Combating Corruption

Class 5

3 March 2020

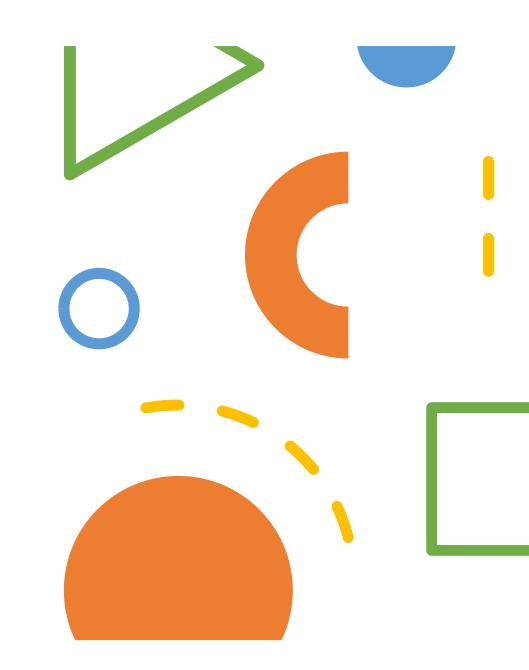
Shawn N. Sullivan

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https://corruptioncourse.online



Preliminary Matters



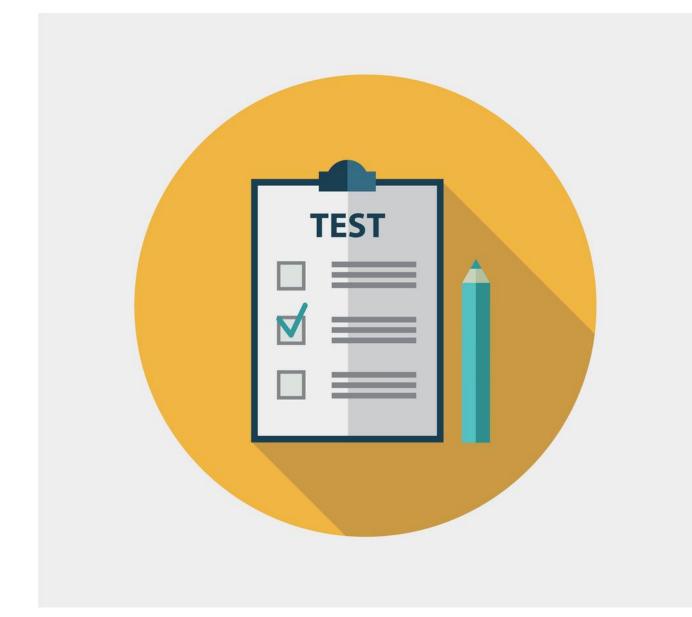
A Word about Class Participation

- It is not required but is really helpful.
- Many students are early in their legal studies.
- Some may not be entirely comfortable speaking in English.
- But in my classes, I encourage you to be bold!
- There will be no judgment, humiliation, or anger if you make mistakes or challenge the instructor.
- Mistakes and failures are great teachers!
- Everyone has something to contribute, and all of us will learn from you.



Mid-Term Exam

- 1 April 2020.
- Multiple choice & short discussion
- Open book?
- Pen and paper or computers or both?
- Next week I will begin identifying subjects you should study for the mid-term exam.

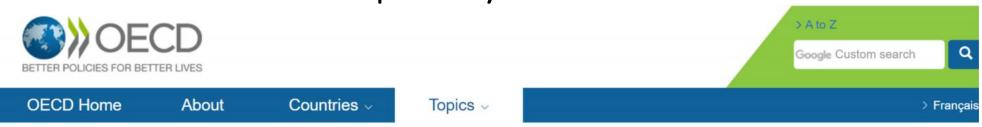




Final Assessment

- Your option of either a final exam or a research paper.
 - Final exam.
 - Last scheduled class period.
 - Research paper.
 - 2,500 to 5,000 words.
 - Due 22 May 2020.
 - I will release some approved paper topics by this Friday night.
 - If you want to select your own paper topic, please send me an email (<u>sullivan@sullivanlaw.net</u>) with your idea so that I can provide guidance if necessary.
 - The paper should relate to attempts to fight corruption and should have a legal component, with at least some citation to legal authorities, such as treaties, statutes, judicial decisions, regulations, or legal literature.
 - Unless I'm told otherwise by the university, you may use whatever format you wish for the paper.
 - Footnotes or endnotes or internal citation of sources are all fine.

From our friends at Delna / Transparency International



OECD Home >> Bribery and corruption >> Internship opportunities working on anti-corruption at the OECD

Internship opportunities working on anti-corruption at the OECD

Applications for Summer 2020 (May-September) internships are now open: deadline for submitting applications is 6th March 2020.

The OECD Anti-Corruption Division offers short-term internships of 3-6 months for qualified students. These internships provide students with the experience of working in an international organisation on

anti-corruption issues and more specifically the OECD Anti-Bribery Convention.

Eligibility and requirements

· Applicants must be nationals of an OECD Member country.

Description of responsibilities

The main focus of the OECD Anti-Corruption Division is to monitor the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Anti-Bribery Convention) by its State Parties. The intern will primarily assist teams of experts in their preparations for upcoming country evaluations under the Anti-Bribery Convention's monitoring mechanism.

Primary tasks may include:

 Research and analysis of the corruption risks facing domestic companies from the country concerned;

http://www.oecd.org/corruption/oecd-internships-anti-corruption.htm

Applicants must be students who have completed or are completing a law degree from an accredited institution.





OECD Home

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Countries V

Application
Deadline this
Saturday, 6 March
2020!

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Internship opportunities working on anti-co

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Remuneration and timing

The OECD will provide interns with a monthly indemnity. The dates and length of each internship are flexible depending on the availability of candidates.

How to apply

Applicants must submit a CV and a letter of motivation, preverably in PDF format, to <u>Lise.Nee@oecd.org</u>. Please indicate for which period you are applying.

Short-listed candidates only will be contacted to undertake a short written test, and possibly a telephone interview.

More Important Information about OECD Internships

Ex-Baltimore mayor sentenced to 3 years in prison children's book deal scandal





Catherine Pugh, who served as Baltimore mayor between 2016 and 2019, resigned last May.

Washington (CNN) — Catherine Pugh, the former Baltimore mayor whose tenure was cut short by a children's book deal scandal, was sentenced Thursday to three years in prison and three years of parolle for corruption charges stemming from her role in the scheme.

Pugh, 69, pleaded guilty last fall to one count of conspiracy to commit wire fraud, one count of conspiracy to defraud the United States and two counts of tax evasion tied to the scandal.

The government had called for Pugh to be sentenced to 57 months -- nearly five years -- in prison earlier this month.

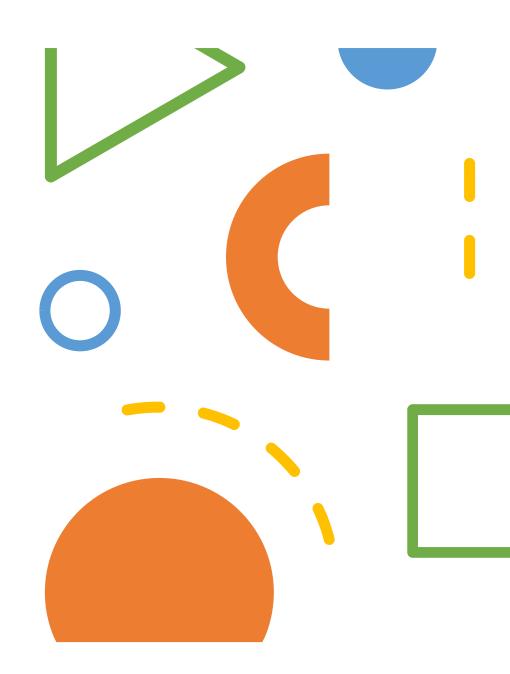
Pugh was also ordered by US District Judge Deborah K. Chasanow to pay \$411,948 in restitution and to forfeit more than \$600,000, including a property in Baltimore and nearly \$18,000 from her campaign account.

Pugh's transgressions dating back several years emerged during the months-long scandal over her self-published "Healthy Holly" books, which prosecutors said she fraudulently sold to local nonprofit organizations in order to obtain more than \$800,000 to fund her campaign and enrich herself.

In the News

- Former Baltimore mayor Catherine Pugh was sentenced to 3 years in prison, ordered to pay \$411,948 in restitution and to forfeit \$669,688.
- While in public office, Pugh formed a company to publish and sell children's books she had written.
- She marketed & sold her books to non-profit organizations and foundations that did business or attempted to do business with the Maryland and Baltimore City governments.
- Pugh used proceeds to fund straw donations to Pugh's mayoral election campaign; and to fund the purchase and renovation of a house in Baltimore City.
- Crimes to which she pled guilty included:
 - conspiracy to commit wire fraud
 - conspiracy to defraud the United States, and
 - two counts of tax evasion.

And now for today's lecture...



Some of What We've Covered So Far

Defining & measuring corruption.

Where is corruption most prevalent (Transparency Int'I's CPI)?

Efficient corruption theory and its decline in influence.

Consequences of corruption.

Equilibrium theory of corruption.

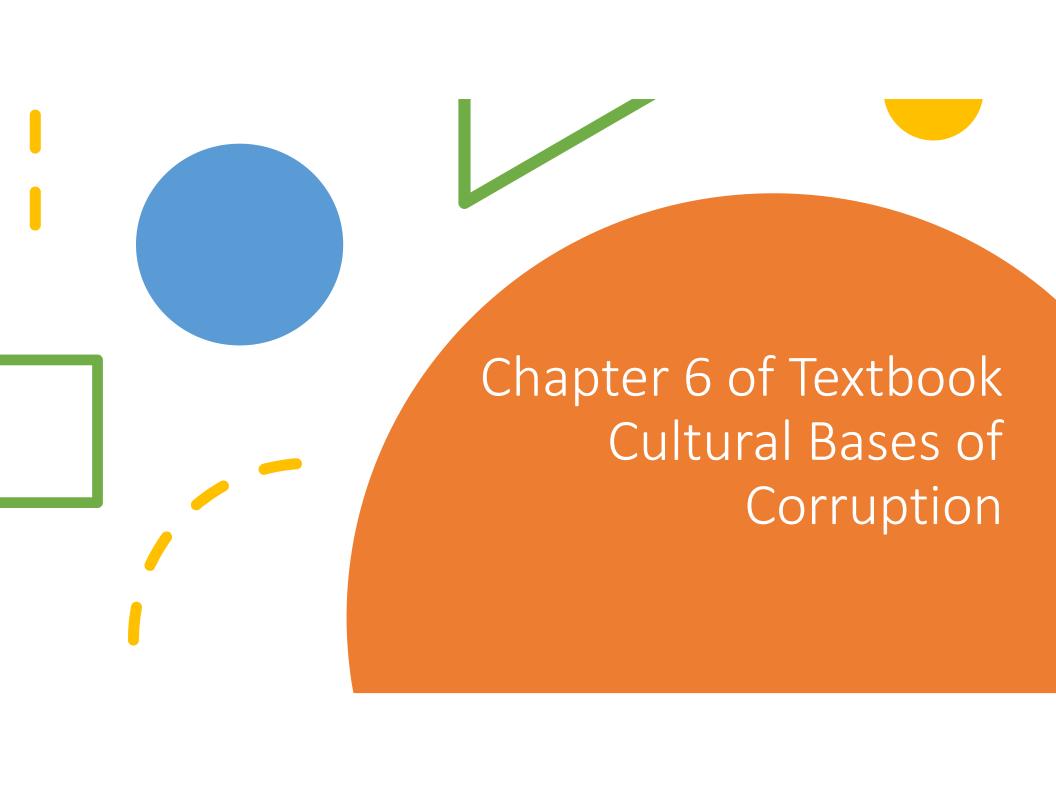
Different ways corruption manifests itself.

A view of corruption from the Baltics (Delna lecture).

KNAB and corruption investigations under Latvian law.

Blagojevich case study: a domestic bribery prosecution in the USA.





Why do civil servants take bribes?



Why do politicians extort bribes?

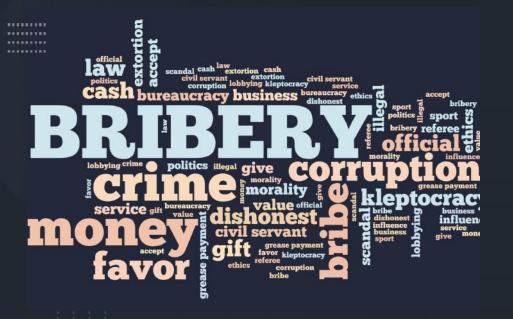


Incorporating morality into our model



Why don't companies band together to refuse to pay bribes?





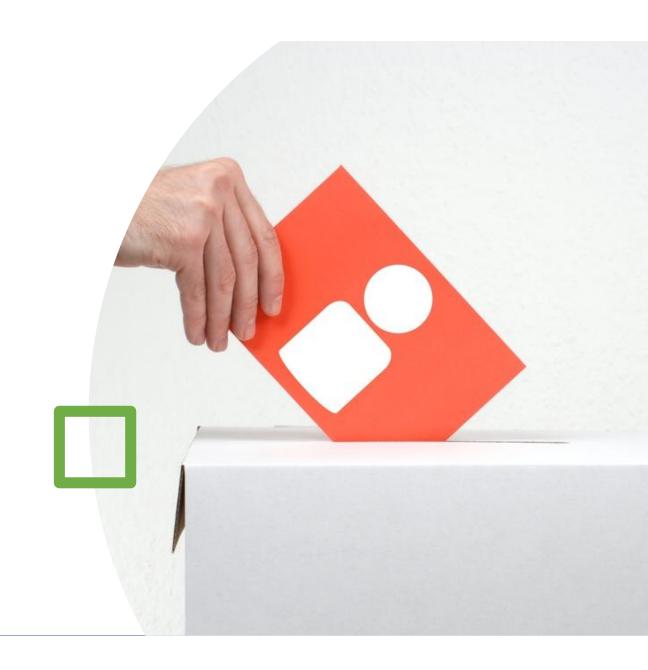
Why do individuals pay bribes?

Chapter 7 of Textbook

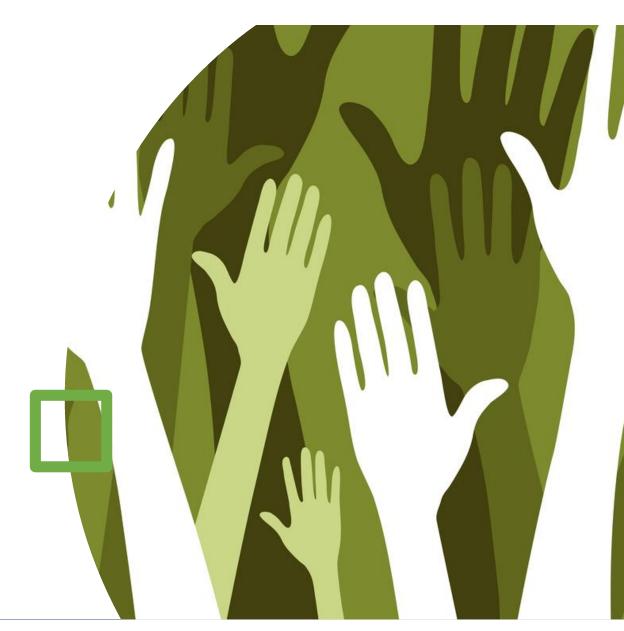
- The authors note that democratic government doesn't necessarily equate to having less corruption than more authoritarian governments.
 - Singapore is relatively authoritarian but fairly free of corruption.
 - China has been very punitive in public cases of corruption.
 - In some ways it can be more efficient than democratic states in dealing with corruption, because China is relatively less constrained by human rights & notions of due process.
 - But is that the answer?
- And although wealthier countries generally tend to be less corrupt than poor ones, wealth certainly doesn't guarantee that there will be less corruption.



Do elections reduce corruption?



Competition among political parties



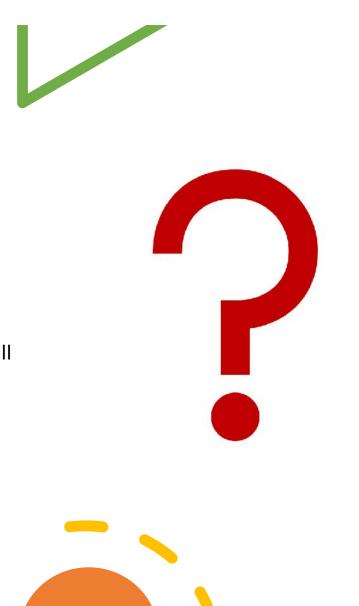
Perhaps authoritarian governments that want to punish corruption can do so more efficiently than governments that are committed to the rule of law.

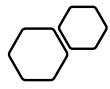
But what happens when an authoritarian government is run by corrupt leaders?



Some Questions for You that are both Philosophical and Practical

- 1. Can corruption ever be eliminated completely and for all time?
- 2. Can human greed be "cured?"
- 3. If yes, how? If not, why not?
- 4. Does the answer to the first question tell us anything about how we should design our government and structure our laws?





"Democratic and aristocratic states are not in their own nature free. Political liberty is to be found only in moderate governments; and even in these it is not always found. It is there only when there is no abuse of power. But constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go."

Baron de Montesquieu, Charles-Louis de Secondat, The Spirit of the Laws.

James Madison (1751-1837) was an American statesman, lawyer, diplomat, philosopher and Founding Father who served as the fourth president of the United States from 1809 to 1817

Thoughts on Human Nature and Government

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions."

James Madison, The Federalist No. 51.

What Do Montesquieu and Madison Have to Do with this Course?

 Both theorists proposed systems of government that took a very realistic view of human nature and our propensity to abuse power when we have it.

Separation of Powers/Checks & Balances:

- "There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates ... [or] if the power of judging be not separated from the legislative and executive powers."
 Montesquieu, The Spirit of the Laws.
- "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, selfappointed [sic], or elective, may justly be pronounced the very definition of tyranny." Madison, *The Federalist No. 47*.

It's not Enough to Have Checks and Balances on Paper Only

SURVEYS • 29 JANUARY 2019

EASTERN EUROPE & CENTRAL ASIA: WEAK CHECKS AND BALANCES THREATEN ANTI-CORRUPTION EFFORTS

Corruption flourishing across the region while the quality of democracy continues to falter or stagnate













Translations: RU

1 Paragraphs about Turkey, Armenia and Macedonia were added in May 2019

SNAPSHOT OF THE REGION

This year's Corruption Perceptions Index (CPI) paints a bleak picture of anti-corruption efforts in Fastern Furone and Central Asia. In a region where only one country scores over 50 out of

From Transparency International, 29 Jan. 2019

One of the biggest impediments to fighting corruption in Eastern Europe and Central Asia is state capture, where powerful individuals or groups seize control of national decision-making and use corrupt means to circumvent justice.

Without sufficient checks and balances in countries throughout the region, institutions suffer and undemocratic practices persist. While governments claim to prioritise combating political corruption, in reality, they fail to take concrete steps to do so. This erodes citizens' trust in their own government as well as in international bodies and agreements, and contributes to higher rates of corruption.

Reading for Next Week

 Chapters 8 and 9 of Ray Fisman & Miriam A. Golden, CORRUPTION: WHAT EVERYONE NEEDS TO KNOW.

OR

- Paul Radu: Follow the money: how open data and investigative
 journalism can beat corruption, in Policy Paper Against
 Corruption: A Collection of Essays.
 <a href="https://www.gov.uk/government/publications/against-corruption-a-collection-of-essays/against-corruption-a-collection-of-essays/against-corruption-a-collection-of-essays#paul-radu-follow-the-money-how-open-data-and-investigative-journalism-can-beat-corruption
- Jim Yong Kim: How to tackle corruption to create a more just and prosperous world, in Policy Paper Against Corruption: A collection OF ESSAYS. more-just-and-prosperous-world.

AND

 Review materials on course website regarding "Anticorruption Treaties." https://corruptioncourse.online/anticorruption-treaties

