winners, and where after contracts are awarded, there are renegotiations that raise the price, dividing the increase between contractors and public officials. The cost of roads can rise by a third, and quality declines.
- (iii) Health systems for the rural poor involve practices such as having to pay for an eligibility card. Warehouses for duty-free pharmaceutical imports also contain massive amounts of television sets and cases of alcohol.
- (iv) When Congress builds an addition and does a renovation of another part, a congress member's sibling gets the contract without competitive bidding, and each member gets a \$5,000 gift.
- (v) In another country, many Congress members are financed by organized crime not only their campaigns, but also their votes on particular bills.

<sup>5</sup> GIULIAGNO, F. Nobel Prize Winner Angus Deaton Shares 3 Big Ideas. *Financial Times*, London, 12 oct. 2015. Available at: "http://www.ft.com/intl/cms/s/0/b60c2e76-70f0-11e5-ad6d-f4ed76f0900a.html#axzz423eMMu8n". Access on: aug. 5<sup>th</sup>, 2017.

- (vi) The kinds and levels of public services are not decided by a professional civil service or by local votes but by local elites who have captured local governments. Contracts favor the elites, not the poor. In one country, health ID cards bear the picture of the local congress-person.
- (vii) The police practice no-fault corruption. You were speeding; please pay the fine to me.
- (viii) The tax system features bribery (a lower tax in exchange for a bribe), extortion (pay me or I'll assess you more), theft, counterfeiting (phony certificates for cigarettes and alcohol), and nepotism (positions are bought).
- (ix) Hospital employees routinely practice extortion for things like pain medication.
- (x) School officials accept bribes, or demand them, for students to pass examinations.
- (xi) Customs bureaus let trucks pass uninspected in exchange for an envelope full of cash.

These acts are illegal in most countries of the world, whatever their religion, culture, or historical background.

They share common features. The authority of office is abused for illicit ends. Corruption classically referred to such things as "the turning of the head" of a judge: instead of being blindfolded with a fair scale, the judge shifts her gaze and tips the scale toward the one who pays her a bribe. "The core of the concept of a bribe," writes Noonan<sup>6</sup>, "is an inducement improperly influencing the performance of a public function meant to be gratuitously exercised".

Corruption can occur in government, business, civil society organizations, and international agencies. Corruption goes beyond bribery to include nepotism, neglect of duty, and favoritism. Corrupt acts can be internal to an organization (theft, embezzlement, some

<sup>6</sup> NOONAN JR., John. Bribes. New York: Macmillan, 1984.

kinds of fraud) or involve parties outside the organization (in transactions with clients and citizens, such as extortion and bribery). Each of these varieties of corruption has the dimension of scale, from episodic to systemic.

At the broadest level, then, corruption is the misuse of office for unofficial ends. Office is a position of duty, or should be; the office-holder is supposed to put the interests of the institution first. A society deems that certain goods and services are not for sale but should be apportioned by need, merit, seniority, election, or random allotment. Systemic corruption undermines duty, office, merit, and democracy. It creates shells of institutions, full of official ranks and rules but hollow, cynical, and ineffective.

What about those cultural differences? The propensities do vary across cultures. But this is not to say that corruption is differently defined or valued. In fact, every religion condemns bribery. In fact, every country has laws against it. In fact, in most countries large numbers of citizens and businesses are angry about corruption and the abuse of power.

## 3. Measuring corruption.

The sociologist Troy Duster once described social movements this way: "No movement is as coherent and integrated as it seems from afar, and no movement is as incoherent and fractured as it seems from up close".

His remark also applies to measures of "corruption," "rule of law" and "governance". Up close, the measures seem incoherent and fractured. Stepping back, though, they may appear coherent and integrated.

<sup>7</sup> DUSTER, Troy. Introduction. In: NAPPER, George. *Blacker Than Thou: The Struggle for Campus Unity.* Michigan: Eerdmans, 1973.

### 3.1. Incoherent and fractured up close.

Up close, the concepts and measures of corruption look complex, if not chaotic.

Conceptually, Rothstein and Teorell<sup>8</sup> say that it has proven impossible to reach agreement on definitions of corruption, rule of law, government efficiency, normative and procedural fairness, etc. In his criticism of "governance," Fukuyama<sup>9</sup> notes that existing definitions confuse process, capacity, outcomes, and autonomy.

*Empirically*, up close there are signs of chaos. During the past decade, Ciudadanos al Día, a Peruvian non-profit organisation, has sponsored large-scale surveys of citizens to rate the quality of service and the corruption across Peruvian agencies, cities and hospitals. In 2013, 79% of Peruvians believed that "corruption has gained ground in the country." Across agencies, an average of 70% of respondents believed the staff is not honest. And yet, only 4% of respondents said they were asked to pay bribes. If "corruption" does not refer to bribery, to what does it refer <sup>10</sup>?

<sup>8</sup> ROTHSTEIN, Bo; TEORELL, Jan. Defining and Measuring Quality of Government. In: HOLM-BERG, Sören; ROTHSTEIN, Bo. *Good Government*: The Relevance of Political Science. Massachusetts: Edward Elgar Pub, 2013.

<sup>9</sup> FUKUYAMA, Francis. What Is Governance? Governance, v. XXVI, n. 3, july 2013, p. 347–368.

<sup>10</sup> Boza, a founder of Ciudadanos al Día, hypothesises that what Peruvians mean by corruption is not limited to bribery. When government employees use their monopoly power and discretion to avoid providing proper public services, she says, this is perceived as an "abuse of power" and "dishonesty," and then equated to corruption. Author's Translation: "When a public entity offers a service monopolistically and is the only entity that can make the changes to offer the service in better conditions, not to do so is to use inadequately the power that this institution has received to offer the service. And this improper use of power is perceived by citizens as evidence of dishonesty. It is dishonest for a public servant to have accepted a job that he does not know how to fulfill or does not want to fulfill. And this dishonesty on the part of the public servant, in the mind of the citizen who is not thinking of a legal or penal concept, is an act of corruption" (BOZA, Beatriz. *Manual CAD de Anticorrupción*. Lima: Ciudadanos al Día, 2013).

Analysing questions about governance-related issues (such as how long it takes to start a business or get a license) in relevant surveys<sup>11</sup>, answers given by firms do not coincide. Firms' responses in Enterprise Surveys reveal "massive variance across firms," which may reflect corruption and "favoured firms." This variation is said to undercut the meaningfulness of the Doing Business country averages and rankings<sup>12</sup>.

Consider the example of Norway. Its national measures of governance are superb, including world-class political rights and civil liberties, strong rule of law, effective bureaucracy, and low corruption. Yet the five-year Norwegian Study of Power and Democracy revealed how Norwegians disparage the quality of their government institutions<sup>13</sup>. How can macro measures and micro perceptions differ so radically?

The challenges of concept and measurement are exacerbated when cultural differences are considered. For example, does the word "corruption" mean the same thing in Mauritania as in Mexico or Myanmar? Do "impartiality" and "fairness" mean the same thing in cultures characterised by differences in Geert Hofstede's cultural measures such as individualistic-collectivistic or power distance? These rhetorical questions seem to lead to only one answer: "No".

<sup>11</sup> World Bank Enterprise Survey and World Bank Doing Business Survey.

<sup>12</sup> HALLWARD-DRIEMEIER, Mary; PRITCHETT, Lant. How business is done and the 'Doing Business' indicators: The investment climate when firms have climate control. *Policy Research Working Paper*, Washington, n. 5563, feb. 2011. Available at: "https://openknowledge.worldbank.org/bitstream/handle/10986/3330/WPS5563.pdf?sequence=1&isAllowed=y". Access on: aug. 5<sup>th</sup>, 2017.

<sup>13</sup> HAUGSVÆR, Steinar; ECKMANN, Carol. *Main Conclusions of the Norwegian Study on Power and Democracy.* Paris: OECD, 2003. Available at: "http://www.oecd.org/norway/33800474.pdf". Access on: 14 ago. 2017; RINGEN, S. Wealth and Decay: Norway Funds a Massive Political Self-Examination – and Finds Trouble for All. *Times Literary Supplement*, 13 feb. 2004. Available at: "https://www.the-tls.co.uk/articles/private/wealth-and-decay/". Access on: aug. 5<sup>th</sup>, 2017.

### 3.2. Coherent and integrated from afar.

Stepping back, much of the apparent chaos dissipates, but new puzzles arise.

Condemning corruption is virtually universal. No culture or religion endorses corruption<sup>14</sup>. All governments have laws against bribery, extortion and related practices. Anthropological studies in Bangladesh, Ghana and the Philippines show that peasants understand well the difference between a gift and a bribe – and they loathe the latter.

Across cultures and countries, different measures of concepts such as corruption, rule of law, impartiality and efficiency turn out to be well-behaved in terms of statistical criteria such as coherence and stability. Importantly, most of the measures turn out to be highly correlated.

For example, at the country level the bivariate correlations among three widely used measures – Transparency International's Corruption Perceptions Index ("<u>CPI"</u>) and the World Bank's Rule of Law Index and Government Effectiveness Index – exceed 0.90, which is about as high as correlations between imperfect social science measures can be. The CPI is correlated 0.91 with a composite of three quality-of-government indicators of the PRS Group's *International Country Risk Guide* ("<u>ICRG</u>")<sup>15</sup>.

High correlations also exist among very different country-level measures. In 2013, the International Finance Corporation's Ease of

<sup>14</sup> For example, the Malaysian sociologist Syed Hussein Alatas argued strenuously against the Western idea that non-Westerners accept corruption for cultural reasons (ALATAS, Syed Hussein. *The Sociology of Corruption*: The Nature, Function, Causes and Prevention of Corruption. Singapore: D. Moore Press, 1968). His book provided copious evidence of concern about the abuse of public office in Muslim and Chinese cultural traditions.

<sup>15</sup> PRS Group. *International Country Risk Guide methodology*. New York: PRS Group Inc., 2012. Available at: "https://www.prsgroup.com/wp-content/uploads/2012/11/icrgmethodology.pdf". Access on: aug. 5<sup>th</sup>, 2017.

Doing Business aggregate measure was correlated 0.83 with the World Economic Forum's Global Competitiveness Index ("GCI"). Although these two measures do not directly gauge governance or corruption, they correlate highly with the CPI, the World Bank's Worldwide Governance Indicators and the three ICRG indicators. For example, the GCI rating turns out to be correlated 0.84 with the CPI and 0.84 with the combination of three ICRG measures.

A number of researchers and groups have recently developed new measures of corruption and the quality of governance. Remarkably, they turn out to correlate highly with the existing measures, as discussed below.

### 3.2.1. Impartiality.

Rothstein and Teorell<sup>16</sup> have criticised existing measures of governance and corruption as theoretically ungrounded. In response, they and their colleagues developed a new measure of "impartiality" in government. After a multi-year data collection effort, their measure turns out to correlate over 0.86 with existing measures of good governance such as the CPI and the various World Bank Worldwide Governance Indicators.

#### 3.2.2. Rule of law index.

The World Justice Project ("<u>WJP</u>") decomposes the rule of law into eight concepts: absence of corruption, constraints on government powers, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice. These nine are in turn disaggregated into 47 "sub-factors." The WJP carried

<sup>16</sup> ROTHSTEIN, Bo; TEORELL, Jan. Defining and Measuring Quality of Government. In: HOLM-BERG, Sören; ROTHSTEIN, Bo. *Good Government*: The Relevance of Political Science. Massachusetts: Edward Elgar Pub, 2013.

out two surveys in countries around the world, one of the public and another of local legal experts. The most recent iteration surveyed over 100,000 respondents and 2400 in 102 countries.

It turns out that the WJP's dimensions of the rule of law are highly intercorrelated, despite their conceptual differences and wide variety of measures. This was revealed in an outside "statistical audit" of an earlier year's results, which found that the WJP's dimensions "share a single latent factor that captures 81% of the total variance. This latter result could be used as a statistical justification for aggregating further the nine [the previous version included informal justice] dimensions into a single index by using a weighted arithmetic average" 17.

Two other new measures go beyond perceptions to more objective indicators.

### 3.2.3. Public administration corruption index.

Escresa and Picci<sup>18</sup> created another new measure of corruption across countries. Their Public Administration Corruption Index ("PACI") is based on the geographic distribution of public officials involved in cross-border corruption. The index examines 816 cross-border corruption cases pursued between 1998 and 2012 by courts in Germany and the United States with 122 foreign countries. Various ways to compute the PACI have rank correlations between 0.80 to 0.93. The log of the authors' preferred version of the PACI turns out to be correlated over 0.85 with both the Transparency International Corruption Perceptions Index and the World Bank's Control of Corruption Index.

<sup>17</sup> SAISANA, Michaela; SALTELLI, Andrea. The World Justice Project: Rule of Law Index Statistical Audit. World Justice Project 2012. Available at: "http://worldjusticeproject.org/sites/default/files/statistical\_audit.pdf". Access on: aug. 5<sup>th</sup>, 2017.

<sup>18</sup> ESCRESA, Laarni; PICCI, Lucio. A New Cross-National Measure of Corruption. *World Bank Economic Review*, v. XXXI, n. 1, p. 196-219, feb. 2017.

### 3.2.4. "Letter grades".

Chong<sup>19</sup> mailed letters to non-existent business addresses in 159 countries (10 per country, 2 to each of the 5 largest cities). They measured whether the letters came back to the return address in the United States and, if so, how long it took. They argued their results "provide new objective indicators of government efficiency across countries, based on a simple and universal service".

Their new indicators turn out to be significantly correlated with 25 existing measures of the quality of government. "[I]t is 'better' governments – more democratic, more accountable, less corrupt – that perform better on returning letters, even if we hold per capita income constant"<sup>20</sup>. The authors observe: "Interestingly, when we conduct the principal components analysis that includes our postal variables and several other measures of quality, <sup>21</sup> only the first principal component is significant. It appears that the quality of government is driven by a one factor model"<sup>22</sup>.

Despite the chaos from up close, measures of corruption, good governance, and competitiveness are highly correlated at the national level. These measures are capturing something at the national level that has important statistical associations: they also correlate strongly with development outcomes.

<sup>19</sup> CHONG, Alberto; LOPEZ-DE-SILANES, Florencio; SHLEIFER, Andrei; LA PORTA, Rafael. Letter grading government efficiency. *Journal of the European Economic Association*, v. I, n. 2, p. 277-299, 2014.

<sup>20</sup> Ibidem.

<sup>21</sup> Such as the Property Rights Index (Heritage Foundation), the Doing Business Rank, the government effectiveness score (Worldwide Governance Indicators, World Bank), the Infrastructure Quality Index (World Economic Forum), the ICRG Corruption Index, and the Democracy Index (PolityIV).

<sup>22</sup> CHONG; LOPEZ-DE-SILANES; SHLEIFER; LA PORTA, op. cit.

### 4. How harmful is corruption?

Some of the older scholarly literature, whose main points are sometimes heard today, noted that corruption might not be negatively related to development outcomes. "What is the problem about corruption?" was the title of a 1965 article by Colin Leves<sup>23</sup>. With reasoning reminiscent of Robert Merton or Niccolò Machiavelli, Leys' answer was that corruption is not much of a problem for development. Leys noted that corruption has its functions, sometimes even its benefits. Under awful conditions, bribery may be socially, not just privately, beneficial. A few years later, Samuel Huntington noted: "In terms of economic growth the only thing worse than a society with a rigid, over-centralized, dishonest bureaucracy is one with a rigid, over-centralized, honest bureaucracy"24. For years it was impermissible to mention corruption in dialogues between countries. Even researchers shied away, in what Gunnar Myrdal in the 1960s called "diplomacy in research" 25-26. Myrdal recounted the excuses used by South Asians and Westerners to avoid taking corruption seriously – excuses that occasionally heard today, around the world.<sup>27</sup>

<sup>23</sup> LEYES, Colin. What Is the Problem about Corruption? *Journal of Modern African Studies*, v. III, n. 2, p. 215-230, 1965.

<sup>24</sup> HUNTINGTON, Samuel. *Political Order in Changing Societies*. New Haven: Yale University, 1968.

<sup>25</sup> MYRDAL, Gunnar. *Asian Drama*: An Enquiry into the Poverty of Nations. New York: Twentieth Century, 1968, v. II.

<sup>26 &</sup>quot;The taboo on research on corruption is, indeed, one of the most flagrant examples of this general bias [which] is basically to be explained in terms of a certain condescension on the part of Westerners" (MYRDAL, Gunnar. *Asian Drama*: An Enquiry into the Poverty of Nations. New York: Twentieth Century, 1968, v. II, p. 938).

<sup>27</sup> Corruption "is rationalised, when challenged, by certain sweeping assertions: that there is corruption in all countries (this notion, eagerly advanced by students indigenous to the region, neglects the relative prevalence of corruption in South Asia and its specific effects in that social setting); that corruption is natural in South Asian countries because of deeply ingrained institutions and attitudes carried over from colonial and pre-colonial times (this primarily Western contention should, of course, provide an approach to research and a set of hypotheses, not an excuse for ignoring the problem); that corruption is needed to oil the intricate machinery of

However, by the late 1980s, informed by theory, case studies, and quantitative research, corruption's many costs had become clear<sup>28</sup>. Later research has elaborated how systemic corruption distorts incentives, undermines institutions, and redistributes wealth and power to the undeserving<sup>29</sup>. Corruption undercuts democracy and decentralisation; it erodes public services and reinforces personalism<sup>30</sup>. Not always but usually, corruption erodes incentives to invest and slows economic progress<sup>31</sup>. Corruption undercuts trust. "Since social

business and politics in South Asian countries and is, perhaps, not a liability given the conditions prevailing there (again, this mainly Western hypothesis about the functioning of the economic and social system should underline, rather than obviate, the need for research): that there is not as much corruption as implied by the public outcry in the South Asian countries (this claim needs to be substantiated, and if it is true, the causes and effects of the outcry should be investigated). These excuses, irrelevant and transparently thin as they are, are more often expressed in conversation than in print" (HEIDENHEIMER, Arnold; JOHNSTON, Michael. *Political Corruption*: Concepts and Contexts. New Jersey: Transaction Publishers, 2001, p. 266-267).

<sup>28</sup> KLITGAARD, Robert. *Controlling Corruption*. Berkeley and Los Angeles: University of California Press, 1998.

<sup>29</sup> RUNDE, Daniel; HAMEED, Sadika; MAGPILE, Jeremiah. *The Costs of Corruption*: Strategies for Ending a Tax on Private sector-led Growth. Washington, DC: Center for Strategic and International Studies, 2014. Available at: "http://csis.org/files/publication/140204\_Hameed\_CostsOf-Corruption\_Web.pdf". Access on: aug. 5<sup>th</sup>, 2017.

<sup>30</sup> HOLMBERG, Sören; ROTHSTEIN, Bo; NASIRITOUSI, Naghmeh. Quality of Government: What You Get. *Annual Review of Political Science*, v. XII, p. 135-161, 2009; WRIGHT, Joseph. Aid Effectiveness and the Politics of Personalism. *Comparative Political Studies*, v. XLIII, n. 6, p. 735-762, june 2010.

<sup>31</sup> Wei calculated that reducing the level of perceived corruption in Mexico to that in Singapore would have the equivalent effect on investment as lowering the tax rate by over 20percentage points (WEI, Shang-Jin. How Taxing is Corruption on International Investors? *Review of Economics and Statistics*, v. LXXXII, n. 1 p. 1-11, 2000. Available at: "http://users.nber.org/~wei/data/wei2000a/wei2000a.pdf". Access on: aug. 5<sup>th</sup>, 2017). Lambsdorff estimated that improving Colombia's perceived "level of integrity" to that of the United Kingdom would increase net yearly capital inflows by 3% of GDP. In the Middle East and North Africa, "improved governance institutions lincluding political rights, civil liberties, and corruption and bureaucratic qualityl would greatly stimulate private investment" (LAMBSDORFF, Johann. How Corruption Affects Persistent Capital Flows. *Economics of Governance*, n. 4, p. 229-243, 2003). An improvement of one standard deviation "would boost private investment by 3.5% of GDP per year" (AYSAN, Ahmet Faruk; NABLI, Mustapha Kamel; VÉGANZONÈS-VAROUDAKIS, Marie-Ange.

trust is an important intrinsic value (personal happiness, optimism about the future) and also has a political value (support for fair institutions, minority rights, tolerance, etc.) and an economic value (its positive relation to individual earnings and aggregate economic growth), it may be that dysfunctional government institutions are the worst social ill of all"<sup>32</sup>.

New research links fighting corruption and improving government efficiency<sup>33</sup> to increases in citizens' expressed well-being<sup>34</sup>. Helliwell<sup>35</sup> carried out an econometric analysis of a panel of 157 countries using a variety of estimation techniques:

The new results are able to show not just that people are more satisfied with their lives in countries having better governance quality, but also that actual changes in governance quality since 2005 have led to large changes in the quality of life. This provides much stronger evidence that governance quality can be changed, and that these changes have much larger effects than those flowing simply through a more productive economy. For ex-

Governance, Institutions, and Private Investment: An Application to the Middle East and North Africa. In: NABLI, Mustapha Kamel. *Breaking the Barriers to Higher Economic Growth:* Better Governance and Deeper Reforms in the Middle East and North Africa. Washington, DC: The World Bank, 2007, p. 446).

<sup>32</sup> ROTHSTEIN, Bo. *The Quality of Government:* Corruption, Social Trust, and Inequality in International Perspective. Chicago and London: University of Chicago Press, 2011.

<sup>33</sup> The measure used was the country's average on four measures from the World Bank's Worldwide Governance Indicators: government effectiveness, regulatory quality, rule of law, control of corruption.

<sup>34</sup> The data come from the annual Gallup World Polls and represent the country's mean response to this question: "Please imagine a ladder, with steps numbered from 0 at the bottom to 10 at the top. The top of the ladder represents the best possible life for you and the bottom of the ladder represents the worst possible life for you. On which step of the ladder would you say you personally feel you stand at this time?".

<sup>35</sup> HELLIWELL, John; HUANG, Haifang; GROVER, Shawn; WANG, Shun. Good Governance and National Well-being: What Are the Linkages? *OECD Working Papers on Public Governance*, Paris, n. 25, 2014. Available at: "http://dx.doi.org/10.1787/5jxv9f651hvj-en". Access on: aug. 5<sup>th</sup>, 2017.

ample, the ten most-improved countries, in terms of delivery quality changes between 2005 and 2012, when compared to the tencountries with most worsened [sic] delivery quality, are estimated to have thereby increased average life evaluations by as much as would be produced by a 40% increase in per capita incomes. When we explain changes in average life evaluations over the 2005 to 2012 period, just as much was explained by changes in governance quality as by changes in GDP, even though some of the well-being benefits of better governance are delivered through increases in economic efficiency and hence GDP per capita. Our new results thus confirm that quality of governance affects lives via many channels beyond those captured by GDP per capita, and also that important improvements can be achieved within policy-relevant time horizons.<sup>36</sup>

So, aggregated national measures of corruption and governance have practical and theoretical importance. The high correlations among measures of such different provenance undercut the view that corruption cannot be measured, that perceptions of corruption are unreliable and biased, that aggregated data are meaningless.

What is true, however, is that national-level scores on governance indices, just like national-level data on income or employment or carbon emissions, are limited in meaning and usefulness. Many policies demand finer geographic discrimination, as well as the examination of relevant subgroups (age, industry, ethnicity, and more). Using governance indices to monitor progress, just as with other outcome measures, should control for factors beyond a responsible entity's control that affect the outcome. A general theory of choosing and using performance measures enters here<sup>37</sup>.

<sup>36</sup> Ibidem.

<sup>37</sup> KLITGAARD, Robert; FEDDERKE, Johannes; AKRAMOV, Kamil. Choosing and Using Performance Criteria. In: KLITGAARD, Robert; LIGHT, Paul C. (Ed.). *High-Performance Government*: Structure, Leadership, Incentives. Santa Monica: The RAND Corporation, 2005, p. 407-446. Available at: "www.cgu.edu/include/MG256-ch14.pdf". Access on: aug. 5<sup>th</sup>, 2017.

#### 5. What can be done?

Some people, tired of corruption and endless chatter about it, may rightly wonder if change is even possible. Why would politicians ever want to reform corrupt institutions or systems?

Politicians are ready to move when several forces converge. Expanding opportunities for international trade, investment, and financing mean that lagging countries will lose investment opportunities. International institutions pressure for change. Emerging industries that depend on fast-moving knowledge and innovative styles breed young entrepreneurs with little tolerance for corrupt practices. Finally, anti-corruption is a major force behind popular unrest in countries as diverse as Brazil, Greece, Guatemala, Honduras, India, Iraq, Kazakhstan, Kenya, Lebanon, Malaysia, Mexico, Moldova, Romania, South Africa, Sri Lanka, Thailand, Tunisia, Turkey, Ukraine, and Venezuela.

In my experience, many new presidents, governors, ministers, and mayors are eager to reduce corruption. They know that corruption is constraining development. What government leaders need is help that recognizes that corruption is a system that needs a hardheaded, politically tuned strategy. Politicians must see that fighting corruption can help them win elections as well as advance their economies.

Here there is good news. Even in very corrupt settings, corruption can be reduced, leading to greater investment and public satisfaction. And the success stories exhibit some common principles, regardless of cultural setting.

"Success" means significant improvement in governance measures, followed by increases in investment and improvements in public services. Success is always incomplete, and the risk of corruption re-emerging is always a threat. The success stories range from classic cases such as Singapore and Hong Kong, China<sup>38</sup> to more re-

<sup>38</sup> KLITGAARD, Robert. *Controlling Corruption*. Berkeley and Los Angeles: University of California Press. 1998.

cent examples of progress such as Colombia, Georgia, the Philippines, Qatar and Rwanda<sup>39</sup>. Some would include Indonesia, which moved in the first decade of the  $21^{st}$  century from about the  $6^{th}$  percentile to the 40<sup>th</sup> percentile on the Corruption Perceptions Index, and Malaysia, despite the personal travails of Prime Minister Najib Razak. A number of cities have also made impressive progress against corruption. Case studies exist for Bogotá and Medellín, Colombia; Campo Elias, Venezuela; Naga City, the Philippines; LaPaz, Bolivia; and Mandaue, the Philippines<sup>40</sup>. Craiova, Romania and Martin, SlovakRepublic, won the United Nations Public Service Awards in 2011 for their reforms against corruption. The remarkable collection of cases at Princeton's Innovations for Successful Societies contains many examples of fighting corruption. None of these successes is perfect; progress means improvement, not eradication. For example, Oatar and Rwanda have been praised for reducing corruption but criticised for favouritism and a lack of transparency<sup>41</sup>. In some cases, subsequent administrations reversed many of the anti-corruption

<sup>39</sup> KLITGAARD, Robert. Addressing Corruption Together. Paris: OECD, 2015.

<sup>40</sup> GONZAÌLEZ DE ASÎIS, Mariìa. *Reducing Corruption*: Lessons from Venezuela. Washington, DC: The World Bank, 2000. Available at: "http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/premnote39.pdf". Access on: aug. 5<sup>th</sup>, 2017; PUATU, Ana Khristina Salanguit. Community Capacity Building and Local Government Leadership: Describing Transformational Leadership Practices in Naga City, the Philippines. In: MIYOSHI, Koichi. *Community Capacity and Rural Development*. Japan International Cooperation Agency and Ritsumeikan Asia Pacific University, 2012. Available at: "http://www.apu.ac.jp/rcaps/uploads/fckeditor/publications/journal/RJAPS\_V28\_Ana.pdf". Access on: aug. 5<sup>th</sup>, 2017; KLIT-GAARD, Robert; MACLEAN-ABAROA, Ronald; PARRIS, Lindsey. *Corrupt Cities*: A Practical Guide to Cure and Prevention. ICS Press and World Bank Institute, 2000. Available at: "http://www-wds.worldbank.org/servlet/WDSContentServer/IW3P/IB/2000/10/07/00009494 6\_00092605362082/Rendered/PDF/multi\_page.pdf". Access on: aug. 5<sup>th</sup>, 2017; MAHONEY, Melissa; KLITGAARD, Robert. *From Reform to Implementation*: Mandaue, The Philippines. Claremont Graduate University, 2016.

<sup>41</sup> MUNGIU-PIPPIDI, Alina. The Anticorruption Frontline. Opladen, Berlin, and Toronto: *Barbara Budrich Publishers*, v. II, 2014. Available at: "http://www.budrich-verlag.de/upload/files/artikel/00001003\_010.pdf?SID=26b2da27bfe338432130d2e09ea406c2". Access on: aug. 5<sup>th</sup>, 2017.

policies, which led to the reemergence of corruption<sup>42</sup>. Like inflation, success by one government or central bank in quelling corruption does not guarantee that another administration's policies will not rekindle it.

## 5.1. What successful strategies share.

Successful strategies are consistent with some economic principles  $^{43}$ . Corruption is an economic crime, not a crime of passion. Givers and takers of bribes respond to economic incentives and punishments; corruption follows a formula: C = M + D - A. Corruption equals monopoly plus discretion minus accountability. To reduce corruption, limit monopoly and enhance competition. Circumscribe official discretion, and clarify the rules of the game. Enhance accountability about processes and results in many ways, including citizenand business-driven scorecards for government agencies and programs.

Lessons can also be discerned about the politics of anti-corruption. Undermine political equilbria dominated by powerful interests that benefit from systemic corruption. Fry big fish. Diagnose and subvert corrupt systems<sup>44</sup>. Do a few things that can show results in six months, to build momentum. Don't try to do everything at once.

<sup>42</sup> KLITGAARD, Robert; MACLEAN-ABAROA, Ronald; PARRIS, Lindsey. *Corrupt Cities*: A Practical Guide to Cure and Prevention. ICS Press and World Bank Institute, 2000. Available at: "http://www-wds.worldbank.org/servlet/WDSContentServer/IW3P/IB/2000/10/07/000094946\_00092605362082/Rendered/PDF/multi\_page.pdf". Access on: aug. 5<sup>th</sup>, 2017; KLITGAARD, Robert. *Tropical Gangsters II*: Adventures in Development in the World's Poorest Places. KDP Select Books, 2013. Available at: "http://www.amazon.com/Tropical-Gangsters-II-Adventures-Development-ebook/dp/B00C9GEQ58". Access on: aug. 5<sup>th</sup>, 2017.

<sup>43</sup> KLITGAARD, Robert. *Controlling Corruption*. Berkeley and Los Angeles: University of California, 1998.

Here are two more lessons for reformers. Don't think of corruption primarily as a legal or moral issue. In very corrupt countries, new laws, codes of conduct, and better training for public officials will, alas, make little difference.

Second, think of collaboration across the public-private-non-profit divide. Business and civil society can play key roles. They are part of corrupt systems, stuck in a corrupt equilibrium. To get out, they have to be given ways to expose corruption without taking personal risks. Ipaidabribe.com in India is a promising example. Successful partnerships, such as Ciudadanos al Día in Peru and the Bangalore Agenda Task Force in India, exploit credible information supplied by NGOs and the pressure, resources, and technical expertise of the business community.

### 6. An optimistic prediction.

The final word goes to John T. Noonan, author of *Bribes*, the best book ever written on corruption. He concludes this magisterial tome with a prediction about corruption.

As slavery was once a way of life and nowhas become obsolete and is incomprehensible, so the practice of bribery in the central form of the exchange of payment for official action will become obsolete.<sup>45</sup>

Noonan says that the moral condemnation of corruption will grow, for four reasons:

- (i) Bribery is shameful (in all cultures);
- (ii) Bribery is a sell out to the rich (and no one wants plutocracy);

<sup>44</sup> KLITGAARD, Robert. Subverting Corruption. Global Crime, v. VII, n. 3, p. 299-307, 2006.

<sup>45</sup> NOONAN JR., John. Bribes. New York: Macmillan, 1984, p. 706.

- (iii) Bribery is a betrayal of trust, which is "a precious necessity of every social enterprise" 46; and
- (iv) Bribery violates a divine paradigm.

Noonan argues that our collective repulsion will eventually change practice and render corruption extinct. *How* that will happen Noonan leaves to the machinery of history.

As we have seen, many people around the world join Noonan in condemning corruption. But Noonan's prediction will not be realized without determined effort. To eliminate corruption, we need practical, feasible strategies to do such things as weed out monopolies, increase accountability, align incentives, create coordinated government approaches, enlist the cooperation of businesses and civil society, and empower the public to expose corrupt practices. And perhaps to make progress on these practical, locally tailored steps, we need to bracket for a moment some of the debates over definitions, measures, and estimates of harmfulness.

<sup>46</sup> Ibidem, p. 704.