

**Perverse Negotiations:
Bribery, Bargaining and Ripeness**

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Abstract. Many countries in transition suffer from chronic and systemic corruption that compromises governance and slows economic growth. As a primary manifestation of corruption, bribery is conceived in this chapter as a classic negotiation transaction between public officials and citizens, but one that exists in an illegal context. The satisfaction of interests through bribery negotiations may serve personal goals, but subvert the larger system of governance. While governments and international donor organizations have been seeking effective approaches to fight or prevent bribery and corruption through stricter law enforcement, administrative and institutional reforms, and public education strategies, one novel approach may be to deconstruct the bribery negotiation process to eliminate the opportunity for such transactions. The chapter analyzes this particular negotiation context in relation to Zartman's ripeness theory to identify ways to change the process and alter incentives, making negotiations concerning bribery a rare and high risk activity.

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As one of the most common modes of human interaction, the negotiation process constitutes the core dynamic of many problem-solving transactions, whether it be familial, business, governmental or international. In all of these domains, negotiation also serves as the vehicle for one of the oldest of human activities, corruption. Most acts of petty, low level corruption can be characterized in negotiation terms: they include actors with clear interests who use power and persuasion to obtain mutually beneficial outcomes. Taking a broader societal perspective, most analysts view corruption as negative to economic growth, public confidence and good governance (Rose-Ackerman, 1978; Kramer, 1999); the fact that corruption operates as a negotiation process appears to be inconsequential. However, this linkage to negotiation processes may be the key to developing an ameliorative strategy for fighting corruption.

Over the past decade, the international community, many governments, and civil society organizations have focused attention on the persistent problem of corruption in transitional economies, as well as in developing and industrialized states, blaming it for slowed economic growth and deterioration in the quality of public service delivery. They have struggled to design and implement anti-corruption strategies that can reverse or control these negative trends, in close coordination with host governments (World Bank, 2000a & 2000b; USAID, 1999; OECD, 2000; Elliott, 1997; Bhargava and Bolongaita, 2004; Spector, 2005). While traditional anti-corruption approaches have sought to build effective rule of law procedures and institutions, and strengthen law enforcement activities, international experience has shown that, by themselves, these initiatives have only a transient impact. Other approaches need to be stimulated – including preventive reforms and public education – and other stakeholders need to be mobilized – including civil society, the private sector, and the mass media -- to develop sustained and comprehensive pressure on state officials and institutions to keep them accountable for their actions (Kaufmann, 2003). These demand-side strategies seek to reduce the opportunities for corrupt encounters by generating a system of checks and balances, creating citizen awareness of legal rights to shield them from threats of abuse and harassment by corrupt officials, and developing independent watchdog groups that monitor government and increase transparency of government operations.

Public sector corruption is typically defined by researchers as the misuse of entrusted authority for private gain (Pope, 1997; USAID, 2005). But when ordinary people are asked to define the corruption phenomenon, they overwhelmingly identify it as the act of bribery, just one of its many manifestations. Bribery is the quid pro quo transaction between a citizen and a government official in which cash, gifts or favors are provided by the former to obtain illicit access or services or faster access or services from the latter (Management Systems International, 2004). Inherent in this bribery transaction is a negotiation between two actors – one who wants something and the other who can provide it, either as part of his/her official state functions or in return for unofficial personal payments or favors. The transaction is a basic tit-for-tat negotiation encounter. From this simple conception of the bribery scenario as a reciprocal negotiation relationship, we propose an unorthodox approach to reduce bribery by eliminating its embedded negotiation elements. If the negotiation can be removed from the bribery transaction, perhaps the corruption can be averted.

The goal of this essay is to evaluate the role that negotiation plays in the typical bribery transaction and how those negotiation elements might be *deconstructed* to prevent the negotiation and hence, the bribery, from occurring. Most negotiation literature seeks to uncover the factors and conditions that are favorable to initiating effective bargaining: what situations prompt the onset of negotiation, promote negotiation, or make the situation ripe for negotiation (Druckman, 1993; Zartman, 1989; Stein, 1989; Spector, 2001). In an unusual twist to this plot, we seek to understand what is required to *stop* negotiation in particular cases where the vulnerability to bribery activity is high. If the relevant criteria can be identified, the elimination of certain types of negotiation can become the central theme in national and international anti-corruption strategies. In particular, we want to examine the implications of Zartman's concept of negotiation ripeness (2000) for this bribery negotiation deconstruction.

Corruption and Development

Corruption is a worldwide phenomenon, but largely prevalent and unchecked in countries undergoing transitions or modernization (Huntington, 1968; Kramer, 1999). Certainly, one cannot be attentive to current events today without being inundated by the many reports of corruption in *both* the developing and developed worlds. The great damage and loss of life in

recent earthquakes in Turkey and India have been attributed not so much to acts of God, but to pervasive corruption; it is common practice in these countries for government inspectors to turn a blind eye to building code violations in return for bribes from construction firms. In Salt Lake City, a big scandal revealed how bribery and gifts were intimately involved in the selection of sites for the 2000 Olympic Games. In Brussels, department heads in the European Commission had to resign due to allegations of fraud and corruption. In Germany, former Chancellor Kohl was alleged to be involved in unexplained financial dealings with his political party -- funds given to the party to gain political influence. In Ukraine, surveys conducted prior to the Orange Revolution (Management Systems International, 2000) found that 35 percent of companies pay bribes frequently, an average of 6.5 percent of annual corporate revenue is paid in bribes as unofficial taxes, and over 30 percent of households claim that they are confronted by some form of corruption every year. While corruption remains a real and constant phenomenon that plagues all countries, the difference between developing and developed countries is in the extent to which institutions and processes have been implemented to keep opportunities for corruption checked and under control, and predictable punishment is meted out when corruption is exposed.

Bribery, corruption's principal manifestation, is as old as recorded history and is even mentioned in Psalm of David 15 as one of those basic volitional actions that will prevent one from "dwelling upon Thy holy mountain." The bribery transaction has two basic variants – the demand and the offer. It can be initiated by officials who use their position to extort payments and favors from citizens who are eligible to obtain services for no extra fee whatsoever. Alternatively, it can be offered by citizens who seek special dispensation or service by paying off or providing a gift or favor to an official who is otherwise entrusted with upholding the law. Whether or not the quid pro quo in fact occurs after the corrupt transaction is initiated depends upon the ethics, desperation, desire for gratification, and fear of punishment of both sides in the transaction.

What makes corruption so prevalent in development situations? Corruption is more than just a function of personal greed or cultural predisposition (Kaufmann, 1997). It tends to prevail where *the rule of law* is not clearly elaborated and public officials have wide authority to act; under these circumstances, officials can make decisions that benefit themselves with impunity, free

from the risk of certain detection. Corruption thrives when officials are not held *accountable* and there is minimal *transparency* in the decision process. Weak and ill-conceived *incentives* also make societies vulnerable to corruption – when civil servants are not paid a living wage, when there are few rewards for good performance, and when there is little fear of punishment for wrongdoing. Countries with weak *institutions* that are over-politicized and cannot enforce their decisions are also prone to corrupt practices. When there is a lack of *political will* and commitment to make reforms among society's leadership, corruption prospers. An underdeveloped *civil society* also contributes to corruption, because this is the sector of society that typically serves as the external watchdog of government operations and decisions; without their active role in pressuring officials, government can often proceed unchecked. Finally, in developing countries where *citizen loyalties* to the state are still in a formative stage and may be more strongly focused on personal, tribal or clan relationships, corruption in the state can grow because accountability is not enforced.

Wide discretion, limited accountability and limited transparency in government decision making open the door to bribery negotiations (USAID, 1999). Wide discretion provides government officials with the opportunity to interpret laws, regulations and processes and makes negotiation concerning how they are implemented possible. Limited accountability provides government officials with practically free agency; they can negotiate on terms that will yield personal benefit with little risk that they will be caught and punished for overstepping the public trust. Limited transparency offers both the public official as well as their negotiating partner the relative secrecy that is required to conduct their extra-legal transaction. The opposite of each of these conditions that make bribery negotiations possible can be rectified by the effective rule of law. In such situations, what is expected of public officials is clearly prescribed, their ability to interpret is circumscribed, and government decision making is predictable to all parties and open to inspection by all. These are circumstances that reduce the opportunity for negotiation and hence, for bribery.

What makes corruption so counterproductive to development? First, it impairs the possibilities for economic growth (Mauro, 1997). Corruption scares off private investment from domestic and foreign sources that fear the risks, unknown costs and harassment involved in highly corrupt

systems. Corruption also encourages the growth of a shadow economy, where taxes and fees are not paid to the state but as unofficial payments to corrupt bureaucrats. Second, corruption reduces the ability of the state to govern. It undermines the rule of law and replaces it with a personalistic and changeable set of informal relationships. It also reduces the capacity of the government to deliver quality public services; with funds siphoned off from the public treasury into the pockets of corrupt officials, there is less money available to provide citizens with the services that their government is supposed to provide. Finally, corruption demoralizes the public and results in a loss of confidence and trust that government is there to serve the people and develop the country.

Given the prospects of these negative consequences, international donors, as well as developing and transitioning countries themselves, have become extremely sensitive to the existence and growth of corruption and many have sought aggressively to implement anti-corruption campaigns. Leakage of donor development funds, especially surrounding large public construction projects, major procurements, and humanitarian crises, has caused donors to be cautious in their granting and lending programs and has resulted in the imposition of new conditionality clauses that require countries to diagnose their corruption problems and implement active and realistic national anti-corruption strategies before new funds are released (Sleeper, 2003).

Bribery and Negotiation

Self interest is the major motivating feature behind bribery transactions; either the official is actively seeking to benefit at the expense of the public or a citizen is offering illicit rewards to an official to extract special access or waivers from regulations. Corruption can take on many forms other than bribery: extortion, influence buying, favoritism, nepotism, fraud, and embezzlement, among others. Some of these corrupt actions take advantage of the special access to public funds and public decision making that government officials have as a natural result of their positions. These actions may not require another party to accomplish their objectives; the corrupt official may just take what he/she wants. But bribery transactions necessarily involve demands and offers, a giver and taker, and bribery involves negotiation. In this study, we examine only the

bribery transaction. Negotiation as a process is value-free, but when performed in the service of illegal transactions must be viewed as perverse.

The bribery transaction is a cost-benefit exchange, operating as a distributive negotiation. It usually involves parties that are unequal in their power position (Khan, 1996). Thus, the negotiation tends to be asymmetrical. Either the unchecked government official wields total power over the service or approval that the citizen wants or the citizen wields the power of the purse and can influence officials to provide a government service or turn a blind eye to some illicit activity. In this way, one party can impose a cost or benefit on the other party to extract a desired behavior. Goods are distributed in the transaction to both sides – often money or a favor to obtain a legally obligated service or some special government dispensation or service.

Negotiation requires mixed motives – a desire for cooperation at the same time that there are conflicting interests among the parties. However, some may say that the bribery transaction is entirely a coordination situation among consenting partners; all sides want to achieve something illicit through their transaction -- it is not a negotiation of mixed motives at all. While this might be the case in some situations, survey research has indicated that a large number of citizens and business people believe they are victimized by the transaction and frustrated by being forced into it; they may consent to the transaction but they are by no means pleased about it (Management Systems International, 2004). Under these circumstances, conflictual and cooperative interests do exist side-by-side in a bribery negotiation setting; there is competition among the parties, for example, to get expected services or approvals but not to pay extra for them.

The recent bribery scandal in Peru (McMillan and Zoido, 2004) serves as a stark and vivid example of how negotiation processes permeate this form of corruption and how it can be manifested, not only as low level administrative corruption, but as a potent form of high level *state capture* (Hellman, Jones and Kaufmann, 2000), in this case by the intelligence service. For ten years, Vladimiro Montesino, the National Intelligence Service chief, systematically conducted “secret” bribery negotiations with politicians, judges and media owners. He offered them large cash bribes, promotions, judicial influence and legislative votes, in return for their political support, compliance or silence. We know of his explicit negotiations because Montesino

videotaped them all (there are estimates that 1600 Peruvians were bribed), kept meticulous records of bribes given and extracted signed agreements (pledges) from the bribed individuals documenting the transaction and the quid pro quo! He apparently kept these records to prove the others' complicity, enforce the pledges, and threaten blackmail if necessary. In an unusual turn of events, the tapes were broadcast on Peruvian television by one of the few stations that had not been bought off, leading to Montesino's arrest and prosecution and the rapid fall of the Fujimori government in 2000.

The negotiations were simple transactions. Offers of cash payments, favors or influence were made to officials and the media to facilitate the regime's evasion of typical democratic constraints. The offer, coming directly from the head of the National Intelligence Service, was hard to resist or reject; Montesino had the muscle to retaliate harshly for noncompliance. To reduce the possibility of defection, he usually paid the bribes in installments over time and created a strong sense of camaraderie among his bribe recipients where commitments could not be forgotten.

In Russia, a public opinion survey asked citizens who had transacted with government officials recently to obtain basic services if bribes had been demanded or offered as a condition for receiving the service (Management Systems International, 2004). Interestingly, for most business-related services where government provides permissions (customs, privatization, utilities), bribes were demanded by officials more frequently than offered by citizens. However, for personal services (getting drivers licenses, obtaining healthcare and dealing with Army draft boards, schools and universities), bribes were more typically offered by citizens. The marketplace for government-provided public services is clearly a negotiation involving demands and offers, where power asymmetry predicts likely strategies.

Ripeness and Reversing Bribery Negotiations

Ripeness theory, introduced by Zartman in the early 1980s, has become a central conceptual framework employed by researchers to explain the onset of negotiation processes and by policy makers to decide on those conflicts amenable to resolution and positive interventions (Zartman

1989, 2000). The ripeness metaphor is easily understood and intuitive which is why it has been embraced by the research, as well as the practitioner, communities. It posits that there are ripe moments in the life cycle of conflicts, which, if seized, will result in successful resolution of those conflicts. What makes a conflict ripe for resolution, in part, are “mutually hurting stalemates” – perceptions of increasingly painful conditions which will yield only further pain and ultimate catastrophe for the conflicting parties if they are left to fester. Under these circumstances, the interests of the parties will not be achieved or even approximated; an alternative approach to relieve the stalemate needs to be found. Thus, ripeness theory also proposes that in addition to these painful stalemates, the parties must be able to see a way out of the conflict; they must have a vision of a feasible and peaceful outcome which can be achieved through negotiation or mediation.

When the conflicting parties perceive a mutually hurting stalemate and a way out of their predicament, the moment is ripe for resolution. Zartman’s theoretical construct offers an explanation of conflict resolution that focuses on perceptions (how aware the parties are of their conflict status), incentives (how motivated they are by the increasing pain imposed by the conflict), and timing (how they seize upon the fleeting opportunity). Ripeness is a necessary initiating catalyst to transform conflicts and Zartman’s framework can also be a key to understanding bribery negotiations.

In his 2000 chapter revisiting ripeness theory, Zartman addressed an important but troubling aspect of the theory: Are conflicts amenable to resolution only when the pain of stalemate and catastrophe become too great to bear? Do international conflicts have to reach a crescendo or threat of violence, possibly endangering the order of neighboring states and regions, to produce the conditions for resolution? Clearly, this is the situation by which many conflicts are transformed. But it is not the only possible path. Zartman posits an extension to ripeness theory: mutually enticing opportunities. Positive incentives, not only negative incentives, can motivate conflict transformation. The vision or promise of overwhelming reward or benefit can be “the straw that breaks the camel’s back,” pushing decision makers to commence negotiation and search for mutually acceptable solutions. Moreover, such positive incentives have the potential

to produce more attractive, and therefore, stable outcomes over time than negatively induced solutions. The psychological literature on incentives backs up this assumption.

If ripeness is determined not only by how bad it can get, but how good it can become, new approaches and strategies that promote negotiation, are feasible. Diplomats and policy makers can push conflict situations into ripeness by introducing new carrots. Conflicts may become ripe for resolution at an earlier stage in their development, thereby reducing suffering and loss of life and property. In Zartman's new extension of ripeness theory, he opens the door to creative and flexible strategies to transform conflicts, not only by the immediate parties to the conflict but by interested third parties as well. By offering and manipulating positive incentives, ripeness can be positioned and engineered to catalyze the conflict transformation process and engage the parties in a more attractive negotiated or mediated search for solutions.

Ripeness theory and this new extension present novel ways for understanding how conflicts are transformed and how the negotiation process gets started. Zartman's original ripeness construct motivated many researchers to examine and test the concepts. Policy makers will be energized by the additional concept of mutually enticing opportunity, because it suggests an activist path to generate perceptions of ripeness. Visions of future mutually beneficial solutions, promises of financial and material assistance, and possibilities of winning quickly or developing new international relationships may be able to bring the conflicting parties to quicker realization of their interests through negotiation. Proactive interventions can be introduced by potential mediators or international organizations to ripen conflicts more rapidly. As such, manipulating ripeness can be seen as a new form of preventive diplomacy.

In the case of bribery negotiations, the incentives of cash payments, gifts or favors can bring on ripeness. When offered, they are usually sufficiently enticing to the government official to result in his/her acceding to the demand for services or turning a blind eye. When the bribe is extorted from a citizen by an official, payment can be viewed as generating ripeness, because obtaining the desired service is sufficiently enticing in itself. Rarely would you describe the bribery situation as a mutually hurting stalemate.

If ripeness ensures bribery negotiations, could ripeness *turned in reverse* avert negotiations? If ripeness can be manipulated to promote negotiation, it should be possible to engineer situations of under-ripeness, that is, where the incentives – positive or negative – are insufficient to stimulate the bribery encounter. Perhaps the prescription for reducing bribery is to create an environment in which the benefits and incentives of bribery are minimized, thereby being under-ripe for negotiation. This suggests that the perceived benefits of bribery need to be tempered by the risks of discovery and certain punishment. Adding this ambiguity to the motives of bribery negotiators can yield a deterrent to the deal and turn a potentially ripe moment into an unripe one. While this manipulation of incentives may not represent a novel revelation about bribery dynamics, viewing bribery as essentially a negotiation process is. This different perspective on the bribery problem may open up new opportunities to sabotage it.

The Building Blocks of Bribery Negotiations

We can examine how ripeness can be turned in reverse by analyzing and deconstructing the fundamental elements that facilitate bribery negotiations. The following analytical review of the essential building blocks of negotiations (Kremenjuk, 1991) point to vulnerabilities in the bribery process.

Actors and Structure. The actors in most corruption negotiations are government officials and citizens. They can be depicted in a Principal-Agent-Client structure to explain the governance relationship that can turn corrupt (Banfield, 1975; Rose-Ackerman, 1978; Klitgaard, 1988; Klitgaard, et al., 2000). The Principal might be the chief of a government department who is responsible for various functions and services. The Agent might be a bureaucrat who is charged with actually carrying out specific functions and services and interacts directly with the public. The Client might be a citizen or business person who seeks a service or permission from government, in particular, from an Agent. With the proper controls, accountability mechanisms and transparent processes, these three actors can interact relatively smoothly, passing requests, information and feedback among themselves, and carrying out functions in a predictable fashion in accordance with laws and regulations. However, in systems with wide discretion, limited accountability and low transparency, there can be many opportunities for negotiation leading to

bribery among these stakeholders. Principals can select Agents based on favoritism and nepotism so their loyalty is not pledged to the public at large and they fail to see themselves as “public servants.” Agents can negotiate for extra unofficial payments from Clients (i.e., extortion) to deliver services or permissions and then pass part of these payments up the ladder to the Principals as kickbacks. Agents can also threaten to harass Clients if payments are not made. Clients, too, can negotiate with Agents, offering bribes to get special treatment or causing Agents to turn a blind eye to illegal activity.

In a survey of public officials in four countries of Eastern Europe, Miller, et al. (1999) found that officials believed it proper to expect and/or demand bribes from clients. Sixty percent of officials thought it right to accept bribes if offered in return for extra work to solve client problems. Fifty-three percent thought it right to accept bribes to solve problems faster than normal. Fifteen percent thought it right to ask for a bribe.

The question often asked in a corruption negotiation is “who is the corrupter?” The question revolves around who holds the stronger power position and who initiates the corrupt promise or threat. Is the government official who withholds a legal service or permission if a bribe is not provided thereby victimizing the citizen? Or is the citizen the corrupting agent, offering bribes and favors to low paid government officials who desperately need to increase their family income? Or are both actors willing accomplices, each understanding the system and how things are accomplished? Miller, et al. (1998) conducted public surveys in Ukraine, Bulgaria, Slovakia and the Czech Republic in 1997 and 1998 to understand these negotiation relationships. Their results do not always support the popular allegation that citizens and business people are the source of corruption, tantalizing government officials with bribes and favors. In the Czech and Slovak Republics, their findings suggest that citizens were not simple victims of official corruption, but accomplices – the public and officials were working in collusion to perpetuate the pervasive system of corruption. On the other hand, in Bulgaria and Ukraine, citizens clearly believe that they are the victims of greedy officials. In all cases, it was a combination of official greed and citizen submissiveness and tolerance that perpetuated high levels of bribery.

The corruption culture -- and the resulting corruption negotiation -- among domestic actors is often different from transactions between domestic and foreign parties. The expectations of the transaction are not likely to coincide. Domestic government officials may perceive foreign investors as likely prey who can pay much higher bribes than domestic business people. Foreign investors may not anticipate the domestic corruption culture. The result may be a highly contentious negotiation process.

The dynamics motivating corruption negotiations between Principal, Agent and Client hinge on self interest. Where the rule of law is strong, respected and enforced, self interest is naturally bounded by law and the firm expectation that wrongdoers will be caught and punished. But where the rule of law is weak, the controls that circumscribe self interest may not be present. Self-gratification and power prevail. By initiating a corruption negotiation, the official or the citizen can seek certain benefits that would be denied or delayed otherwise.

Process. Corruption is an implicit, and sometimes explicit, negotiated contract specifying what each party has committed itself to accomplishing, that is, the *quid pro quo*. It is usually the reciprocation of a service for a gift. What, in fact, is the object of this type of negotiation? It can be the size and nature of the bribe or the size and nature of what you get in return for the bribe. In a survey of corruption in Kharkiv, Ukraine at the end of 1999 (Management Systems International, 2000), bargaining over the bribe price was clearly evident. Of those citizens who said they paid a bribe, they indicate paying 28 percent less than what was requested by the government official! Ten percent of the respondents indicate clearly that they try to negotiate with officials to avoid paying bribes or to reduce the price.

A survey of households, businesses and public officials in Romania conducted in early 2000 (Management Systems International and World Bank, 2000) emphasizes the *quid pro quo* between officials and citizens. To obtain health care services, bribes are essential to get better service or to get any service at all. Likewise, in the educational field, bribes are a determining factor in getting children placed in school and in getting better grades. Among public officials, 37 percent said they were offered small bribes over the last 12 months; 11 percent said they were offered expensive gifts or bribes. But 30 percent indicate that while bribes were given and

accepted, they were not necessary; if you have patience, they say, you can get what you want without paying bribes. But when business people responded, 75 percent indicate that they spend over 6 percent of their working hours negotiating with government bureaucrats, increasing the opportunities for bribe-giving and bribe-taking. From the business person's perspective, their involvement in the corruption negotiation was not voluntary. Forty-one percent indicate that government officials told them a bribe was expected – to speed the delivery of services or get favorable treatment. A much smaller number of business people, 18 percent, indicated that they were the primary initiators of the corruption negotiation, offering bribes to officials.

Whether or not the negotiation situation is acceptable to either of the parties is also a question. The victim may be able to resist the bribe-request by waiting or seeking an alternative channel to obtain the desired service. The proposed bribe-taker might be able to resist the offered gift or favor by appealing to the rule of law or indicating that the risk of accepting the bribe is just too great. In both these cases, each party can be said to have a BATNA, a preferred alternative to a negotiated agreement.

Several negotiation process elements are important to consider in corruption negotiations – the secrecy of the transaction, tolerance for the transaction, the reliability of each side, and the development of dependencies. Secrecy in the negotiation enables the transaction to thrive. If the process were conducted in the open, it would cease to exist due to the very illegality of the transaction. Tolerance for the practice of corruption is another factor that perpetuates it. Victims, while damning the tradition of bribery and fraud, typically practice it actively (Miller, et al., 1998). Whether willing or grudging in their acceptance of corruption, they continue to practice it, not being able to conceive of any way out. In the four countries they surveyed, Miller and his colleagues (1998) found that between 62 and 91 percent of the citizens in those countries needed to pay a bribe or use a special contact to get something from government that they were entitled to by law for free. Some suggest that only when tolerance turns to frustration and frustration to outrage with the practice of corruption will that acquiescence cease and the required political will to make reforms to control corruption will emerge (Spector, 2000a, 2000b).

The reliability of the transaction is one of the uncertainties of corruption negotiations. Will the promised reciprocation actually occur if the bribe is provided? Will you get what you pay for? Is there trust among thieves? Trust in the other party is required for the negotiation to proceed. In the Kharkiv survey (Management Systems International, 2000), 50 percent of the respondents indicate that they believe that giving the bribe guarantees quicker and better service. Of these respondents, the younger the person, the more they believe the reliability of the negotiation transaction. Correspondingly, if you do not give a bribe, it is believed that service will not be provided quickly (52 percent) or at all (38 percent). Thirty percent of respondents were unsure of the reliability of the corruption negotiation, but these people tended to have less direct and personal experience with corruption transactions.

Once a bribe is given and the expected service rendered, dependencies may develop between the corrupting agent and the victim over time, yielding a situation that requires further bribery to get any services whatsoever. The resulting post-agreement negotiation process may see an escalation of the extortion involved, bidding up the price for services unless an alternative source for those services is found.

Strategy. How is power used among bribery negotiators to achieve their objectives? It is often the government official who has what the citizen or business person wants and can extort bribes or favors to provide the service or permission. Some officials view their positions, not as servants of the people, but as rent seekers who have the right to steal and plunder during their tenure. Miller et al. (1998) found that officials who merely ask for a bribe actually receive the bribe; extortion works. More so, if officials cause unnecessary problems, delays and administrative complications for citizens, the rate of bribe-giving increases; citizens are responsive to pressure.

From the citizen's perspective, it is a popular belief that corruption and promoting corruption can be good for business. It greases the skids and enables business to operate effectively – licenses can be obtained more readily and inspections can be “passed” at just a small cost relative to the actual regulated cost of satisfying regulations and standards. In fact, some have indicated that when it comes to the health care system in many Eastern European and former Soviet Union

countries, if unofficial payments were eliminated, the entire structure of health care provision would collapse. So, under such circumstances, citizen/business strategies to initiate corrupt transactions may be viewed as positive elements. On the other hand, citizens who are pressured to give bribes often acquiesce easily and tolerate the transaction. They often fear retribution or worse inconveniences if they do not pay the bribe, and see no way out of the problem that is within their power. Like coercive diplomacy, government officials can seek to impose additional difficulties on citizens to encourage or force them to pay the bribe (George, 1991). Coercion works because citizens feel trapped, with no BATNA or fallback position.

Deconstructing Corruption Negotiations

If negotiations are a principal process channel by which bribery manifests itself, it follows logically that deconstructing negotiations – making negotiations difficult or impossible to conduct – may be an efficient means to reduce corruption. How can perverse bribery negotiations be deconstructed? One way would be to disrupt the building blocks of effective bribery negotiation encounters. Another way is to inhibit the situational factors that facilitate effective negotiation and bring parties together to the bargaining table. Specific initiatives that draw on both of these approaches are described below.

Reduce Self Interest in Negotiation. Self interest that stimulates negotiation can be tempered. This will inhibit negotiation motives. For example,

- ***Reduce reliability in the negotiation dynamic.*** If the expectation that a bribe will guarantee the desired service -- if permission or blind eye is less than 100 percent -- negotiators may seek alternative means to achieve their goals.
- ***Provide better alternatives to a negotiated agreement (BATNAs).*** If officials believe that accepting a bribe will mean certain arrest and severe punishment, they are likely to avoid engaging in the corrupt transaction. If citizen victims find that they can hold out and still get their service or permission from government officials in a reasonable amount of time, they may desist from paying requested bribes.

Re-engineer the Negotiation Situation. It may be possible to modify the situation within which bribery negotiations usually are conducted to reduce their likelihood. We can draw on the negotiation research literature that evaluates situational hindrances and determinants (Druckman 1993, 1994). For example,

- ***Increase transparency.*** If all government operations, including negotiations between government agents and citizen clients, are conducted in the open – if there are standard “sunshine laws” in place – then it will be difficult, if not impossible to offer bribes or extort citizens.
- ***Increase independent monitoring of government officials.*** Internal investigative units within government departments can be established to monitor the activities of officials. Alternatively, independent nongovernmental watchdog groups can be formed to ensure the accountability of officials. These groups would open government activities to public scrutiny and reduce the opportunities for secretive bribery negotiations. Citizen and business coalitions to monitor government operations would increase the power position of civil society *vis á vis* the government. By equalizing and leveling the playing field, such coalitions would become less vulnerable to harassment and abuse.
- ***Reduce direct personal contact.*** If it is possible to reduce direct face-to-face contact between officials and citizens, there will be fewer opportunities for negotiation. This could be accomplished by using the postal system and the internet to renew routine licenses and to obtain registrations, for example. E-government solutions are becoming increasingly feasible in many countries. Developing one-stop centers where citizens/business people can get all necessary approvals from a single administrator, rather than going from office to office would also serve a similar purpose.
- ***Reduce discretion for bureaucrats.*** If the implementing regulations for laws are made more precise, there will be less for bureaucrats to interpret as they fulfill their functions. Administrative procedures will become more predictable and clear, both to the official and the citizen/business person. As a result, there will be less to negotiate about.
- ***Remove mutually hurting stalemate.*** Negotiations often occur because all parties believe that it is the only way to achieve their mutual objectives, having reached deadlock using all other means. If officials and citizens can get what they desire using ordinary prescribed methods, deadlocks will not be encountered and everyone will achieve their goals. For

example, if laws, regulations and procedures for typical government services are clearly written, detailed, and well-publicized, there should be little need to discuss, let alone negotiate, about how they are implemented.

- ***Reduce familiarity between officials and citizens.*** Negotiators who are familiar with each other are more likely to be able to reach agreement. But if officials are rotated on a frequent basis, citizens will be less likely to interact with the same bureaucrat to obtain the permissions and services on a repetitive basis. As a result, bribery negotiations are less likely to commence.

Conclusions

No country has found a reliable way to escape from the problems of corruption. However, some have found ways to reduce the opportunities for corruption from emerging. Deconstructing negotiation – a central dynamic in bribery transactions – seems to be an appropriate and direct way of reducing the opportunities for the emergence of corruption.

Changing incentives will reduce corruption negotiations. The predictability of risk and cost for bribery negotiations are essential in changing the incentive structure. Parties have to know that there are negative consequences that will not serve their self interests.

Changing processes and situational factors will reduce bribery negotiations. The negotiation literature has identified situational factors that are generally favorable to promoting and sustaining effective negotiations. It is possible to use this information to re-engineer the situation so that negotiation-unfavorable conditions make bargaining unlikely. Processes can also be re-engineered so that the typical elements that make negotiations effective are not present.

Changing structures and institutions will reduce corruption negotiations. Certain institutions and structures can be established that change power relationships and open the processes within which negotiations usually take place, making them more unlikely to emerge.

What can be done from a research perspective? Simulations can be conducted in the laboratory to test the effects of deconstructing negotiations on bribery. Such simulations can seek out new ways of undoing the natural dynamic toward negotiation by controlling for different situations and conditions. In addition, practical experiments in the field can be attempted to stop perverse bribery negotiations. Agencies such as the US Agency for International Development can launch pilot projects in the field to determine if the reduction of negotiation is a viable approach to bribery control. Such pilot efforts can be accomplished within broader administrative reform or streamlining programs.

More than a decade of hard work has been spent experimenting with various approaches to reduce corruption and its effects. Some approaches have been effective, others not. But to date, no clear path has been identified to fight corruption. Tinkering with the negotiation process to make it less interesting to potential participants in the corrupt transaction seems to be a simple and direct way of controlling the problem that attacks root causes. It merits further examination and experimentation.

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References

Banfield, Edward (1975) "Corruption as a Feature of Governmental Organization," *Journal of Law and Economics* 18 (December): 587-605.

Bhargava, Vinay and Emil Bolongaita (2004) *Challenging Corruption in Asia: Case Studies and a Framework for Action*. Washington, DC: The World Bank.

Druckman, Daniel (1993) "Situational Levers of Negotiating Flexibility," *Journal of Conflict Resolution* 32 (2): 236-276 (June).

Druckman, Daniel (1994) "Determinants of Compromising Behavior in Negotiation: A Meta Analysis." *Journal of Conflict Resolution* 33 (3): 507-556.

Elliott, Kimberly, editor (1997) *Corruption and the Global Economy*. Washington, DC: Institute for International Economics.

George, Alexander (1991) *Forceful Persuasion*. Washington, DC: United States Institute of Peace Press.

Hellman, Joel, G. Jones, and D. Kaufmann (2000) "Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition." World Bank Policy Research Working Paper No. 2444. Washington, DC: World Bank Institute (September).

Huntington, Samuel (1968) "Modernization and Corruption," in *Political Order in Changing Societies*. New Haven: Yale University Press.

Johnston, Michael (2000) "Controlling Corruption in Local Government: Analysis, Techniques and Action," Washington, DC: Management Systems International.

Kaufmann, Daniel (1997) "Corruption: The Facts," *Foreign Policy*, no. 107 (Summer): 114-131.

Kaufmann, Daniel (2003) "Rethinking Governance: Empirical Lessons Challenge Orthodoxy," Working Paper Series, Washington, DC: World Bank Institute.

Khan, Mushtaq (1996) "The Efficiency Implications of Corruption," *Journal of International Development* 8, 5: 683-696.

Klitgaard, Robert (1988) *Controlling Corruption*. Berkeley: University of California Press.

Klitgaard, Robert, R. Maclean-Abaroa, and H. Lindsey Parris (2000) *Corrupt Cities: A Practical Guide to Cure and Prevention*. Oakland, CA: ICS Press.

Kramer, John M. (1999) "Anti-Corruption Research Concerning Eastern Europe and the Former Soviet Union: A Comparative Analysis." Technical Note No. 2, Center for Governmental Integrity, Washington, DC: Management Systems International. (Available on web at: http://www.nobribes.org/documents/kramer_anti-corruption_research_report-tech2.doc)

Kremenjuk, Victor (1991) *International Negotiation*. San Francisco: Jossey-Bass.

Management Systems International (2000) *Integrity Survey in Kharkiv, Ukraine*. Washington, DC: MSI (conducted by Kiev International Institute of Sociology, November-December 1999).

Management Systems International (2004) *Public Opinion of Corruption in Vladivostok*. Washington, DC: MSI.

Management Systems International and the World Bank (2000) *Diagnostic Assessment of Corruption in Romania*. Washington, DC: MSI and the World Bank (July).

Mauro, Paolo (1997) "The Effects of Corruption on Growth, Investment and Government Expenditure: A Cross-Country Analysis," in K. Elliott, ed., *Corruption and the Global Economy*. Washington, DC: Institute for International Economics.

McMillan, John and Pablo Zoido (2004) "How to Subvert Democracy: Montesinos in Peru," Unpublished: Stanford University.

Miller, William L., Åse B. Grødeland and Tatyana Y. Koshechkina (1998) "Are the people victims or accomplices: the use of presents and bribes to influence officials in Eastern Europe," *Crime, Law and Social Change*, vol. 29 no.4, 273-310;

Miller, William L., Åse B. Grødeland and Tatyana Y. Koshechkina (1999) "What is to be done about corrupt officials? Public opinion in Ukraine, Bulgaria, Slovakia and the Czech Republic," *International Review of Administrative Sciences*.

OECD (2000) *No Longer Business as Usual: Fighting Bribery and Corruption*. Paris: Organization for Economic Cooperation and Development.

Pope, Jeremy (1997) *The TI Source Book*, second edition. Berlin: Transparency International.

Rose-Ackerman, Susan (1978) *Corruption: A Study in Political Economy*. New York: Academic Press.

Sleeper, Jonathan (2003) "How USAID Safeguards against Corruption can be used by the Millennium Challenge Account," Issue Brief #3 (PN-ACT-341), Washington, DC: US Agency for International Development (June).

Spector, Bertram, editor (2005) *Fighting Corruption in Developing Countries: Strategies and Analysis*. Bloomfield, CT: Kumarian Press.

Spector, Bertram (2001) "Negotiation Readiness in the Development Context: Adding Capacity to Ripeness" in Ho-Won Jeong, editor, *From Conflict Resolution to Peace Building*. New York: Macmillan.

Spector, Bertram (2000a) "Building Constituencies for Anti-Corruption Programs: The Role of Diagnostic Assessments," paper presented at the Regional Anti-Corruption Conference, Bucharest, Romania, March 30 (available on www.msiworldwide.com).

Spector, Bertram (2000b) "Anti-Corruption Program Feasibility Study in Russia: Tomsk and Samara," Final Report, October. Washington, DC: Management Systems International.

Stein, Janice (1989) editor, *Getting to the Table: The Processes of International Prenegotiation*. Baltimore: The Johns Hopkins University Press.

USAID (2005) *USAID Anti-Corruption Strategy*. Washington, DC: US Agency for International Development.

USAID (1999) *A Handbook on Fighting Corruption*. Technical Publication Series. Washington, DC: Center for Democracy and Governance, Bureau for Global Programs, US Agency for International Development.

World Bank (2000a) *Anticorruption in Transition: A Contribution to the Policy Debate*. Washington, DC: The World Bank.

World Bank (2000b) *Helping Countries Combat Corruption: Progress at the World Bank Since 1997*. Washington, DC: The World Bank (PREM), June.

Zartman, I. William (1989) *Ripe for Resolution*. New York: Oxford University Press.

Zartman, I. William (2000) "Ripeness: The Hurting Stalemate and Beyond," in *International Conflict Resolution after the Cold War*. Washington, DC: National Academy Press.