

Introduction

The Diversity of Corruption

Corruption is exemplified by a diverse array of phenomena.¹ Here are some paradigmatic cases of corruption. A national leader channels public monies into his personal bank account. The members of a political party secure a majority vote for their candidates by arranging for ballot boxes to be stuffed with false voting papers. The managers of a corporation bribe public officials in order to win lucrative tenders. Traders from a number of leading banks cooperate to manipulate financial benchmarks. The members of a crime syndicate launder money through a legitimate business outlet that they control. A journalist provides unwarranted favorable comment about the banking sector in return for financial rewards from that sector. A group of journalists working for a particular media outlet consistently provide unwarranted unfavorable comment about a political candidate in order to influence the electorate against that candidate. A police officer fabricates evidence in order to secure convictions. Senior members of government pressure the head of an anti-corruption unit to abandon a criminal investigation into alleged bribes being paid by a local defense contractor to a foreign government to win a large arms contract. A number of doctors close ranks and refuse to testify against a colleague who they know has been negligent in relation to an unsuccessful surgical operation leading to loss of life. A student provides sexual favors to her teacher in exchange for good grades. An actor provides sexual favors to film directors in exchange for securing acting roles. A respected researcher's success relies on plagiarizing the work of others. A public official in charge of allocating community housing to needy

¹ An earlier version of this chapter appeared in Seumas Miller, Peter Roberts, and Edward Spence, *Corruption and Anti-Corruption: A Study in Applied Philosophy* (Saddle River, NJ: Prentice Hall, 2005), chapter 1.

citizens unfairly discriminates against a minority group he despises. A manager only promotes those who ingratiate themselves to her. A sports trainer provides the athletes he trains with banned substances in order to enhance their performance.

This is a long list of quite diverse examples of corruption, and it could easily be extended much further. Moreover, the list involves individuals acting alone as well as members of groups acting together. Further, in all of these examples the practice described undermines, or has a tendency to undermine, some legitimate institutional purpose or process, whether it be a political or criminal justice or competitive market process or purpose. In short, institutional corruption is both *causal* and *normative* in character.²

Let us now consider the relationship between corruption and illegality. Many of the examples involve unlawful activities. But some do not. Moreover, many of the examples are unlawful in some jurisdictions but not others, or they are now unlawful in a given jurisdiction but were not in earlier times. In short, many of these examples of corruption are not necessarily unlawful. Prior to 1977 it was not unlawful for US companies to offer bribes to secure foreign contracts. Nor apparently was manipulation of the financial benchmark LIBOR (the London interbank offered rate – used in the calculation of interest rates on trillions of dollars of loans throughout the world) unlawful prior to 2012.³ So corruption is not necessarily unlawful. This is because corruption is not at bottom simply a matter of law. Rather, it is fundamentally a matter of morality, and law and morality are not the same thing, although they are intertwined in various ways.

There is a further distinction to be made in relation to morality and corruption. Corrupt actions are immoral actions, but not all immoral actions are corrupt actions. For corruption is only one species of immorality. Consider an otherwise gentle husband who in a fit of anger strikes his adulterous wife and kills her. The husband has committed an act that is morally wrong; he has killed his wife. But his action is not necessarily an act

² See Miller et al., *Corruption and Anti-Corruption*, chapter 1; Seumas Miller, “Corruption” in Edward N. Zalta (ed.), *Stanford Encyclopaedia of Philosophy*, www.plato.stanford.edu fall 2005; Dennis Thompson, *Ethics in Congress: From Individual to Institutional Corruption* (Washington DC: Brookings Institution, 1995), “Two Concepts of Corruption: Individual and Institutional,” *Edmond J. Safra Working Papers*, 16 (2013) Available at SSRN: <http://ssrn.com/abstract=2304419> or <http://dx.doi.org/10.2139/ssrn.2304419>; Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress – and a Plan to Stop It* (New York: Twelve, 2011).

³ See HM Treasury, *The Wheatley Review of LIBOR* (Final Report) (London, 2012) available at www.hm-treasury.gov.uk/wheatley_review.htm.

Introduction

3

of corruption. An important general distinction in this regard is that between human rights violations and corruption. Genocide is a profound moral wrong, but it is not corruption. This is not to say that there is not an important relationship between human rights violations and corruption; on the contrary, there is often a close and mutually reinforcing nexus between the two.⁴ Consider the endemic corruption and large-scale human rights abuse that have taken place under authoritarian regimes such as those of Idi Amin in Uganda, Suharto in Indonesia, Saddam Hussein in Iraq, and Assad in Syria. And it is now generally accepted by economists that there is a (admittedly complex) causal connection between corruption and the infringement of subsistence rights; corruption causes poverty.⁵ Indeed, sometimes an act of human rights violation might also be an act of corruption. Thus wrongfully and unlawfully incarcerating one's political opponent is a human rights violation, but it is also a corruption of the political process.⁶

There are many forms of institutional corruption, including many types of economic, political corruption, police corruption, judicial corruption, academic corruption, and so on. Indeed, there are as many forms of institutional corruption as there are types of social institution the institutional purposes and processes of which might be culpably undermined, i.e., that might become corrupted. Moreover, there are a variety of different kinds of attractions that motivate corruption. These include economic gain, status, power, addiction to drugs or gambling, and sexual gratification.

Contemporary societies are typically dominated by organizations and systems of organizations; the forms of activity in question take place for the most part in organizational settings and are undertaken in large part by organizational role occupants. Accordingly, in contemporary settings corrupt activity is in large part institutional corruption.⁷ Enron, Arthur Anderson, and Bernard L. Madoff Investment Securities were all economic

⁴ See Z. Pearson, "An International Human Rights Approach to Corruption" in P. Larmour and N. Wolanin (eds.), *Corruption and Anti-Corruption* (Canberra: Asia-Pacific Press, 2001), pp. 30–61.

⁵ J. Stiglitz, *The Great Divide: Unequal Societies and What We Can Do* (New York: W. W. Norton, 2016).

⁶ For a useful compendium of work on the multiplicity of forms of political corruption see A. J. Heidenheimer and M. Johnson (eds.), *Political Corruption: Concepts and Contexts*, 3rd edn. (Piscataway, NJ: Transaction Publishers, 2001).

⁷ Theorists tend to focus on economic institutions. See S. Rose-Ackerman, *Corruption and Government* (Cambridge University Press, 1999), J. G. Lambsdorff, *The Institutional Economics of Corruption and Reform: Theory, Evidence and Reform* (Cambridge University Press, 2007), and R. B. Reich, *Saving Capitalism: For the Many Not the Few* (New York: Alfred A. Knoff, 2015).

organizations, and capitalism is a system of such organizations, crony capitalism being a corruption of that system. Moreover, contemporary capitalism consists in large part in specific organizational forms, such as multinational corporations, organized into a system and defined in part by laws and regulations, e.g., regulations defining free and fair competition. Likewise, governments and other public sector agencies comprise organizations and systems of organization in the political sphere. Institutions in the sense used in this book are organizations or systems of organizations (albeit, as will become clear, not all organizations are institutions). I provide a detailed account of institutions in Chapter 1.⁸ Here I note that whereas all institutions are vulnerable to corruption – institutional corruption tends to undermine institutional purposes and processes – different institutions are vulnerable to different forms of corruption. Thus plagiarism is more likely to be present in universities than in police organizations, and fraud more likely in corporations than in either universities or police organizations. Accordingly, we can distinguish generic forms of corruption by recourse to particular institutions, e.g., academic corruption, police corruption, corporate corruption, and so on. Thus we require not only a definition of institutional corruption per se (see Chapter 3) but also analyses of institutional corruption in different institutions (see Chapters 11–14). We also require analyses of specific types of corruption, such as bribery, nepotism, fraud, and abuse of authority (see Chapter 5).

Moral Environments

Corrupt and/or criminal activities typically take place in a moral environment that might be conducive to, or intolerant of, such activities. The moral environment consists in part of the framework of social norms that are adhered to, or at least, are paid lip-service to within a society or polity and, more narrowly, within an institution. This framework is a more or less coherent structure of social norms.⁹ Social norms are regularities in action or omission sustained in part by the moral approval and disapproval of the adherents to those social norms. So the members of

⁸ Seumas Miller, *The Moral Foundations of Social Institutions: A Philosophical Study* (New York: Cambridge University Press, 2010).

⁹ See Seumas Miller, *Social Action: A Teleological Account*, (New York: Cambridge University Press, 2001), chapter 4; Seumas Miller, "Social Norms" in G. Holmstrom-Hintikka and R. Tuomela (eds.), *Synthese Library Series, Contemporary Action Theory* (Dordrecht: Kluwer, 1997), vol. II, pp. 211–229; and Seumas Miller, "On Conventions," *Australasian Journal of Philosophy*, 70 (1992), 435–445.

a social group not only behave in accordance with a structured set of social norms, they believe that they ought to comply with these norms. These beliefs, taken in conjunction with the believed-in goals, ends, or purposes from which many social norms are derived, constitute a structured system of moral beliefs – in short, a worldview about what constitutes morally acceptable, and morally unacceptable, behavior.¹⁰

Whatever the differences in moral outlook of individual members of a social group, there will inevitably be a high degree of commonality in their moral beliefs and the regularities in action consequent upon those beliefs; in short, social groups require social norms. This is because social norms are necessary for social life beyond a very basic level. For example, social norms against random killing enable cooperative economic and family institutions. Again, social norms of truth-telling and of providing evidence for statements are necessary for institutions of learning.

There is a tendency to confuse social norms with other sorts of closely related conformist behavior, such as conventions and following fashions. Roughly speaking, conventions are regularities in behavior that realize common ends but, unlike social norms in the sense of the term used here, conventions do not necessarily have moral content. Consider, for example, the convention in English to utter “snow” rather than the French word “neige” to refer to snow. In the case of fashions, the individual conforms because she desires to do what others approve of. In the case of social norms, the individual conforms because she believes she morally ought to do what everyone (or most) including the agent herself morally approves of. Hence, in the case of a social norm, but not a fashion, failure to conform produces shame. Consider the corrupt police officers who were brought before the Royal Commission into Corruption in the New South Wales Police Service in Australia in the mid-1990s. Some of these police officers violated social norms by taking bribes, dealing in drugs, and selling child pornography. It was obvious that when many of these men were brought before the Commissioner, and their corruption exposed in video and tape recordings, they experienced deep shame. This indicates that it is not merely a convention or a fashion that they have flouted. So, social norms go hand-in-hand with the social moral emotion of shame. Failure to conform to social norms elicits feelings of shame, and shaming is a powerful form of social control.

There is a distinction between subjectively held social norms and objectively valid moral norms. An objective moral norm is a type of action

¹⁰ See M. Boylan, *Basic Ethics* (Upper Saddle River, NJ: Prentice Hall, 1999).

or inaction that is not only widely believed to be morally right, but is, as a matter of objective truth,¹¹ morally right. It needs to be noted that the concept of an objectively corrupt action is the concept of an action that is objectively corrupt relative to a person, and relative to a set of circumstances. Considered in itself lying is morally wrong; it is *pro tanto* morally wrong. Nevertheless, lying might be morally justified in some circumstances because, for instance, it was the lesser of two evils; it might be morally right all things considered. Police working undercover to expose the activities of the Triads in Hong Kong necessarily deceive and tell lies. Nonetheless, they may be morally justified in doing so since lying to criminals may be a lesser evil than allowing their criminal activities to go unchecked. However, the mere fact that one was a member of a society that had certain social norms, or that the actions of those in the moral environment in which one found oneself were governed by certain social norms, would not in itself make performing the action prescribed by those social norms objectively morally right (even *pro tanto*).

Social norms, on the one hand, and immorality, including corruption, are intimately, if antithetically, related. Robust social norms – at least in the sense of regularities in action that embody ethical or moral attitudes – provide a barrier to corruption; widespread corruption corrodes social norms. This barrier is by no means a sufficient condition for combating immorality, including corruption. But it is a necessary condition. If members of a community or organization do not think there is anything morally wrong with murder, assault, theft, fraud, bribery, and so on, then there is no possibility of these practices being resisted, let alone eliminated; indeed, they will flourish.

So, shared beliefs in the moral unacceptability of these practices are a necessary, but not a sufficient, condition for combating them. Here the role of institutions and sub-institutions is critical and, in particular, anti-corruption institutions or, more broadly, *integrity systems* (see Chapter 7).¹² Such institutions develop, maintain, and promote the internalization of institutional purposes and compliance with social norms, and thus both directly combat corruption and also build resistance to corruption in a community or an organization. Importantly, the members of an

¹¹ For a general defense of objectivity see Thomas Nagel, *The Last Word* (Oxford University Press, 1997).

¹² C. Sampford, R. Smith, and A. J. Brown, "From Greek Temple to Bird's Nest: Towards a Theory of Coherence and Mutual Accountability for National Integrity Systems," *Australian Journal of Public Administration*, 64 (2005), 96–108. See also Andrew Alexandra and Seumas Miller, *Integrity Systems for Occupations* (Aldershot: Ashgate, 2010).

institution who have internalized and value that institution's purposes and its constitutive social norms will tend to possess moral resilience in the face of the temptations of corruption. Of further importance here is the criminal justice system, including the police, the courts, and correctional facilities. These institutions combat corruption as part of their wider anti-crime remit. There are also more specialized anti-corruption institutions, such as independent commissions against corruption and the like. In addition, there are a wide range of educational, awareness raising, and transparency serving institutions and sub-institutional elements, such as the media, churches, professional ethics programs, and fraud and corruption awareness programs at an organization or industry-wide level.

Conditions Conducive to Corruption

Some societies or social groups suffer a breakdown in the framework of social norms, and notably a failure of compliance with, and enforcement of, the moral principles enshrined in the criminal law. Such moral principles include ones not to murder, assault, infringe the freedom of others, steal, defraud, or bribe. There are a number of socio-moral features or conditions that facilitate institutional corruption. If organizations, governments, and communities are to successfully combat (especially) grand or systemic corruption, then I suggest that they need to rectify these conditions.¹³

First, there is the condition of a high level of *conflict and factionalism*. There is good empirical evidence that conflict-ridden societies (involving, for instance, class, caste, and racial factionalism as well as violent conflict), such as apartheid and, for that matter, post-apartheid South Africa, the former Soviet Union (and current nation-states of Ukraine, Russia, and so on), Nigeria, and India provide fertile ground for corruption. Here I note that conflict-ridden societies in this sense include ones with authoritarian governments; the conflict and factionalism in question might obtain between an authoritarian government and its political opposition and, at a deeper level, between an economic elite (supported by the authoritarian government) and a relatively impoverished lower economic class (supported by the political opposition). In conflict-ridden societies there is typically not a robust and sufficiently wide system of social norms that are adhered to by virtually everyone and of common purposes that are pursued

¹³ See J. Pope (ed.), *National Integrity Systems: The TI Source Book* (Berlin: Transparency International, 1997); R. Klitgaard *Controlling Corruption* (Los Angeles: University of California Press, 1988).

by virtually everyone. Rather, at most, members of a particular social group or class pursue only their own narrow collective interests and comply with social norms in their relations with one another, but not with “outsiders.”

A second, and often related, socio-moral condition that is conducive to corruption is *unjust and unequal systems of wealth and status*. If there are great disparities of wealth and opportunity, and if differences in wealth and status are not perceived as fair and as contributing to the common good, then commitment to institutional roles and conformity to the law and to social norms will weaken. For example, in many countries the poor and powerless have turned for assistance to local crime bosses (godfathers) who provide this assistance, but do so in return for “loyalty,” which might take the form of voting for certain candidates, or turning a blind eye to corrupt and unlawful activities.

A third socio-moral condition that facilitates corruption is *moral confusion* notably in relation to institutional purposes. Moral confusion has a number of sources, but typically it involves a combination of a lack of clarity in relation to moral beliefs about what is right and wrong in the face of pernicious ideology, and a tempting set of opportunities to do wrong.¹⁴ In times of rapid social and economic transition, stable moral practices are upset, and a degree of moral confusion can set in. For example, rapid economic growth and wealth acquisition can undermine traditional practices of self-restraint, financial prudence, and legal compliance. Moreover, institutional purposes can be lost sight of. Consider the period immediately prior to the Global Financial Crisis (GFC) of 2008. During this period, bankers, traders, and others in the global finance sector came to possess enormous wealth by engaging in speculative and outright corrupt practices. In all the excitement many bankers, for instance, evidently lost sight of a fundamental institutional purpose with which they had been entrusted, namely, to provide for the security of their depositors’ funds. Moreover, the problematic activities of these financial actors were dependent in part on the gross negligence of legislators, regulators, lawyers, financial journalists, mortgage holders, and others. The result was quite literally a global financial crisis.¹⁵

In relation to so-called victimless crimes, there is often moral confusion and historically corruption has been fueled by the existence of moral confusion in relation to gambling, prostitution, drugs, and the like.

¹⁴ C. A. J. Coady, *Messy Morality: The Challenge of Politics* (Oxford University Press, 2008).

¹⁵ N. Dobos, C. Barry, and T. Pogge (eds.), *Global Financial Crisis: The Ethical Issues* (London: Palgrave Macmillan, 2011). Naturally, there were other factors at work. See Ross Garnaut, *The Great Crash of 2008* (Melbourne: Melbourne University Press, 2009).

Moreover, a restrictive, criminalization approach to these “vices” has failed to work, but has driven these activities underground and enabled the criminal suppliers to make huge profits and to corrupt police and other officials involved in enforcement. This corruption of officials is able to be achieved in part because there is often an understandable feeling that gambling, prostitution, and much drug use is not all that morally reprehensible; accordingly, it is easy to compromise, and thereby set in train a process of compromise and corruption.

A fourth general condition that is conducive to corruption is poorly designed institutional arrangements, including legal and regulatory systems; arrangements that for one reason or another are not fit for their institutional purpose and that therefore, as a by-product, tend to create motives and/or opportunities for corruption. For instance, under-regulation can facilitate the motive and opportunity for corruption; the lack of regulation of economically unsafe financial derivatives is a case in point (see Chapter 12). But over-regulation, notably inappropriate criminalization, can also provide a motive for corruption as well as opportunities. Historically important instances of this have been the above-mentioned creation of victimless crimes, such as gambling and substance abuse. More generally, as I argue throughout this work, institutional design driven by simplistic moralism or an ideology such as market fundamentalism (see Chapter 11) tends to create institutional arrangements that are not fit for purpose and that, as a by-product, provide motives and/or opportunities for corruption.

A fifth, and final, very important general socio-moral condition that is conducive to corruption is *imbalance of power*. What Lord Acton said is now a cliché, but no less true for that: “Power tends to corrupt, and absolute power corrupts absolutely.”¹⁶ The massive human rights abuses and corruption perpetrated by autocrats such as Hitler, Mussolini, Suharto, Marcos, Idi Amin, Mobuto, and Pinochet are testimony to the importance of limiting, constraining, diluting, and dividing power. Moreover, as the looting of public funds by dictators, such as Mobutu in Zaire over a thirty-year period from the mid-1960s illustrates, abuse of power and large-scale theft often go hand in hand. Nor is kleptocracy merely a matter of the internal corruption of certain underdeveloped nation-states in, for instance, Africa. Typically, the likes of Mobutu transfer and spend their ill-gotten gains in affluent Western liberal democracies using global banks based in London, New York, Zurich, etc. as their

¹⁶ Lord Acton, *Essays on Freedom and Power* (Skyler J. Collins, 2013).

financial intermediaries.¹⁷ Again, Minxin Pei has recently argued that China's authoritarian model of economic modernization is conducive to large-scale corruption.¹⁸ The unleashing of market forces has led to spectacular economic growth, but in the context of the one-party system this has in turn led to widespread corruption and the enrichment of the powerful on a vast scale.

So much for socio-moral features of the moral environment. I need now to turn to a brief consideration of institutional accountability systems, or the lack thereof, as a second generic condition that is conducive to corruption.

Institutional Accountability, Anti-Corruption, and Integrity Systems

I have described the nexus between the power of autocrats and organized crime bosses, on the one hand, and systemic and grand corruption on the other.¹⁹ Corporate collapses, such as the collapse of Enron, illustrate the nexus between power and corruption within a large corporation. The corrupt practices, including the creation of so-called off-the-books Special Purpose Entities (SPEs) designed to mask losses, were the creatures of the CEO, CFO, and other members of the management team. It was their position of authority within the organization that enabled the existence of corruption on such a large scale, and with such devastating consequences.

Naturally, such corruption is not only dependent on the power of the offenders; it is also dependent on their immorality; the Enron CEO and CFO, for example, had few moral scruples, and little concern for the welfare of Enron's shareholders and employees. So the existence of this power/corruption nexus points to the importance of commitment and compliance on the part of individuals both to the moral principles enshrined in social norms and to institutional purposes. However, robust social norms and internalization of institutional purposes by themselves are not enough; they are necessary, but not sufficient. An additional necessary condition for combating corruption is adequate institutional

¹⁷ J. C. Sharman, *The Despot's Guide to Wealth Management: On the International Campaign against Grand Corruption* (Ithaca, NY: Cornell University Press, 2017), Introduction: Power and Money.

¹⁸ Minxin Pei, *China's Crony Capitalism: The Dynamics of Regime Decay* (Harvard University Press, 2016).

¹⁹ I use the term "grand corruption" to imply serious systemic corruption that involves corruption on the part of institutional role occupants at the highest levels.