

Committee/Council:	Political Committee
Issue:	Preventing bribery and corruption in political processes by implementing international guidelines
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Position:	Chair

Introduction

The prevention of bribery and corruption in political processes is a key challenge to the effective and undiscriminating operation of the public sector as well as sound policy-making in many countries across the globe. It is an unfortunate fact that public officials often take advantage of their position, in order to gain unfair financial or other advantages, sometimes even through extortion and similar techniques. Over the years, leaders of many governments have been making an effort to devise effective mechanisms to prevent bribery and corruption in political processes. However, their objective was hard to accomplish due to the nature of the subject matter. Corruption is perpetuated in several different forms, which often require an unfeasible degree of supervision monitoring the concerned processes.

The delegates are called to develop innovative and feasible mechanisms, which can be put in place so as to prevent the abovementioned phenomena. This study guide provides fundamental background information on the issue, assesses already existing national as well as international mechanisms, analyses the various standards put in place by the United Nations (UN) as well as other supranational bodies and directs the delegates in the formulation of implementable solutions.

Definition of Key-Terms

Political Process

“The process of the formulation and administration of public policy.”

- <http://www.merriam-webster.com/dictionary/political%20process>

Corruption (in political processes)

The aggregate of conscious illegal, biased, dishonest and/or unethical action by public officials in the discharge of their public or legal duties, usually for private gain. These forms of action may include embezzlement, the theft of government capital, bribery (as well as the acceptance of bribes), extortion, cronyism, nepotism, patronage and graft, amongst others, or any form of complicity therein. The existence of legal, procedural or other weaknesses within an institution, system or organization often plays a key role in the development of corruption.

Bribery (in political processes)¹

“The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.”

- <http://legal-dictionary.thefreedictionary.com/bribery>

International Guidelines

A set of standards and/or recommendations pertaining to a specific subject which is usually agreed on in multilateral negotiations and published by independent global institutions, international and/or intergovernmental bodies or similar organs with the aim of unifying legislation and common practice on a global level in a mutually beneficial way.

Checks and Balances

“Limits imposed on all branches of a government by vesting in each branch the right to amend or void those acts of another that fall within its purview.”

- <http://dictionary.reference.com/browse/checks+and+balances>

Checks and balances are a system of shared liability and power among executive, legislator or judicial authorities of the state which reduces the possibility for abuses of office and power, thus naturally reducing levels of corruption.

Background Information

The European Colonial Period (approx. 16th - 19th century AD)

¹ Bribery may also more generally refer to an illegal (or even immoral) payment from one party to another in return for some kind of favor.

Although the concept of political corruption had existed since the beginning of civilization (and the birth of organized society), it thrived particularly during the colonial era.

European invasions into foreign lands were followed by oppression and large-scale exploitation of the local populations by colonizers for the acquisition of raw materials and/or intermediates (such as coffee, tobacco and tea) and their transportation to their domestic industries. Of course, this practice was a major factor in the accelerated development and growth of the European economy of that time. Major colonial powers, such as the UK, also relocated part of their domestic population to the colonies granting them large pieces of land in fertile areas.

This whole situation proved to be fertile ground for the development of corruption among government officials who exercised their powers in the colonies as representatives of the invading country. Far away from their superiors, in the unstable and insecure environment of the colonies these officials took advantage of their position and expected special favors in return for the discharge (or not) of their duties. The existence of two ethnical, social, economic and political classes with the resulting exploitation of local populations only added to this situation.

Corruption during the Post-Colonial Era

After years of looking for ways of ousting the colonial governments, many natives decided to engage in armed struggle so as to achieve their independence. A majority of them were not successful at first. However, after the two world wars European nations were not able to hold on to most of their colonies. After the achievement of independence, most of the leaders who fought for it made significant strides in developing their countries. This was followed by a period, in which these countries strived for economic development. The era immediately after independence was characterized by leaders who were statesmen. Their main objectives were to eliminate poverty and ensure that their countries would develop stable public institutions.

Many of the leaders who rose to power after these countries had well-established institutions and their economies were performing quite well (compared to colonial times). Thus, many of these leaders sought to pursue their own interests and embarked on a process of acquiring wealth through questionable means. In that process, they were gluttonous and they ended up embezzling state properties and funds, which became the predominant form of corruption of the time.

In the United States, the 20th century was characterized by competitive politics. The reason for this was the fact that most of the large corporations were formed during this period. Most of these corporations would fund the electoral campaign of their

preferred candidate with the objective of earning the favor of his future administration. This funding turned to be an indirect form of bribery. Upon gaining power through such means, a candidate who had been funded through this process was inclined to twist the rules in one way or another as a favor to their allies, in order to ensure further support in future campaigns. As a result, most corporations in the country started playing an important role in both local and national elections. Of course (and as usually), this system operated at the cost of national interests and the general public.

The contemporary situation in More Economically Developed Countries (MEDCs)

It would be false to claim that this practice has ended. With the existence of a well-established judicial system in America, the perpetrators of such crimes can be prosecuted appropriately in a court of law. However, the government has not been successful in reducing the level of bribery in the political system. This can be attributed to the complex and indirect ways of transmitting the involved funds, which are hard to trace. This transition to indirect and legally as well as technically complex means of bribery constitutes the major challenge for the political systems of most (MEDCs), while other forms of corruption such as patronage and embezzlement are more common than ever.

The situation in Less Economically Developed Countries (LEDCs)

In most LEDCs, bribery and corruption are rampant in political systems. The low standards of living and education, the high poverty rates and widespread illiteracy allow for the preservation of a minimum-transparency political system by officials and effectively prevent public critique of governmental practices. More often than not, the national checks and balances are of poor standard. As a result of this, the act of bribery becomes easier. Citizens are easily swayed by hand-outs and prefer to vote for petty cash or some essential goods. However, with the increase in the number of persons who are literate in these countries, the level of voter bribery is likely to reduce. This is because a large percentage of the electorate is well informed of the quality of leaders that they would like to elect. In addition, more people are now able to secure decent, well-paying jobs. This has brought about a situation where there has been a rise in the standards of living of the electorate, leading to a decline in the reliance on hand-outs. There has also been an increase in the number of civil society groups that are championing for the development of credible institutions. Some countries have even gone as far as to establish governmental agencies mandated with combating corruption. Other countries such as China and Japan have put in place stringent laws to govern bribery and corruption. Such efforts have brought about a significant decline in the levels of corruption that is prevalent in such countries.

Major Countries and Organizations Involved

The United Nations

The United Nations has a Department of Political Affairs that seeks to ensure that all elections that are carried out throughout the world are in conformity with international standards. It is through this department that the United Nations is able to play an oversight role through the institution of electoral observers. In some cases, the United Nations Department of Political Affairs can be appointed to manage the elections of a country. This is especially common in newly founded or revolutionized countries. A good example is that of Tunisia: After the citizens of Tunisia overthrew the government of President Ben Ali, the people of Tunisia called upon the United Nations to manage the electoral process. Most recently after the ousting of President Muammar Gaddafi from office, the United Nations has been given the responsibility of organizing elections in the country. This is a very challenging task given that the citizens of Libya had not taken part in any democratic elections since Gaddafi ascended to power in 1969/1970.

The African Union (AU)

Many political systems in Africa are characterized by bribery and corruption. This has mainly been due to lack of well-established institutions and a widespread culture of impunity, which has been propagated over the years. When perpetrators of bribery and corruption were found guilty, most of them sought political asylum from neighboring countries. Additionally, most countries haven't enforced extradition treaties; consequently, the individuals can easily evade prosecution. In light of this, the African Union decided to host a conference on an "African Charter on Democracy, Elections, and Governance". The main objective of this conference was to deliberate on matters pertaining to efficiency in governance. During the meeting, the AU member states arrived at a consensus on collaborating in an attempt to curb corruption in Africa.

Mexico

Mexico has one of the highest levels of bribery and corruption worldwide. This has allowed drug barons to conduct their illegal trade with minimal interference from the authorities, thus contributing to an alarming increase in the level of domestic and cross-border drug trafficking. One of the side-effects of this development was a sharp increase in gang related violence. The high levels of bribery and corruption have entered Mexico's political system and have influenced domestic political processes to such an extent, that many citizens find it pointless to participate in elections. However, it is worth noting that the country has been making strides in a

bid to end this menace. For instance, the country passed an anti-corruption law which targets the whole political system.

United States of America

Over the years, the U.S. has faced numerous challenges with respect to its political system, including several large-scale corruption related scandals. This has brought about a situation whereby the legislature has passed numerous bills and acts of parliament so as to reduce and prevent corruption within the country. Examples include the Foreign Corrupt Practices Act of 1977 and Ethics in Government Act of 1978.

Relevant International Treaties, Resolutions and Events

United Nations Convention Against Corruption

“In its resolution 55/61 of 4 December 2000, the General Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime² (resolution 55/25, annex I) was desirable and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna at the headquarters of the United Nations Office on Drugs and Crime.

The text of the United Nations Convention against Corruption was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of the Convention against Corruption, held between 21 January 2002 and 1 October 2003.

The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The General Assembly, in its resolution 57/169 of 18 December 2002, accepted the offer of the Government of Mexico to host a high-level political signing conference in Merida for the purpose of signing the United Nations Convention against Corruption.

In accordance with article 68 (1) of resolution 58/4, the United Nations Convention against Corruption entered into force on 14 December 2005. A Conference of the States Parties is established to review implementation and facilitate activities required by the Convention.”

- <http://www.unodc.org/unodc/en/treaties/CAC/>

The major aspects of the Convention are set out here (please read):

² <http://www.unodc.org/unodc/treaties/CTOC/>

http://www.unodc.org/unodc/en/treaties/CAC/convention-highlights.html#Asset_recovery

The text of the convention here:

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

Inter-American Convention Against Corruption

It was the first multilateral treaty to involve legally binding commitments on joint efforts to eradicate corruption. The convention was adopted by the members of the Organization of American States³ (OAS) in 1996 and came into force in 1997. Article II of the convention reads:

“The purposes of this Convention are:

1. To promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and
2. To promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.”

According to Jorge Garcia-Gonzalez, Director of the Department of Legal Cooperation of the OAS Secretariat for Legal Affairs, in his publication entitled “The OAS and the fight against corruption in the Americas”⁴:

“Second, the Convention expressly recognizes, in its preamble and in various articles that this problem can’t be solved with repressive or punishing actions once the evil has emerged. On the contrary, precise decisions of a preventive nature are to be taken also. These are directly linked to the modernization of institutions and the elimination of its causes or the conditions that facilitate or instigate its use. [...] Lastly, the Convention, without setting aside State responsibility in eradicating corruption, reveals the importance of action taken by all the actors involved. Especially, it recognizes the need of strengthening the participation of civil society in preventing and combating corruption and it expresses that States will extend to each other broad technical cooperation, exchange experiences and give special attention to the ways and forms citizens participate.”

³ About the OAS: http://www.oas.org/en/about/who_we_are.asp

OAS members: http://www.oas.org/en/member_states/default.asp

⁴ <http://www.oecd.org/gov/ethics/2731127.pdf>

The above statement focuses on 2 main aspects of corruption: (1) that prevention through legislative and structural reforms promoting transparency and accountability is the only effective method to eradicate corruption in the long term and (2) that multilateral cooperation is vital for the establishment of fundamental standards, while civil society should be informed about those standards and encouraged to assume responsibility of its role as the critical judge of political action and practices.

The OECD⁵ Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

According to [this page](#) of the official website of the Organization for Economic Co-operation and Development (OECD):

“The OECD Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the first and only international anti-corruption instrument focused on the ‘supply side’ of the bribery transaction. The 34 OECD member countries and six non-member countries - Argentina, Brazil, Bulgaria, Colombia, Russia, and South Africa - have adopted this Convention.”

Previous Attempts to solve the Issue

During the drafting of the UN Convention Against Corruption, the delegates were in agreement that bribery and corruption in political processes can be eradicated through prosecution. However, after extensive deliberations on the matter the delegates agreed that the best way to handle bribery and corruption in the political system is through prevention. Governments from across the globe should put in

⁵ According to [this page](#) of the official website of the OECD:

“The Organisation for European Economic Cooperation (OEEC) was established in 1948 to run the US-financed Marshall Plan for reconstruction of a continent ravaged by war. By making individual governments recognise the interdependence of their economies, it paved the way for a new era of cooperation that was to change the face of Europe. Encouraged by its success and the prospect of carrying its work forward on a global stage, Canada and the US joined OEEC members in signing the new OECD Convention on 14 December 1960. The Organisation for Economic Co-operation and Development (OECD) was officially born on 30 September 1961, when the Convention entered into force.”

Its current member are: Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

About the OECD: <http://www.oecd.org/about/>

Current members and partners of the OECD: <http://www.oecd.org/about/membersandpartners/>

place legal frameworks that ensure that it is almost impossible for corruption to take place. One of the proposed ways to accomplish this objective was to define deterrent penalties for offenders found guilty of corruption so that the fear of persecution would prevent officials from engaging in illicit acts. The convention also demanded that governments from across the world should make sure that bribery and corruption have been criminalized in their constitution. Although this may seem quite obviously necessary, back then, it was not the case in every country. Such laws will serve the purpose of ensuring that an individual who is involved in any form of corruption is aware that they are committing a crime that is prosecutable before a court of law.

Possible Solutions

Evidently, bribery and corruption in political processes are a menace to the stability and the smooth and just operation of human society since immemorial times.

One of the ways through which governments can be able to reduce the level of corruption in the country is through the establishment of a legislative act that accurately defines and criminalizes corrupt acts. To that end, the UN Convention Against Corruption has to be ratified by all UN member states.

All countries need to work hand in hand so as to be able to curb the prevailing menace of corruption. This is because many perpetrators of corruption try to escape to other countries once their actions have entered into the limelight. Countries need to put in place a legal mechanism (such as extradition agreements) that will ensure all the perpetrators are brought to justice regardless of the country to which they escape. Through making such efforts, potential and actual perpetrators of corruption and bribery in the political system will not have a safe heaven.

Furthermore, UN administered observation or even supervision of important political processes, such as elections, in LEDCs and other countries suffering from large-scale corruption can be enhanced in terms of competences and jurisdiction⁶.

Finally, international standards on national checks and balances could be drafted, in order to provide specialized guidelines for each form of government and each model of democracy to countries willing to undergo extensive political and legislative reform.

⁶ The two relevant meanings of “jurisdiction” according to the online Merriam-Webster Dictionary:

- a) “the authority of a sovereign power to govern or legislate”,
- b) “the limits or territory within which authority may be exercised”.

In the course of the implementation of said standards as well as the establishment of some political observation and, potentially, supervision, supranational unions might come in handy, such as the EU, since the matter can be lifted to supranational level (at least to some extent).

In conclusion, although the above ideas should provide some general direction as to the prevention of bribery and corruption in political processes by implementing international guidelines, different, innovative proposals as well as strong diplomatic action may be necessary to change the status quo to the better. Nevertheless, the current motto is here to stay: prevention and prosecution through common standards.

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