

Some Attempts to Describe Bribery and its Measurement

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Abstract

Corruption is a complex and multifaceted phenomenon with multiple causes and effects, as it takes various forms and functions in different contexts. This phenomenon ranges from the single act of a payment contradicted by law to an endemic malfunction of a political and economic system. Bribery is a specific form of corruption and it is important to characterize it through its frequency, level and extent.

Key words: *bribery, corruption, governance*

Introduction

Over the years numerous studies of corruption have been carried out. These have focused on specific aspects such as: economic impacts, legal solutions, social implications, effects on national development, and relation to economic policy. The term corruption covers a broad range of human actions. To understand its effect on an economy or a political system, it helps to unbundle the term by identifying specific types of activities or transactions that might fall within. The working definition used by the World Bank is that corruption is “the abuse of public power for private benefit” [9]. The public office is abused for private gain when an official accepts, solicits, or extorts a bribe, and when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit [10]. Public offices can be abused for personal benefit even if no bribery occurs, through patronage and nepotism.

Bribery is one of the main forms of corruption according to a number of basic characteristics. Bribery is “the payment (in money or kind) that is given or taken in a corrupt relationship” [10]. A bribe can be a certain percentage of a contract, a fixed sum or any favor in money or kind paid to a state official. OECD defines bribery as “the voluntary giving of something of value to influence performance of official duty either by doing something improper or failing to do something they should do within the authority of their position” [4].

The Encyclopaedia Britannica Online, for instance, defines bribery as “the act of promising, giving, receiving, or agreeing to receive money or some other thing of value with the corrupt aim of influencing a public official in the discharge of his official duties”. When money has been offered or promised in exchange for a corrupt act, the official involved need not actually accomplish that act for the offense of bribery to be complete [12]. Other sample dictionary definitions include the Merriam-Webster Dictionary, which defines a bribe as “money or favor given or promised in order to influence the judgment or conduct of a person in a position of

trust” [13]. The American Heritage Dictionary of the English Language definition states that a bribe is “something, such as money or a favor, offered or given to a person in a position of trust to influence that person’s views or conduct” [11]. According to these definitions, any payment that influences the judgment of another is bribe. The problem with the influence definition is that it raises the questions of what it means to “influence” and whether “influence” is in and of itself unethical.

It is important to distinguish bribes from gifts. In many instances, bribes can be disguised as gifts. A bribe implies reciprocity while a gift should not. However even though the distinction is fundamental, it is at times difficult to make. At what point does a gift become a bribe? Does the distinction depend on the size of gifts? Does the distinction depend on whether the gift is given in broad daylight for every to see or privately? [6]

There are many equivalent terms to bribery like kickbacks, baksheesh, pay-offs, speed and grease money. These elements represent payments or returns needed or demanded to make things pass swifter, smoother or more favorably through the state or government bureaucracies. As tools of corruption, bribes can be used by private parties to buy many things provided by governments, or officials may seek bribes in supplying those things [10]:

- Government benefits – it is influenced the allocation of government benefits, whether monetary benefits (for example, subsidies to enterprises or individuals or access to pensions) or in-kind benefits (for example, access to certain schools or medical care);
- Government contracts – the government’s choice of firms to supply goods, services, and works is influenced;
- Lower taxes – the amount of taxes or other fees collected by the government from private parties is reduced;
- Licenses – bribes may be demanded or offered for the issuance of a license that conveys an exclusive right (for example, a land development concession or the exploitation of a natural resource);
- Time – the government’s granting of permission to carry out legal activities may be speeded up by offering bribes.

Measuring Bribery

There are several indicators of bribery which could be divided into two categories: affirmative indications or affirmative acts. Affirmative indications serve as a sign or symptom, or signify that actions may have been done for the purpose of deceit, concealment or to make things seem other than what they are. Affirmative acts are those actions that establish that a particular process was deliberately done for the purpose of deceit, subterfuge, camouflage, concealment, some attempt to color or obscure events, or make things seem other than what they are.

Some methods employed to channel currency to public officials are presented below in order to emphasize the need for innovative investigative techniques to uncover instances of corruption of public officials [7]:

- Exchange of funds through a legitimate business;
- Transfer of funds through a spurious business;
- Payment of campaign expense;
- Indirect payments to public officials;
- Invoicing the client for an inflated amount as compared to the actual market price;
- Intervention of an office of architects for the installation or development of local infrastructures;
- Royalty receipts are recorded as a liability on the books of a company instead of income;
- Traditional audit techniques.

Because of the extent of this phenomenon many international organizations have begun to increasingly examine corruption as an important policy concern. The Business Environment and Enterprise Performance Survey (BEEPS) is a nationally-representative survey of business firms assessing corruption and other problems faced by businesses in the Central and Eastern Europe and the former Soviet Union region. The BEEPS is sponsored by the European Bank for Reconstruction and Development and the World Bank, and has covered almost every country in the region, in each of three survey waves: 1999, 2002 and 2005. This survey provides a number of advantages: it allows exploring the relationship between different characteristics of firms and it provides an opportunity to investigate the types of “services” for which firms pay bribes. The BEEPS used an identical sampling approach in all three years, with the sectored breakdown of firms in each country determined by their relative contribution to GDP. An extension of BEEPS to several non-transition countries in Europe and Asia provides a broader set of comparators. The non-transition comparator countries used in this study include Germany, Greece, Ireland, Portugal, Spain and Turkey. Figure 1 shows the distribution of firms by area of main activity.

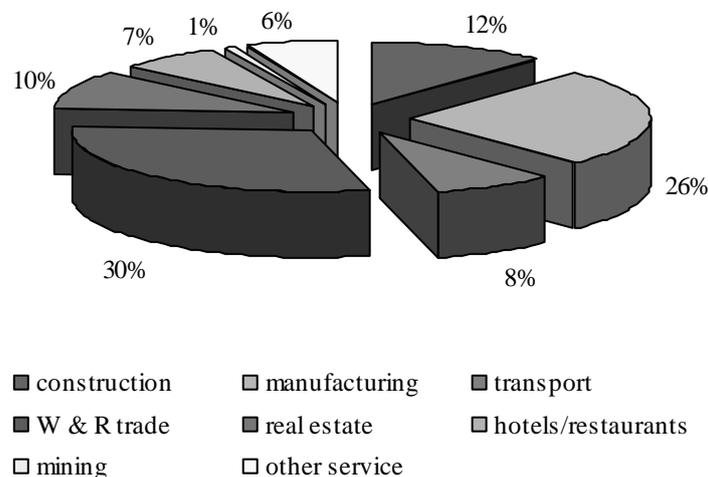


Fig. 1. Area of activities

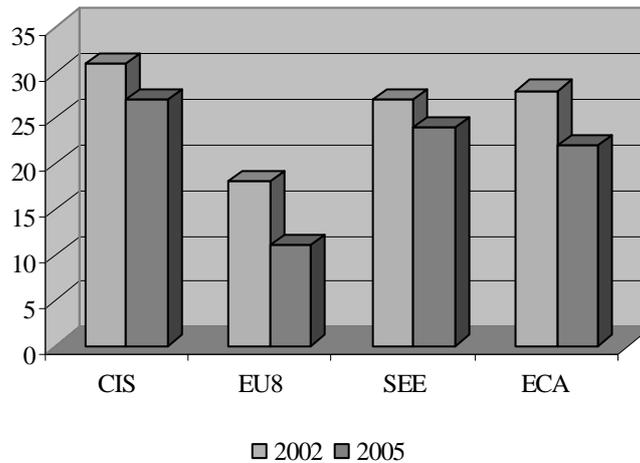
Source: Anderson, J. H., Gray, C. W. - *Anticorruption in Transition 3: Who Is Succeeding ... and Why?*, World Bank, Washington DC, 2006

Managers were asked to assess how frequently firms like theirs made unofficial payments to get things done. The percent of firms responding in 2002 and 2005 that such payments were frequent is depicted in figure 2.

Transition countries as a whole showed a decline in the frequency of unofficial payments, with the strongest improvements in the new members of the European Union and the southern CIS. Notwithstanding the trends, firms in many transition countries continue to report high frequency of unofficial payments. The least frequent bribery is reported in some of the western European comparators (Ireland and Spain) as well as in Slovenia, Estonia, and Latvia.

The overall trends in the frequency of firm-level bribery point generally in the same promising direction. Concerns that corruption has become so commonplace that firms now accept it therefore might not be warranted. But digging deeper into the firm-level responses to this one survey question reveals some interesting patterns. The answer that show non-tolerance of corruption by society is no on “bribes are not frequent” question and yes on “bribes are frequent” question.

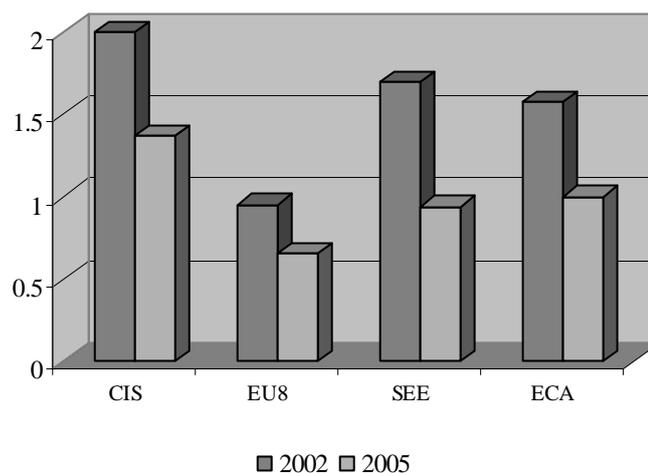
Percent of firms saving unofficial payments are frequent

**Fig. 2** Bribe frequency

Source: *www.worldbank.org*

Another indicator of corruption tracked by BEEPS is the bribe tax, which is the percentage of annual firm revenue paid in bribes, as reported by the firms themselves. Across all of the transition countries, the average percent of revenues paid in bribes declined from 1.6 percent in 2002 to 1.1 percent in 2005. Major improvement is evident in most countries, but the levels remain substantially higher than in the European comparators (figure 3). The bribe tax is complementary to bribe frequency as an indicator, and the two do not necessarily move together. In some countries with high levels of petty corruption, bribe frequency may be high while the overall bribe tax is not particularly onerous. In contrast, where avenues for corruption are tightly controlled within a government bureaucracy, firms may face high bribe taxes on selected transactions but relatively infrequent requests for bribes on a day-to-day basis [1].

Bribes as a share of annual sales

**Fig. 3.** Bribe tax

Source: *www.worldbank.org*

The bribes paid by firms can be dis-aggregated according to different “services”. The survey asked about the proportion of bribes paid each year for the following purposes: to get connected

to and maintain public services, to get licenses and permits, to deal with taxes and tax collection, to gain government contracts, to deal with customs/imports, to deal with courts, and to influence the content of new legislation, rules or decrees [4].

Table 1. Average proportion of bribes spent on each service

Country	Connection to public services	Licenses	Taxes	Gov't contr.	Customs	Courts	Influence legislation
Armenia	10.9	9.8	30.6	5.8	14.0	4.7	3.2
Belarus	9.6	30.4	28.2	7.3	7.1	3.6	0.2
Bulgaria	17.7	22.6	14.1	6.6	1.9	13.6	2.8
Czech Republic	8.3	16.3	7.2	43.0	6.4	6.5	1.6
Estonia	2.0	26.5	6.4	34.5	15.2	2.5	5.9
Georgia	11.0	18.3	29.3	3.6	9.6	11.3	6.6
Hungary	7.3	43.6	10.9	11.1	14.2	3.1	1.4
Kazakhstan	10.7	23.2	20.3	5.3	14.4	12.7	1.3
Lithuania	14.0	8.5	16.3	5.0	15.1	8.7	4.3
Poland	7.4	26.1	8.8	17.7	15.8	9.9	4.3
Romania	16.1	39.8	6.3	7.8	15.2	5.2	3.4
Russia	1.7	20.4	18.5	11.3	8.8	11.1	2.8
Slovakia	5.7	33.2	10.1	18.3	11.8	12.9	1.3
Slovenia	6.5	24.9	4.3	36.3	8.7	5.3	8.2
Uzbekistan	8.5	18.0	27.9	15.4	10.9	5.2	0.9

Source: Hellman, J. S., Jones, G., Kaufmann, D., Schankerman, M. - *Measuring Governance, Corruption, and State Capture. How Firms and Bureaucrats Shape the Business Environment in Transition Economies*, World Bank and EBRD, Washington DC, 2000

There are also significant differences in both the frequency and the level of bribes paid by firms in different categories.

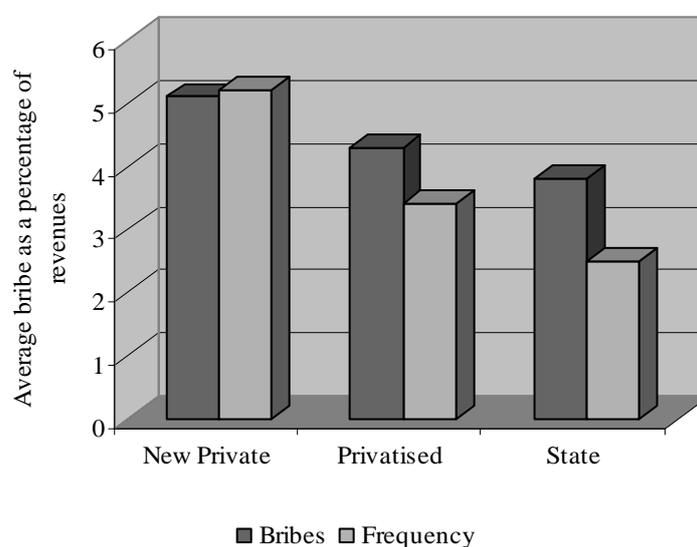


Fig. 4 Average bribes paid and frequency of payment by origin of the firm

Source: Hellman, J. S., Jones, G., Kaufmann, D., Schankerman, M. - *Measuring Governance, Corruption, and State Capture. How Firms and Bureaucrats Shape the Business Environment in Transition Economies*, World Bank and EBRD, Washington DC, 2000

Across the whole sample bribery is a particularly serious disadvantage for new private firms and constitutes a regressive tax with respect to firm size (figure 4) [4].

Comprehensive reviews of studies of corruption and theories endeavoring to explain it serve as a starting point for model building. The background papers by Rose-Ackerman (1996) and Tanzi (1998) include concise verbal descriptions of models and theories used to analyze and explain various aspects of corruption and means of control. Richard Dudley has developed several models of corruption. One model might describe the overall system, with sub-models providing additional detail: The Red tape model presents a macroeconomic overview of corruption; the Bribe Likelihood model looks in more detail at factors affecting bribe givers and takers and the Boss-Employee Relationship model looks at questions of interdependencies within the bribe taking bureaucracy [3].

The Bribe Likelihood model is based on the amount of corruption, the value of the service provided, the effectiveness of anti-corruption measures, the amount of bribe money requested and other sources available (figure 5). The model has three feedback loops that reinforce bribe likelihood and they are linked to the likelihood that officials are corrupt. Loop A describes the fact that an increased amount of corruption increases the likelihood that a bribe is requested which increases the probability that a bribe is paid and loop B presents this in a more direct manner. Loop C presents the decreasing of the average size of a bribe which increases the likelihood that a bribe is paid. Loops D and G are related to the effect of the level of punishment on corruption. When the amount of corruption is high, the punishment system is undermined which leads to more corruption (loop D). When the severity of punishment is high the average size of the bribe is increased (loop E) which decreased the amount of corruption (loop G). Loop F operates in the opposite manner and reflects the idea that corruption creates interdependence among corrupt officials and loop H presents the same idea in a more direct manner.

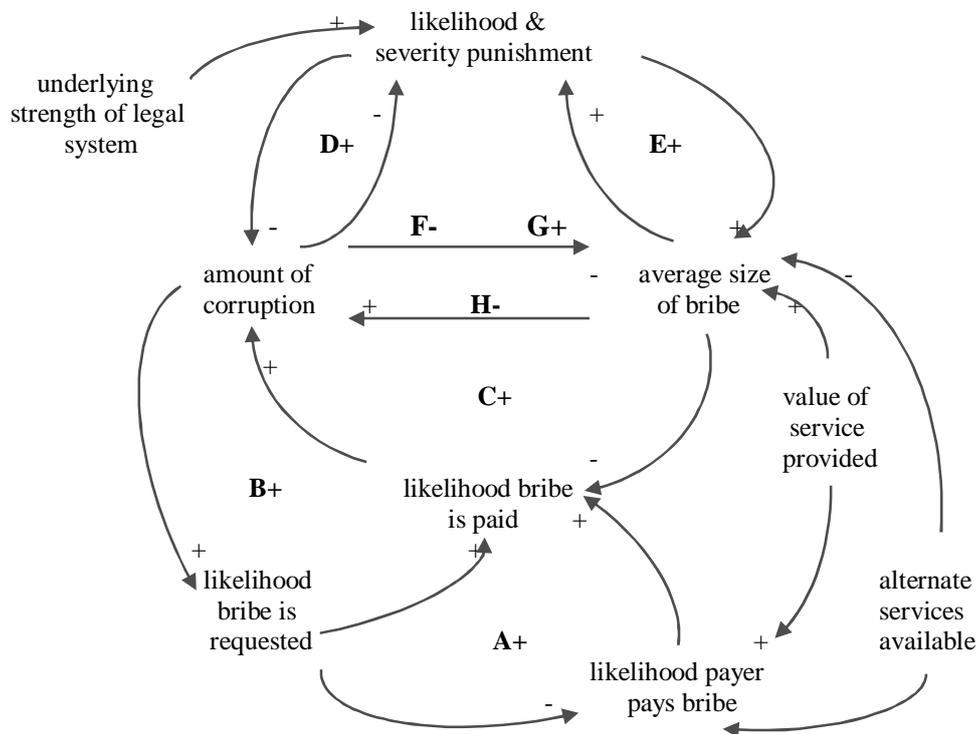


Fig. 5 Bribe Likelihood Model

Source: R. Dudley, *The Rotten Mango: The effect of Corruption on International Development Projects*, paper presented at the Eighteenth International Conference of the System Dynamics Society, "Sustainability in the Third Millennium", Bergen, 2000

International Efforts to Combat Bribery

The international concern about the economic, social and political costs of corruption has motivated representatives of governments and civil society to step up efforts to develop and implement reform solutions. International groups such as the World Trade Organization, the Organization for Economic Co-operation and Development, the Organization of American States, the European Union, various United Nations agencies and the Council of Europe have begun to examine corruption as an important policy concern.

The World Bank's approach starts from the standpoint of corruption as a problem for economic development. The Bank is concerned, "not with the exercise of state powers in the broad sense but specifically with the appropriate management of the public sector and the creation of an enabling environment for the private sector" [9]. The framework for addressing corruption guides the Bank's activities at four levels [5]:

- Preventing fraud and corruption within Bank-financed projects;
- Helping countries that request bank support in their efforts to reduce corruption;
- Taking corruption more explicitly into account in country assistance strategies, country lending considerations, the policy dialogue and the choice and design of projects;
- Adding voice and support to international efforts to reduce corruption.

Member States of the European Union agreed to the Protocol drawn up on the basis of article K.3 of the Treaty on European Union to the Convention on the Protection of the European Communities 'Financial Interests. The Protocol differentiates between active and passive corruption (the recipient). Passive corruption refers to the request, receipt or acceptance of a promise about "advantages of any kind whatsoever, for himself or for a third party". Active corruption refers to advantages given or promised directly or indirectly to an official, so that he or she acts or refrains from acting in breach of official duties in a way that is likely damage the financial interest of the European Union. Members States are required to ensure that such conduct constitutes a criminal offence under their domestic laws. They also have to ensure that their laws cover actions by and against both national and European Union officials.

UNDP approaches the issue of corruption as a governance problem. It has made the minimization of corruption central to achieving the organization's overall purpose of alleviating poverty and attaining social and people-centered sustainable development. In the fight against corruption, UNDP aims to strengthen its role in facilitating the involvement of civil society and the private sector in policy development, a role that enhances transparency and accountability of economic and financial management processes.

The Inter-American Convention against Corruption adopted by OAS on 29 March 1996 treats the problem as institutional rather than individual, and the fight against the problem is considered as a process in which all actors (States, the private sector, the wider society and the international community) play an active role. The Convention is the most important legal instrument at the inter-American level for the purpose of extraditing those who have committed corrupt practices. It is designed to assist investigators in overcoming the hurdle of bank secrecy, and to provide for a golden mean between attacking corruption and offering asylum, where appropriate; asylum, however, cannot be allowed to facilitate the avoidance of justice in cases of corruption.

The OECD has been addressing corruption first and foremost by developing various instruments targeting "active bribery" or the "supply side" of corruption- that is the offering of bribes. It has adopted four important instruments [8]:

- The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Anti Bribery Convention);
- The 1997 Revised Recommendation of the Council on Combating Bribery in International Business Transactions;
- The Agreed Common Elements of Criminal Legislation and Related Action;
- The 1996 Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials.

Under these instruments, Parties to the Convention are required to implement a comprehensive set of legal, regulatory and policy measures to prevent, detect, prosecute and sanction bribery of foreign officials.

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Câteva încercări de a defini și măsura mita

Rezumat

Corupția reprezintă un fenomen complex cu multiple cauze și efecte și poate îmbrăca o varietate de forme și funcții în diferite contexte. Fenomenul corupției poate porni de la un simplu act de plată ce este în contradicție cu legea până la dereglarea endemică a sistemului economic și politic. Mita reprezintă o formă specifică a corupției, putând fi caracterizată din punct de vedere al extinderii, nivelului și frecvenței sale.