

Political Corruption in Transition

A Skeptic's Handbook

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opinion on the quality of the evidence and thus on the expert conclusions. That is one reason why the opinion of more than one expert is often sought. Still, there are constraints in this type of situations too. One is inconsistency: a judge can acquit because he is corrupt, but if he then sentences another defendant to jail in a similar case, his actions become suspicious.

In yet more insidious cases, the observable outcome of a_w does not differ from that of a_p , and the evidence of wrongdoing is simply not available for independent scrutiny unless one of the parties reveals all. If a teacher leaks the exam questions in advance, chances are that he will not be detected. Mimicking is thus easy and corruption can continue undetected for long periods of time. T's best chance is to devise a number of indirect strategies to prevent cheating. As Schelling suggested, the agreement between T and F may have to be expressed in terms of something observable, even though what is observable is not the intended object of the bargain. One may have to pay (. . .) a salesman a commission on sales, rather than on skill and effort; to reward policemen according to statistics on crime rather than on attention to duty; or to punish all employees for the transgression of one. And where performance is a matter of degree, the bargain may have to define arbitrary limits distinguishing performance from non-performance; a specified loss of inventory treated as evidence of theft" (Schelling, 1960, p. 44).

An analogous device in the case of teachers and exams could be to expect a pyramid in the distribution of marks. If all students get 'A' there may be something wrong that may not necessarily be corruption; still, if marks are well distributed this at least ensures that corruption has not spread beyond individual cases.

Political Corruption, Democratization, and Reform

Mark Philp

Defining Political Corruption

This paper examines a series of problems associated with analysing and controlling corruption in the process of democratization, with special reference to political transition in Central and Eastern Europe. It takes for its point of departure a definition of political corruption that centers on the abuse of public office. This is relatively uncontentious.⁴⁰ The paper then turns to examine the conditions under which public office can function with some autonomy, and the impact on this functioning which democratic transition can have. A common assumption in the literature is that increasing democracy provides the basis for enhanced political legitimacy, increased access to decision-making processes, and greater accountability. In practice, however, democratization can weaken the authority and legitimacy of political institutions, it can open the system to more extensive forms of corruption, and it can turn mechanisms for the formal and political accountability of the political system into highly politicized weapons whose effect is destabilizing. Whether or not these consequences accompany transition depends on a wide range of factors, only a few of which can be examined here. Instead, the paper outlines a set of distinctions that can help clarify the nature of a state's corruption problems, together with a series of suggestions as to how different types of corruption may be targeted.

Core cases of corruption involve four key components:

1. a public official (A), who, acting for personal gain,
2. violates the norms of public office and
3. harms the interests of the public (B),
4. to benefit a third party (C) who rewards A for access to goods or services which C would not otherwise obtain.⁴¹

Activities which meet all four criteria are corrupt, although there are also many cases where only three of the four elements are present but where we are justified in claiming that the action/relationship is corrupt. It is contestable whether kleptocracy requires a third party benefiting, yet few doubt that such a regime is corrupt. Similarly, the rewards to C may be something C has a

right to, but where the public official levies a tax on access. Alternatively, the public official may act to avoid certain costs, rather than to incur certain benefits, or may act in pursuit of political rather than personal gains.⁴² We should also distinguish between A-led and C-led types of corruption: in the former the public official imposes the terms on C (from extortion to informal 'taxation'), in the latter the relationship is reversed (from bribery to systematic subversion of the political domain). We can also recognize different types of mutual corruption: cases where the exchange is equivalent and the parties are equal (as in market transactions); cases where the exchange is asymmetric but the parties are equal, as in 'blat'; and cases where the exchange and the parties are unequal, as in patron-client systems.⁴³ The public interest component may also be weak: the bribed policeman may in fact end up acting in the public interest. What remains central is the construction of public office which identifies the character and extent of, and the responsibilities associated with, the relationships between A, B and C.

There is an understandable desire to provide a definition of corruption, which allows comparative judgments to be made but if, there are differences in the norms of public office between states, comparison becomes invidious. The incidence of corrupt rule breaking and prosecutions for corruption will be a function of how extensively corruption is legislated against and how assiduously it is prosecuted. The difficulties become still greater when we face contrasts between stable Western democracies and less democratic societies in which strong patrimonial, patron-client, tribal or communal traditions determine access to political power and shape its exercise. Rather than assessing the latter by standards of the former, we should be asking whether the system has a conception of public office, what the parameters of that conception are, whether those in public office act within that understanding, and (more speculatively) whether that conception is adequate to the tasks and challenges which face the state. Where there is no recognition of a need for a political order, with its associated public offices, formal rules of conduct and sense of the public interest, the fact that distributions and allocations take place on non-political criteria, does not mean there is corruption. Allocations within families rely on other principles, but that does not make them corrupt. It is political corruption only where a political order, with an accompanying understanding of public office and a distinction between responsibilities of office and the interests of office holders, which expresses the aspirations of some significant part of the culture, is subverted by individual

or group activities, which violate that understanding and obscure that distinction.

Difficulties in identifying corruption arise from ambiguities in the identification of public officials, their roles, and the rules governing their official conduct, and from the fact that each criterion is intelligible only against the background of a political culture in which there are shared norms and rules governing the conduct, both of public officials and of members of the public in their dealings with these officials. However, a further dimension which needs emphasis is that political corruption is predicated upon the existence of political rule: politics involves the exercise of public office and this implies *rule*—an ability to order the social, political and economic order through the authoritative prescription of rules, backed by the necessary legitimacy and, where necessary, coercive resources. Political corruption is only one way in which political rule is subverted, and we need a sharper appreciation of the point at which obstacles to political rule are appropriately understood as corrupt.

Political Autonomy, Democratization, and Legitimacy

Public office may be exercised well, it may be corrupt, or it may be rendered ineffective by a range of other factors. It is essential to distinguish these cases to underline the fact that political corruption implies that the state more generally, and an individual office-holder in particular, has some power, the exercise of which can be subverted. We can follow Adam Przeworski's account of state autonomy and distinguish two questions in relation to political institutions:⁴⁴

- a. Are those in public office able to choose the goals of state activity?
- b. Can those in public office realise their goals and objectives once these are chosen?

We can distinguish four state forms on the basis of these two criteria:

Matrix 1

		CHOOSES POLICY	
		YES	NO
REALIZES GOALS	Yes	(1) Autonomous	(2) Instrumental
	No	(3) Embattled	(4) Irrelevant

The matrix helps us see when the state might cease to exercise an independent causal impact on the inputs and outcomes of the political process. In three of the four cases, political rule is subverted. In one of these cases (2), corruption may be a common means of subversion—namely when the state becomes instrumental to the pursuit of sectional goals or interests which cannot be legitimated through the political process or by the norms and rules for the conduct of public office. In the embattled state (3), the political system is unable to implement policies because of overwhelming economic and social conflict or disruption. In the irrelevant state (4) we are dealing with a façade of political rule which has no independent impact on either policy making or implementation. This state is a limit case for the existence of a political realm distinct from the social, in the sense that political life is doubly heteronomous: the officials of the state are incapable of determining policy and of implementing it. We may find such cases in very early stages of political development, but we may also find them in puppet regimes, where the ruling elite is hostage to extra-state forces, usually some foreign power, but where the capacity of the state to ensure compliance with policy so determined becomes compromised through some combination of a general demise of public legitimacy and a loss of control over, or a dissolution of, the coercive apparatus of the state. We may also find such cases where the grip of, the norms governing relations between those in office and the public is so weak that the rules are completely ineffective.

Autonomy is a matter of degree. In most modern states the choosing of goals and their realization takes place within a wide range of constraints. These may be built into the structure of political office, or they may be obstacles to the exercise of office owing to the existence of countervailing ‘external’ forces and pressures. The former do not compromise political rule, but they limit its remit and resources, and in different states political rule may be more widely or more narrowly delimited—compare the constraints placed on their Presidents by the American, French and Irish constitutions. Countervailing forces external to the structure of public office include economic constraints, the international situation, public opinion, and interest group activity. We must also distinguish structural (or ‘hard’) constraints from ‘soft’ constraints (because potentially negotiable) which arise from the agency of particular individuals, groups, or other states. In any state these various elements will have some impact on the policy process, but the central issue is how far they determine the outcome of the process, so that the institutions of political rule and public office play an

essentially subordinate role, and how far their impact is itself governed by political activity and public regulation. In democratic states, in contrast to autocracies, the number and range of these group pressures can be very considerable. Indeed, one paradox associated with democracy is that it offers the promise of popular sovereignty while simultaneously opening up states to a very wide range of legitimate influence, which can drastically curtail the scope for autonomous political agency. Indeed, if we follow Linz and Stepan’s definition of democratization we can see that, in at least one sense, democracy opens up the political process to influence from a dramatically increased range of sources.

Democratization requires open contestation over the right to win control of the government, and this in turn requires free competitive elections, the results of which determine who governs. (Further . . .) A democratic transition is complete when sufficient agreement has been reached about political procedures to produce an elected government, when the government comes to power that is the direct result of a free and popular vote, when this government *de facto* has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies.⁴⁵

That is: firstly, that democratization involves a change in the selection process for political office from a regime in which government is not determined by the popular vote, to one in which it is. Secondly, however, the appeal to *de facto* authority involves insisting that the democratized political process exercises ultimate authority in the policy-making process and in the exercise of power within the state. Democratization, then, requires both that there be democratic politics, and that the democratic political process rules within the state.⁴⁶

Offe suggests that democratization must also involve consolidation (“or [equivalently] ‘institutionalization’”), which has a vertical and horizontal dimension.

Vertical . . . consolidated systems are those (in which) . . . every actor’s decision making is constrained by higher-order, decision-making rules, i.e., rules which are not at the disposition of the actor himself, but to which the actor can refer as a license for, or legitimation of, his own decision making.

Horizontal differentiation (concerns) ‘the degree of insulation of institutional spheres from each other and the limited convertibility of status attributes from one sphere to another.’⁴⁷

The first criterion might be taken as specifying the relationship between *de jure* and *de facto* authority, indicating that there is consolidation when the political institutions within the state exercise the latter within the constraints of the former. Vertical consolidation is certainly not unique to democracies, and might be thought a component of all political regimes, insofar as they are political (as when the actions of kings come to be considered as restricted by the responsibilities of the crown). The second criterion is more complex. It looks more like a causal condition for secure consolidation, rather than a criterion of consolidation itself. However, a comment by Offe in an earlier paper suggests why we need to recognize horizontal differentiation as providing distinctive problems for the modern, liberal-democratic state. Most crucially, the commitment to the protection of private property, both individual and in the means of production, distribution and exchange substantially restricts the means a state can use to achieve its ends and opens it up to a much wider range of legitimate influences. As Offe puts it: "In making and implementing policy, the political system can only make offers to external, autonomous bodies responsible for decisions. Either these offers are not accepted, thus making the attempt at direction in vain, or the offers are so attractive in order to be accepted, that the political direction for its part loses its autonomy because it has to internalize the aims of the system to be directed."⁴⁸

A central problem for sustaining the independence of politics in liberal-democratic states, on this account, is that it faces an equally autonomous realm of civil society in which groups have every interest in blocking state interference and in seeking to direct the state's activities to serve their own ends. The more autonomous a state becomes, the greater the interest which groups in society have in influencing its activities—pushing it in an instrumental direction.

Transitions can complicate both political agency and its corruption. Both transition and consolidation involve the development and institutionalisation of authoritative norms of political office and political responsibility. When there is consolidation, political corruption arises where public officials evade these norms. However, where the old political order has lost its legitimacy and the new remains unconsolidated, it can be difficult to identify corrupt activity, because the norms of public office are unclear, contested, or otherwise undergoing rapid change. In the transitions which took place in Eastern Europe, there

were a number of factors that partly eased and partly exacerbated this situation. Following Offe,⁴⁹ we can recognize that the predominantly non-violent (and non-military) character of the transition left the old elite with some residual credit and legitimacy and meant that no single group had the legitimacy to impose a new order. The weakness and ideological diversity of the counter-elites led to uncertainty over both what was to be jettisoned and by what it was to be replaced—an uncertainty which was intensified by the double and often triple character of the transition: political, economic, and national and territorial. We should also follow Offe in recognizing that the universalist pretences of the old regime led to a considerable mistrust of politics among the population, which left them ill-prepared for democratic participation or for trust in politicians in the transition period. We do not have, then, regimes, in which one comprehensive order is overthrown and replaced by another (one might doubt how far that is ever really possible), but ones, in which some residual legitimacy attached to the old political forms and some of the old political players, where there was no systematic alternative elite or ideology available, where a rapid process of decision making and constitution-, institution- and market-building was needed, and where (in some areas) nationalist agendas rapidly became more significant than practical, political or economic agendas.⁵⁰ It should also be emphasized that in many areas of economic activity the previous regime had created incentives which forced both private citizens and managers in the productive sector to rely extensively on the black market and on a series of forms of 'grey' corruption, in order to obtain basic necessities and to meet targets. The strategy for most people suddenly exposed to the full economic costs of the previous system, was to make the most of opportunities for covert exchange. Similarly, management of the political system by the ruling elite relied heavily on patronage networks and covert forms of reciprocity. Despite the universalist and collectivist ideology of communism, it ended up with a set of highly individualist practices of self-protection which, in a period of rapid political and economic change, inevitably led many with practical responsibility for assets to invest their energies in securing their position in the new order. Each of these factors contributed to undercutting the emergence of a consolidated democratic system with clear and adequate norms and rules for the exercise of public office.

In democracies we can distinguish three components of the political process: the competitive contest for public office; the exercise of public office—*qua office*—in the formation of policy; and the execution and administration of policy, governance and law. In a democracy all three components may be vulnerable to corruption, but in transition, the inheritance from the past inevitably accentuates the vulnerability and threatens the establishment of new practices and the achievement of vertical consolidation. States in which corruption has been rife in the formation of public policy and the exercise of public office—more broadly, states in which the exercise of public office has been subordinate to patron-client relations, kinship structures, patrimonial or communal relations, or even straight monetary exchange—are likely to experience extensive corruption during democratization, and subsequently, because they require a transformation in public conception of the responsibilities of public officials, not just a different process of selecting them. The institution of democratic elections may exacerbate the problems, by rewarding those able to muster coalitions of support (always easier for those with past experience in office and the patronage system), and by subordinating policy making to the need to secure electoral support. Clearly, some responsiveness to the electorate must be a condition for democracy. However, there are forms of alliance with electoral forces which themselves threaten to undermine the independence of public office—such as the courting of majoritarian ethnic, class or religious interests with the prospect of securing ascendancy over a minority.

One factor which makes a substantial contribution to democratic political agency is the ability of those who exercise political power to appeal to the formal standing of their office to justify resisting the demands of groups and interests and to impose constraints on the way such demands are made within the political process. That ability rests on the recognition of the legitimacy of the appeal and of the standing of public office by the political culture. Where there is such recognition democratic political rule is dramatically enhanced—hence Offe's account of the vertical dimension of consolidation in which "every actor's decision making is constrained by higher-order decision-making rules." Although the requirement for legitimation places constraints on what politicians and public officials can do, securing legitimation also buttresses their capacity to act—not least because it substantially reduces, in the specified areas, the range of pressure to which they may legitimately be subject,

while increasing the willingness of groups to comply with the outcomes of the political process.

Loosely, legitimacy may attach to a) a person or party, b) a policy, program or set of outputs, or c) an office, set of procedures or constitutional order.⁵¹ Vertical consolidation implies the priority of the last group over the second and the second over the first (and within these groups the later terms over the earlier). A democratic system has a very low level of consolidation in so far as that order is reversed. In a consolidated order, the state is able to justify its activities by reference to norms for the conduct of political office, which are recognized as legitimate by groups and interests in society (at the very least by those upon whose practical support those in power rely).⁵² For a state to have legitimate authority, it must act in accordance with rules, norms and principles which command (to some extent) general recognition within society—and where they command this, not because (or only insofar as) they serve the interests of those in society (or some portion of them), but because they are recognised as having a validity which constrains the pursuit of those interests in certain fundamental ways, coupling rights of representation with certain responsibilities. Political corruption implicitly rejects the legitimacy of the political process. It is successful only where it compromises the exercise of authority, and it is at its most damaging where it systematically subverts the authority and legitimacy of the state, resulting, in extreme cases, in the collapse of the state's capacity to rule politically.

Legitimacy facilitates political rule: for politics to have some causal role, it must achieve a degree of autonomy from the various interests and forces within (and without) the state, and it is critical for this independence that the norms of political office and the ends of politics (the resolution of conflict, the public interest, or the common good) are recognised as constraining both the way that interests are presented and the range of interests it can be expected to further. Vertical consolidation is evidence of legitimacy, and it also enhances political authority and autonomy. Where these norms are subverted by the search for covert influence, by decisions which circumvent the rules and which cannot withstand publicity, or by rules and criteria which systematically favor some groups or classes over others, political rule becomes a tool for individual or group conflicts, displacing the norms of office and subverting the distinctive character of political rule.

Subverting Public Office

The independence of the democratic political process may be compromised by groups or individuals subverting the electoral process, and/or taking control of policy making and/or blocking the state's implementation of policy.

Matrix 2

		METHOD OF SUBVERSION		
		ELECTORAL SUBVERSION	CONTROLLING POLICY	BLOCKING IMPLEMENTATION
AGENT OF SUBVERSION	INDIVIDUALS	Bribery, campaign funding, buying votes	Inducements and threats	Non-compliance/free-riding
	FACTIONS/CLASSES	Electoral malpractice	Patronage/class rule	Non-cooperation/class war
	BUREAUCRATS/ELITE	Raising entry costs, exploiting access to TV, Media, etc.	Autocracy	Elision of formal controls
	FOREIGN POWERS	Funding of status quo or subversives	Exploiting dependency or venality	Covert support for one or more of the above

This is neither exhaustive, nor especially subtle, as a categorization, but it helps us see the range of different forces that may beset a state. The classification also helps us to identify the main areas of concern for political corruption by providing a framework within which we can identify the extent to which political rule is systematically subverted in the interests of some individual, class, or organization, or by some external source. As we have seen, there are complex issues involved in describing such activity as corrupt. I want to discuss two. The first applies the definition of political corruption to the matrix to ask how far all these forms of activity might, in a consolidated democratic regime, be recognizably corrupt; but the second raises the problem of states where a critical level of political viability has not been crossed.

Broadly speaking, individual actions which subvert the electoral process or attempt to gain control over policy or decisions by the use of illegitimate inducements or threats, will count as corrupt wherever a public official is involved, and where we can establish the triadic relation-

ship, the illicit and personal gains to both sides, and the violation of public rules. Much the same can be said for the activities of factions or classes—not least since a sufficiently stiff form of methodological individualism will reduce collective to individual agency. The situation regarding foreign power is similar, if more complex: similar, because it can be subjected to the same methodological reductionism, but more complex because of the various forms of influence which foreign states may seek to exert, the range of motives for accepting foreign support on the part of those holding public office, and the relative absence of a formal set of rules and norms in the international arena.⁵³ Where the gains and costs are publicly legitimatable it is not corruption, but there may be cases where the receipt of support cannot be publicized, and yet where the support does not affect the ends or activities undertaken by the state.⁵⁴ Clearly, there is much murky water here, and it is crucial to assess the character of the gains made by those who accept funding—personal and private gain is corrupt, public and publicizable gain is not, but certain forms of political or 'institutional' gain (as Thompson's work suggests) may be much closer to corruption. All of these cases are best understood as C-led cases of corruption, in that agents outside the formal institutions of the state seek to influence public officials through the use of incentives and/or threats. In contrast, bureaucrats and members of the political elite provide cases of A-led corruption where they impose extra costs on C. It is difficult to distinguish such cases from straightforward cases of fraud, since in both there is a clear violation of public trust, together with private gain, but no third party who benefits. One possible distinction is between cases where the responsibilities of public office provide opportunities for illicit gain—as in theft and fraud—and cases where the powers of public office are exercised over others to levy gains. But this distinction is suggestive rather than hard and fast. More complex still is the case where the gain sought is simply to sustain ascendancy—this being typical of the extra difficulties associated with A-led corruption: i.e., it becomes harder to keep clear the distinction between the interests of the individual, his/her duties as an office holder, and his/her institutional interests and objectives.⁵⁵

The dimension of the table, which is less immediately relevant to the analysis of corruption, concerns the final column—namely, the ability of individuals to block the implementation of policy. The one exception involves cases where the very individuals who are responsible for the

implementation of law (the bureaucracy or political elite) are those who subvert its application to themselves. Again, this may lack certain elements of the four-fold criteria for corruption (most likely the identification of C), but at its extreme it can involve the corruption of the entire political system. In contrast, tax evasion, mass forms of non-compliance or disobedience, civil unrest, and free-riding, all weaken the capacity (and/or indicate a weakened capacity) of the state to rule but they do not necessarily corrupt the institution of public office. Indeed, in such cases of public non-compliance, we are dealing less with cases of corruption than with a lack of legitimation of the political process by those subject to it and a lack of vertical consolidation. At the extreme, where the activity is undertaken openly, with no sense among those who undertake it that their behavior is illicit, then the more plausible conclusion is that the political order lacks sufficient consolidation to deliver political rule. Short of that point, we will find cases where non-compliance is found in some, but not all areas of the state's activity—but, again, these indicate the failure on the part of the political system to secure legitimation across some sphere or spheres of its activities, rather than corruption. It is a paradox of corruption that, understood in these terms, it is parasitic on the existence of legitimated public office and political rule—so the stronger our sense of the political order, the stronger our sense of the character of corruption. The weaker these institutions are, the more difficulty we have in identifying practices as corrupt, and the more we must fall back on counter-factual arguments to the effect that the state could cross a threshold into effective political rule were it not for the systematic influence being intentionally exerted by some group, which undermines that prospect because their interests are better protected by keeping the state weak and ineffective. Social disorder which makes political rule impossible is not necessarily a sign of corruption, nor indeed is the persistence of tribal, caste or familial forms of social organization the presence of which systematically excludes the possibility that a political order rooted in mass public legitimacy will emerge. The cases become more complex where familial, caste, tribal and patron-client forms of social order co-exist with political forms: where the primary allegiance to the group precludes the development of vertical consolidation and the recognition of the binding character of the norms and practices of the political process, and where groups colonize the political system by occupying its offices

without accepting the legitimacy of its rules and procedures, it becomes difficult to say that political rule has crossed the necessary threshold of effectiveness, and thereby difficult to claim that it is corrupt.

Transition in Central and Eastern Europe has in general involved a dramatic upheaval in the character of political life and the associated conception of public office: it has opened up the political system to a wide range of new political, international and financial pressures; it has introduced contestation into the process of political selection where there is little in the public political culture to ensure that electoral competition is well regulated, transparent, and fair; it has dramatically extended the state's need for legitimacy (by reducing its capacity to rely on coercion), and this has often been coupled with economic crisis as market forces are introduced into these highly protected economies; and it has both tarnished people's confidence in political office, and created systems in which political office is much more reliant for its authority on the confidence that it can inspire among the public. That there should be political corruption in these societies, on this analysis, is hardly surprising. The problem is to see a way forward.

Controlling Corruption

This discussion suggests that we need to be clear, in tackling political corruption, where the impetus for corrupt activity derives from and in what domains it takes place. Is it C- or A-led, or is it mutual? If mutual, is it an exchange of equal values or an asymmetric exchange? If C-led, are we dealing with individual cases, or systematic activity by groups or classes? If A-led, are they isolated cases or part of a more general pattern? If mutual, is this an extension of exchange patterns which are widespread elsewhere in society? Does the activity aim at the electoral process and the filling of public office, or at controlling policy within the political process or decisions within the administration (including the allocations of burdens, such as taxes and rates, or benefits, such as licenses or contracts), or at eliding the formal controls on public officials and members of the political elite? How securely is the political system legitimated, and how far is its activity blocked by non-compliance among the wider population? What impact does this have on the way the state acts, and especially on its ability to retain its capacity to rule and on its relations with enforcement

agencies within the state, such as the police and army? Also, where is the most systematic weakness in the state—and from where does it stem? It is possible, for example, to see the Colombian judiciary as especially susceptible to corruption and thus as a major obstacle to effective political reform. It is, however, also plausible to see the judiciary as systematically undermined by a variety of political and extra-state forces, such that, even if judicial reform were forthcoming, it would be systematically undermined.⁵⁶ Similarly, is police corruption relatively free standing or is it systematically linked to political forces in the state?⁵⁷

These are reasonable questions, and ones which need to be answered prior to tackling corruption, since the precise form and context of corruption will affect assessments of what remedies might be appropriate. In choosing between norms, incentives, penalties, scrutiny systems and demands for transparency or tolerance, we must fit the medicine to the patient. I want to suggest a range of factors that need to be considered in giving this homily a more precise and useful form.

(a) *Incentives*: Economic models of corruption mostly assume that the way to reduce corruption is to reduce the incentives to break rules, by increasing the costs of being caught, by increasing the cost of the activity itself (making it more difficult), or by decreasing the opportunities. However, seeing things in cost–benefit terms assumes that the agent’s orientation towards rules is such that they are to be followed or broken in accordance with a calculation of rational self-interest. Yet, it is plausible to think that market exchanges would not be sustainable if such a calculus were applied to market rules and the systems of rights which underpin them.⁵⁸ The issue, then, cannot be wholly reduced to providing the right incentive structures for people’s interests, since some of the time we want to change the baselines from which agents calculate how to act.⁵⁹ Indeed, it is wildly ambitious to try to establish a system of cross-checking interests which can ensure that both the principal actors and those responsible for rewarding or penalizing their behavior act to sustain the political order while also acting maximally in their own interests.

(b) *Motivation*: Simply because behavior can be categorized under a single term, such as political corruption, does not mean that this behavior is identical in form or motivation. That it has a single term derives from the fact that its various forms have a similar impact on public office—but that does not mean that every act is similarly motivated. It is true that the

common view of corruption as involving *the substitution of private for public interests* strongly suggests self-interest-maximizing trumping demands for self-restraint in the public interest, but the criterion is much better expressed as *the substitution of one set of norms and values (which may, but need not be, self-interest maximizing) for those which identify the responsibilities of public office*. Familial duties, ethnic or religious loyalties, fidelity to friends, norms of reciprocity, machismo values of risk taking, and so on, may all serve to displace the norms of public office for an individual or groups of individuals.⁶⁰ We need to examine whether the corrupt behavior in a particular case derives from, or is endorsed by, some alternative framework of norms. Where, literally everyone is corrupt there is room to doubt whether there is a political order. This might be because some other system of value is subscribed to, or because conditions are such that people are struggling for survival in a situation of chaos and we need to understand them as acting to protect themselves as best they can. In neither case is it persuasive to talk of political corruption since (by hypothesis) a political order is not viable. If corruption is relatively rare, then we may well be dealing with individual cases of self-interest maximizing rule-infraction. However, between these two extremes we are likely to find a large number of cases where, albeit to greater or lesser degrees, alternative norms and commitments make corruption an accepted (because in part acceptable) component of people’s lives. Where this is the case we need to grasp what is motivating people if we are to change the way they behave.

(c) *Motives and incentives among corrupters*: The more that corrupt activity derives from individual incentives *unattached* to group norms and a broader motivational frame, the easier it is to deal with. Any political system has a few bad eggs, every system needs checks and audits, and public officials need to be clear when contacts with the public overstep acceptable bounds, but, if we are dealing with isolated cases the costs are likely to be fewer, and detection and prosecution easier. In contrast, the more that embedded corrupt activity is within a society’s broader social or cultural mores, the more difficult it is to deal with—because there will be more things to change, more and better organized resistance to change, and less legitimacy attaching to those who promote the changes. This is the more so to the degree that holders of public office share these mores. In such cases it becomes increasingly difficult to say that corruption is A- or C-led, since there can be a very high degree of

collusion between the actors, and a sense that what they do is legitimate. The more widespread this sense, the more difficult it is to identify a point in the political system that could act authoritatively to signal that the activity is unacceptable.

(d) *A- and C-led*: The suggestion that we can distinguish corruption which flows from individual maximising as against that which follows group norms is formalized in the following matrix and related to whether corruption is A-led or C-led. This helps generate an account of different types of corrupt activity and of the different strategies which might be appropriate. Thus, a clear code of public ethics which might help increase public officials' awareness of the boundaries of acceptable behavior is more appropriate when we are dealing with C-led corruption on an individual scale, although it might also help to sustain awareness of the margins in C-led group cases.⁶¹ Where we are dealing with officials with expressly corrupt individual or group agendas, subscriptions to basic courses in Public Ethics will be low, as will their effectiveness.

Matrix 3

		CONTROLLING CORRUPTION	
		INDIVIDUAL INCENTIVES	GROUP MORES
AGENTS INSTIGATING CORRUPTION	A-LED	(1) Type: soliciting payments <i>For A</i> : transparency, audit, formal controls, penalties and education <i>For C</i> : multiplying options, access to complaints process	(2) Type: "taxation," extortion <i>For A</i> : intra-state conflict between reformers (R) & A <i>For C</i> : R seeks legitimacy, public educ'n., increases public expectations
	C-LED	(3) Type: bribery, backhanders <i>For A</i> : code of ethics, internal accountability & transparency <i>For C</i> : clear and distinct rules and penalties	(4) Type: protection, appropriation <i>For A</i> : protection plus limiting discretion at interface with C; insulation of decision process. <i>For C</i> : special police powers, infiltration, aim to weaken and divide group

Cell 1. Isolated cases of soliciting payments are not systematically destabilizing of a political system, although particular scandals may rock governments, and they are, relatively speaking, easier to tackle. We assume that in such cases the agent is influenced by certain incentives. To deter such behavior we can try to increase the actual and probable costs of obtaining these benefits, by increasing transparency through audits and formal con-

trols, and by increasing penalties for corrupt activity. We can also work to develop a tighter public service ethos amongst public officials and politicians, so that there is clearer collective condemnation of corruption and a clearer sense of the responsibilities of public office. We can also make it easier for C to resist corrupt solicitation for benefits, or more costly for C not to resist. In the former case, where C is weak and is seeking access to a public service to which there is some entitlement, but where A imposes a levy on that access, we can weaken A's hand by proliferating the points of access for C and strengthening C's access to complaints procedures. In cases such as bidding for contracts, where C stands to gain by the corrupt payments A solicits, we can increase the cost of such activity by allowing prosecutions for collusion and sentences which include the confiscation of assets and withdrawal of tendering rights or rights to conduct business.

Cell 3. When the impetus for corruption lies outside the formal political system, with individuals using bribes and backhanders to gain access to, and control the exercise of political influence or decision making in the public administration, corruption control can follow a dual strategy of strengthening the collective ethos of the public service and the political elite by education, through the development (in association with those involved) of codes of ethics which help individuals think through the limits of propriety concerning their contacts with the private sector, and by ensuring that there is public accountability for decision making. At the same time public campaigns to clarify official codes of conduct (and the corresponding norms for citizens), together with clear penalties for attempted bribery, including those listed above for C under Cell 1, reduce the incentives for such activity.

Cell 4. The situation becomes more complex when the state faces groups and communities which repudiate the norms of the political system, seeking to subordinate the exercise of public office, where possible, to their particular interests (thus rejecting 'vertical integration'). Again we must distinguish cases in which groups effectively resist or seek to block political activity and cases where there is an attempt to suborn public office so as to serve their particular ends (these being more clearly cases of corruption). The problem the state faces in the first case is one of legitimacy and political integration—which is not to say that the problem is tractable, since, where it grows out of, or into, movements for ethnic autonomy or national self-determination, the results can be extremely bloody. We move towards the second case insofar as the groups in

question acknowledge the political order (that is, they do not deny its legitimacy or seek its transformation) but seek to turn it to their own individual and collective ends. Mafia-type activity may take this form, as may corrupt business cartels and labor unions, or various types of 'old-boy' networks. To tackle these more organized forms of corruption, we need to limit the control that any A has by virtue of his/her position. By limiting discretion and making more transparent the decision-making processes, C is deprived of the prospect of private and privileged access to the point of decision making. We may also need to strengthen the powers of those responsible for the criminal investigation of such activity. Needless to say, proposals will run up against liberal concerns about the protection of individual rights, and the nature of the tradeoff between these concerns and the strengthening of policing powers will depend on the scale of the threat to public office, and the ability of the state to secure legitimation for more obtrusive methods of investigation.

Cell 2. In each of these three cells (1, 3 and 4), the strategies recommended rely on the presence of a central authority with judicial, disciplinary and police powers capable of authoritatively establishing rules for political conduct and of enforcing them. The more individualistic the patterns of corruption, the greater the likelihood that the state will have the necessary power and authority. In cell 4 the issue is how far the state is able effectively to regulate activity within all social domains, which asks a question about the limits of its *de-facto* authority, rather than about its coherence as a body. In this last cell (2) one unique problem is that it can become difficult to see, insofar as the A-group mores become widespread, which institutions within the state could have the capacity authoritatively to act to regulate the activities of other institutions in the state. Of course, this problem is not always present. Corrupt police forces (LAPD, NSW) may be relatively isolated from the political system, which may then use controls external to that organization to attempt reform—which is not to say that success is guaranteed⁶² but the higher-up the corruption goes, the more widespread it is, and the more customary it is, the greater the difficulty in creating a platform for reform and the greater the problems associated with creating institutions to implement that reform. One scenario is that accusations of corruption become a weapon used by reforming political movements against the status quo, but a disadvantage of this is that the very language of corruption can become devalued because it becomes linked to the search for political

advantage. A related possibility is for the reform movement to work to raise public expectations of political office through political education, etc. But the viability of such strategies depends heavily on whether they are able to secure the cooperation and compliance of key public institutions such as the judiciary and the police.

Cells 1–4. Cell 2 raises, in an especially acute form, a problem which, while it affects all societies in transition, is especially acute for the post-communist regimes of Central and Eastern Europe, which have carried over from their previous regimes weakly institutionalised respect for the rule of law, a tendency to over-ride administrative regulation by ad hoc decision making directed by those in power, and an extremely weak civil society which provides few collective resources for challenging the activities of the state. The resulting polities have poorly protected property rights coupled with weak judicial systems, and a general pattern of politicians and public servants using the powers and economic resources of the state for their own benefit. Moreover, in many Central and Eastern European societies one major legacy of the past forty to fifty years has been to entrench an extensive mistrust of political leadership—understandably so, but each of these elements contributes to the undercutting of the conditions necessary for a group, individual, or institution taking the initiative in corruption control. Indeed, an increasing problem in these countries is the adoption of a rhetoric of corruption into the partisan programs of politicians and political parties. Instead of there being a programme directed against corruption based on a political consensus, the rhetoric of corruption is used to destabilize and delegitimize the activities of one's political opponents, and where there is a lack of consensus as to what counts as corruption and strong imperatives to engage in ethically dubious horse-trading to build political coalitions, it is not difficult to tarnish one's opponent's reputation, even if there is little or no subsequent attempt to substantiate the accusations judicially. Reform, then, seems to rely on the presence of institutions and political actors who can sustain a position of some neutrality, impartiality and authority; yet, the upheaval associated with rapid multiple transitions, coupled with a legacy of anti-politics, renders this prospect extremely unlikely. In the crudest terms, to reach such a position of influence it is extremely difficult, if not impossible, to avoid acting in ways which leave one open to accusations of corruption.

(e) *Motives and incentives among the corrupted:* Interestingly, we tend to think of public officials and office holders as becoming corrupted by

others either within or without the state—so that C-led corruption is seen as corrupting public officials. However, we do not think of people outside the state who become directly or indirectly implicated in A-led political corruption as themselves corrupt. Crudely, the justification for the asymmetry is that public officials who act corruptly, whether at their own instigation or that of others, cease to be reliable officers of the state, whereas there is a much less strong sense of the formal public role of subjects or citizens. One way of tackling A-led corruption is to try changing this rather weak standing which citizenship and its responsibilities have within the state—by public education, and by tightening connections between rights and responsibilities. One possible benefit of this approach is that it raises a sense that responsibility for corruption is widely shared—whereas many corruption campaigns tend to leave citizens convinced only of the fundamentally corrupt character of the political system, which increases the incentive to engage in corrupt activity.

(f) *The victims of corruption*: The above matrices do not consider the victims of corruption, yet they can play an important part in its control, although this is affected by how individuated they are—that is, whether the cost of a corrupt transaction is linked to a cost incurred by some particular other individual(s)—and how directly they are affected. A public official who is bribed to divert a service intended for B to C, imposes a cost on B—although B is not necessarily aware of this: corrupt contracting and queue jumping by bribery may impose costs on B without B's knowledge. On the other hand, while the state may proclaim that it offers a particular social benefit to those who meet the criteria (such as housing), it may be quite plain to members of that group that what matters is not your position in a queue so much as who you know in the housing office. Cases where B incurs costs unawares may need different strategies than cases where B is aware, or has some sense, that she is not being treated justly. In the former case, one way forward is for the political system to increase the probability that B will be aware when his just claims are trumped—by making clear what people's entitlements are, publicizing waiting lists and criteria for queue jumping, and by limiting discretionary powers in public administration. The clearer people are about what they ought to be receiving from their public servants, and the broader the range of countervailing actions which are possible against perceived injustice, the thinner becomes the ether in which much corrupt activity thrives. The range of these actions can be specified as follows:⁶³

(i) *Seeking alternative sources of allocation*: A postmaster who tries to 'tax' his pensioners' benefits when they are cashed has limited success because of the range of alternatives open to them—other post-offices, banks, and so on. The greater the transferability of the entitlement, because of the variety of state offices within which they can be claimed, or because of the variability of the entitlement, the less easy it is to 'tax' corruptly or to withhold. Similarly, low cost 'exit' options on the part of recipients diminish the potential for extortion.

(ii) *Protected formal countervailing action against perceived injustice*—which may include institutionalizing complaints procedures, the provision of financial support/legal aid for those making complaints, the facilitating of media investigation and publication of such claims and so on. It is also possible, in addition to strengthening the recipient's arm, to render the public official's role more transparent—by identifying the responsible official and the superior officer, and by making the complaints procedure favor the client. Of course, where one wants the public service to ration the delivery of goods, and where there will inevitably be difficult and complex decisions to make—we often face a trade-off between empowering the client and making the task of the public service increasingly impossible, but short-term schemes which facilitate the complainant, might have long-term benefits without these costs.

(iii) *Playing the Game*: It is always possible for those who are victims of injustice to respond in like coin: to meet corruption with corruption. In some contexts this is simply a matter of: "If you can't beat them, join them," but, formally speaking, the thing to note is the hypothetical—"If you can't beat them . . ." We can understand many such instances as stable, but sub-optimal, Nash equilibria. This means, we have a situation in which A's strategy (X) is the best response to B's, and B's to A's, and A's to C's, and C to A's, etc., but where the outcome for each is less good than could be achieved if each played a different strategy (Y), the difficulty being that, to reach Y, some players have to adopt Y, and doing so renders them vulnerable to costs imposed by those who pursue strategy X. Being honest when all around are knaves is costly, despite the fact that we might all be better off if we were all honest. So a state might take the position that it will systematically underwrite the costs of those who act well while increasing the penalties for corruption, thereby reducing the incentives to act badly and destabilizing the equilibrium (as with witness protection programs used to break cycles of corruption where the costs of

defection are otherwise prohibitive. Again, however, a lot will depend on how entrenched is the corruption and what enforcement mechanisms are available to those engaged in corruption. A protection racket which can target those who take the state's side and inflict high costs, with a high symbolic value, *pour encourager les autres*, will seriously weaken the attractiveness of the state's offer.

Although focusing on enhancing victim strategies is a promising line of inquiry, it clearly works best where there are direct, individuated costs rather than indirect, generalized ones. It also works better where those incurring the costs are educated, articulate, and well-resourced, and where there is a strong form of centralized authority able to guarantee the security of those who complain and able to impose penalties on those found engaged in corrupt activity. The more group-based and A-led the corruption is, the less likely is it that any element of the state will have the resources to counter it.

(iv) *Institutional Pluralism*: I have not sought to catalogue the lines of division which may exist between the different actors within the political system, and which may influence the incidence of corruption: politicians, party apparatchiks, civil servants, local state officials, members of *quangos*, the judiciary, police, armed forces and so on. Clearly, it matters that we get clear where the problems are most acute in any particular state, since these will help indicate what resources might be left within the state to tackle them. However, in addition to these resources internal to the political system, political and economic transition also set up (albeit often very weakly) the potential for a context of institutional pluralism within the broader society. In the West governments are subject to scrutiny from a range of sources in civil society, such as universities, research organizations, newspapers, think-tanks, ICACs, NCCLs, advice agencies and so on. This panoply of institutions provides a context which militates against systematic forms of A- and C-led corruption (although it certainly cannot guarantee its absence—nor can it ensure the absence of more individualized forms of corruption). They are also a way of further limiting the state's freedom of action, by articulating countervailing interests, even as they offer the prospect of increasing its authority insofar as they serve to confirm its legitimacy. They are, then, an essential component of vertical integration, but they do not emerge of their own accord, and there are difficulties in the state playing a founding role in them or in continuing to finance and protect them (least compromising their independence).

This is one reason for valuing the role which international agencies can play—in establishing such agencies, funding them, and publicizing their activities. However, those agencies must themselves recognize that their success will depend on the sensitivity which their offices demonstrate towards the local conditions and practices of the states in which they act. One area in which Western agencies have often shown a lack of sensitivity is in their willingness to supply a lexicon of corruption to political forces in transition states which, rather than assisting in the process of cleaning up government, has simultaneously armed political groups with a resource that they have no incentive to use responsibly and has further weakened the legitimacy of these states both domestically and in the international community. On both fronts, this weakened status exacerbates the problem of tackling corruption, because it reduces the legitimacy and autonomy of the state, and increases everybody's incentives to adopt a strategy which is maximally self-protecting—thereby reducing the resources with which to tackle the problem while increasing its size. Moreover, a great deal of Western economic advice is directed to opening up the often grossly inefficient industries of Central and Eastern Europe to the full force of market competition, as if the market will provide, by its own logic, a sound basis for liberal democracy. Yet, in the vast majority of cases industries will compete very poorly with Western economies, with the result that these countries face a significant period of debt, falling living standards and economic hardship. Those conditions, however, are hardly conducive to the creation of clean politics and administration or to the establishment of an independent judiciary able impartially to oversee the implementation and enforcement of the legal framework for the market and civil society.