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Moral Considerations on Bribery and Corruption

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Abstract:

In this paper we seek to analyse the core moral issues of bribery and corruption. Starting with problems of definitions and typical moral loopholes, we examine the praxis-theory of bribery. From some critical considerations of this theory we reach a common ground for justification of inherent moral wrong of bribery, the notion of public good can be seen as a ground for that. Following the arguments of pure utilitarian approaches, we may accept certain kinds of bribery, but with putting the issue into a broader context, this justification is misleading because of several morally unjustifiable consequences of such practices. The paper try to demonstrate both the main morally wrong elements embedded in bribery, and corruption's several inherent negative consequences to the public good.

Keywords: moral loopholes, praxis-theory, inherent wrong, utilitarianism, public good.

We may consider the corruption as an inherent ingredient of our everyday life, at least in this region.¹ If we had more and more experiences about the phenomenon, we tend to approach to it as „natural” even though think that is moral wrong. Typically persons seek for moral loopholes involved in such activities. Just some examples for generally shared propositions;

- All the individuals in collective units are expected to adjust themselves to the habits, behaviour of their fellows, and bosses.
- The political or professional loyalty (toward the institution, company or party) of an individual may override his/her moral considerations.²
- The gratitude might be a rational expectation as a reward for corrupt practices
- Sometimes a person must act immorally in order to achieve morally immaculate outcomes.
- The most frequent loophole is to refer any advantage both material, or career, of which the person have desperate need.

Let me clarify my position about corruption. The term corruption is a broad term, means a secret agreement have been made between two parties. The aim of this agreement is to take immoral and/or illegal advantage for one involved in the practice, through infringing, violating the explicit or implicit moral expectations attached to a given position (not necessarily office), usually, but not necessarily infringing legal norms as well, while the other offers material or immaterial reward for the decision-maker. The criminal law developed a narrower definition, focusing solely on the bribery.

¹ E-mail: szabo.gabor@ajk.pte.hu; Gál István László: A korrupciós bűncselekmények. In: Polt Péter (Szerk.) Új Btk. kommentár: 5. kötet: Különös rész. Nemzeti Közszoigálati és Tankönyv Kiadó Zrt., Budapest, 2013. pp. 183-185.

² see. András Zoltán Nagy: A korrupció társadalmi hatásai és a jog. In: Korrupció Magyarországon. (Szerk. F. Csefkó-Cs. Horváth) Pécs 2001.

The ethics have already made significant efforts to grasp the substance of bribery. According to Michael Philips the bribery is simply a payment (or promise of that) for a service, in order to have the passive party infringe his/her duties or responsibilities stem from their offices. In every case of bribery, the decision is based on malevolent, bad motives. The accidental convergence of the things could lead to the decision-maker to the right and just decision, in spite of the ill intent. At first sight we could think, that for the bribery an official position (politician, public servant, office holder) is necessary.³

As Philips follows, a football player can also take part in a bribe act, so we'd better to enlarge the definition, since we can include all, who are affiliated to certain organizations. The organizations set roles, norms and responsibilities for the individuals involved, even if these can either be in written and explicit form or implicit (but well known) expectations. But we should not stop here at that point, rather a new term should be introduced; the „praxis”.

The praxis refers to the moral expectations, duties and responsibilities stem from a certain socially recognized role. The bribery then is an agreement to act in contrast with the expectations stem from a given praxis, and act in a way the briber likes in recompense for.

Two conditions are important here; first the agreement should not be explicit, implied conduct is enough. Second, the compensation must not be permanent, it should be accomplished after every single agreement. For example a spy, who is paid by a foreign government for leaking information about a state can be considered as a „profession”, not a person who involved in a briber act. If the agreement is about a particular, singular transfer of information to abroad for a certain compensation, then it seems bribery. Strangely enough, that if the agreement has been made, the bribery have completed, even when the decision maker change his mind, and try to keep his role, try to act in accordance with his/her duties and responsibilities. Indeed, when a police officer accept the offered money from the checked car driver for not being punished by the officer, and still inflict the punishment upon the briber, that can be considered as double dishonesty. According to Philips' praxi- theory, the roles have immediately been changed after the agreement.⁴

The advantage of the praxis-theory is that it makes easier to distinguish between the bribery and the gift. What we can find wanting in that theory is the fine elaborating of the inherent ethical wrong of the bribery. Is it enough for us to emphasize the roles, duties and responsibilities attached to the praxes for understanding the wrongness of the practice?

Let me compare the problem of bribery with the so called „whistle-blowing.”⁵ Here, a member of a firm or a state department informs for example the media regarding irregularities or even illegalities committed by his superiors or colleagues, under some circumstances violating a formal legal duty (such as confidentiality). We are concerned with a moral question of whether such behavior is permissible, especially when an official of an agency concerned.

³ It is uncommon to examine the issue of the corruption of judges especially in the Middle-Eastern European countries, as László Kőhalmi states. See: Kőhalmi László: Korruptió és hatalom- gondolatok az igazságszolgáltatás befolyásolhatóságáról. In.: Korruptió Magyarországon (szerk. Csefkó, F.-Horváth, Cs.) (Pécs PTE ÁJK 2001.) pp.117-119.

⁴ See, Philips, M.: Bribery. In.: ETHICS 94, July 1984.

⁵ See, Gál István László: A pénzmosás és a terrorizmus finanszírozása az új magyar büntetőjogban. Belügyi Szemle 2013/6. pp. 27-31.

The first steps should be made within the office or firm to manage the problem, by first speaking with those concerned before the public is informed, during the daily collaboration in a corporate group or the office, or maybe even in common leisure activities. But if attempts at internal reform fail, then even an official should remember that he/she has stronger duties to his country (to justice) than his/her colleagues and superiors. In the case of corruption he/she should certainly inform the media, with sacrificing that he/she can show himself to be a faithful civil servant or loyal employee of a firm.⁶

Both the whistle-blower⁷ and the one who was bribed violate the norms of their praxes. But while in the first case the purpose of the actor must be to serve the common good, (sometimes the whistle-blower miscalculate the costs and benefits of course), then in the second case the actor seemingly not willing to take into consideration of the public good.

Hence we should analyze the phenomenon from the viewpoint of public good. The key for understanding the inherent wrong in bribery should be its secrecy. Typically the whistle-blowings are also secret leakings but its secrecy based on the whistle-blowers risks-advantages analyzes. Obviously it is natural effort by them to avoid to be laid off, the secrecy is a mean for alliviating the risks of the act. The greater (public) good is attained, the better the act was in moral terms. At the same time the two parties involved in a bribery uses the secrecy without any sensitiveness to the public good, rather they are aware of their misconduct, misusing of the power, influence.

Before we step further in clarifying the undesired effects of bribery, we also have to note a counter-example.

Consider an airplane manufacturer who has spent enormous amounts of money developing a new airplane. The company badly needs cash because of it is financially overextended. If it does not get some large orders soon, it will have to close down part of its operation. Doing that will put several thousand workers out of jobs. The result will be not only disastrous for the workers but also for the town in which they live. The president of the company has been trying to interest the government in a large purchase. He learns that one of the key people in charge of making the final decision is heavily in debt because of gambling. He quietly contacts that person and offers him 100 000 Dollars in cash if he awards the contract to his firm. The contract is awarded, the money is paid, and the business is saved.⁸

The case at first sight seems to justify certain kinds of bribery on utilitarian grounds. The utilitarian tradition holds that if the beneficial outcomes of an act surpass of the negative consequences, than the act should be counted as morally good. The president of the firm points out all the benefits that result from the bribe when he seeks to justify his action. Why should be seen that wrong, he might ask, if everyone who had involved in the deal, won by that. The government purchases excellent planes, the company gets the contract and stays in business, and the workers at the plant do not lose their jobs, and last, but not least a government official escapes from debt crisis.

When we try to decide what to do, we often seek to evaluate the possible results of our action, with weighting the good against the bad, and try to choose the best one,

⁶ See, Höfle, Vittorio: *Morals and Politics*. (Translated by Steven Rendall). University of Notre Dame Press, 2004. p. 799.

⁷ See, Kóhalmi László: *A korrupcióról*. JURA 2014.1. p. 152.

⁸ The example is from: De George, Richard T.: *Business Ethics*. (Macmillan Publishing Company, New York) p. 58.

when the good overweighs the bad. What would be the result of abstaining from bribery in that case? It seems, that no good would have been achieved, and the result would clearly have been worse.

This argument can only be plausible, if we take into consideration only the direct consequences of our act, and exclusively those persons, who are directly affected. But every act and practice is deeply embedded in a certain social, cultural, and legal background. Insofar as we try to stick our moral evaluations to the direct, immediate effects of our acts and behavior, we would be misled by our practical sense. Depth analysis seems necessary to evaluate the broader consequences.

The dominant consideration in evaluating them is the harm done to the *system* of doing business, to the notion of fair competition, to the equality of opportunity assumed in business and to the integrity of government officials. Let's see in sum the morally unjustifiable consequences of that action:

1. If the government official's action is discovered, he/she would likely be charged with crime, lose his/her job, and if convicted, be heavily fined, or go to the jail.

2. The story does not mention competing firms. The effects on them probably are detrimental. Will their workers be out of jobs?

3. Effects on general public. The government official is spending their money. He/she undoubtedly is misusing public funds and hence harming the taxpayers. The amount of bribery had come from somewhere. The amount may come from the taxpayers, or it may come from the profit of the company, thereby came from the shareholders. In sum, that money was taken from those who had legitimate claim to it.

4. The bribery has an effect on the general system of business, especially on the practice on competition, and on the integrity of those engaged in these practices. The question is at stake is whether the people will get the best value for their money.

Now we can conclude that the inherent wrong of bribery that only a few people benefit from the practice but the expense of a great many other people, including society and business in general.

Another important unjust ingredient factor of the bribery is its appearance of just.⁹ Everything happens behind close doors, in the disguise of justice. The outsiders do not know anything about the deal, although this secret pact influences their chances, their money directly, or indirectly. And furthermore, those who are in the decision-maker position, actually their position was put on the market, and the briber exactly buys that. The serious moral problem here is that he/she is trying to sell something, which is not his/her own property, he is just in a given position what makes him/her possible to possess the decision-maker authority. The bribery is strictly in contrast with the notion of private property.

The duty of loyalty as demonstrated above may be less important than the responsibility for public good. Those who are involved in a bribery are ready to make every efforts to sustain the illusion of loyalty, and the illusion of just, fair and legal decision. The real evil is hidden in the illusion of just, legal, right decision, and all these are in sharp contrast with the notion of sincerity, telling the truth and honesty. The inherent meanness of the bribery is its embedded hypocrisy.

The corruption in its broadest sense can be understood as the rulers are able to buy the people, in order to have them to give up their very important rights.¹⁰ In a bit

⁹ Andrassy, György: Filozófia és jogász etika. (Pécs, PTE ÁJK 2008) 208.p.

¹⁰ Hankiss Elemér: A korrupció játéka Közép-Kelet Európában 1945-1999. In.: A korrupció Magyarországon. (Pécs 2001.)19.p.

narrower meaning it refers to a wide network in a given society, in which bribery, secret deals, awarding the political clients, buying the decision of the decision makers and legislators are widespread activities. The evident effect of these activities is undermining the public trust, the rule of law, worsening the public moral and the people's sense of justice, burdening the fair competition on markets, deforming the justifiable system of redistribution, and weakening the general sense of responsibilities. Paradoxically those who get involved into corrupt practices doing this through violating their own communities' norms in order to gain some advantages, but as more individual are ready to leave their community in that way, the less advantage can be attainable by every single person. There will be a point of no return, when everybody get worse position than they originally held.

The notion of public utility may not have been better summarized, than David Hume did as follows:

„The convenience, or rather necessity, which leads to justice is no universal, and everywhere points so much to the same rules, that the habit takes place in all societies: and it is not without some scrutiny, that we are able to ascertain its true origin. The matter however is not obscure, but that, even in common life, we have, every moment, recourse to the principle of public utility, and ask: *What must become of the world, if such practices prevail? How could society subsist under such disorder?*”¹¹

¹¹ Hume, David: *An Enquiry concerning the Principles of Morals*. (London, 1772.) 353, p. 356.