

Corruption War – The Perfect Storm

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Abstract

Purpose – The world today is going through a true corruption war with the corrupt on both sides of the illicit seemingly not intimidated by the creation of courts and quasi-judicial bodies which are accompanied by increase in legal and normative constraints. Why is this so? This paper is the preliminary phase of a new and comprehensive research about the present corruption war that discusses the components and stages of corruption, accountability, and corruption schemes, in addition to unpuzzling issues related to the measurement of corruption and suggests that juridification and judicialization processes in some cases become part of the problem rather than the solution.

Methodology/approach – The methodology used is a combination of many years of field experience, supported by empirical and technical literature.

Findings – (i) reinforcement of the dominance of governance/quality of institutions in corruption dynamics and confirmation that there is a true corruption war going on around the world with the corrupt not yet intimidated by existing anti-corruption initiatives; (ii) that the concept of ethical universalism needs to be further tested; (iii) that there are inherent virtues in qualitative and quantitative methods of research and analysis of corruption; (iv) the importance of contextualizing and qualifying the meaning of the data related to corruption perception indexes of different data sources in light of the fact that corruption is not a monolithic linear phenomenon; (v) there are still controversies in the use of perception indexes of corruption; (vi) WGI and TI index of certain countries carry a wide difference among the ratings of the data sources used; (vii) understanding rationale of a decision to corrupt allows for the development of preventative anti-corruption programs; (viii) international laws either do not discipline or are lenient with respect to the participation of (developed) countries in corruption processes, and such practices are not contemplated by any of the current measurement criteria; (ix) new method to objectively measure corruption in monetary values and which will give a more real dimension of corruption in a country for development of a case study, and provide a sound basis for computer modeling using the system dynamics methodology for instance.

Originality/value – It is characterized by the use of a broader, holistic and trans-disciplinary approach in the research of the corruption phenomenon (a) to provide a better grasp of the structure and dynamics of corruption processes, (b) allow for a discussion of ethical universalism, (c) allow for the identification of flaws in the current assessment of corruption, and its laws and regulations, and measurement, (d) allow for the identification of new measurement criteria, and (e) provide a more clear direction in the combat of corruption – all, dully supported by existing literature.

Keywords: corruption, anti-corruption, corruption accountability, anthropology, culture and corruption, social capital and corruption, civic capital and corruption, ethical universalism, decision to corrupt, corruption pathology, corruption stages, governance regimes, flaws in corruption law, flaws in corruption measurement, corruption measurement, system dynamics

Paper type – Research Paper

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Introduction

“Each of them will always abuse his freedom if he has none above him who exercises power in accord with the laws. The highest ruler should be just in himself, and still be a human. This task is therefore the hardest of all; indeed, its complete solution is impossible, for from such crooked wood as a human is made can nothing quite straight ever be fashioned. Only the approximation of this idea is imposed upon us by nature.”²

Research Statement

The world today is going through a true corruption war with the corrupt on both sides of the illicit seemingly not intimidated by the creation of courts and quasi-judicial bodies which are accompanied by increase in legal and normative constraints. Why is this so? This paper is the preliminary phase of a new and comprehensive research about the present corruption war³ that discusses the components and stages of corruption, accountability, risk of decision to corrupt, and corruption schemes, in addition to unpuzzling issues related to the measurement of corruption and suggests that juridification and judicialization processes in some cases become part of the problem rather than the solution.

It aims to provide an original contribution to researchers, policy makers, practitioners, NGOs, donor agencies, and supra-national organizations in the quest to bring down corruption levels.

It is characterized by the use of a broader, holistic and trans-disciplinary approach in the research of the corruption phenomenon (a) to provide a better grasp of the structure and dynamics of corruption processes, (b) allow for a discussion of ethical universalism and stages of corruption, (c) allow for the identification of flaws in the current assessment of corruption, and its laws and regulations, and measurement, (d) allow for the identification of new measurement criteria, and (e) provide a more clear direction in the combat of corruption – all, dully supported by existing literature along the line advocated by (Forrester, 2013) that research oriented to problem-solving should be supported by several years of intense field experience “battling these problems”.

Extensive work in the true battlefield of anti-corruption and crisis solving including financial, legal and tax matters led me to see a host of wrongdoings and systemic problems related with accountability, rule of law and governance regimes in several countries in different levels of development – rich, transition and poor.

Anthropological, cultural and social/civic dimensions, together with stages of corruption provide greater context and cohesiveness – not causality – to the corruption analysis while accountability and the legal system enhance their strong two-way nexus with corruption (Queiroz, 2015). These dimensions help making sense and assess the meaning of the perception-based indexes of corruption measurement used by Transparency International (TI), World Bank’s Worldwide Governance Indicators (WGI) and others.

These issues are also important to increase the awareness

² Immanuel Kant, *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht*, 6. Satz (1784) in *Sämtliche Werke in sechs Bänden*, vol. 1, p. 230 (Großherzog Wilhelm Ernst ed. 1921)

³ for research and analysis of the causal relationships of corruption using tools of qualitative system dynamics see (Queiroz, 2015)

that the damages inflicted upon people by corruption are not only material, which does not comport with part the existing literature that treat corruption as a unified, linear phenomenon.

Corruption is a pressing problem that is now high priority on the agendas of many governments and organizations. The study of the corruption phenomenon has increased significantly in the last twenty years – a wealth of literature demonstrates the relationships between corruption, growth, governance, inequality, poverty, human capital, infrastructure, politics, rule of law, informality, illicit activities, violence/ drugs, and wars (Queiroz, 2015). Corruption has existed in human society for over two thousand years and considering how long it has affected crucial socioeconomic variables, I believe that corruption and its complexities are still little understood.

International organizations such as the World Bank have identified corruption as ‘the single greatest obstacle to economic and social development’ and estimated that grand corruption alone would reach conservatively US\$ 1 trillion each year – which corresponds to the size of the GDP of Norway and Sweden together. Furthermore, the World Bank has estimated that with such levels of corruption countries that tackle corruption, improve governance and the rule of law could increase per capita incomes by a staggering 400 percent (Dreher, Kotsogiannis, & McCorriston, 2007). Empirical results also show that corruption lowers investment and, as a result economic growth (Gupta, Davoodi, & Terme, 1998; Mauro, 1995).

Anthropologists (Haller & Shore, 2005) stated that "Outside of war, corruption poses probably the greatest single threat to democracy, and sleaze scandals have brought down governments in a host of countries, including Japan, Argentina, Germany, the Sudan and Great Britain", but the fact that corruption is also behind wars makes corruption no. 1 threat to democracy and welfare (which in many cases is already a reality).

Combating corruption is a collective effort involving the whole civil society and several of its agents including integrity warriors like the Norwegian-born magistrate and true hero Eva Joly – internationally recognized for her tireless and fearless work against economic crime and corruption, and for her vision of a sustainable, equitable society. Among other things Eva Joly headed the biggest corruption case of the 1990s – the scandal involving France’s largest oil company, Elf Aquitaine and also helped convince the Norwegian Agency for Development Cooperation (NORAD) to contribute to the ‘Corruption Hunter Network’ upon its foundation in 2005 (Davis, 2010).⁴

This paper is organized in a way to provide a holistic view of the phenomenon of corruption starting with contextualization and followed by assessment toward the goal of contributing to its better understanding, measurement, prevention and control. The starting point is the definition of the major components/sub-types of corruption. In sequence it discusses aspects that are believed to be of fundamental importance to the understanding of corruption – anthropological, cultural and social/civic dimensions together with the corruption stages – and consequently allow a better assessment of corruption. Next it discusses accountability and the rule of law followed by the analysis of the utility and risks involved in participating in corruption. In sequence it elaborates on corruption schemes followed by the assessment of the different methods used to measure corruption including existing flaws and intricacies and closes with considerations, findings and conclusions.

⁴ European Parliament

http://www.europarl.europa.eu/meps/en/96883/EVA_JOLY_cv.html

Contextualization

“A political system in which the “people” expresses its “will” (supposing it to have one which is arguable) without cliques, intrigues, lobbies and factions, exists only as the pious wish of theorists. It is not observable in the West or anywhere else.” (Pareto, 1976)

Components/Sub-types of corruption

Corruption for the purposes of this paper is comprised of three major sub-types, they are: grand political corruption, illicit financial transfers and tax dodging. The assessment of these three major components of corruption-related losses is highly relevant in order to know the magnitude of the overall problem and to devise the correct and effective policies to tackle this plague. The discussion of the different measurement criteria adopted and their analysis will be explored in the later part of the paper in order to follow a more logical sequence.

The Anthropology and Pathology of Corruption

Corruption always involves two parties/groups, the corruptor(s) and the corruptee(s). Abuse of power is a key aspect of corruption described by (Pardo, 2004) citing (Friedrich, 1989) as political pathology – corruption is indeed a pathology (Yolles, M, 2008).

Corruptors are modern-day money raiders-like individuals who are out to make/maximize their gains through any means of bribery. Corruptees are characterized by incompetency and lack of talent and as such unsecure. Most corrupt play both roles, as corruptor and corruptee – an amoral pathology. Abuse of power is a political pathology perhaps inseparable from the modern state and from the Weberian rational-legal bureaucratic authority.

In the private sector corrupt managers can act as corruptor and advance shareholder interest in several respects. For instance, (i) they can obtain more government contracts and remove business impediments by paying bribes; (ii) bribe custom officials to pay lower duties; (iii) evade more taxes, generating de facto money transfers from the government to a firm; (iv) help to maneuver around regulations, laws and institutions among others. However, corrupt managers can also use firm resources for their own private benefits and, therefore, destroy shareholder value. (Mironov, 2015)

Social scientists approach corruption from a structural and interactional perspective. Structural approach focuses on rules/norms, institutions/good governance, and accountability. Interactional perspective focuses the deviant behavior of representatives of the executive, legislative and judiciary, for instance when public officials change the law so that their prior illegal practices become legal. (Haller & Shore, 2005)

Anthropology questions why was it only in 1998 that the head of the World Bank launched the crusade against corruption? And why was it only in 1999 that the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions came into force? For decades it has been known that billions of dollars have been diverted by various corrupt practices, including bribery of judges, false contracts, padded development projects, dishonest officials and cronyism. In fact, it is still common practice for U.S. arms manufacturers to use legal bribes/sweeteners to secure contract deals. (Haller & Shore, 2005)

The anthropology of corruption is rich with examples starting in colonial times and includes cases such as the East India Company.

Another good illustration of the anthropology of corruption and systemic corruption at work is Italy's monumental political corruption probe of early 1990's, operation "Clean Hands" that resulted among other things in the disappearance of many political parties. Operation "Clean Hands" had a strong positive effect in the fight against corruption during its first two years but it was followed by a major retrogression after the election of the controversial magnate Silvio Berlusconi in 1994.

In fact, a new law was enacted to avoid jail time for most corruption crimes. Laws granting partial amnesty to certain crimes were also approved; use of black money in political campaign for instance was decriminalized. Balance sheet forgery that was mostly used to generate black money for payment of public officials was not decriminalized but many obstacles in legal procedures were created. Ultimately there is a great controversy regarding the results of operation "Clean Hands" – 40% of the cases investigated did not reach a final judicial decision where those prosecuted were either acquitted by amnesty or legal time prescription. Italy has a problem where legal cases just don't end. (Moro, 2015)

Berlusconi himself was acquitted of corruption charges that included bribing of judges due to delay tactics that can be used in the Italian legal system. In a case involving an unsuccessful attempt by Berlusconi to stop Italian magistrates getting their hands on some documents seized by the Serious Fraud Office in Britain his lawyer alleged: "Italy is not a normal country. Even an anomaly like Mr. Berlusconi must be understood in the context of the country. He has done nothing worse than any businessman in Italy".

Indeed, many Italians say, Berlusconi did only what all businessmen had to do to get ahead: pay off anybody, politicians and judges included, who were in a position to help and that his fault was simply that he was cleverer, and became richer, than his rivals. Besides, they add, what were the magistrates themselves up to, before the "Clean Hands" campaign, when they were notably inactive in pursuing bigwigs? (Economist, 2001)

Corruption was also the underlying cause behind the financial meltdown of 2008 as corroborated by (Stiglitz, 2012) who noted that the massive violations of the rule of law by the banks reflect a new style of corruption. Indeed, one of the federal government-controlled banks⁵ threatened to cease doing business in Massachusetts when the state's attorney general brought suit against the banks. Worse still was the fact that that no one went to jail for those crimes.

There is a general understanding among researchers that the best antidote to corruption is a strong civil society and good governance, both of which increase the costs of public officials engaging in abuse of office to participate in corrupt acts – institutions limit what politicians and other government bureaucrats can and cannot get away with, which in turn affect individual behavior. Judge A. Miller (Miller, 2004), stresses that in addition and in the interest of prevention and punishment of corruption, it is imperative that legislation on the abuse of office should be sufficiently sophisticated and prescribe severe sanctions under the criminal law, a position shared by judge J. Rakoff (Rakoff, 2015) who advocates that prison is the best vaccine against corruption and Eva Joly who believes that if you want to fight corruption, you cannot rely only upon campaigns for good behavior, "you need to arrest someone!" (Solheim, 2015)

The way in which the legislative evaluates abusive conduct in public office, and the way in which such conduct is punished are a measure of the ability of the system to take into account the values and expectations of a society and seen by ordinary citizens as just and legitimate.

⁵ Ally, formerly GMAC, in which the government had 74 percent ownership.

Cultural aspects

Culture does not drive corruption – corruption is rather a manifestation that is the result of what societies do and not of who they are. Corruption exists by default as a result of governance regimes, such as ethical universalism, neo-patrimonial and competitive-particularistic and corresponding levels of political development. (Alina Mungiu-Pippidi et al., 2011)

However, a corrupt environment tends to spread criminal values, reinforcing and probably worsening the level of corruption. This is a very important externality not properly highlighted in the corruption literature and shows the importance of introducing the cultural dimension to the debate. (Mironov, 2015)

Furthermore, the understanding of cultural differences is important in order to better understand and identify the different stages of the corruption phenomenon in different countries. Sociologists and anthropologists have accumulated a wealth of field evidence on the behavior of different cultures when dealing with corrupt practices.

Each cultural perspective brings a deep reservoir of ideas and resources for dealing with a rapidly changing world, whether it be the technology and efficient organization of the West, the theological and ethical perspective of the Middle East, the stability of Confucian relationships, the communal values of traditional African cultures, or the connectedness of all living things in Indian pantheism. (Hooker, 2008, 2010)

More recently economists have increased the study of culture significantly (Zingales, 2015). The traditional assumption of “homo economicus,” who will behave in exactly the same way in Russia and in America, in China and in Brazil, started to crumble when confronted by the evidence. “Homo economicus” was embedded in a cultural context and this context affected people’s choices in a relevant way. A definition of culture commonly used in economics is “those customary beliefs and values that ethnic, religious, and social groups transmit fairly unchanged from generation to generation” (Guiso, Sapienza, & Zingales, 2006).

Corruption arises in the ways people pursue, use and exchange wealth and power, and in the strength or weakness of the state, political and social institutions that sustain and restrain those processes. Differences in these factors, give rise to four major syndromes of corruption of a systemic nature where culture and level of development also play a role: Influence Markets, Elite Cartels, Oligarchs and Clans, and Official Moguls. (Johnston, 2006)

Influence Markets corruption revolves around advantages provided by decision makers within established institutions, a form typified by the U.S., Japan, and Germany. Elite Cartels involve interlocking networks of power-sharing presidents, politicians, business leaders, military figures, and others, who exploit a weaker state apparatus such as found in Italy, Korea, and Botswana. Oligarch and Clan corruption consists of disorderly “fights” among contending elites seeking political and economic benefits and monopolies – for instance, Russia, Mexico, and the Philippines. Official Moguls corruption is where official power is integral to corruption – not compromised by it – and in which corrupt figures act with near-complete impunity.

Social / Civic capital

The concept of social capital started to be discussed with (Putnam, Leonardi, & Nanetti, 1993). Defined as a combination of interpersonal generalized (social) trust and networks based on reciprocity, it is seen as a major asset for individuals as well as groups and societies

(Castiglione, van Deth, & Wolleb, 2008; Svendsen & Svendsen, 2009).

The vast majority of the world's population lives under either deeply or fairly corrupt public authorities. The generally high levels of corruption and low levels of quality of government that are found in most contemporary countries turn out to have devastating effects on democracy, prosperity, social well-being, health, satisfaction with life, and social trust. (Rothstein, 2013)

(Guiso, Sapienza, & Zingales, 2010) introduced the definition of social capital as civic capital – those persistent and shared beliefs and values that help a group overcome the free rider problem in the pursuit of socially valuable activities. Investment in civic capital is the amount of resources that parents spend to teach more cooperative values to their children. A deterioration of this set of values can be seen as depreciation of civic capital.

Even more than physical and human capital, civic capital of trust and cooperation takes time to accumulate – because intergenerational transmission and formal education require the passage of a generation to have an effect. It has increasing returns to scale because the payoff from an individual investment in civic capital positively depends upon the prevailing level of civic capital in a community.

If the state is perceived as occupied by dishonest, the well intentioned avoid public life. Given the visibility of politicians and the need to deal with authorities on a daily basis, the corrupt nation-state is a powerful factor of erosion of a country's civic capital.

Stages of corruption

In the recent past, researchers have been dedicating greater effort to better understand how control of corruption evolved to the present levels, among them (Alina Mungiu-Pippidi et al., 2011) and (Acemoglu & Robinson, 2012); more specifically how low corruption countries reached a modern inclusive state.

According to (Alina Mungiu-Pippidi et al., 2011) corruption is a deviation from an otherwise established norm of ethical universalism, where every citizen is treated equally by the state and all public resources are distributed impartially.

The extent to which political and economic institutions are inclusive explains the enormous difference in living standards, prosperities (and levels of corruption) around the world – the economic and political incentives and the extent to which they are inclusive or extractive (Acemoglu & Robinson, 2012). The best examples of countries with inclusive and extractive political and economic institutions are those in Scandinavia and Latin America respectively.

Ethical universalism and Particularism –

Ethical universalism regime is a pluralist inclusive political-social-economic system also characterized by low level of corruption calculated and tested by use of the resources versus constraints model.

In less developed countries the norm is particularism regimes, divided between neo-patrimonial (where power is monopolized by the ruler and their clique) and competitive particularistic (where several groups compete for the spoils, but spoiling the state remains the rule of the game), which differ essentially in their level of pluralism.

A few aspects need to be considered regarding the ethical universalism category. First, it is a very powerful expression with a strong weight and literally, from a linguistic and philosophical perspective, it implies a near perfect moral integrity, nonetheless due to human nature no

country has this level of moral standard, which might be misleading (see below).

Second, since the independence and quality of the judiciary play a central role in the resources versus constraints model and is measured on a perception basis its assessment requires special care.

Third, the fact that there is a reasonable amount of facts showing exceptions to ethical universalism in the developed world where what should be isolated incidents have become rather common aggravated by the fact that the amount of damage is stratospheric and with long-lasting effects. Take for instance the Iraq invasion, the 2008 financial meltdown (cases involving corruption which had dramatically greater impact than others), among a host of continuous violations seen very often in the media.⁶ This is a flaw in the current criteria of addressing corruption. It might be less controversial to categorize ethical universalism as inclusive or low corruption universalism.

Fourth, there are countries that have low levels of corruption domestically but harbor proceeds/assets from corruption, closing their eyes or looking the other way. These countries actually have a selective moral standard, a selective ethical universalism regime. Harboring corrupt/illicit proceeds characterize in fact a co-optation with a crime and should be taken into consideration when categorizing corruption (Switzerland, UK, U.S., Luxembourg, etc.). It is like considering as crime only the robbery part of it and not its cover up, or computing the assets only and not the liabilities. Such unethical behavior needs to be contemplated in order to shed light on this immoral practice and help deter it and reduce corruption.

Lastly, the greatest corruptors are among the world's richest countries that extract wealth from corrupt-prone less developed corruptee-countries, a phenomenon that also happens in Brazil (TransparencyInternational, 2007).

Inequality –

Another aspect that deserves close attention is the movements in inequality as it plays an important part in the corruption process and level. Researchers including (Gupta et al., 1998) have shown that corruption is one of the major causes of inequality and vice-versa (Queiroz, 2015) through its impact on human capital formation, and unequal access to education. Tests show that a worsening of the corruption index by one standard deviation (2.52 points on a scale of 0 to 10) is associated with an increase in the Gini coefficient of about 4.4 points, which is considered quite representative. (Tanzi, 1995) argued that the benefits from corruption are likely to be accumulated by the better-connected who belong mostly to high-income groups.

Many countries in the West have been dangerously, almost imperceptibly, drifting toward greater inequality in the last thirty years and this can lead to the retrogression in their levels of corruption together with other related problems. It is less noticeable when the whole block drifts downward, a fact not contemplated by (Alina Mungiu-Pippidi et al., 2011) when assessing ethical universalism for instance.

Taking the U.S. as an example, it can be noted that concentration of income increased dramatically, with the top 10% income jumping from 30% to 50% since 1980, same high level of income concentration as pre-WW2 twentieth century – a phenomenon also seen in UK, France, Germany and other developed countries (Piketty, 2014).

⁶ There are also those involved in dubious incidents, including Clinton(Glencore), Bush(Iraq), Blair(Iraq), Cheney(Iraq), Biden(Burisma-Ukraine Gas) and others.

(Acemoglu & Robinson, 2012) argue that the U.S. is now in the middle of a 'Perfect Institutional Storm' with political and economic power concentrated in the hands of a few – and some feel that its inclusive institutions regime is being eroded. This deterioration is also reflected in the U.S.' 2013 Human Development Index which when adjusted to inequality falls from 5th to 28th place⁷. (Stiglitz, 2012) also argues in the direction of weakening of inclusive institutions. In this same realm of thought (Diamond, 2008) makes reference to the decay in trust. Anecdotal evidence corroborates with the above showing a decline in the general quality of life, including access to school, equality, accountability, and trust in institutions in the U.S., UK, France, Italy, Spain, Portugal and others in the last three to four decades (Piketty, 2014).

Transitions –

Transitions from corrupt particularism regimes to regimes where low corruption is the norm are political processes. Major changes happen when a particular socio-economic system ends its cycle due to the natural evolution process, which is part of the universal law. Successful countries followed trajectories of their own, in a gradual form based on a permanent process of institutional drift and were faced with critical junctures that forced them to change almost as a matter of survival as substantiated by their history. (Acemoglu & Robinson, 2012)

The flip side of the negative movements mentioned herein is the opportunities for transitions in the right direction that are currently observed. In the same way as the more inclusive low corruption West German system prevailed over East German particularism after the unification, the political-economic consolidation of the EU can result in the gradual drift of the less developed EU countries into more egalitarian regimes with lower corruption.

There seems to be a wind of change in the air toward a more inclusive regime in the UK and the U.S. with the Jeremy Corbyn phenomenon that includes honest politics, and the electoral campaign speech of Bernie Sanders in the U.S. It also seems to be happening in Guatemala and Brazil. The civil society in Guatemala recently forced the resignation of its former president based on corruption charges. Unprecedented level of corruption scandals in Brazil is also putting enormous public pressure to the installment of impeachment processes against president Dilma Rousseff and other politicians despite delay maneuvers of the Supreme Court which the Workers' Party managed to "control" indirectly since rising to power in 2002 as part of its hegemonic power project. Brazil also seems to be in the middle of a 'Perfect Institutional Storm' with Brazilians appearing to have said 'enough', pressing for the strengthening of its institutions.

The main actors of change are national representatives of the civil society who act domestically to promote and implement the necessary changes. The media, political oppositions and civil society should not be seen as non-permanent guests taking part in consultations on legal drafts but as main permanent actors in the process of anti-corruption and holding decisive seats in all institutions promoting ethical universalism. The international community has also been gradually enhancing its support to these initiatives.

Accountability

Corruption severely undermines any connection a government might have with its people, conversely generating mistrust of government, putting at risk the legitimacy of democratic government. There is a strong two-way nexus between corruption and quality of institutions

⁷ United Nations Development Programme – Human Development Reports, table 3

and accountability. In the process of development of their democratic institutions or any other political system, societies build a natural threshold or scale related to their level of tolerance to wrongdoings of their governments and political representatives that are determined in accordance to their stage of institutional evolution – their stock of civic capital. (Queiroz, 2015)

(Diamond, 2008) believes the world slipped into a democratic recession. In many developing democracies elections are contests between corrupt, clientelistic parties. There are constitutions, but not constitutionalism. Furthermore, in much of the democratic world, citizens lack any confidence that politicians, political parties, or government officials are serving anyone but themselves – a negative force away from ethical universalism.

Illicit practices reduce public trust in government institutions (Chetwynd, Chetwynd, & Spector, 2003) and can lead to public revolt. Less developed countries tend to have a long history of abuses perpetrated by the governing elite; nonetheless their citizens have a limit of tolerance that also regulates the level of quality of institutions.

A key imperative is to restructure and empower the institutions of vertical and horizontal accountability and bolster the rule of law (culturally and institutionally) in a resourceful civil society. Vertical accountability includes genuine democratic elections with independent electoral administration with strict integrity and neutrality, public hearings, citizen audits, regulation of campaign finance, and a freedom-of-information act/ FIA.

Horizontal accountability requires the existence of a strong anti-corruption agency (ACA) with powers to collect regular declaration of assets from all significant elected and appointed officials – a commission with competent professionals, vigorous leadership, and the resources to check the veracity of financial declarations, probe allegations of wrongdoings, impose civil penalties, and bring criminal charges against violators. This work must be reinforced by Ombudsman, public audits of major government agencies and ministries, parliamentary committees, and a by competent independent judiciary.

Global accountability tools such as the United Nations Convention Against Corruption (UNCAC) play an important role. But it requires massive domestic demand for new rules of the game and public participation in a sustainable mechanism which would prevent the eternal reproduction of privilege. These tools will have an impact only if the entire society contributes to a permanent check on the government. In this context, the ownership principle in anticorruption must simply be interpreted as ownership by the society, not by the government.

However, the kind of civil society needed to serve as a watchdog at the community as well as national level is frequently missing in many countries. In the last ten years and due to donors funding, the world was more populated with professional ‘expert’ civil society than with watchdog and whistleblowing civil society. (Alina Mungiu-Pippidi, 2013)

There are areas where human agency can play an important role in accountability, including the strong impact of the internet infrastructure, reduction in red tape, economic openness, civil society activity, freedom of information acts and media freedom. Although some of these proxies do not seem to address corruption directly, any contribution to their improvement is a clear and substantial anti-corruption aid.

(Miller, 2004) points out that corruption among public officials plays a major role in undermining the fundamental relationship of mutual trust and seriously endangers the authority of the democratic state. Ensuring that individuals in power carry out their duties in accordance with the legal requirements of their job is a critical aspect of the construction of democracy as governance of visible power. Equally important is the fact that it has been more recently recognized that the content and limitations of any political or legislative act must be regulated through the identification of moral rules that must inform the choices of those who exert such power.

Public survey shows that the majority of people perceive their countries' judiciary as corrupt including Latin Americans (70-80%) and Americans (over 50%).⁸ The success of any anticorruption policies passes mandatorily through having a highly moral and respected judiciary in whose magistrates the society deposits a great level of trust, a characteristic of countries with low level of corruption. Moreover, the quality of a democracy requires a good system of checks and balances, which involves good governance, and good governance demands strong institutional accountability.

Empirical evidence shows that a high quality judiciary acts as a deterrent to corruption – the quality of the judiciary is directly related to the level of corruption in any country and has a two-way causality (Lambsdorff, 2007). Higher levels of corruption generate a negative evaluation of the quality, independence and effectiveness of the judiciary. (Queiroz, 2015)

Judicial corruption includes any inappropriate influence on the impartiality of the judicial process by any actor within the court system. Independence implies that judges' careers do not depend on pleasing those with political and economic power (Rose-Ackerman, 2007). Corruption in the judiciary undermines the dictates prescribed by the rule of law consequently perpetuating impunity, and favoring those parties in interest and self-serving magistrates to the detriment of the whole society.

A dishonest judge many times cannot be caught and, in many countries, when caught is subject to more lenient types of punishment such as a mere dismissal with no monetary or legal consequences, which makes it mandatory that the judiciary possesses a strong disciplinary body with strong ethical rules.

It is worth enhancing that a competent, independent, and incorruptible judiciary is a basic pillar of a democratic and just nation and that merely adding more and more laws and systems to try to box in corruption often ironically only exacerbates it by increasing the times when government becomes involved in public life and, therefore, the times when those in government stick out their hands for bribes.

It is also imperative that legal scholars understand and obtain theoretical and empirical knowledge of corruption in order to understand the relationships between law and society, law and business, law and the economy, and law and politics in much of the world along the line advocated by (Nichols, 2012).

Utility behind the decision to participate in corruption

There are different theories regarding an individual decision to violate legal rules. Gary Becker (Becker, 1968) and Jin-Wook Choi (Choi, 2009) use the rational choice method to represent logic behind the decision. Philip Nichols (Nichols, 2012) presents a theory that provides a

⁸ (TransparencyInternational, 2007)

better representation behind utility of the decision to act corruptly⁹:

$$\begin{aligned} \text{Utility} = & \int \text{Benefits} - (\int (p * \text{Criminal Penalties}) \\ & + \int (p * \text{Social Penalties}) + \text{Cost of Favor} \\ & + \text{Psychic Costs}) \end{aligned}$$

This representation takes into account the value of the offered benefit, but recognizes that the value of the corruptee is a function of, among other things, the extent to which the bribe can be used – even a very large bribe is of no value if it cannot be used in secrecy. Swiss bank accounts for instance are more than glamorous, and make possible the laundering and subsequent use of large amounts of money. This formula also takes into account the perceived risk of detection and subsequent criminal penalties. Perceived risk of detection and prosecution actually has more impact on one’s decision than does the “probability” to which the formulation refers.

Costs imposed by the criminal law do not consist only of incarceration and fines. This formulation recognizes that the cost borne by the corruptee is affected by many factors, including the likelihood of prosecution, legal costs, loss of a job and respective income, future non-employability, financial losses to the family, the mental and physical tolls associated with criminal litigation, and the time lost from the family and friends and other opportunity costs incurred while incarcerated and or defending oneself.

Corruption will also evoke social costs, which a rational decision maker will discount by the probability of social detection. Social costs include the informal penalties imposed by society in general in the form of reputation and shame. The potential corruptee must also consider the cost of the favor – the cost of the performance that is required as *quid pro quo* for the bribe and the psychic costs that accrue from emotional, psychological, and other internal factors that will negatively affect his/her mental and physical wellbeing as well as his/her family, relatives and friends. Psychic costs evoke personal feelings of guilt. Psychic costs are recognized as having powerful influence on an individual’s decisions regarding compliance with the law – “people obey the law because they internalize the external legal proscription” (Nichols, 2012) citing (Baker, 1999).

Understanding the logic behind potential corruptees decisions can help develop programs to inform public officials and the public in general about the great risks involved in the decision to corrupt including the significant damage imposed on family and relatives, which can be a good tool to help avoid corruption and reduce the levels of corruption.

Assessment

Corruption schemes

Corruption schemes falls directly under the realm of the rule of law. Legal scholars have contributed substantial research on corruption since understanding corruption is imperative for legal scholarship, both as an intellectual subject and because corruption impedes

⁹ A version of this representation is put forward and explained at length in Philip M. Nichols, *The Perverse Effects of Campaign Contribution Limits: Reducing the Allowable Amounts Increases the Likelihood of Corruption in the Legislature*.

the operation of law in much of the world and inflicts damage on well-being, governance and quality of life. (Nichols, 2012)

There are many ways in which opportunities for corruption are created, among them change in legislation, fabrication of major developments and regulatory capture – a form of political corruption that occurs when regulatory agencies including central banks, formed to act in the public's interest, eventually come to be dominated by the very industries, including banks, they are supposed to be regulating. In many cases corruption of regulatory officials takes form as they are well rewarded in their post-government careers as seen in Brazil where historically, for instance, practically all former central bank directors and top officials hold high positions in banks, Brazilian and foreign, following their mandate of a few years (generally within the four-year term of a Brazilian president in office since the Central Bank of Brazil is linked to the government). This same phenomenon also applies to former Ministers of Finance and their aides and this proximity with power helps one understand the reason why banks in Brazil are considered so hegemonic.

Corrupt systems often arise in political environments where government intervention is increased ostensibly to transfer wealth to the poor, but in reality often results only in the transfer of wealth to the political class and its cronies. As (Plunkitt, 2001 ; Steffens, 1931) point out, the only real dangers to such a system (at least in a democracy) are (a) that it must continue to deliver enough value to the poor to ensure the voters continue to support the party in power, (b) that its corruption not be so dramatically exposed to public view that the voters, disgusted, turn on the party in power, and (c) a strong and independent judiciary.

Empirical data shows that there is not a clear cut fixed definition as to where the line is drawn between licit and illicit since there is a myriad of ways to play with the laws in a tentative disguised fashion where corruption arises through other less obvious forms, which may involve collusion between parties typically from the public and private sectors, and may be legal in many countries. Trading in influence practices are among these corrupt initiatives. (Queiroz, 2015)

Lobbying, trading in influence including campaign contribution activities, political nominations to key positions in state controlled corporations, nepotism, etc. are among the key vehicles through which grand corruption is perpetrated – together with bribing of politicians, government officials, members of the judiciary and regulatory agents, they generate a phenomenon that in economics is called the race to the bottom.

The interrelations between these activities and corruption have been studied by several scholars including (Campos & Giovannoni, 2006; Coate & Morris, 1999; Dahm & Porteiro, 2004; Damania, Fredricksson, & Mani, 2004; Grossman & Helpman, 2001; Harstad & Svensson, 2005; Yalcin & Damania, 2005). These activities are home to a host of illicit financial transactions, both on and offshore.

In the realm of lobbying, special interests and contributions also lies rent-seeking activity including those of financial markets – private financial institutions such as banks and investors (Khwaja & Mian, 2011) – and natural resources. It includes the politically connected firms and individuals that obtain rents from government banks in the form of preferential lending in terms of greater access to giant credit at a lower price, at times involving mega defaults – they are also more likely to be bailed out by the state.

Banks for instance have pursued a series of corruption-related wrongdoings in developed countries, including criminal actions, in an unprecedented level over the last few years – cheating millions of home-buyers; violating American foreign policy sanctions on Cuba, Iran and Sudan;

manipulating international interest rates and currency rates; laundering cash for tax evaders and international criminal gangs. (Vogl, 2015)

(Dinc, 2005; Sapienza, 2004) demonstrate that government bank lending in developing countries is significantly impacted by political considerations. (Claessens, Feijen, & Laeven, 2008) show that Brazilian firms with campaign contributions to winning candidates experience higher returns and subsequently receive greater credit from banks. They estimate an economy-wide cost of capital misallocation that alone equals 0.2% of GDP per year – these contributions are limited to publicly listed firms that represent only 14% of total corporate campaign contributions.¹⁰ The web of implications and financial considerations and related complexities is quite representative as shown by (Khwaja & Mian, 2011).

Several cases illustrate the above. A good example is found in Brazil where among well-connected who obtained preferential credits from the Brazilian Development Bank (BNDES) is the now bankrupt Group EBX owned by Eike Batista, son of former president of Brazil's largest mining company Vale, and JBS Friboi, the world's largest meat processing company with outstanding loans of US\$ 4 billion and US\$ 3 billion respectively. A Congressional Special Committee has been created to investigate giant credits provided by the Brazilian Development Bank (BNDES) in Brazil and abroad.¹¹

Corruption infects many resource rich countries – oil and gas and mining. There are approximately 60 countries rich in natural resources in the world. They have all considered options to mitigate the infamous resource curse, also known as the paradox of plenty. To counter this “curse” good governance has a strong effect on how well a country's non-renewable resources can be managed. The NRG Index (National Resource Governance Institute) is a first step in the right direction.

Utilities and other government-regulated activities are also exposed to grand corruption mainly in poor and transition economies – Latin America and Africa for instance are filled with examples that include government concessions.

One of the objectives of rent seekers, for instance, is to shape laws and regulations to their benefit. Lawyers help write complex laws in which loopholes are put and they then design the complex deals to take advantage of these loopholes.

(Stiglitz, 2012) referred to the occurrence of the sociological phenomenon called “cognitive capture” when the mindset of regulators is captured by whom they regulate, and not by money, and noted that there was a natural affinity between Alan Greenspan (and Tim Geithner) and the banks despite the fact that he (them) never worked for a big bank before going to the Federal Reserve. In the banker's mindset – despite the mess they created that culminated in the 2008 financial meltdown – there was no need to impose stringent conditions on the banks in the bailout. The bankers for instance unleashed a large number of lobbyists (2.5 for every U.S. representative) to persuade any and all who play a role in the regulation that they should not be regulated. He also argues that many of the innovations of banks are designed to circumvent

¹⁰ Mauro found the effect to be considerable: a one-standard-deviation (2.38-point) improvement in the corruption index is associated with over a 4-percentage-point increase in a country's investment rate and over ½-percentage-point increase in the per capita growth rate. This means that if a given country were to improve its corruption grade from 6 out of 10 to 8 out of 10, its investment-GDP ratio would rise by almost 4 percentage points and its annual growth of GDP per capita would rise by almost half a percentage point.

¹¹ Bloomberg/Info Money Dec 15, 2014 and Globo G1 May 2015.

regulations.

Another way is when central banks lends unlimited amounts of money to banks at near-zero interest rates, and allows them to lend the money back to the government at much higher interest rates.

Through trading in influence corruption also branches into the multi-trillion dollar war business that includes the United Nations (Miniter, 2011), and where architects of war and the true interests and corruption behind them are deleted from media accounts and replaced with stories about soldiers, weapons, and territory (Nordstrom, 2004) – in fact, one of the major causes of the present refugee crisis in Europe, and a classical case of stock-and-flow of system dynamics in action.

Another case that fits the current migration dynamics is the boomerang effect of the fatal exploitation of Africa's natural resources by large multinationals inflicting misery, hunger, environmental destruction, health problems and death. It is the feedback dynamics of natural forces and natural law at work – their wealth is taken paying practically nothing forgetting that they are dealing with people's lives and their universal right to life, and that they are not going to just sit there waiting to die.

On an initiative to fight one form of legal corruption Larry Lessig, presidential candidate and professor of Harvard Law School, started a debate related to corruption in politics in the U.S.¹² He claims that corruption is part of a more fundamental inequality where the system is rigged in favor of lobbyists and those able to exert their influence to a disproportionate degree, along the lines advocated by (Stiglitz, 2012) where especially in the U.S., it seems that the political system is more akin to “one dollar one vote”. His proposal to end corruption of the political system and restore citizen political equality consists of three fundamental reforms: (i) equal right to vote, (ii) equal representation in congress, and (iii) citizen funded elections.¹³

Unfortunately because of the venal work of a few rotten apples the honest laboring of many people, professionals, businessmen, judges, prosecutors and police are penalized or even, in cases of businesses, driven into insolvency and foreclosure. A wealth of empirical evidence shows many cases where their work is thwarted.

The corrupt use many intimidating tactics to stop the work of those who combat corruption. Among personal episodes in the fight of grand corruption is one anecdote where the largest scandal in Brazil involving a real estate developer and residential builder in a US\$ 4 billion Ponzi scheme imputed upon 42.000 families of buyers throughout the country, which I disclosed to the public after being appointed by a government bank to lead the intervention in the firm. Ironically, in addition to being at gun point and locked in the trunk of my car, having my house invaded, and death threats made to my family and me, a corrupt judge made my house and car unavailable for sale, which lasted over 15 years.¹⁴ A second episode allowed me to see the ‘lobbying’ of former Supreme Court Judges’ in judicial decisions at the appellate level. A third episode involved the judiciary in a US\$ 2 billion bank foreclosure in Brazil (2005 to present) due to frauds and corruption where among other things I was intimidated by the judge in charge of the foreclosure when I, in the capacity of president of

¹² New York Times Dec. 5, 2005, Fixing the Game
www.nytimes.com/2005/12/05/opinion/05mon1.html

¹³ Larry Lessig's web page – <https://lessigforpresident.com>

¹⁴ Revista Veja August 27, 1997
<http://www2.senado.leg.br/bdsf/bitstream/handle/id/183652/000525327.pdf?sequence=1>

the creditors committee, reported a conflict of interest involving a law firm that was working for both, the state and the former bank owner (Queiroz, 2006).

Moreover, the former bank owner who was charged with several crimes and sentenced to 21 years in jail in 2006, was released in sequence by a decision of the Supreme Court of Brazil, and is still free with important judicial decisions still pending and justice not delivered. The appellate court also annulled the public sale of the former banker's mansion (over US\$ 100 million).

In addition irregularities involving pension funds investments in the former bank, international bonds, foreign banks, audit firm, central bank of Brazil among others and reported by the creditors' committee were discarded by the trustee, a former officer of the Brazilian Central Bank, and the judge in charge. (Queiroz, 2006)

An illustration of the subtle contradictions found in Brazilian legislation is the fact that Brazil's insolvency law allows the creation of creditors' committees but at the same time creates a disincentive for its effective creation to the extent that it does not allow respective professionals to be remunerated, which is in clear violation of the spirit of the Constitution and labor laws (Queiroz, 2008). Furthermore, the judge knows the money in the estate in principle belongs to creditors acts as if it doesn't. In such a way the judge (together with the trustee and the bankrupt) holds the estate hostage.

Such disincentive creates an unbalance in favor of the corrupt fraudster in detriment of the creditors and could be clearly seen in the case in hand where the creditor's committee was faced with having to struggle with the filing of claims and appeals in order to be remunerated, and which by a very thin margin almost didn't happen. All that goes on behind the scenes is simply unimaginable. In many countries such as the U.S. the unsecured creditors' committees are allowed to hire professionals and counsel to advise them with these professionals being paid by the bankruptcy estate.

This and other obstacles hidden in the law in Brazil pose a great risk to creditors in their position of most important group in a bankruptcy proceeding to directly pursue receipt of their credits. This cripples their representation consequently allowing more room for corrupt undertakings – in the case in hand favors the former banker. In fact, judicial insolvency in Brazil is historically an area where corruption prevails and is characterized by a promiscuous relationship between the judge, the trustee and the bankrupt.

Inside the system one can observe the several existing flaws in the judiciary. Brazil's legal procedure system has a particularity not found in many countries. Most cases are decided at the appellate level with defendants having the capacity of appealing indefinitely at state, federal and Supreme Court levels, severely procrastinating the due process of law and consequently delivery of justice.

Many anti-corruption measures may have little impact and can be strategically manipulated by politicians. There is not much sense in calling for leaders to show political will to limit corruption when they themselves are the source of state capture and other corrupt acts. Similarly, naive moralizing about a system of laws backfires when the law itself is used as a veil to obscure corrupt schemes. Contemporary corruption is sophisticated and involves a host of illicit connections between wealth and power. (Nichols, 2012)

Measurement of corruption

The measurement of corruption is a highly complex exercise and has been evolving over time, mainly in the last twenty years. It has three major components that aren't necessarily mutually exclusive: (i) grand corruption involving bribes, kickbacks, and the like; (ii) illicit financial transfers which are predominantly related to trade misinvoicing and (iii) tax related schemes. Given the importance of corruption on the policy agenda, literature has dedicated increasing attention to the issue.

There are two approaches to the study of corruption, quantitative and qualitative, and both rely on numerical data and interpretation. Quantitative analysis essentially involves statistics and is 'population-oriented' such as econometrics. Qualitative study is case-oriented and involves logic, interpretation and also objective numerical data – qualitative treatment can reveal relationships and attitudes not discerned through quantitative measures. We can use either approach or a mix-method approach. (Mahoney & Goertz, 2006)

Grand corruption

Measurement of grand corruption has recurrently and understandably been the stage of disagreements among practitioners and scholars. The wide array of methods employed to conceal corrupt practices together with the different qualitative aspects involved contribute to the difficulty in measuring it and it is beyond the scope of this paper to discuss them now.

Among the common methods used by companies to make bribe/kickback-related payments is by use of intermediaries such as law firms. In fact, there is anecdotal evidence where an oil company used a law firm to bribe a tax authority to abort a specific inspection where irregularities were found. This is in fact a very common practice in the tax-legal and banking arenas in developing countries. Banks located in several jurisdictions including corrupt-money heavens like Switzerland are well known for concealing money from corrupt transactions. Ironically banks compete for corrupt money and many governments turn a blind eye to this reality involving monumental sums of money. (Galtung, 2006) highlights that there are no instruments that measures or ranks the willingness by major industrialized and 'clean' countries, like Switzerland, UK, U.S. and Singapore to provide banking and investment safe havens for looted public funds and corruptly obtained fortunes. (Stiglitz, 2012) suggests closing down financial heavens.

Furthermore, international laws either do not sufficiently discipline or are lenient with respect to the participation of (developed) countries in corruption processes, and such practices are not contemplated by any of the current measurement criteria. This is a grave flaw in the current criteria of addressing and measuring corruption.

Grand corruption is invisibly exercised in many forms by self-serving representatives and officials and not all have direct monetary impact – as for instance in the use of legislation in the making, such as laws that involve land expropriation in light of the benefits and valuation of a new metro investment to advantage of oneself and respective cronies.

(Pardo, 2004) pointed out that there are actions that do not readily fall into the categories of corruption and abuse of office such as sleaze, cronyism, nepotism, privileges accorded political affiliation, the politics of sub-government that are practiced by powerful groups and individuals inside, or just inside the law. The interests of the dominant elite may inform a legislative blindness or excessive arbitrariness, thus compounding the existing political pathology. Such blindness and arbitrariness dramatically stress the contextual partiality of the law in favor of the dominant political, social and economic interests, and its inherent

contentious character.

Perception-based index

Commencing during the mid-1990s, several organizations have developed a perception based corruption index across a wide range of countries to quantitatively assess the pervasiveness of corruption.

These indices contain a high degree of abstraction, which is justified because the actual level of corruption in a country is difficult to observe, and also due to the high level of secrecy and complexity employed in the legal and financial structures of grand corruption. They have been widely used by researchers in econometric studies as a dependent variable when exploring the causes of corruption or as an explanatory variable when investigating its consequences. Among the organizations that have developed corruption indices are the Worldwide Governance Indicators (WGI), Transparency International (TI), and Political Risk Services Inc. that produces a variety of reports including the International Country Risk Guide (ICRG) and the Political Risk Services Country Reports (PRSCR).

Using Brazil as an example, the rather flat behavior of WGI's corruption index for Brazil (fig. 1) strongly suggests that it did not capture the dramatic worsening in corruption with the accompanying scandals that occurred in Brazil starting in 2002. In fact, recent research has challenged the goodness of perception based indicators, arguing they might not be good indicators of actual corruption (Abramo, 2005; Andvig, Fjeldstad, Amundsen, Sissener, & Søreide, 2000; Dreher et al., 2007; Mocan, 2004; Søreide, 2005; Svensson, 2005).

In this same direction, a structural equation model was employed by (Dreher et al., 2007) using data from the mid-1970s to late 1990s of measurable variables that indicate and cause corruption to verify whether corruption increased or decreased – on a scale where minimum corruption was set at minus one (-1) and a maximum at plus one half (+0.5), showing Switzerland as the least corrupt country with an index of -0.91 in the period 1991-1997, Brazil's corruption index was shown to have increased from 0.0601 in the period 1976-1980, to 0.1271 in 1981-1985, to 0.1271 1986-1990, to 0.225 in 1991-1997. However, it did not show how corruption evolved post-1997. Nevertheless, the corruption events, which evolved in Brazil from 1976 to 1997 corroborate with the behavior compiled by (Dreher et al., 2007), with a sharper increase in post-2002 years.

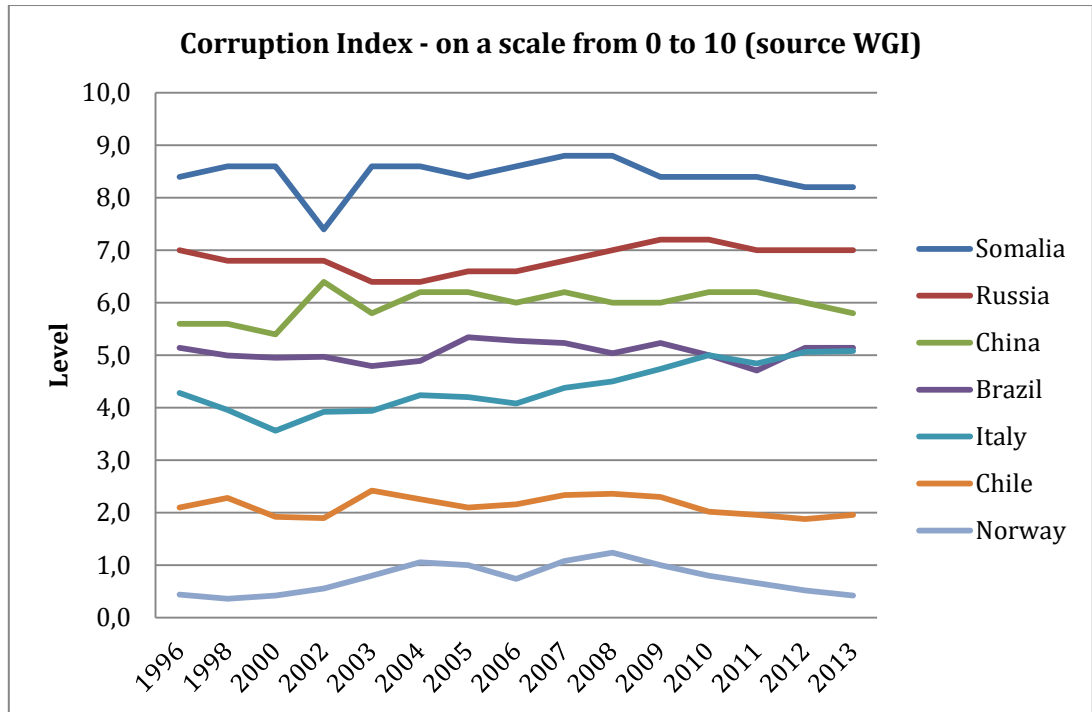


Figure 1¹⁵ (0 min. – 10 max. corruption)

Adding to the debate on the World Bank’s WGI (and TI) we observe that in various countries there is a large variance among the perceptions of distinguished data sources. Using Brazil as an example (fig. 2 and 3) we can see that on a scale of 0 (no control of corruption) to 1 (total control of corruption) IMD of Switzerland consistently rated control of corruption in Brazil as very poor (or that corruption is consistently high) fluctuating between 0.28 and 0.12 from 1996 to 2013; TI data sources consistently rated control of corruption as much better than IMD fluctuating between 0.56 and 0.68 from 2004 to 2013. The variations among the 15 data sources used by WGI demonstrate that perceptions related to corruption in Brazil do not converge around the mean. In other words there is not a convergence regarding how data sources used by WGI rate Brazil in respect to its level of control of corruption. When we analyze Norway we can see that the divergence is much smaller, which reinforces the fact that there is a strong perception regarding Norway’s low level of corruption.

The TI’s CPI is a composite index of perceived public sector corruption and is calculated using up to 12 different data sources which assess many different aspects of public sector corruption. The data sources primarily capture the perceptions/opinions of experts and business executives in the various countries around the world. The CPI focuses on issues such as bribery of public officials, kickbacks in public procurement, embezzlement of public funds, and the strength and effectiveness of public sector anti-corruption efforts. Therefore, the index even with its fairly broad definition of public sector corruption still does not cover all aspects of corruption.

TI also updated the methodology for the CPI in 2012 in order to make the index comparable year on year. Prior to that the scores were not comparable from one year to another and therefore offered only a snapshot of corruption for the specific year relative to the other countries present in the list for CPI. The other aspect worth mentioning is that the CPI

¹⁵ The original index has been rescaled so that the higher values represent higher levels of corruption.

also captures data over a two year time period and the scores for each year are calculated based on assessments that were done in the 24-month period prior to it. Therefore, it takes time for changes to be reflected in the index. (TransparencyInternational, 2014)

	1996	1998	2000	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
BTI					0.60	0.60	0.65	0.65	0.75	0.75	0.70	0.70	0.70	0.70	0.70
CCR											0.52	0.53	0.53	0.53	0.53
EIU	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
TI						0.56	0.56	0.56				0.68	0.68	0.68	0.68
WEF	0.46	0.52	0.49	0.52	0.48	0.56	0.46	0.49	0.36	0.41	0.36	0.44	0.42	0.42	0.37
GII								0.68	0.68	0.68	0.65	0.65	0.65		
Gallup								0.28	0.34	0.32	0.31	0.40	0.40	0.37	0.31
IFD						0.59	0.59	0.59	0.58	0.60	0.70	0.70	0.73	0.73	0.73
IPD								0.50	0.50	0.50	0.44	0.44	0.44	0.17	0.17
LBO			0.30	0.38	0.44	0.46	0.26	0.31	0.34	0.47	0.66	0.73	0.68	0.68	0.83
PRS	0.50	0.50	0.50	0.67	0.67	0.33	0.25	0.33	0.33	0.50	0.50	0.50	0.50	0.42	0.42
VAB								0.26	0.26	0.30	0.30	0.33	0.33	0.26	0.26
IMD	0.28	0.28	0.26	0.29	0.26	0.25	0.27	0.15	0.13	0.13	0.17	0.11	0.17	0.12	0.17
WJP													0.67	0.52	0.50
WMO	0.63	0.63	0.63	0.63	0.63	0.60	0.50	0.50	0.50	0.50	0.50	0.50	0.63	0.63	0.63

Figure 2 – Brazil Individual Indicators used to construct Control of Corruption¹⁶ WGI (Kaufmann, Kraay, & Mastruzzi, 2014)

BTI	Bertelsmann Transformation Index
CCR	Freedom House Countries at the Crossroads
EIU	Economist Intelligence Unit
TI	Transparency International Global Corruption Barometer Survey
WEF	World Economic Forum Global Competitiveness Survey
GII	Global Integrity Index
Gallup	Gallup World Poll
IFD	IFAD Rural Sector Performance Assessments
IPD	Institutional Profiles Database
LBO	Latinobarometro
PRS	Political Risk Services International Country Risk Guide
VAB	Vanderbilt University Americas Barometer Survey
IMD	Institute for Management & Development World Competitiveness Yearbook
WJP	World Justice Project
WMO	Global Insight Business Conditions and Risk Indicators

Figure 3 – Acronyms WGI Brazil (Kaufmann et al., 2014)

These indexes treat corruption as a monolithic, linear phenomenon when it is in fact nonlinear, not of the first degree – similar scores in corruption perception indexes can represent different manifestations of corruption (Nichols, 2012) and it is critical that practitioners and scholars understand the meaning of these data in order to avoid making gross mistakes. Similar scores do not mean that countries

¹⁶ Control of corruption ratings for Brazil from 0 (no control) to 1 (total control)

experience corruption in the same way; countries and other localities experience corruption in vastly different fashions.

It is therefore important to use the existing quantitative perception indexes in combination with qualitative insights in order to get a good understanding of the respective meaning and dimension, which will allow for their more effective application.

Objective method of measurement – case-study

Despite known limitations regarding the precise amount involved in grand corruption it is important to have it quantitatively measured in monetary terms. The use of an objective monetary calculation of corruption using a case study method will be more effective for diagnosis and policy making than existing perception based indexes.

Grand political corruption can be objectively measured in different ways and represents a key issue that practically hasn't been discussed before. The starting point to calculate the amount of political corruption in transition economies and poor countries is via the existing sum of governmental contracts and loans including but not limited to contracts involving natural resources, infrastructure, utilities, concessions, trading and loans. From this point on several other data can be obtained via field interviews with Comptroller General's office, national prosecutors, judges, auditing companies in addition to benchmarking costs. This is quite a comprehensive and time-consuming method that involves a significant amount of data.

As mentioned there are two major groups involved in grand corruption, corruptor and corruptee. Upon measuring corruption it is important to note that the cost is much higher than the percentage paid to the corruptee. There is always a second economic impact (Khan, 2004) – the public official has to 'give' something in 'exchange' and may involve a public investment of several millions or even billions such as in a recent Petrobras scandal in Brazil where the construction of a multi-billion refinery was interrupted with only 20% completed and most of the procurement completed with the company not able to amortize the investments made (Carvalhosa, 2015). This is very common in developing countries where the number of lost investments in unfinished roads, bridges, dams, etc. is overwhelming.

Illicit financial flows

(Kar, 2015) stated that a number of researchers have studied the issue of capital flight from developing countries but that few if any have focused only on illicit financial flows. The government of Norway has been a major contributor to the development and significant advance to the research of illicit financial flows.

Illicit financial flows are mainly represented by trade misinvoicing as calculated by Global Financial Integrity (GFI) and also fall in the realm of the broad definition of corruption to the extent that they involve corruption in one way or another even if by turning the blind eye to this grave circumvention. IFF are also found to be strongly related to the size of the underground economy.

GFI uses a clear methodology to arrive at a total illicit financial flow of US\$ 1 trillion per year out of developing nations. (Kar, 2015; Kar & LeBlanc, 2013)

Tax dodging

As mentioned, there are secrecy and tax haven jurisdictions

that structure their tax and legal systems so as to encourage tax abuse involving several billions of dollars. In the same fashion done in the case of illicit financial flows authorities turn the blind eye to these schemes and typically protect bank secrecy against the tax authorities of less developed countries. In addition there are the individuals and corporations who erode the tax base of poor countries by using tax havens to dodge or reduce taxes on their wealth and profits. And there are vast numbers of smart bankers, lawyers, accountants, and lobbyists who devise, implement, and “legalize” these schemes (Pogge, 2015).

Measurement of tax dodging carries a greater level of difficulty and can be estimated and/or identified once authorities demand greater balance sheet transparency and forbid the use of anonymous corporations and bank accounts.

Grand total corruption-related losses

The measurement of these three major components of corruption-related losses is highly relevant in order to assess the magnitude of the overall problem and to devise the correct and effective policies to tackle this plague. Once the costs involved in grand corruption are calculated we proceed to add the amount of illicit financial flows and tax related schemes to arrive at the grand total estimated corruption-related losses.

Furthermore, this methodology will provide a sound basis for building quantitative computer modeling and simulation of corruption applying a methodology such as system dynamics.

The very recent Volkswagen scandal on emission test rigging follows a long trajectory of an industry that is pretty much self-regulated. Taking such gigantic risk of getting caught and with so much money involved certainly generates great suspicion among many that authorities turning the blind eye could have had a good ‘reward’. Experience shows that the agreements reached by players of different economic segments is quite a common practice be it auto/truck/tractors, banks, pharmaceuticals, food, energy, communications, real estate, service, or others. This and all the cheating, padding and rigging that goes on in all segments enhances the dimension of the corruption problem and the lack of morality and civic capital.

It is worthy of note that these stratospheric illicit gains of a few in the current corruption war steal the universal human right to a dignifying life of billions of people in developed, developing and poor countries. It shows how immense is the challenge to change this pathological paradigm.

Considerations

Taking into account all correlations and cross-reference analysis in light of behavior curves of corruption perception of the World Bank/Worldwide Governance Indicators (WGI) and other intricacies we arrive at a few highly relevant considerations (figure 1):

- i. China has one of the highest levels of corruption among all countries despite having the fastest growing economy and scoring the highest on Pisa test which makes it a point out of the curve in what concerns the findings on the correlations between development and education, and corruption;
- ii. Italy is one of the most developed and educated countries in the world and birth to strong institutions but has a persistent high level of

- corruption which has been increasing since year 2000, also making it a point out of the curve;
- iii. Chile has shown that corruption can be controlled if a country has strong institutions and determination despite being in a region conceived by many to be corrupt by nature¹⁷;
 - iv. The greatest corruptors are among the world's richest countries that extract wealth from corrupt-prone less developed corruptee-countries, a phenomenon that also happens in Brazil¹⁸;
 - v. The more developed nations have lower corruption domestically due to their stronger institutions and ethical universalism but promote corruption in countries that have weaker institutions nonetheless¹⁹; and these practices are not contemplated in any indices or ranks nor are any international laws on these practices visible. This is a grave flaw for numerous reasons *inter alia* triggering a long-lasting astronomical corruption spiral with devastating and irreparable damages.
 - vi. Brazil has been victim to the largest corruption scheme in its history, orchestrated from 2002 to 2015 by populist political leaders, and involving amounts without parallel to secure their power project of permanent domination and it appears that WGI's corruption perception index did not capture such unprecedented phenomenon;
 - vii. Brazil is a continent-size country with 26 states, over 5000 municipalities all equipped with respective executive, legislative and judiciary, and this gives room to corrupt practices – Brazil is seen as having one of the best *de jure* judicial systems in existence but also one of the worst *de facto* judicial systems;
 - viii. Geographic dimension, population and inequality are common characteristics of high corruption countries, with China, Russia, Mexico and India being the first, second, third and fifth countries with the highest volume of illicit transfers of money with Brazil being the seventh after Saudi Arabia.

Conclusions

The present paper contextualized key trans-disciplinary aspects involved in the structure and dynamics of corruption processes – it explored the critical dimensions of culture and civic capital as well as anthropology and pathology of corruption that together with the stages of corruption are essential elements in better understanding and prescribing directions to help reduce corruption levels in the present corruption war where the corrupt is not yet intimidated by existing anti-corruption initiatives. It also reinforced the cause-effect and dominating role of systems of governance in corruption dynamics.

Moreover, it demonstrated the inherent virtues and relevance of both methods of research and analysis, qualitative and quantitative, in the case of corruption in light of the high complexity and nuances involved.

One important finding is that understanding the logic behind a decision to corrupt can be a good tool to help avoid and reduce the levels of corruption by developing programs to inform public officials and

¹⁷ Costa Rica is another good example in Latin America.

¹⁸ (TransparencyInternational, 2007)

¹⁹ Ibid. 18.

the public in general about the great risks involved, including the significant damage imposed on family and relatives,

Secondly the paper identified a possible flaw with the conceptual definition and categorization of ethical universalism and suggests that it be further tested.

A third finding concerned the importance of contextualizing and qualifying the meaning of the data related to corruption perception indexes produced by different organizations such as TI, World Bank/WGI and others to avoid making gross mistakes – in light of the fact that corruption is not a monolithic and linear phenomenon. It was also found that there are still controversies surrounding the perception-based indexes.

A fourth finding concerns WGI's index of certain countries such as Brazil, where we observed a wide variance among perception ratings provided by the data sources.

A fifth finding concerns the fact that corruption practices of more developed economies in less-developed countries are not contemplated by any measurement indices or ranks nor are any international laws on these practices visible.

A last finding concerns the development of a new method to objectively measure corruption in monetary values, which will give a more real dimension of corruption in a country – this method will provide a sound basis for building quantitative computer modeling and simulation of corruption applying a system dynamics methodology for instance.

Having achieved the objectives laid out for the this paper, I hope it can give good contributions to the academic world, policy makers, anti-corruption fighters, NGOs, donor agencies and supra-national organizations by taking the understanding of corruption as well as quantitative measurement to a new level.

These findings should also aid in the further research of corruption in an array of different disciplines and initiatives such as: (i) development of a case study research using objective data; (ii) use the findings of the present a paper to aid in computer modeling of corruption; (iii) enhance anti-corruption programs along NGOs, donor agencies and supra-national organizations; (iv) development of a diversity of anti-corruption training programs; (v) enhance the curricula of different disciplines in higher level education: law, finance, economics, public administration, political science, anthropology, sociology, system dynamics and others.

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