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Does Business Corruption have to be Considered in all Cases as Moral Misconduct? Two Statements

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Abstract

In the fight against corruption, stringent punishments are imposed on corrupt companies. This paper questions whether these punishments are always wise or justified. Therefore, we distinguish between two kinds of corruption. The first one refers to corruption leading to personal enrichment, while the second type of corruption aims to increase the competitive ability of the company. In many countries – even if officially illegal – corruption and bribery are common while conducting business. Further, in many cases it is only the tip of the iceberg. The majority stay exempt from punishment. Thereby the second variant of corruption turns to be a vital competitive factor. In other words, companies which want to survive in the market are forced to conform to existing conventions. In markets where paying bribes is omnipresent, corruption is not a moral mistake but a free-market need. Therefore, the following questions arise: Where does the companies' responsibility for corruption start and end? And, in which situation is it appropriate to punish companies for corrupt actions? In this paper, we discuss different corruption scandals involving Siemens, ABB and other competitors. Further we analyse country case studies from India and Russia. The result shows that corruption is in special cases a competitive requirement and not a lack of morality or honesty. It is argued that avoiding corruption in these circumstances cannot be considered the responsibility of companies. In addition, we show that to avoid corruption we need to take a closer look at the particular conditions in which companies "misbehave". This paper adds a further perspective in the discussion on corruption.

Keywords

Corruption, competitive requirements, moral behaviour

"[F]or a man who wishes to act entirely up to his professions of virtue soon meets with what destroys him among so much that is evil."

(Machiavelli, II Principe, Chapter XV)

Introduction

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Corruption is an age old problem, which still exists in all societies, regardless of their history, culture, religion, or political and economic systems (Hylton and Young, 2007; Rider, 2007; Budima, 2006). However, Osborne adds that all world societies, religions, and cultures see corruption as a crime (1997). The roots of this belief dates back to the ancient Greeks.

The earliest evidence of this attitude can be found in the discourses of Plato (Ritter, 1985) and Aristotle (Hoeffe, 2006), where corruption was considered a criminal act. It can be supposed that as long as mankind knows about corruption, voices are raised which call for more justice, responsibility and punishment. These claims are still present today, where we can find statements in news, political debates as well as in scientific researches for more morality in management. However, it seems that corruption is still ubiquitous. Without taking statements and expectations into account, companies are continuously involved in corruption scandals. Managers of today do not seem to be aware of doing wrong, of discriminating against others and of enriching themselves on the shoulders of society.

In this paper, it is argued that corruption is in some cases not a lack of honesty. Depending on market conditions, competition and market considerations, corruption can be a requirement for surviving in the market. In such cases we should not talk about moral misconduct. Instead, we argue that corruption has many faces. The concept of corruption has meant different things at different times in different societies (Rider, 2007). However, to distinguish between different kinds of corruption, it is essential to analyse the basic drivers of this behaviour. For the following argument, corruption as a competitive factor is of particular interest. Under competitive factors we can include all corrupt behaviour which aims at competing better against other companies. Here, the driver is the wish to perform better than the competitors. The welfare of the whole company is central to this kind of corruption. We distinguish between this kind of corruption and the type where individuals try to enrich themselves at the cost of others. The second kind of corruption won't be discussed in this paper.

How somebody is allowed to act depends on the legal framework within the entity. This applies to both individuals as well as companies. In every country, even in a free market economy, a legal system limits the possibility of acting in competition. Nevertheless, the same rules which cut the alternatives or limit acting strategies should constitute a market where the "better" company is successful in a fair competition for the customer. In other words, on the one hand, companies get duties through legal regulations for acting fair; on the other hand the same regulations secure the company from unfair competitors. Therefore, we can talk about taking and giving for the welfare of every market participant.

In that respect we underline that we don't justify corruption because the market requires it. But we point out that there is a contradiction if officials condemn corruption and in the same time don't carry out their duty to protect companies from corruption.

The idea of giving up rights and thereby accruing benefits, if every other subject does the same, isn't new. But are duties and rights in corruption in balance with each other? It is shown that in some cases, companies are compelled to respect rules, but their justified expectations for operating in fair markets as countermoves are not fulfilled by the legal system. So we discuss whether it is right to impose duties without rights. Further, we discuss if the legal system should get rid of initialising fair market conditions in the form of calls for morality in the economic system. However, as we see in examples of different corruption scandals, ethics and morality are not in the best hands if transplanted to market responsibility.

This paper first defines corruption. Further, we examine the latest theories of corruption research. Subsequently we present the two statements which focus on corporate responsibility. Both viewpoints discuss cases, where we argue that in special competitive situations and in unique cultural requirements, corruption cannot be seen as a lack of morality or misconduct requiring social responsibility from companies. To prove the veracity of these statements we examine such situations using different business and country case studies.

Corruption: A Little Bit of Definition

Defining corruption is a difficult and complex process. However, plenty of research has been undertaken to explain this phenomenon (see e.g. Lambsdorff, 1999, 2001; Heidenheimer, 1970; Murphy, Shleifer and Vishny, 1993; Osborne, 1997). What this concept represents depends on time, geographical and cultural contexts (Rider, 2007). In general, the view is that a certain action is judged on the basis of moral correctness. Budima (2006, p. 406) pointed out that "not in all societies

economic crime and corruption present the same crime, and not always, those crimes have the same weight”.

A common definition for economic crime is “every act of earning wealth through illegal ways” (Lame, 2002). Unfortunately, “illegal ways” cannot be defined easily and in general for all societies and situations. However, corruption is seen as one of these “illegal ways”. Rider considers corruption is as old as human society (1997). From a more abstract point of view, corruption is “a private gain at public expense” (Budima, 2006, p. 410). Bowman and Gilligan (2007) focus on integrity or honesty as moral categories leading to non-corrupt behaviour. They define corrupt behaviour as, “a lack of integrity or honesty (especially susceptibility to bribery); and/or the use of a position for dishonest gain” (Bowman and Gilligan, 2007, p. 440). According to Transparency International (TI), “corruption is operationally defined as the misuse of entrusted power for private gain (2007). TI further differentiates between “according to rule” corruption and “against the rule” corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute the former.

The latter, on the other hand, is a bribe paid to obtain services the bribe receiver is prohibited from providing. Beside these definitions, corruption can also be classified into various types. The most common types are political, bureaucratic and private corruption. Jain (2001) defines three fundamental kinds of corruption within democratic societies. They are listed as the grand corruption of the political elite using power to influence public policies; bureaucratic corruption which is the corruption of appointed public officers when dealing with superiors or public; and legislative corruption, by which the behaviour of legislators can be influenced. Osborne (1997) adds a view on corruption where he separates bureaucratic corruption (meaning officials taking bribes); political corruption (politicians taking bribes); and grand corruption (implying key middlemen taking bribes). Apart from the corrupt entities, corruption can also be classified in terms of costs. In legal literature, corruption is categorised as “white” – tolerable; “grey” – some opprobrium, and “black” – violating community moral and legal norms (Heidenheimer, 1970).

In this article we examine corruption using the TI definition as an “according to rule” corruption and include payments by a company to manipulate the decision of the bureaucratic or political hierarchy. We don’t focus on cases where the bribe taker would act “illegally” in a way that he not only is influenced by his decision but also breaks existing laws. In this paper corruption from every official public role is of interest. We don’t differentiate between the bureaucratic and the political sector. Moreover, the classification between white, grey and black corruption is disregarded. Under these restrictions we use the term corruptions according to Budima as “a private gain at public expenses” (2006, p. 410).

Corruption: A Literature Overview

Various theorists highlight the negative impact of corruption in development, while others hold the view that corruption can be “good” in specific countries with inefficient governments (Budima, 2006). As Heidenheimer mentions, the starting point of this discussion dates back to the first traditional works of ancient philosophers such as Plato and Aristotle (1970). This quote from them is an indication that corruption is an age old problem that, for centuries, people have been trying to address (Hylton and Young 2007; Rider, 2007). Plato (Ritter, 1985) saw corruption as a disease of politics. Modern thinkers like Machiavelli (Bertelli, 1968), Montesquieu (Von der Heydte, 1950), and Rousseau (Sakman, 1931) followed the classical meaning of corruption. However, they come to a different conclusion. Machiavelli and Montesquieu shared the view that corruption was a process that destroyed the virtue of the citizen, and perverted a “good” political system to an “evil” one. On the other hand, for Rousseau, corruption of man did not destroy the political system, but the political system corrupts and destroys man (Heidenheimer, 1970). This leads us to Lord Acton’s well-known sentence “all power tends to corrupt and absolute power corrupts absolutely”. Theoretical explanations of the consequences of corruption consider corruption from a macroeconomic view with the theory of allocative neutrality of corruption (Frank, 2004; Tullock, 1996). Therefore, corruption changes only (in terms of the principal-agency-theory) the distribution between governance and agent (Tullock,

1996) but beyond it corruption has no negative outcome (Leff, 1964; Beck and Mahler, 1986). Further, the efficiency impact of corruption on bureaucracy is highlighted by some authors (Myrdal, 1968; Nye, 1967). Therefore, bribery for public officials is helpful to master administration hurdles quicker and results in more efficiency (Frank, 2004; see counter-arguments e.g. at Rose-Ackermann, 1975; Murphy, Shleifer and Vishny, 1993; Kurer, 1993). However, since the groundbreaking work of Mauro (1995, 1997), in the early 1990s, several empirical researches have been undertaken. So we need to question if previous research has established a causal connection between corruption and lower levels of private investment and growth (Mauro, 1995; Wei, 2000; Gyimah-Brempong, 2002) capital flows and currency crises (Wei and Wu, 2001), inferior resource allocation (Ades and di Tella, 1999), declining tax income (Hwang, 2002), distorted (higher) government expenditure and distorted (lower) government revenue (Tanzi and Davoodi, 1997), negative impact on government spending for education (Mauro, 1998), higher income inequality and poverty (Gupta, Davoodi and Alonso-Terme, 1998), inflation (Al-Marhubi, 2000) and in general lower standards in public life (Faria, 2001). Moreover, in countries with a high rate of corruption a high spending for munitions (Gupta, de Mello and Sharan, 2001) can be observed. Welsch (2003) showed a negative impact on environment where corruption is high and Smith et al. (2003) assume a higher hunting rate for animals in danger of extinction when the country suffers from high corruption. However, “the impact of economic crime in cost may be difficult to assess, but the crime ranks amongst the most costly of all criminal activities, with dire consequences for societies” (Lame, 2002, p. 14). In general, authors agree that fighting corruption is important, not only for reasons of morality and justice, but also because corruption clearly has a negative impact on economic growth and development (Schroth and Sharma, 2003; Hines, 1995; Mauro, 1995, 1997; Burki and Perry, 1998; Johnson, Kaufmann and Zoido-Lobaton, 1999; Easterly, 2001). A more recent way to examine corruption is in experimental laboratory studies in analogy and natural science. Within the last ten years a plethora of such research was undertaken. The advantages of these approaches are that special corruption relevant attributes can be isolated. Therefore it is possible to measure the impact of each attribute on the behaviour of the participants of the experiment (Renner, 2004). Results show that morals play an inferior role in decisions while being corrupt or non-corrupt (Abblink, Irlenbusch and Renner, 2002). The positive effect of appeals for more morality and higher ethical standards are abnegated (Abblink and Henning-Schmidt, 2002; Renner, 2004; Frank and Schulz, 2000). Insights from experimental corruption research suggest that efficient measures to avoid corruption are personnel rotation (Abbrink, 2004; Abblink, Irlenbusch and Renner, 2002), effective sanctions during wilful misconduct of employees (Schulz and Frank, 2003; Frey and Oberholzer-Gee, 1997; Rijckeghem and Weder, 2001) together with fair salary (Kirchgaesser, 1997; Azfar and Nelson, 2003; Barr, Lindelow and Serneels, 2003).

We can recapitulate that so far corruption research has provided a wide range of insights from the theoretical and empirical to an experimental point of view. With our work we don't look at the impact of corruption like most researchers do. In contrast we focus rather on competitive conditions. We ask if there are cases or situations where corruption is appropriate and can be justified. In consequence instances of such corruption should not be treated as moral misbehaviour. We refer to the work of Laczniaik and Murphy (1993) which seeks to define situations where paying bribes is tolerable and results in three elaborate fundamental characteristics. According to them, corruption is justified in contexts, where it is:

- the accepted practice;
- really a form of commission paid to helpful intermediaries;
- the only way to compete in overseas markets.

Just as we do, Laczniaik and Murphy (1993) rely on utilitarian or a means-ends rationale theory. We formulate our hypotheses in similar terms.

Two Statements Regarding Business Corruption

As described above, there are many different views on corruption. In this paper we ask if corruption can be justified in any situation. We see corruption as a danger for society as well as for economic and

political systems. However, corruption can also be harmful for the companies which act in markets with high corrupt activities (Frank, 2006). Therefore politics and law bear responsibility so that companies find an environment where they can do their business without losing business due to unfair competitors. To ensure this, the actions of companies in the market place are limited by several regulations (Pitman and Stanford, 1994). On the other hand, the company can be sure that all other competitors are under the same law. In other words, if a fair market place is guaranteed, companies can believe that the better company gets the mandate of the consumer. In this case, the market is free of dishonest activities. In such situations, corruption is no option and absolutely prohibited, not only in a legal but also in a moral way (Wood, 1995). However, the question must be, does such a situation exist typically? Yes, it does, but not in all markets in all situations (see e.g. the case studies, Chikulo, 2000; Gathii, 1999; McCusker, 2004; Johnstone and Brown, 2004). The TI Global Corruption Report (2006a) shows that in special areas of business, especially heavy machine equipment projects and construction corruption happens much more frequently.

For formulating the first statement we examine a situation where corruption can be an adequate instrument. It is argued, that companies only have to conform in a moral way to the law as described. They therefore have the security of knowing that politics and law takes care of ensuring a corruption free field for their business. Of course, if they pay bribes in situations where politics does not ensure the honest behaviour of the competitors, it is still against the law, but we differentiate between 'against the law' and immoral conduct.

If we look now at the effect of paying bribes, it can be assumed that the bribes are only paid in situations where the bribe-payer can expect an advantage, which in our definition of corruption, means an advantage for his company. In a total market situation, the corrupt company is preferred over the company which doesn't agree to pay the stipulated price (Rose-Ackerman, 1975) because the market doesn't honour about morality. The requirement for more morality in management would in such situations lead to an exclusion of the moral company while the immoral company gets the contract and in the end the profit, while the moral company is punished by the market (Laczniak and Murphy, 1993). It is argued that in these cases the company must have the chance to defend itself against unfair competitors. They must have the chance to be at the same level as their competitors or to work with the same instruments. However, if politics and law don't fulfil their function of creating a corruption free environment, giving their responsibility to companies can't be the solution. The company on the one hand does not have the tools to act on the other market participants. On the other hand their task is not to eliminate the mistakes or misconduct of politics and its institutions. The responsibility does not lie with the company to guarantee market conditions; they only have to act on markets. Based on these thoughts we formulate our first statement.

Statement 1: Corruption is justifiable in situations where companies must justly assume that (first) other market participants act corruptly and (second) that the official side won't or can't take appropriate action.

To justify this statement we use examples from the recent scandals in heavy equipment industries and major projects. We use examples especially from Germans Siemens and the Swedish/Swiss ABB concern as well as other cases from the last ten years to demonstrate, that the market participants have a long track record of corruption scandals. Therewith, we show that in some cases companies which apply for an official invitation to tender have to assume that their competitors use the same methods to better compete in cases before. It is not too far away to think that the company is discriminated against if they are the only one which is acting according to the law, especially in market places where products tend to be identical.

The second statement, examines the cultural aspect or the local habit. Except international contracts or supra national law, regulations for companies end at national borders (Pitman and Stanford, 1994). The companies business doesn't. However, international companies come in touch with a wide range of different cultural and special local requirements (Zekos, 2004). We don't say that there is any country which sees corruption as an established way of doing business (Hylton and Young, 2007; Rider, 2007; Budima, 2006). But we argue that corruption is in fact influenced by culture, which means that an understanding of what is and what is not corruption changes within the cultural context

(Budima, 2006). Moreover, it is a fact that theoretically, corruption is prohibited in all countries. However, in practice it is different. Paying for getting official services more quickly, for instance, is in some countries daily business (see the India and Russia case studies below). Therefore, we have to ask in which ways companies are discriminated against if they don't accept the unwritten law of several officials in public administration or government. It is argued that companies need basic equipment for doing business. This starts from having a telephone or internet connection and goes to rights for establishing buildings for their factories or other buildings, the right to hire staff and so on and the access to legal institutions (see e.g. the struggles in some countries with such problems TI India and CMS 2005; Sigsbee and Konovalenko, 2005). If companies encounter situations where it is a common habit to pay bribes to ensure that your needs are met in time or even at all, then it is outside the responsibility of the company to avoid such situations. In these cases, managers have to take care of staying in business. It can't be immoral to submit to these requirements, because it is not the job of a business to ensure a working public administration, jurisdiction or government. Companies suffer in such situations in the same way as the society does. They don't the role of a victim. A call for moral behaviour in such situations would also lead to an unfair discrimination of the fair or moral company. Therefore we formulate our second statement.

Statement 2: Corruption is justifiable in such situations where (first) companies are expected to pay bribes to bureaucrats to get the basic needs for doing business and (second) not to pay would penalise them.

To justify the second hypothesis, cases are shown where paying bribes enable companies to get the basic needs to stay or step into the market. The analysis of these cases demonstrates that companies have no realistic alternative if they want to continue their business. If such situations exist, we can't talk at all about an immoral behaviour if managers fulfil these requirements. With the second statement we also identify situations where corruption can't be seen as misconduct.

Statement 1: Corruption and Competition

In the first statement, we draw attention to the market for a major engineering project like the recent Siemens scandals. We discuss markets where business-to-business companies negotiate with public administration about projects like large-scale information and communications-systems, planning, engineering, and construction of coal and gas fired power plants, providing signalling and control systems, railway electrification systems, heavy rail systems and so on. All these cases are strongly related to the business of Siemens and ABB as well as a handful of other providers. But we also include construction projects for airports, sport stadiums or other major projects in these fields. These markets have a few special conditions. First, only a few consumers exist for example the Chinese Government is the only consumer for the magnet railway train Transrapid. Further, both parties also often have longstanding relationships. The products are complex, its advantages compared to competitive products are not easy to capture and typically for non-insiders they are not self-explanatory. Moreover, the deals for such projects are really expensive. These conditions provide an enormous potential for companies to persuade the other side (in our case public administration) by using illegal payments or other benefits. As we explained before, corruption in such situations is justifiable where companies must justly assume that (first) other market participants act corruptly and (second) that the official side won't or can't take appropriate action.

We don't discuss the term "justly assumed". What is and what is not "justly assumed" needs a conventional clarification at the end of the day. We also neglect how to measure these assumptions. This argument focuses only on the fact, that such situations can exist and how to deal with them and not on the practical implementation.

Starting with the first part of the statement (other market participants act corruptly) we take a look at various corruption scandals in such markets as described above.

In Table 1 (next page) we have put together Siemens and ABB as well as other corruption scandals from the last 10 years. If we analyse these cases we can make the following statements.

- Each company has a long track record of bribes and getting caught by prosecution.
- After exposed corruption the companies didn't stop paying bribes. They go on with their illegal payments.
- They do this, in the case of Siemens and ABB, at least on average every second year.
- Corruption is global. All cases come from around the world.
- Also smaller competitors try to better compete by using illegal payments.

As we know from many public relation activities, all these companies have anti-corruption programs (see e.g. the websites of the companies from table 1). We don't know how effective these instruments are but we can see that they don't anticipate total corruption. Another fact supports this argument. The cases are only a selection from known corruption scandals which have found their way on the desk of prosecutors and in the court rooms. There are also an estimated number of unreported cases. TI (2006b) and (Jositsch, 2004) set this number as around 97% to 99% in the Switzerland in the case of corruption and for Germany at 90%. According to Zimring and Johnson, they found a perceived dark figure of around 95% (2005). Also Moering sees corruption around 95% (2005). However, other researchers see the corruption dark figure at around 80% (KMPG, 2006). The results of such studies have to be seen as very critical. The outcome depends strongly on the definition of corruption, on the time span, the analysed region and the methods used. More dark figures are characterised as unknown numbers. Besides, as critics on the measurement of these numbers, we want to point out that the correct number is not important. For "justly assumed" it is sufficient to know that there are many more cases than are officially known. However, there is a consensus that the estimated number of unreported cases is very high (Shleifer and Vishny, 1993; Osborne, 1997; Lambsdorff, 2001).

The second part of our viewpoint focuses on the official ability to avoid or intervene in such situations. Sometimes the company assumes that other participants use unfair methods to better succeed in bid invitations and these behaviours wouldn't be exposed. The official institutions in charge of secure fair competition don't work efficiently. As the high rate of unreported cases demonstrates, there is a huge potential for such practices, even if avoiding corruption is surely not an easy job and it is in some cases impossible for external parties to have a closer look into negotiation processes. However, such low exposure rates are absolutely disappointing for a company with the willingness to act according to the rules. Our views on instruments and institutions for avoiding corruption only focus on the outcome and not on the difficulties in terms of information seeking or access to insiders. For our arguments, we use the rate of dark figures to show that there is a low efficiency. Cases exist where companies have no guarantee that unfair behaviour is called to account. In situations where the equality or the equal treatment for all market participants isn't assured by officials, the company acting according to the rules is the loser in this game.

In conclusion, we examine the view on the markets as described before. Without any changes, what should a company do if they are to compete for future projects if they see the list of competitors in Table 1? However, it is not mandatory that these companies try to compete better by paying bribes. However the uncertainty involved in each company doing business and knowing the track record of the competitors, the company can expect less help from officials. Additionally the unsatisfactorily high dark figure will make companies justly assume that they are the only ones which do not pay bribes if they act according to law. Indeed assuming and knowing are two different things. But in such situations, knowing isn't possible. However, managers must make their decision, no matter if they have all information or not.

In the end these arguments lead to a strong justification for our statement. It is not possible to say how often these situations happen, or in which cases. But it can be strongly believed that such situations exist. If they do so, as we have shown, we have to ask how to deal with them. Simply to declare it as immoral isn't the key to deal with such market terms.

Table 1: Selected cases of corruption

Source: Cases collected from daily news papers; *Financial Times Europe* (February, 9th 2006, p. 7); *Washington Post* (April, 25th 2008; p. D01); *New York Times* (January, 12th 2007; May, 15th 2007); *Against Corruption* (seen, June, 18th 2008 at: www.againstcorruption.com); N.A., *The Lesotho Highlands Water Project Case Study* (seen, April, 7th 2008 at: <http://www.ipocafrika.org/cases/highlands/index.htm>); *Süddeutsche Zeitung* (April, 28th 2007)

Siemens	ABB	Other competitors
<p>ITALY: In April 2004, an Italian judge banned Siemens from taking part in any public tenders in Italy for a year following an investigation into alleged bribes made by Siemens to Italian utility company Enel. Siemens was accused of paying £4 million in bribes to Enel executives for a gas turbines contract. Subsequently, the ban was limited to gas turbine contracts.</p>	<p>CHINA: Jan. 2007 — The police have detained 22 people in a bribery investigation that has ensnared several large companies, including ABB, McDonald's, McKinsey & Company and Whirlpool. The government did not announce formal charges, disclose who was detained or offer a full list of the companies involved. But the media reports said that the bribes totaled about \$500,000 and that some officials were "company directors and senior employees."</p>	<p>FRANCE: In 1998, the three largest construction groups in France - Bouygues, Suez-Lyonnaise, and Vivendi - were the subject of a major investigation by two judges, for a scandal which <i>Le Monde</i> (10 Dec 1998) described as "an agreed system for misappropriation of public funds". The companies participated in a corrupt cartel over building work for schools in the Ile-de-France region (around Paris) between 1989 and 1996. Contracts worth FF 28 billion (about \$500m) were shared out by the three groups.</p>
<p>RUSSIA: In April 2005 the <i>Mail on Sunday</i> newspaper reported that two former employees went public with allegations that Siemens regularly paid bribes in order to win public contracts. The allegations are supported by affidavits and internal Siemens documents and concern events that took place throughout the 1990s. Siemens secured a £20 million contract in 1999, with an alleged £4.5 million kickback, to supply equipment to the Bourdenko Institute of Neurosurgery in Moscow. A whistleblower alleges that this contract was dropped in 2000 as Siemens prepared to be listed on the New York Stock Exchange and feared it could be vulnerable under the US Foreign Corrupt Practices Act.</p>	<p>MIDDLE EAST: In Feb. 2006, the Swiss-Swedish engineering giant ABB said it had disclosed to the U.S. Department of Justice and the Securities and Exchange Commission (SEC) details of suspect payments in a country in the Middle East. The case, ABB said, revolves around payments made to intermediaries in Latin America and the Middle East "in connection with the [US] company's business, which is control software for utilities". An investigation following the dismissal of two managers in 2004 uncovered \$560,000 in suspicious payments,</p>	<p>INDIA: In 1996 executives of Generale des Eaux, a French water company with cable television and telecommunication interests, were convicted of bribing the mayor to obtain a water concession on the French island Reunion in the Indian Ocean. In the same year CGE and its transport subsidiary CGEA also faced claims of paying bribes to win transport contracts on Reunion. According to the <i>Sunday Times</i> this inquiry was one of nine separate investigations by judges across France into CGE's empire in response to claims of bribery, fraud and corruption.</p>
<p>SINGAPORE: In 1996, Siemens and a number of other multinational corporations were debarred for five years from Singapore government contracts. A consultant working for those multinational corporations allegedly bribed the Chief Executive of the Public Utilities Board.</p>	<p>USA: On February 2006, Swiss company ABB announced that it had voluntarily disclosed to the US Department of Justice and the Securities Exchange Commission suspect payments made by ABB subsidiaries in a number of countries. The payments were detected during compliance reviews, which triggered internal investigations. ABB reported that it had initiated disciplinary actions against a number of its employees.</p>	<p>SOUTH AFRICA: In a landmark judgment on 15 August 2001 the Court of Appeal of Lesotho rejected the major appeal of Canadian engineering firm Acres International. The company was convicted of bribing a public official to win a contract on the World Bank-funded Lesotho Highlands Water Project .</p>
<p>SLOVAKIA: In 2001 Siemens was alleged to have offered SKK 1.5 million to the Chair of a tender commission concerning a large IT contract for the Slovak Treasury. However, Siemens Business Services successfully appealed in April 2002 and was able to re-enter bidding for an IT contract in the Slovak Treasury.</p>	<p>NIGERIA: In July 2004, U.S. and British subsidiaries of ABB Ltd. pleaded guilty to paying more than \$1 million in illegal bribes to win oil contracts. The companies were accused of paying bribes in exchange for confidential bid information and favorable recommendations from Nigerian government agencies overseeing seven oil and gas construction contracts.</p>	<p>ARGENTINIA: In June 2004, the Press reported that Argentina's federal prosecutor, Guillermo Marijuan had requested a probe into, former, President Carlos Menem for allegedly receiving corrupt payments from the French defence company Thales Spectrum. Marijuan alleged that Menem asked Thales Spectrum, for \$25 million in exchange for favoring the company in a state bid and that between 1997 and 1999, Thales deposited millions of dollars into the bank accounts of Argentinean government officials.</p>
<p>SPAIN: In 2001 Spanish judges suggested that Siemens was involved in money laundering, corruption and party financing amounting to DM 19 million in connection with the construction of the Ave rapid rail link between Madrid and Seville.</p>	<p>JAPAN: In July 2002, a Japanese district court confirmed that it seemed likely that construction companies had rigged bids for construction orders from the US Atsugi navy base, south-west of Tokyo.</p>	<p>However, the Tokyo court rejected compensation claims for Y680m made by the US government against the 26 builders, saying there was inadequate evidence to prove that collusion occurred with each specific construction project.</p>

Statement 2: Corruption and Society

In this section we look at corruption at the level of the common man as an indicator of how a society deals with this crime. We assume that countries in which corruption is a common phenomenon don't act differently in cases where companies are involved. Our second statement focuses on bribes which are expected and common in some societies. The reason for these payments must be external or outside the company. In this sense, the payments should not be introduced or influenced by the company. For a business it is permitted to pay and submit to a request for a payment for official purposes only. In other cases, the company becomes a committer of a crime. The company is seen as a victim in this corrupt game only in cases where the payments are required without the influence of the company. In the following paragraph we analyse the social and cultural environment of corruption.

As we noticed above, corruption is still present in all societies, regardless of their history, culture, religion, or political and economic systems. However, the nature of organised crime has changed significantly over the past 50 years, with even more dramatic changes over the last 15 years (Frank, 2006). In Africa especially, corruption is reported everywhere and in many places the situation is as bad or worse now than it was a decade ago (e.g. Chikulo, 2000 – Zambia; Gathii, 1999 – Kenya; Stasavage, 2000 – Mozambique; Watt, Flanary and Theobald, 2000 – Uganda; Brown and Cloke, 2005 – Nicaraguan). But, even if the statistics are right and Africa suffers more than other parts of the world from corruption, no society is totally free from corrupt actions. A look into literature and studies show that Russia often is the centre of corruption (e.g. Dent, 1994; Clark, 1998). Another focus is China (e.g. McCusker, 2004; Overholt, 1994) but also studies from all European countries (see e.g. Becker and Fritzsche, 1987 – Germany, Brown, 2007 – UK, Harney, 2006 – Italy) America (see e.g. Johnstone and Brown, 2004 – United States; Filho, 2008 – Brazil) or Australia (Browman and Gilligan, 2007) show evidence of corruption. However, the TI Corruption Perceptions Index shows a differentiated picture for the rate of corruption for nearly all countries (2007).

In situations where decisions have to be made with two competing values, business ethics theorists generally agree that managers should apply ethical guidelines based on moral philosophies (Wood 1995; Ferrell and Gresham, 1985; Hunt and Vitell, 1986). Karande, Rao and Singhapakdi (2002) further say that social psychologists also consider moral philosophies or “personal ethical systems” to be important factors influencing an individual's ethical judgments. In this context the question arises “what are these personal ethical systems?” As the word “personal” implies, these judgments have to stay individual. Wood (1995) draws attention to cultural relativism. He accurately pointed out that (Wood, 1995, p. 10-11), “[c]ultural relativism asserts that there are no or few universal standards or rules of ethical behaviour. Words such as “right”, “wrong”, “good” and “bad” only gain a meaning within a specific cultural context. Thus if, for example, Saudi Arabia, considers homosexuality as immoral then the practice of homosexuality is immoral in Saudi Arabia. If another country, say the UK, does not regard homosexuality as immoral, then homosexuality in the UK is not immoral. This relativistic thinking is adopted almost without thinking by business people trading internationally.” Apart from inequality and poverty, the traditional societies might be more likely to act and accept corrupt behaviour. Collectivism instead of individualism has a public mentality that promotes respect for the family and kinship before respect and rule of law (Budima, 2006).

To analyse corruption deeper we draw attention to two cases. TI defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians. Any country that scores below 5.0 in TI's Country Index is considered seriously riddled with corruption (2007). Therefore, we examine two different cases from countries with a score below 5.0: India (3.5) and Russia (2.3) (TI, 2007).

Case Study - India

In 2005 IT Indian and CMS analysed corruption for 20 Indian provinces. Eleven public services were covered in this study: Police (Crime/Traffic), Judiciary, Land Administration, Municipal Services, Govt. Hospitals, Electricity (Consumers) PDS (Ration Card/Supplies), Income Tax (Individual Assesses), Water Supply, Schools (up to 12th) and Rural Financial Institutions (Farmers) (TI India and

CMS, 2005). According to this study (TI India and CMS, 2005, p. 1), “[c]ommon citizens of [India] pay a bribe of Rs. 21,068 cores while availing one or more of the eleven public services in a year. As high as 62% of citizens think that the corruption is not hearsay, but they in fact had a firsthand experience of paying bribes or “using a contact” to get a job done in a public office.” The study highlights the fact that the problem of corruption in public services affecting the day to day needs of citizens is seriously high. One-third of citizens think that both the officials concerned and the users of these eleven services know how much to be paid as “extra” to get a job done or attended to. “One-third of citizens”, according to IT India and CMS (2005, 1), “think that “both the officials concerned and the users” of these eleven services know how much to be paid as “extra” to get a job done or attended to”.

Users of various public services across the country in this study have named seven key factors that stand out as responsible for widespread corruption in the system. These include,

- Lack of transparency and accountability in the system,
- Lack of effective corruption reporting mechanisms,
- Lack of honesty in officials in the Government,
- Acceptance of bribes as a way of life, custom and culture,
- Ineffective judiciary,
- Poor economic policies,
- Inadequate training and orientation of Government officials.

The 2002 study of TI India shows that daily common goods like railway tickets or Telecom services are also not free from paying extra. In 2005, computerisation reduced these problems, however, they still exist. Before we analyse the case of corruption in India, we look at other case; Russia.

Case Study – Russia

In Russia, between 2001 and 2005, large-scale diagnostic studies of corruption testified that the average amount of bribes paid by businesses increased exponentially (Information Science for Democracy (INDEM) 2007; Sigsbee and Konovalenko, 2005). According to research by the INDEM (2007) the high non-production costs of small businesses (administrative and corruption-related costs) grew from 8.5% of annual turnover in 2005 to 9.6% in 2006. Sigsbee and Konovalenko (2005) found a high rate of corruption for court justice, traffic police services, housing ownership, and land ownership. According to their work, the size of a newly-built apartment (in m²) that a Russian Government official can buy based on the average amount of a bribe increases from 30m² in 2001 to 209m² in 2005. In the same time, the values of the business corruption market where businesses have to pay increases from 33.5 billion USD to 316 billion USD. Investigating the branches of government that were involved in corruption, they found corruption existed in nearly every official scope of duties, literally in the legislative (7.1%), the executive (87.4%) and the judicial (5.5%) branches. The types of control that the government exerted were non-financial control and supervision, fiscal and tax regulation, licensing regulation, customs regulation and law enforcement regulation.

INDEM traces these effects back to the fundamental changes that occurred after the breakdown of the communistic system (2007). “Any transitional period in a society involves an increased level of legal chaos. The old system of legal norms and traditions collapses more rapidly than the new system is created. A sort of legal void forms. It is not surprising that in these conditions, bureaucrats and businesspeople alike take advantage of the situation. The bureaucracy sees new opportunities to extract income through corruption by trading on its power and the exercise of it” (INDEM, 2007, p. 4).

According to their study, businesspeople see a change in the quality of corruption. “Today, [...] lower-quality corruption services are being provided for at a higher price” (INDEM, 2007, 3). A further change is documented by an example. Where previously one could actually register a legal entity in less than the maximum allowable time by giving a bribe to expedite the process, now the same amount of money might, in the best case, only ensure that the established deadline is met. INDEM (2007) reveals a new quality called “bribes for the right to live” payment. Such a bribe is a bribe to renew a

lease agreement that the tenant already has a contractual right to renew. But without a bribe, additional complications and unexpected problems could arise. Such payments are required because officials know that companies have to pay if they want to stay in business. INDEM concludes the increasing appetite of bureaucrats over the past years with the words, “[t]hey no longer want “apples” (bribes); now they want “apple trees” (the business itself or total control over it)” (2007, p. 5). Based on a survey the list of Russia’s primary problems with corruption contains the following:

- Mistrust of the government;
- Constant changes in rules and laws;
- Ineffective government regulation;
- Tax burden;
- Black-market transactions;
- Expensive credit;
- Problems with commercial real estate; control by the authorities over the real estate market;
- Low quality of municipal services involving maintenance of leased properties;
- Enforcement and fiscal pressure;
- Corrupt extractions;
- Poor performance by courts and the law-enforcement system;
- Participation in the business by the authorities.

If we look at the case of India and Russia, what does this mean for our argument? First, corruption is present in India and Russia, not only in big business but also in daily life. However, corruption in this context has to be differentiated from the corruption in systems where single officials take money to fulfil their duty. In such cases, the system itself does not suffer from the sickness of corruption. In these cases we can talk about the wrong conduct of single persons. In the case of India and Russia we face a system of corruption.

The studies reveal different reasons for the dramatic corruption in both countries. All named factors are very closely related to government and public administration. The driving force of corruption is that the officialdom in the form of corrupt executives is the main problem in these situations. The effects of such situations on doing business in these countries show that companies also get involved in corruption. The corruption starts at small business needs and ends at vital requirements for example, phone connections that are required. There are also formal allowances like building permits, access to transportation or access roads to fabrics as well as dealing with legal institutions. However, on the other hand, businesses need their services in many cases right on time because they have to fulfil contracts with their suppliers or customers. Indeed this kind of culture is a big disadvantage for the whole society. But it is argued that the problems leading to corruption described above is not the responsibility of companies. It is surely a problem if the political and economic system lacks transparency or honesty in the Government, as in the surveys from India and Russia reveal. Also an ineffective judiciary is a bad complication for the whole country.

If we want to stop corruption, it would be too easy to do it on the company’s side. In environments like those described, the companies are much too often a victim too, especially, if the misconduct lies on the part of the government or public administration. In a free market economy it is not the responsibility of business to care about politics, law and culture. Other actors are responsible to solve these problems. In conclusion, we can say that cases exist where companies can submit to effective practical rules. Again, we don’t know how it can happen, but we have to assume that there are cases where corrupt acts are not immoral.

Conclusion

In this paper we asked if corruption is always immoral and misconduct on the part of businesses. The answer to this question is important, because corruption should be avoided. Therefore it is necessary to face this crime without any bias. To adequately fight against corruption, defining the responsibility and the duties are crucial. Rising claims against the immorality of business people does not lead to a

success in cases where companies act corrupt and bribe public officials but it can't be seen as an immoral act. In this paper we ask if such situations exist in real life. To give the answers, two aspects are important: first, there must be situations where corruption from the context of a business is theoretically not misconduct, and second, it could be assumed that companies face such situations in real life. We developed two statements. The first one focuses on competition. It is argued that in a competitive situation, corruption is justifiable where companies must justly assume that (first) other market participants act corruptly and (second) that the official side won't or can't take appropriate action. We argued that if we require morality in business deals, it is the responsibility of public institutions to ensure, that companies face a corruption-free market place; elsewhere, in cases where other competitor's offer bribes, the "moral" business has to leave the market place. It is further asked, if such situations exist. We used the cases of Siemens and ABB to look at this market situation and asked if suppliers of such markets can be sure that no illegal payments happen. It is shown that reasons exist because it cannot be assumed that no corruption will happen. However, we don't say that the market participants can now bribe without any conscience. Of course, it is necessary to look at every single case and the special conditions under which such behaviour takes place. It is only argued here that cases are conceivable in which companies have to use the instrument of bribes. Not because they want to but because they have to.

Further we draw attention to the social, cultural and political environment. It is argued that companies face situations where the business has to be seen as a victim. Corruption is in such situations justifiable where (first) companies are expected to pay bribes to bureaucrats to get the basic needs for doing business and (second) not to pay would penalise them. If companies operate in an environment where they are not the driver but are blackmailed, it is not wrong to submit to these rules. It is further shown that such situations exist. The case studies of India and Russia demonstrated that reasons outside the company require paying bribes to stay in business. The responsibility therefore has to be carried by the legal, politic and administrative system.

To conclude, we have to say that corruption is no problem of morality in every case. Therefore, it shouldn't be treated like a problem of morality. To find suitable solutions in the fight against corruption, we need to face the reality first. For further research, it is necessary to identify the line between right and wrong in the case of corruption. We also need to identify which kind of corruption we face and in which ways the responsibility are distributed and which instruments ensure the adherence to rules. However, as we have seen research has brought a lot of insights about corruption. Nevertheless a long road still remains.

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