Peter C. Kratcoski
Maximilian Edelbacher *Editors*

Fraud and Corruption

Major Types, Prevention, and Control

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This book is dedicated to the victims of crime

Foreword

Over the last few decades, the growth of the world economy has been quite positive, and there have been improvements in the economic well-being of most countries. However, this growth has been accompanied by some negative developments. The growth in economic crime has become a global problem, and there has been a strong increase in activity by international criminal organizations. Financial and tax fraud and corruption have shown strong increases. Organized crime has gained a significant influence on economies throughout the world, resulting in huge rises in expenditures for law enforcement and the judiciary in their efforts to combat this trend. Investigation of this “dark” side of a globalized economic world is becoming more and more important in the efforts to prevent and control crime.

An increase in corruption has major negative effects on the economy of a country: It leads to higher emigration rates, especially in developing countries. Especially important is the fact that high levels of corruption in government and the business sector lead to highly skilled and well-educated workers leaving developing countries. This results in a shortage of skilled labor and slower economic growth, which in turn create higher unemployment and encourage further emigration. Corruption also shifts public spending from health and education to sectors with less transparency in spending (e.g., the military sector), disadvantaging low-skilled workers and encouraging them to emigrate.

A number of studies show that increased corruption and a larger shadow economy lead to an increase in public debt. Additional research studies indicate that when there is widespread fraud and corruption in the government and those in control of the business sector, the *shadow economy* increases. This effect of corruption leads to huge increases in public debt, as well as distrust in the competency of the public and private leaders of the countries. Studies show that a larger shadow economy reduces tax revenues and thus increases public debt. The higher government expenditures increase the effects of corruption.

For all of these reasons, reducing corruption should be a primary policy goal of governments. Given the complementary relationship between corruption and the

shadow economy, reducing corruption would also lead to a decline in the size of the *shadow economy*, public debt, and the many types of criminal activities that are associated with corruption and fraud.

Fraud, with its connected criminal activities, leads to *dirty money* (money laundering), which is earned through various underground activities, such as drug, weapons, and human trafficking. It is impossible to determine how much illicit crime money in all its forms can be detected and recorded, but the most widely quoted figure by the International Monetary Fund (IMF) for the extent of money laundering from criminal proceeds has ranged from 20% to 50% of the global gross domestic product (GDP).

From these few remarks about the dark side of a globalized economic world, it is obvious that we should know much more about corruption and fraud. This is precisely the goal of the authors who have contributed to this book on the prevention and control of fraud and corruption edited by Maximilian Edelbacher and Peter Kratcoski. Only when we have a detailed knowledge about corruption and fraud, including its connected activities, can we develop policy strategies, enact legislation, and implement effective programs to combat the fraud and corruption that exist to some extent in all of the public and private governments and affect the quality of life of the people. This information can lead to good governance rules and institutions which we urgently need to improve our well-being. I highly recommend this book to anyone interested in finding ways to prevent and control corruption and its related crimes.

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Peter C. Kratcoski
Maximilian Edelbacher

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Contributors

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Part I
Introduction: Fraud and Corruption

The concepts fraud and corruption can be defined in several ways, depending on the contexts in which the terms are being applied. One needs only to look at the history of civilizations, both those in the past and the present, to see that corruption and fraud have existed as major problems in all societies, including those that were governed under the rule of kings, tsars, military dictators, or religious rulers as well as those controlled by elected officials in democratic societies. In regard to corruption, if there are people in power position who have the opportunity to make decisions and allocate resources the opportunity for corruption exists.

In short, corruption can be found in almost any organization or group that has some form of power structure, including business and commercial enterprises, public service agencies, such as the police and welfare agencies, hospitals, nursing homes, educational institutions, religious organizations, and government agencies.

Corruption is defined asthe misuse of power to obtain an unlawful advantage. In order to engage in corruption, an individual must hold some type of position of power that gives the person the opportunity to misuse the position to take improper actions, or to fail to take actions on matters pertaining to the responsibilities of the position. The person engaging in corruption is generally motivated by self-interests such as gaining money, a promotion, or in some cases the desire to be known as having the influence to affect the outcome of matters. To engage in a corrupt act is generally defined as a crime in most criminal codes, but corruption is also a mechanism or a vehicle to commit other crimes such as theft, embezzlement, and fraud.

Fraud is broadly defined as any deliberate act that is engaged in for the purpose of obtaining an unlawful gain. The criminal act of fraud is manifested in many different ways, either person to person or through mass communication systems such as the telephone, television, and the Internet.

The chapters in Part I of this book deal with both corruption and fraud. In Chap. 1, the author describes fraud and corruption and gives examples to illustrate the connection between the two concepts. The most common types of fraud are listed and the examples given include corruption and fraud in government, the financial and corporate sectors, public service agencies, and health care institutions.

In Chap. 2, the author discusses fraud and corruption in Austria and other countries in Europe, using several of his experiences as a police officer to illustrate cases of fraud and corruption. The methods used by white collar criminals and organized criminal groups to infiltrate governments and legitimate businesses for the purposes of corrupting those in these organizations are explained in this chapter.

In Chap. 3, the authors use *convenience theory* to explain how corruption is perpetrated and how it becomes entrenched in the traditions and culture of a society. Several strategies and methods used to reduce the amount of corruption in societal institutions are discussed in the chapter.

In Chap. 4, the authors trace the manifestation of corruption in the government of Australia, using a content analysis of mass media stories on cases of corruption to illustrate how political leaders became corrupt and the effect corruption had on the country. An analysis of the causes of the corruption is also given in this chapter.

In Chap. 5, the author presents a number of cases in which various business organizations engaged in fraud after the earthquake that devastated East Japan in 2011. The frauds related to the collection of funds and provisions for those who were victims of the earthquake and tsunami that were never delivered, providing repair services for whose dwellings that were seriously damaged, equipment for rebuilding, and charging for services that were never provided. The cases involve both legitimate businesses, individuals, and members of organized criminal groups.

In Chap. 6, the author provides an extensive examination of fraud in US health care, workers compensation, and disabilities programs, as well as other entitlement programs such as those related to poverty. The major types of fraud are given, and the most frequent methods used by fraudsters to commit their criminal acts are discussed in the chapter. In addition, the methods used by the government and private agencies to investigate potential fraud and prosecute those detected of committing fraud in these agencies are explained.

In Chap. 7, the authors define and review police corruption. The various ways in which police abuse their authority are reviewed, including brutality, racism, robbery, bribery, and other forms of the misuse of their power. Examples from the city of New York are given to illustrate the various forms of police corruption.

In Chap. 8, the author provides extensive information on corruption and fraud that emerge during and after major natural and manmade disasters. Using recent cases in the United States, the most common frauds such as insurance fraud, collections of funds to assist victims of the disasters, identity theft, and fraud relating to the housing and building industry are explored. Several of the strategies and programs used by government and private agencies to detect and prevent fraud and corruption related to the disasters are presented in this chapter.

Introduction: Overview of Major Types of Fraud and Corruption

Peter C. Kratcoski

Introduction

Corruption is broadly defined as the misuse of power to obtain an illegitimate gain. It occurs when one who has the power performs an illegal act to determine the outcome of some matter such as a financial matter (obtaining a contract), a political matter (bribing a political official), or a personal matter (obtaining rewards of a sexual nature) to obtain benefits not deserved.

Corruption may involve the commission of a variety of act defined as criminal, such as bribery, extortion, graft, embezzlement, and various forms of fraud. Acts such as patronage or influence peddling are widely practiced by many who hold political offices. These acts are illegal because they are outside the scope of their official duties. Prenzler, Beckley, & Bronitt (2013) use the term *gray corruption* when referring to those borderline acts committed by public officials such as accepting small gifts or tickets to a sporting event, padding an expense account, influence peddling, or receiving a discount from restaurants. Prenzler et al. (2013) emphasize that even in those cases in which the amount of money or value of the gifts involved in the corrupt transaction may be small, the process is harmful since, if widespread, it tends to undermine the public's confidence in the honesty of public officials. Hetzer (2012, p. 219), in reference to the European Community, uses the term *passive corruption.* He states, "According to the Convention on the Protection of the Communities' Financial Interests, the deliberate action of an official, who directly or through an intermediary requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way that damages the European Community's financial interests constitutes *passive corruption.*"

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To engage in a corrupt act, a person must be motivated and capable and have the opportunity to commit the act. Those who hold positions of authority and power, such as political figures, public service personnel, police, correctional officers, corporation executives, and officials in religious organizations generally will have the opportunity and ability to engage in acts of corruption if so motivated.

The opportunities for those employed in any public and private organizations or enterprises to engage in corruption is closely related to the political, economic, legal, and social systems and the culture of a society. For example, in a society where there are weak controls and enforcement of the laws pertaining to corruption, contempt of the laws by those engaging in corrupt acts may occur if there is a lack of investigative reporting by the media on known cases of corruption. In situations where police and judicial officials are not independent, but under the control of corporations heads, and political figures and leaders of organized crime groups do not fear exposure of their illegal activities, corruption is likely to be widespread and in fact accepted by the people as something that is almost impossible to eliminate.

Those who try to expose corruption, the so-called whistle-blowers, often find that they are punished in various ways, including not being promoted or losing their jobs, when they expose corrupt officials in government, corporations, the military, or public service administrators.

Box 1 Ex-Dodgers Star Gets 8 Years in Prison

ABI EG. (1998 C.326/1,27) "Former Los Angeles Dodgers star Raul Mondesi has been sentenced to eight years in prison after being convicted of embezzlement during his term as mayor of his hometown in the Dominican Republic."

"The attorney general's office charged Mondeal with embezzling $ 6.3 million while he was mayor of San Christobal from 2010–2016, according to the court."

"The former treasurer and secretary of San Christobal were sentenced to seven years in prison," the court said.

Public Corruption Initiatives

The FBI (2017f, p. 1) Public Corruption program focuses on both national and international matters pertaining to public corruption. The Bureau's corruption initiatives include:

- Investigating violations of federal law by public officials at the federal, state, and local levels of government
- Overseeing the nationwide investigation of allegations of fraud relating to federal government procurement contracts and federally funded programs

- Combating the threat of public corruption along the nation's borders and points of entry in order to decrease the country's vulnerability to drug and weapons trafficking, alien smuggling, espionage, and terrorism and addressing environmental crime, election fraud, and matters concerning the federal government procurement, contracts, and federally funded programs

Types of Corruption Investigated by the FBI Initiative

Prison Corruption

The prison corruption initiative (FBI, 2017a, p. 3) "addresses contraband smuggling by local, state, and federal prison officials in exchange for bribe payments." Some of the forms of corruption in correctional facilities may be on a small scale, such as a correctional officer offering to provide cigarettes to an inmate in exchange for money, or large scale, in cases where there may be various levels of the administration involved in the smuggling of contraband into a correctional facility for sale to the inmates. The Bureau (FBI, 2017a, p. 3), as part of the prison corruption initiative, "works to develop and strengthen collaborative relationships with state/local corrections departments and the U.S. Department of Justice Office of the Inspector General to help identify prison facilities plagued with systematic corruption and employ appropriate criminal investigative techniques to combat the threat."

Border Corruption

Opportunities for corruption by US public authorities exist for those who patrol the thousands of miles of borders and shoreline that separate the United States from other North American countries. According to the FBI report (FBI, 2017c, p. 4), "... every day, more than a million people enter the U.S. through more than 300 official ports of entry into the U.S., as well as through seaports and international airports." The most common acts of border corruption involve drug trafficking and alien smuggling. The report states (FBI, 2017f, p. 4), "Throughout the U.S., the FBI has investigated corrupt government and laws enforcement officials who accept bribes and gratuities in return for allowing loads of drugs or aliens to pass though ports of entry or checkpoints; protecting and escorting loads of contraband; overlooking contraband; providing needed documents; such as immigration papers and driver's licenses, leaking sensitive law enforcement information, and conducting unauthorized records checks."

Corruption Relating to Elections

The FBI's (FBI, 2017f, p. 5) initiative against corruption committed by public officials includes making investigations into corruption related to illegal financing of political campaigns and civil rights violations pertaining to elections, such as developing a scheme to prevent members of a minority group from voting or preventing qualified voters from getting to the polls.

Corruption in the Corporate World

When Edwin Sutherland introduced the concept white-collar crime (Sutherland, 1949), the academic world took note but did not immediately pursue the subject for some time. It was debatable if some of the acts construed as criminal, such as price fixing or fee splitting were even criminal, and justice system officials, including the police, were not trained or equipped to conduct the types of investigations needed to bring charges against such practices. In addition, the public's conception of crime was more or less limited to traditional crimes such as the property crimes of theft or destruction of property; personal crimes such as murder, assault, rape, and armed robbery; and public order crimes, such as disturbing the peace, inciting a riot, or public intoxication. Cochran and Heide (2016, p. 68) suggest that public knowledge about white-collar crime has evolved through three stages. They state, "The evolution of public opinion can be divided into three distinct periods. (46) Each of these waves reflect gradual changes in attitudes, from widespread ambivalence to increased intolerance, which were captured by empirical research. The first wave spanned the major part of the twentieth century and was characterized by relative inattention to the problem." They continue by noting, "On the other hand, the second wave of research on public opinion about white –collar crime (from the late 1970s to the early 2000s) highlighted rising attention to upper class offenses." During this wave, predominately through the work of investigative reporting by the mass media, the public became aware of corruption on the part of corporations and acts that were harmful to the environment and the public and thus was supportive of efforts to bring white-collar criminals to justice.

Cochran and Heide (2016, p. 68) contend, "A similar trend has continued to emerge during the third and final phase (i.e., the last fifteen years). … The immediacy of information, made possible by technological progress in telecommunication, allowed for a more direct and intense, large-scale coverage of corporate, financial, and environmental scandals like the Enron and WorldCom debacles, Bernie Madoff's Ponzi scheme, and the BP oil spill."

Such organizations as Transparency International have been instrumental in informing the public, as well as governmental and justice agencies, of crime and corruption committed in the corporate world. This organization provides publications related to various forms of corruption, including Gateway: Stopping Corruption

to Stop Poverty, Curbing Corruption in Public Procurement, Tools to Measure Corruption, and others pertaining to fraud, corruption and the yearly Corruption Perception Index. Transparency International (2017a, p. 1) states, "The Corruption Perception Index was established in 1995 as a composite indicator used to measure perceptions of corruption in the public sector in different countries around the world. Since then, it has been used as an important gauge by companies in managing corruption risks when conducting businesses in foreign countries." Transparency International (2017b, p. 1) states that it is in the best interests of all governments as well as the citizens to guarantee that good-quality services and at a fair price are guaranteed. It believed that "Specific measures can help us ensure honest procurement processes. We should push for commitments to honesty bidders for a contract and the procuring government agency. This means promises from everyone involved not to take part in bribery, collusion or other corrupt practices. We can also demand an independent external monitor to ensure an agreement is not violated."

Globalization of Corruption

Evertsson (2016, p4) suggests that "State-corporate crime is a concept that has been used to examine the interaction between government and business." As previously stated, state-corporate crime can take many forms, including bribery, fraud, extortion, and others. Some practices of corporatel eaders and government officials are borderline criminal offenses and thus, it is difficult to develop a case against these offenders. These practices are not always criminal in nature but morally wrong, in the sense that they are harmful to the welfare of the society.

Corporate tax avoidance is a good example of policies that involve the government and corporate institutions. Evertsson (2016, p. 1) states, "Corporate tax avoidance is a practice that involves different corporations and different territories simultaneously and, as such, it has global consequences because these corporations do not pay their fair tax in the countries share in which they operate. As it seems here, the free-market creates opportunities for tax avoidance when nations and territories strive to attract international investment by changing their tax rules in favor of powerful corporations. Tax regulations have been re-written by tax authorities, financial controls have been removed, and secrecy has been guaranteed to provide a favorable atmosphere for investors. However, tax authorities only give exemptions to foreign and non-domiciled corporations while taking taxes from their own citizens and national corporations." Evertsson (2016) used the IKEA corporation as an example to demonstrate how tax avoidance by companies is obtained in the world trade markets. Practices such as transformation from a company to a foundation; relocation of the company's headquarters; profit shifting; paying for intangibles, that is, demanding payments for the use of intellectual property rights, licenses, brands, patents, and technical know-how; and using intercompany loans are given to illustrate how tax avoidance is achieved by a company. Evertsson (2016, pp. 11–12)

contends, “Studying tax avoidance as a crime of globalization is a complex task. The challenge is even greater when the schemes and practices are as diverse as in the case of IKEA, a foundation ownership structure, a franchise scheme that facilitates profit shifting, payment of intangibles, intercompany loans, and a financial scheme through hybrid entities and conduits.”

The FBI (2017e, p. 1) states that market manipulation fraud, commonly referred to as “pump and dump,” consists of a manipulation of the stock market by targeting a particular security, creating an artificially high value of the security that increases the price of the targeted security, and rapidly selling off the security at an inflated price.

International Corruption

The FBI’s International Corruption Unit (ICU) manages five programs relating to the investigation and control of international corruption (FBI, 2016, p. 1). The Foreign Corruption Practices Act anti-bribery provision (FBI, 2016, p. 1) “makes it illegal for U.S. companies and certain foreign companies to bribe foreign officials to obtain or retain business. The bribes can be in the form of money or any other item of value. The accounting provision of the FCPA focuses on requirements applying to U.S. companies and all foreign companies whose securities are listed on the U.S. Stock Exchange.”

Fraud

There are several definitions of fraud that fit into the context of this chapter. Legal Dictionary (2017, p. 1) defines fraud as “A false representation of a matter of fact-whether by words or by conduct, by false or misleading allegations, by concealment of what should have been disclosed-that deceives and is intended to deceive another so that the individual will act upon it to her or his legal injury.” Learn About the Law (2017, p. 1) states, “Fraud is a broad term that refers to a variety of offenses involving dishonesty or ‘fraudulent’ acts. In essence, fraud is the intentional deception of a person or entity by another made for monetary or personal gain.” Seger (2012, p. 130) states, “Fraud broadly involves intentional deception by which one person causes loss to another for economic gain.” Legal Dictionary (2017, p. 1) notes that there are five separate elements that must be proven in the prosecution of a person charged with fraud. These are:

- A false statement of a material fact
- Knowledge on the part of the defendant that the statement is untrue
- Intent on the part of the defendant to deceive the alleged victim
- Justifiable reliance by the alleged victim on the statement
- Injury to the alleged victim as a result

The criminal code of the United States, as well as the codes of all of the individual states, has specific laws defining fraud as a criminal act. The type of offenses, the severity of the offenses, as well as the punishments for the conviction of fraudulent offenses will vary. For example, the fraudulent registration of aliens is punishable as a misdemeanor under federal law. The majority of fraud offenses fall into the categories of mail and wire fraud. State laws pertaining to fraudulent acts include those relating to taxes, trade and commerce, real estate, tax evasion, receipt of public assistance, and others. As is the case with the federal laws pertaining to fraud, for state offenses, the severity of the offenses is codified as either felony or misdemeanor, with the severity of punishments for those convicted dependent of the type of offense (Legal Dictionary, 2017, pp. 2–3).

Difference between Fraud and Corruption

Fraud and corruption can be understood in terms of a general concept as well as in a legal context. The definitions of fraud given above make note of the distinction between the legal and the general usage of the terms. Acts considered corrupt or fraudulent may take place within the context of committing another act defined as criminal. For example, Legal Dictionary (2017, p. 2) states, "Fraud is an independent criminal offense, but it also appears in different contexts as the means used to gain a legal advantage or accomplish a specific crime. For example, it is fraud for a person to make a false statement on a license application in order to engage in the regulated activity. A person who did so would not be convicted of fraud. Rather, fraud would simply describe the method used to break the law or regulation requiring the license." Fraud is similar to corruption in that both may serve as the means for offenders to obtain something of value such as money, property, or privileges that they have no right to possess. There will be a victim, either a specific person, group of people, an organization, or a government, for both fraudulent and corrupt acts. Both fraud and corruption can be carried out without the knowledge of the victim/s, and both fraud and corruption are often used as a conduit for the commission of some other criminal act, such as a means of opening up the path for drug trafficking by organized crime groups. A major difference between the two concepts in a legal sense is that fraud can be committed on the individual level, as in the case of the example given above in which a person makes false statements on an application or commits identity theft, whereas corruption by its very definition requires some collusion with another person, organization, or government.

The laws defining corruption and fraud reflect the difference. For example, the Racketeer Influenced and Corrupt Organizations (RICO) Act passed by the US Congress in 1970 and modified several times allowed law enforcement officers to charge and prosecute criminal organizations and enterprises. The seizure and forfeiture of assets gained through illegal activities were also authorized in the Act. Individuals who held some type of leadership within the criminal organization could also be prosecuted (Kratcoski, 2016 p. 59).

Edelbacher (2016, p. 103) noted, "The Italians followed the American way of fighting organized crime by the so-called Racketeer Influenced and Corrupt Organizations (RICO) laws. The Anti-Mafia laws of Italy were structured the same way." Other examples given by Edelbacher that demonstrate the emphasis on the organization rather than the individual in the fight against corruption include the creation of the European Bureau Against Fraud and Corruption, the highest anti-corruption institution in the European Union, and the United Nations 2004 Convention Against Corruption that focused on methods to prevent and control terrorism, organized crime, and corruption.

Types of Fraud

The characteristics of fraud may vary, depending the situation for which a specific type of fraud is considered. While generally the individual is the victim of fraud, there are other victims, such as business organizations, banking and securities institutions, public service and educational institutions, and governments. For example, the victim of tax fraud, in the form of tax evasion, would be the government. In bankruptcy fraud, the banking industry would be the victim. For identity theft, the primary victim is the person whose identity was stolen, but other victims would include banks, credit card companies, and others, assuming purchases were made on stolen credit cards. With insurance fraud, the victim will vary, depending on who is committing the fraudulent act.

The FBI (2017d, pp. 1–3) lists more than 20 fraud schemes, including advance fee schemes; various types of fraud related to business and investments, such as the "pump and dump" market manipulation; using fraudulent claims to solicit investments or loans; selling forged or counterfeit securities; Nigerian Letter or "419" fraud; Ponzi schemes; Prime Bank Note (encouraging the victims to send money to a foreign bank); pyramid schemes; and reverse mortgage scams. Kratcoski (2012, p382) notes the FBI's White Collar Crime Unit also investigates frauds and scams such as identity theft, computer fraud and public corruption.

Identity theft constitutes a specific type of fraud. Those fraudsters who steal personal identities, records, and documents generally use the stolen identities or documents to facilitate other crimes of theft, extortion, embezzlement, and other related crimes.

Amount of Fraud

The total number of victims of fraud is not known for a number of reasons. This is because:

- The victims may not be aware that they were the victims of fraud.
- The perpetrators of the fraud may be a family member, friend, or close acquaintance.

- The victims believe nothing will be done to compensate their loss.
- The victims do not want to admit that they were gullible enough to be tricked by the scam.

Victimization surveys indicate that in the United States, the number of victims of fraud may be in the millions. For example, About Identity Theft Info (2017, p. 1) reports that “Approximately 15 million United States residents have their identities used fraudulently each year with financial losses totaling upwards of 50 billion.”

The FBI’s report (Crime in the United States 2014, (FBI, 2015, pp. 1–3) reported that arrests for fraud declined by 17.9 percent from 2010 to 2014. The number of arrests for other crimes often related to fraud, such as forgery and counterfeiting, embezzlement, and buying and receiving stolen property, also declined between 2010 and 2014. However, when the number of arrests for fraud in 2016 is compared with the arrests in 2014, there was a substantial increase. In 2014, there were 63,327 arrests for fraud, and in 2016, there were 128,531 arrests for fraud, almost a 50% increase. The increase in arrests for forgery and counterfeiting (47%), embezzlement (38%), and buying and receiving stolen property (56%) was almost equal or surpassed the increase in arrests for fraud in 2016 over 2014.

The increases in arrests for fraud and related crimes in the United States do not necessarily imply that the amount of crime has increased. Other factors influence the statistics, such as law enforcement agencies and private business organizations allocating more personnel and resources to the detection and investigation of fraud, law enforcement agencies and private corporations investing in using the latest equipment and technical methods to detect fraud, and more victims of fraud coming forward to report their victimization.

Targeting Individuals and Groups

Those fraudsters who are highly successful in achieving their goals (which generally are centered on financial gain) will develop their schemes much like a scientist who is conducting research on a matter or a business executive who is bringing a new product on the market. They create plans to appeal to the greed, vanity, health problems, or a desire for security of a specific category of victims. For example, fraudsters are aware that people of all ages and from varying socioeconomic status groups who are well-off financially can be persuaded to invest their money if there is a promise of receiving a huge return on their investment. Thus, the Ponzi schemes, pyramid schemes, and others are directed toward this general category of people.

Throughout the world, hundreds of billions of dollars are spent each year on various types of cosmetics geared to make people more beautiful, lose weight, or be younger looking and more appealing. Thus, the fraudsters know there is a potential for a huge number of customers who can be persuaded that the produce they are “hacking” will produce better results than the legitimate products on the market and at a lower cost.

Some categories of people, especially those whose incomes put them on the borderline of being poor, seek financial security more than any other goal. For many of them, particularly the elderly, being able to afford health care and housing is a major concern. This group is a primary target for reverse mortgage scams, counterfeit prescription drugs, health-care fraud, and funeral and cemetery fraud.

The methods used to perpetuate fraudulent schemes vary and have changed as new methods to communicate have developed. The practice of street peddlers trying to persuade customers that the cheap jewelry being peddled is in fact expensive jewelry dates back many years. The activities of fraudsters who traveled from town to town, by horseback and later by train, making claims about the miraculous powers of the worthless medicine they were selling, are well documented in the early history of the United States. The development of mass communications and the Internet resulted in the opportunity for fraudsters to develop a wide range of fraudulent schemes without having to be in face-to-face contact with their victims. In addition, the fact that the origins of the fraudulent schemes often cannot be traced to a person or even an organization creates great difficulty in identifying the criminals and bring them to justice.

Elderly Victims of Fraud

As the Internet and other advanced high-speed communication devices were developed, opportunities for those who had the technical knowledge and skills to manipulate the communication systems opened up new ways for fraudsters to communicate their scams.

Although adult of all ages are victims of fraudsters, senior citizens are often targeted because they may be considered the most vulnerable. As mentioned above, the typical scam is based on the knowledge that most people can be persuaded to give away money or personal information if the right approach is used. In targeting the elderly, fraudsters may be operating on the assumptions that the elderly are more trusting and likely to believe information provided via mass communications or the Internet as being valid or the personal values and notions of the elderly are such that they are likely to be persuaded to give to televised appeals for help for underprivileged children, veterans, and abandoned animals. The elderly are more likely to be highly concerned about their economic security, health care, and personal safety than people in other age groups and can be persuaded to buy into a scam that provides assurances that these matters will not be a worry in their old age.

The National Council on Aging (2015, pp. 1–3) lists the following as the most frequent frauds (scams) committed against the elderly:

- Health-care/medicine/health insurance fraud
- Counterfeiting prescription drugs
- Funeral and cemetery scams
- Fraudulent antiaging products

- Telemarketing scams such as the "pigeon drop," the fake accident play," and charity scams"
- Internet fraud and email phishing scams
- Investment schemes
- Homeowner/reverse mortgage scams, sweepstakes and lottery scams, and the grandparent scam

In regard to the most frequent financial scams against the elderly, Princess Clark-Wendel Companies (2015, p. 1) found the home repair scam, the magazine subscription swindle, the uncollected derby winnings scam, and the phony bank inspector scam to be among the most frequents frauds committed against the elderly.

Box 2 Types of Scams against the Elderly

Pigeon drop – Although there are many variations, the basic scam is that the fraudster offers the victims what appears to be a large sum of money to hold (deposit, give to an attorney) in exchange for a smaller sum that is to be used by the fraudster as a good faith retainer with the understanding that the larger sum will be shared at a later date. However, what the victim actually receives from the fraudster is a very small amount of money disguised in such a way to make it appear as if it is a large sum.

Phony bank inspector – The original version of this scam consists of the victim receiving a call from a fraudster claiming to be a bank inspector. The fraudster asks the victim to cooperate in the investigation of an employee who allegedly is stealing from the bank by not depositing money into the accounts of customers. The victims are asked to transfer money from their accounts to another account, and once the theft is caught, the money can be transferred back to their accounts. Once the money is transferred into the new account, the fraudster withdraws it and closes out the account.

Fake accident play – Car insurance accident scams take on many forms. The most common is the fake accident in which a fraudster deliberately sets up an accident and claims to be hurt as a result of the accident. Knowing that insurance companies are usually willing to pay a reasonable amount rather than risking a substantially greater amount through litigation, a settlement is generally reached without going to court.

Lottery winner – This scam has many variations. Generally the scam consists of a person being notified by telephone or email that he/she has won a lottery. However, before collecting, the alleged winner must deposit a certain amount of money to pay for the transfer fees, taxes, and other costs. Sometimes this scam is used to gain access to the victims private information such as social security number or banking account number. A variation of this scam consists of a notice of a refund coming from an insurance policy, taxes, or other source. The victim

(continued)

is told that the refund will be deposited into the victim's bank account after the victim provides the fraudster with the bank account number.

Grandparents scam – This scam is based on the assumption that a grandparent, particularly a grandmother, will not refuse a grandchild's appeal for assistance. Typically, the grandparent will receive a telephone call from the fraudster who is claiming to be the relative of the grandparent and who is claiming to be in trouble (arrested, in jail) in a foreign country and needs a certain amount of money to be released. If the fraudster feels the grandparent is buying into the story, instructions are given regarding the address where the money can be sent by Western Union or MoneyGram.

Ponzi schemes – The Ponzi scam and other closely related schemes appeal to those who are attracted to the "easy money" methods to make extraordinary amounts from their investments in a short period of time. The fraudster originally might have to attract investors by paying high returns on their investments out of his/her own money. The fraudster will pay off the original investors with his/her own money until sufficient money is collected from new investors. The fraudster is than able to pay off some of the investors with the funds collected from the new investors, as well as siphoning off the greater share of the money for himself/herself.

Identity Theft

The Center for Identity Management and Information Protection (CIMIP) (2017, p. 1) states, "Identity theft begins when someone takes your personally identifiable information, such as your name, Social Security Number, date of birth, your mother's maiden name, and your address to use it, without your knowledge or permission, for their personal financial gain."

According to CIMIP (2017, pp. 1–6), the most common identity theft schemes include:

- *Dumpster diving*: Someone going through a person's trash to obtain personal information such as credit card bills, utility bills, or medical insurance information.
- *Mail theft*: Removing mail from one's mailbox hoping to find personal information such as credit card bills, bank statements, and other mail that might contain personal information.
- *Social engineering*: Someone using the telephone and computer to solicit personal, sensitive information from a person that can later be used to victimize the person.
- *Shoulder surfing*: Someone is able to obtain a person's password by positioning himself/herself close enough to a person to observe the password that person is entering into a computer.
- *Stealing personal items*: Someone steals a person's wallet or pocketbook.

- *Credit/debit card theft; Skimming*: The information on the magnetic strip on a person's credit or debit card is read to another storage device in addition to the legitimate storage device.
- *Pretexting*: Someone has completed prior research on a person's personal information before contacting that person and attempting to get the person to provide confidential information such as that relating to credit card numbers or bank accounts.
- *Man-in-the-middle attack*: A person intercepting the communications between two other persons.
- *Phishing schemes*: The person tricks the victim into giving away personal information. Several types of phishing schemes include *pharming* (a person tampers with a website host or name system and requests the information be rerouted to a fake website created by the hacker) and *search engine.*
- *Phishing*: A person "is legitimately indexed into search engines such as Yahoo or Google so that during the normal course of searching for products or services individuals can find these offers. Once the individual accesses the website, the user is given incentive and persuaded in such a way that the individual becomes susceptible to give up his or her personal identifying information to take advantage of the offer being given."
- *Vishing*: A person contacts the potential victim over the telephone.
- *Smishing*: A person sends messages posing as a financial institute or legitimate entity and makes some type of offer that requires giving out of personal information.
- *Malware-based phishing*: A person "attaches some type of harmful computer program made to look helpful onto emails, websites, and other electronic documents on the Internet."
- *Phishing through spam*: A person sends a number of scam email messages.
- *Spear phishing*: email phishing directed toward businesses.

Amount of Identity Theft

The exact amount of identity theft that occurs is not known. Many times the victims are not even aware that someone has stolen their identity until they see an unauthorized use of their credit cards or do not know how to handle the criminal offenses once they discover that they were victimized. Harrell (2015, p. 1) indicated:

- An estimated 17.6 million persons or 7% of all US residents aged 16 or older were victims of one or more incidents of identity theft in 2014.
- The majority of identity theft victims (86%) experienced the fraudulent use of existing account information, such as credit card or bank account information.
- Among victims who experienced multiple types of identity theft with existing accounts and other fraud, about a third (32%) spent a month or more resolving problems.

- An estimated 36% of identity theft victims reported moderate or severe emotional distress as a result of the incident.

Harrell (2015, p.11) reported," In 2014, 89% of all victims of identity theft reported the incident to one or more agencies that are not law enforcement, either government or commercial." In the large majority of these cases, the identity theft victims reported the victimization to a credit card company or to a bank resulting in the credit card companies or the banks stopping the payment on the fraudulent purchases and/or closing the accounts.

McAfee (2014, pp. 1–3) makes reference to *criminal identity theft*, a new twist in identity theft fraud. In criminal identity theft, "a criminal takes on your identity and assumes it as his or her own. But instead of using your identity to access your bank account or apply for a credit card, the thief uses your identity to commit crimes and get off scot-free. How? They can give your personal information (like your name, identification number, or date of birth) to law enforcement officials during an investigation or an arrest. They could also use your information to create fake identification for themselves."

Mc Afee continues, "A criminal could get caught for a traffic violation or a misdemeanor and sign the citation with your name. Then you get stuck paying annoying fees or fines. If a thief uses your name when getting arrested for a crime, you could end up with a criminal record, which could affect your ability to get a job, or buy property."

Summary

The concepts fraud and corruption are similar in content, since both require use of deception for the purpose of obtaining personal gain of some sort. However, corruption should be viewed in a broader sense, since, although engaging in corrupt activities is a crime, it can also be viewed as the mechanism through which a wide variety of other crimes, including fraud, are manifested. In both corruption and the various types of crimes discussed in the chapter, the perpetrator of the crime receives a personal reward in the form of a benefit in the form of either money, property, or psychological rewards. For example, a clerk in a government agency may engage in a corrupt act by issuing a counterfeit social security card to a friend, who in turn fraudulently uses the card to illegally collect social security benefits. The clerk who has the opportunity to initiate the corrupt act by occupying the position in the government agency may not receive any reward from the transaction, except the friendship of the recipient of the criminal act. Engagement in corruption and fraud is not limited to any one occupation or group. Government officials, religious leaders, educators, business leaders, and service workers, including the police, military leaders, and leaders of organized crime groups, have been convicted of crimes relating to fraud and corruption. With the development of mass communications and the Internet, the opportunities to engage in fraudulent

activities have expanded tremendously, since anyone with some computer skills can assume a false identity and develop a scheme to scam individuals and groups. Although the scams are often outlandish in content and one would find it hard to believe that anyone would be gullible enough to believe the rewards offered in the fraudulent scheme are obtainable, the facts show that there are thousands and perhaps millions of people in the United States who are scammed each year. As noted in the chapter, the elderly are a favorite target for fraudsters because they are considered to be the most vulnerable.

Discussion Questions

1. Discuss how the concepts corruption and fraud are similar and how they differ.
2. What are the elements needed for a person to engage in corruption?
3. Discuss the reasons why the elderly are considered to be vulnerable to becoming victims of fraud.
4. Discuss some of the ways persons can have their identities stolen. How are identity theft and fraud related?
5. Discuss the reasons why the development of mass communications and technological innovations in communications (the Internet) has resulted in increased opportunities for engaging in fraudulent activities.
6. What are the major strategies used by law enforcement agencies to detect and prevent fraud?
7. Identify Transparency International. What effect does it and similar organizations have on identifying and curtailing corruption?
8. Discuss the relationship between the culture, traditions, and values of a nation and the amount of corruption found in that nation.
9. Discuss the factors that are needed to have a government relatively free of corruption and the factors that increase the likelihood that a government will have a high level of corruption. Give a concrete example of a country with high levels of corruption and an example of a country with low levels of corruption, and discuss the reasons for the differences in the two countries.
10. Identify the Racketeer Influenced Criminal Organizations (RICO) Act. Why has this Act been successful in combatting organized crime and white-collar crime in the United States? Discuss the reasons for several European countries adopting laws similar to the RICO law in their fight against organized crime.

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Fraud and Corruption: A European Perspective

Maximilian Edelbacher

Introduction

Traditional police leaders have considered major crimes, such as homicide, robbery, rape, and major thief, as the greatest threat to society, and thus being predominately confronted with major crimes resulted in an emphasis on preventing these types of crime in the training of police officers. Police have been trained to react to these major crimes such as serious violent crimes and property crimes in a similar way. People experience the highest level of insecurity when they or a close relative becomes a victim of violent crime, such as murder, armed robbery, and rape. They also feel violated when victimized by extortion, burglary, and theft. Police organizations have traditionally been structured to respond to these crimes by placing the most serious crimes in high-priority categories and allocating the most resources to the investigation and capture of those criminals who were committing the serious crimes. Police organization strategies used to combat serious criminal activity follow a problem-oriented response, firstly, addressing the number one issue of violent crimes, such as murder, extortion, and robbery and, secondly, the crimes that are considered of lesser importance to the welfare of society such as burglary and theft. The Major Crime Bureau in Vienna was structured following the model of Sureté, the model used by the French police. The departments were structured into units for fighting, murder, robbery, burglary, theft, drug trafficking, white-collar crime, counterfeiting, crimes against environment, and prostitution. Although this structure was abolished in Austria by the police reform in 2002/2004, generally, the revamped structure of the Austrian police did not establish a different department structure of those police units that were designated as the crime fighters.

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If one compares the international organizational structures of crime-fighting institutions, it can be recognized that the fields of crimes, which create the major problems of crime, are addressed by the organizations dealing with these problems in a similar manner. Worldwide police structures are concentrating on fighting terrorism, organized crime, and corruption. If one compares governmental or police institutions in Asia, Africa, America, or Europe, such international organizations as Interpol, Europol, Eurojust, and Frontex follow similar models to address today's problem of policing. New challenges of cybercrime, cyberterrorism, and Internet crime require new methods, equipment, and police training to be successful in detecting these criminals. Today the sharpest sword against all kinds of crime is analytic units which deliver strategic and operative tools to analyze dangers and dimensions of threat to the society.

Relationship of Corruption, Terrorism, Organized Crime, and White-Collar Crime

Research outcomes and practical experiences dealing with issues of crime generally show that there exists a dense relationship between corruption, terrorism, organized crime, and white-collar crime.

In this chapter the relationship between corruption and terrorism will not be discussed, although, it seems to be evident that without corruption, terrorist organizations would have great difficulty in achieving their goals, in that in order to carry out planned large-scale terrorist attacks, terrorist organizations must engage in corruption, fraud, and other crimes.

Dobovsek and Siak (2016) and Schneider (2016), experts in the field of criminology, researched the phenomenon of an existing relationship to the field of shadow economy (informal economy). Edelbacher (1998), after years of experience in the field of fighting organized crime, realized that all the successes of transnational criminals in trafficking human beings, trafficking weapons, trafficking drugs, or trafficking pieces of arts are possible because the criminals are able to corrupt public or private representatives of governments, parties, institutions, and international companies to reach their goals.

Antinori (2016) explained in one of his contributions in the book *Financial Crimes* how the so-called fifth generation of Mafia decided to concentrate on bribing and corrupting important members of government and parliament instead of killing them. They were and are much more successful in reaching their goals by corruption activities instead of using violence and threats. Using an old saying "Money is the diction," today you can buy nearly everything. International filmmakers showed us by their publications that the same 15,000 internationally lobbyists influence politicians at Capitol Hill in the United States and in Brussels, Europe.

Corruption, Organized Crime, White-Collar Crime, and Fraud

As was previously mentioned, reflecting on personal experience, Edelbacher (1998) concluded that the nexus of corruption and fraud seems to be the quality of so-called modern crime types. Dealing with major crimes, of course, any kind of violence like murder and robbery are seen as the number one threats to the welfare of society, but if you compare the damages of crime, especially the dimensions of white-collar crime, these types of crimes, often involving large-scale corruption of officials and fraudulent contracts with the public, create damages that can have a devastating effect on the states and economies. Experts from universities and international organizations confronted with these crimes try to analyze the damages and try to help establish and implement countermeasures. All democracies in all continents suffer by organized criminals who specialize in corruption and fraud.

Definition of Corruption

General definitions of corruption are difficult to achieve. This may result from conceptual reasons. Part of the difficulty in finding general definitions is that such labeling will vary from country to country and sometimes variations exist even within the same country, as corruption takes many forms subject to the society and culture, in which it materializes. Not all countries agree that certain types of abuse of power constitute corruption and should be illegal. Many analysts have therefore decided that corruption defines all generalization and have tried to center discussions on the many forms of corruption. In the absence of a consensus on the definition of corruption, other analysts have opted for an empirical approach, which seeks to clarify the essence of corruption by looking at its manifestation in real-life situations. The objective of this approach is to move toward a wider consensus as to which acts are harmful to society and should therefore be prevented and punished by helping governments to reassess what it is they define as corrupt acts that should be prevented and sanctioned Edelbacher et al (n.d.).

One definition of corruption is an abuse of power for private gains, which may be direct or indirect. There are some problems inherent in this definition. The approach applies a broad definition of corruption. Precision is sacrificed to a more common understanding of the problem.

Many scholars see therefore the utility of defining corruption by referring to the law. However, this approach also has limitations because legal traditions change over time and are interrelated with the sociopolitical and cultural context of the countries where the laws are enacted and implemented.

The international community became engaged in the elaboration of international legal instruments within different organizations such as the Organisation for Economic Co-operation and Development (OECD), European Union (EU), and the

Council of Europe. An analysis of these instruments shows, however, that they are limited in geographical coverage, in scope and substance. A comprehensive international binding legal instrument pertaining to corruption is still lacking. One remark that can be made in this context is that a minimum consensus on the definition of corruption is hard to achieve because the countries do not share the same problems and legal systems. The following section of this chapter focuses on several definitions of corruption and police corruption.

The classic definition by Dictionary of Law (2009, p. 95) defines corruption as "dishonest behavior such as paying or accepting money or giving a favour to make sure something is done."

The draft of the United Nations Convention contained the following provisions in its Article 1:

Each Contracting State undertakes to make the following acts punishable by appropriate criminal penalties under its national law:

(a) The offering, promising or giving of any payment, or other advantage by any natural person, on his own behalf or on behalf of any enterprise or any person whether juridical or natural, to or for the benefit of a public official as undue consideration for performing or refraining from the performance of his duties in connection with an international commercial transaction.
(b) The soliciting, demanding, accepting or receiving, directly or indirectly, by a public official of any payment, gift or other advantage, as undue consideration for performing or refraining from the performance of his duties in connection with an international commercial transaction.

Bribery can involve the direct or indirect offer or provision of any undue pecuniary or other advantage to or for a foreign public official, in violation of the official's legal duties, in order to obtain or retain business.

The Council of the OECD in the Recommendation on Bribery in International Business Transactions on May 27, 1994, adopted the following definition for the purposes of the Recommendation: Corruption is a "regular, repetitive, integral part" of the operation of political systems. Corruption pervades every level of government and economy. Corruption cases are wrongful acts on the part of public holders by misuse of their office.

Political corruption is a cooperative form of unsanctioned, usually condemned policy influence for some type of significant personal gain, in which the currency could be economic, social, political, or ideological remuneration. The fields of corruption mainly are:

Political parties
Influence on elections and candidates
Influence of entrepreneurs
(e.g., construction industry)
Influence on bureaucracy
Influence on and of journalists

The “modus operandi” on how corruption happens, e.g., by bribery, bid fixing, kickbacks, trading in influence, financing of parties, and media coverage.

Goldstein (1977) defines police corruption as the misuse of authority by a police officer in a manner designed to produce personal gain for the officer or for others. According to the definition by police officers, who engage in corrupt acts, gain economically by providing services they should be performing or by failing to perform services that are required by their position. Palmiotto’s definition contains all the essential elements for a comprehensive definition of police corruption. Broken down into constituent parts, the ingredients that constitute police corruption are as follows: first, the defining feature of police corruption is that police officers gain direct or indirect advantages as they encourage or discourage the performance of a public duty, and second, they misuse their authority by providing services or failing to perform services required by their position in exchange for the transfer of a benefit. Police corruption can embrace a range of activities ranging from free or discounted meals, kickbacks, shakedowns, and bribes to protection of illegal activities.

Types of Corruption

Corruption can be differentiated into systemic corruption and individual corruption.

Systemic Corruption

Systemic corruption deals with the use of public office for private benefits that are entrenched in such a way that, without it, an institution cannot function as a supplier of a good or service. A defining feature of systemic corruption is that a significant part of the public service considers corrupt practices as an accepted way of making a living. As corruption becomes institutionalized, it becomes more difficult to determine whether the person who seeks official action (bribery) or the official (extortion) took the first step in the customary exchange of favors in exchange for performance or forbearance. The institutionalization of corruption also has debilitating effects on society. The generalized corrupt practices of public officials provide a precedent for the behavior of citizens. They also take advantage of any opportunity to make easy money, due to the fact that the public officials do not set a moral example for the general public. Another characteristic of systemic corruption is that law enforcement agencies are so corrupt that offences of corruption are no longer investigated and prosecuted.

The underlying conditions for the emergence of systemic corruption are the same as those that explain individual corruption – a combination of opportunities to engage in corrupt practices and motivations or incentives to take advantage of available opportunities coupled with control weaknesses to allow corrupt practices to go undetected or unsanctioned. These common conditions should not obscure the

diversity of factors, which provide opportunities, motivations, or incentives for corruption and control weaknesses.

Another distinction is to be drawn in terms of the effectiveness of anti-corruption measures between systemic and individual corruption. Preventive measures, such as organizational changes, salary increases, and other measures, become more effective, and enforcement measures of the traditional kind effecting the punishment of committing illicit acts become less effective, as corruption becomes more systemic. The reason for this is the decrease of the probability of detecting corruption. In a corrupt environment, people who are aware of corrupt activities by coworkers will not report them. The same holds true for the citizens who cannot trust the institutions. They cannot be a major source of intelligence by aiding in identifying corruption. As a consequence corruption will remain unpunished.

Individual Corruption

What makes individual corruption different from systemic corruption is that corruption is not generalized to the entire country. There are no customary exchanges of favors to encourage or discourage the performance of public duties ingrained in the organization, agency, or government. There are only individual corruption cases that are indirect opposition of the norms that govern the entity (agency, organization, government) and are adhered to by the vast majority of those belonging to the entity.

Terrorism and Corruption

Edelbacher and Kratcoski (2010, p.83) note “An act defined as ‘terrorism’ is considered criminal in most of the penal codes of the countries of the world. However it is difficult to define what a terrorist act is, and the specific context (political, religious, revolutionary, nationalistic, state violence, etc.) in which the act is manifested must always be considered.” Several international organizations, including the United Nations and the European Union, have developed definitions of terrorism and have delineated the characteristics of terrorist acts.

Frech (2001, p.2) uses the US Federal Bureau of Investigation (FBI) definition of terrorism, “The unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population or any segment thereof, in the furtherance of a political or social objective,” to illustrate the criminal nature of terrorism. According to Mueller (2003), terrorism includes six ingredients. They are:

- Potential/perpetrator. Any person or agency, other than a government’s aggressive activity against another government.
- Victim. Any place or person, including innocent targeted groups.

- Methods. They are chosen for maximum impact, including destruction, with minimal effort. The selection of symbolic targets is important.
- Purpose. The purpose of terrorism is generally to instill fear and terror.
- Goal. It usually is to force a change of governmental policy toward a goal favored by the terrorists. There are usually short range and long range goals.
- Motive. Usually the overarching motive of terrorists is to portray an aura of invincibility and capacity to strike unimpeded anywhere in the world.

Sedgwick (2008, p.8) citing US Department of Justice research concluded that international crime organizations and terrorist organizations use the proceeds from their involvement in many other types of crime to further their goals. These types of crimes include:

- Energy and strategic materials markets
- Smuggling and trafficking of goods and people
- Money laundering
- Cybercrime
- Terrorist operations and foreign intelligence

Combatting Terrorism and Organized Crime

Kratcoski (2017, p.19), in a summary of the presentations given at the International Police Executive Symposium (IPES) held in Budapest, Hungary, in 2013, stated, "It was noted that all countries have some internal (domestic) terrorists organizations and external internationally based left-and- rights wing extremist groups whose sole purpose is to cause confusion or fear and to convince the public that the government cannot protect its citizens and guarantee their security." However some organized criminal groups, while not motivated by a political or religious ideology, nevertheless use terrorism as a means to further their own goals of achieving control and power to guarantee that their criminal activities will continue without any interference from the authorities.

Edelbacher and Kratcoski (2010), Kratcoski and Das (2003), and Kratcoski (2008) noted that terrorist organizations engage in various types of criminal activities in order to finance their operations. In addition to money laundering, terrorist organizations engage in the exploitation of the transportation and financial sectors of a country by:

- Smuggling of humans and smuggling of goods, such as drugs and weapons
- Money laundering, fraud, counterfeiting of currency, and documents
- Identity theft

Kratcoski (2017, p.19) referring to the IPES held in Budapest in 2013 noted "Several speakers at the IPES Budapest meeting emphasized that maintaining communications and information exchanges among law enforcement agencies throughout the world is critical in combating terrorist organizations. The development of

international laws and binding legal agreements must be a high priority for all countries that have concerns about international terrorist organizations."

In an address to the attendees of the IPES, Budapest meeting, in 2013, Martin Kreutner, Dean of the International Anti-Corruption Academy, provided information on the efforts of several international organizations to combat corruption and crime. He provided information on the co-operative programs developed by the International Anti-Corruption Academy, the European Partners Against Corruption (EPAC) and the European Contact-Point Network (ECPN) that were used to develop common standards for anti-corruption measures that are employed throughout Europe to prevent corruption and other related crimes. The strategies and standards developed by these organizations serve as the framework for the anti-corruption agencies within the Council of Europe, the European Union Member States, the European Anti-Fraud Office, the European Union Member Anti-Fraud Office, and the European Union Police. The organization, Eurojust, provides an avenue for practitioners in the various.

European countries to exchange ideas on strategies that can be used to combat and prevent fraud and corruption, especially as they are connected to corporate crime, organized crime, and terrorism (Kreutner, 2013).

The Corruption Perception Index of Transparency International: 2016

Transparency International classifies corruption into *low-level* and *high-level* corruption. The number of reported cases of corruption and indictments related to corruption is used as indicators of the level of corruption in a country. The following is a ranking of the countries with the lowest levels of corruption for the year 2016 recorded by Transparency International.

Countries of Low Corruption:

1. Denmark
2. New Zealand
3. Finland
4. Sweden
5. Switzerland
6. Norway
7. Singapore
8. The Netherlands
9. Canada
10. Germany
11. The United Kingdom
12. Australia
13. Iceland

Countries of High Corruption:

170. Libya
171. Sudan
172. Yemen
173. Syria
174. North Korea
175. South Sudan
176. Somalia

Definition and Dimensions of Organized Crime

Corruption is a tool to establish an organized crime. Criminal organizations could not survive without the assistance of corruption. In previous centuries organized crime was not a topic of concern in Europe. Although the phenomena of organized crime existed in Italy, represented by the "Italian Mafia," there was only a small influence felt in the other parts of Europe. Even in Middle Europe, organized forms of crime existed long time ago before they became a major challenge. Until the late 1970s, the existence of organized crime was denied by the officials of the executive forces in nearly all countries of Europe. Organized crime became an interesting topic to the European nations after the official reports of the United States about fighting Al Capone and other gangster mobs were sensationalized by the media and by the reports about the brutality of the "Italian Mafia." In the last 40 years, crime has approximately doubled in Europe. It is rather complicated to compare the present amount of crime in Europe with that of the past because of the differences in legal definitions and the manner in which crime is recorded and summarized. However, presently, not only is the quantity of crime a challenge for the security of European nations, but the fear of the severity of crimes including the phenomena of organized crime is a major challenge.

"Organized Crime is like cancer. It cannot be openly seen, but it grows and can soon endanger the whole society. It grows slowly but continuously and when the symptoms come out - it is almost too late to react - Fighting organized crime is therefore extremely difficult and sometimes it seems useless. It is like fighting a tornado, a hurricane or the great floods."

An important point of view to consider is controlling the development of organized crime is related to the extent a democratic police organization is established. Organized crime might be and can only be controlled when nepotism and favoritism can be eliminated from the system. A study in Turkey shows that nepotism and favoritism, the main factors of corruption, are dangerous for the work of police. Influences by politicians, media, and pressure groups like human rights organizations effect police work negatively. Nowadays terrorism and organized crime are the number one challenges in Europe.

It is difficult to estimate the extent of organized crime in Europe. Since 1989 an enormous change has taken place in Europe, when the "Iron Curtain" fell. The following changes can be seen since the fall of the Iron Curtain (the breakup of the Soviet Union):

- High proportion of imported crime due to great mobility of the criminals.
- Higher proportion of foreigners among criminals.
- Types of organized crime are increasing such as trafficking in human beings, drug trafficking, and stolen car trafficking.
- Violence is increasingly involved in crimes, for example, murder cases, extortion of protection fees, robbery, and black mailing.

Since the fall of the "Iron Curtain," the biggest migrations since 1945 started. About two million Russians are ready to leave their country, and a lot of them want to come to the richer part of Europe. Between 300,000 and 600,000 immigrants come every year from the former Eastern Bloc, Africa, Asia, and Latin America to Europe. The general economic, social, and political conditions are the bases for the growth of organized crime structures. If these conditions become worse, organized crime groups can settle. The history of the "Italian Mafia" and the now growing "Russian Mafia" proves this theory. Discussing organized crime is a problem in definition too. In Europe we have no definition that is accepted by all Europeans Edelbacher and Hernstaat (2011).

Therefore definitions of organized crime used by Interpol, Bundeskriminalamt Wiesbaden, and the Federal Bureau of Investigation in the United States are used in Europe. As we have learned by different symposiums on the topic of organized crime, there is a promising attempt by the Dutch Center of Research in defining organized crime that may become accepted by all nations Edelbacher (1998).

Interpol defines organized crime in the following manner: "Organized crime comprises systematically prepared and planned committing of serious criminal acts with the view to gain financial profits and powers and which were committed in a longer, undefined period of time by more than three accomplices united in hierarchy and job division organized criminal association in which the methods of violence, various types of intimidation, corruption and other influences are used, with the view to secure the development of criminal activities." By this definition organized crime consists of using violence or corruption to achieve profitable or parvenu's goals. Following elements are symptomatic:

- The existence of a criminal association or group.
- A criminal activity is carried out in an entrepreneurial way.
- The basic goal of the group is to achieve profit with illegal activities.
- The group uses violence or corruption to achieve its goals.

Bundeskriminalamt Wiesbaden defines organized crime in the following way:

Organized crime, is the profit and power-oriented systematic commission of crimes which are of considerable importance individually or collectively if more than two persons involved cooperate for a longer or an indefinite period;

- By using business or business-like structures;
- By using violence or other means suitable for intimidation; and
- By exerting influence on politics, media, public administration, judicature or economy.

The Federal Bureau of Investigation defines organized crime as:

Organized crime are criminal activities committed primarily to make money and generate profit by continuing and self-perpetuating criminal conspiracy by fear and corruption and motivated by greed. Organized crime groups shows an:

- Organizational Structure;
- Continuing Criminal Conspiracy; and
- Purpose: Generation of profits (Edelbacher, 2016).

The Netherlands' criminal intelligence units (CIUs) deal with organized crime in a way that differs from the traditional forms of serious crime**.** Crime analysts filled in a structured questionnaire on every active criminal group. A criminal group was defined as the cooperation of two or more people who are involved in crimes which, in view of their impact or their frequency or the organized framework within which they are committed, represent a serious violation of the legal order. The questionnaires that were completed were processed at the National Criminal Intelligence Division (CRI). In the analysis of the answers, a number of characteristics were used as selection criteria in order to establish the organizational degree of groups. The following eight main criteria were applied:

1. The group has a hierarchic system of leaders and subordinates, with a more or less fixed division of tasks between core members.
2. The group has an internal system of sanctions, such as intimidations, acts of violence, and sometimes even liquidations.
3. The group concentrates on acquiring income from different forms of crime, depending on the profit opportunities involved in more than one type of serious crime.
4. The group has criminal contacts with the world of trade and industry and/or with government agencies (corruption).
5. The group launders criminal earnings by investments in legal enterprises, real estate, or in movable property or by foreign exchange.
6. Business enterprises are being used as a front.
7. The core members have been acting jointly for over 3 years.
8. The group uses intimidation, acts of violence, and sometimes even liquidations against competitors within the criminal world.

In the analysis of the data, the degree of organization of a criminal group is determined simply by counting the characteristics. The more characteristics are present, the higher is the degree of criminal organization. The designation *organized* is given to groups which complied with six or more of the eight criteria. At least six out of eight formula takes into account both the diversity of organized crime and the fact that the police in the early stages of the investigation process usually do not have complete knowledge of all features.

All of the definitions point out one imported main stream: *Organized Crime* is greed driven. For the practical work, it is important to know the attributes and indicators of organized crime.

The working group judicature/police in Germany described the following indicators of organized crime:

Planning/preparation of the crime

- Accurate planning
- Hired labor
- Large investment

Utilization of the spoils

- Highly profit-oriented
- Backflow into legal economic cycle
- Money laundering measures

Connection of the crime – relation of the criminals

- Supraregional
- National
- International

Conspiratorial criminal behavior

- Counter observation
- Complete withdrawal
- Code names

Group structure

- Hierarchical setup
- Dependent and authoritative relationship between several suspects of a crime
- Internal sanction system

Help for gang members by:

- Escape aid
- Provision of lawyers
- Threats to intimidate of persons involved in trials
- Untraceability of witnesses
- Silence of the persons involved
- Testimonies of witnesses for the defense
- Matched testimonies of persons from the scene
- Taking care of prisoners
- Looking after the relatives
- Readmission into the scene after release from prison

Corruption

– Inducing dependence (e.g., by sex, gambling)
– Bribery
– Corruption

Efforts to create monopolies

– Control of certain sections of night life
– Offering "protection" against payment

Public relations

– Controlled, tendentious, or other press reports of a trial, which distract from a specific suspicion of a criminal act

Fields of Organized Crime

Practical experience shows that mainly the following fields of crime are relevant to organized crime structures:

– Trade in human beings
– Drug trafficking
– Environmental crime
– Trafficking in arms
– Extrusion of protection fees
– Prostitution and gambling
– Protection racketeering
– Illegal car trafficking
– Art thefts and trick thefts
– International financial fraud
– Money laundering
– Corruption and bribery (Edelbacher et.al. 2016)

Worldwide organized crime groups of the Russian Mafia, the South American cocaine cartels,

Chinese triads, the Cosa Nostra, Camorra, Ndrangheta and other mafia organizations, the Nigerian organizations, and the Japanese Yakuza are creating the most troubles in crime.

Definition of White-Collar Crime and Fraud

The line between accepted but undesirable and illegal business practices is sometimes difficult to draw. There is a constant stream of cases that provoke doubt about the conduct of business and government.

There are hundreds of well-known cases on the edge of white-collar crime, and thousands of others we never hear about. As nearly all criminal organizations change their priorities, very often they cooperate even with terrorist groups, white collar crimes became the number one income source. Attempts to explain the deviant and criminal acts of individuals have a long history that cross the boundaries of biology, psychology, sociology, and many other disciplines. Unlike crimes committed by individuals, it is much more difficult to isolate and ascribe meaningful motives, qualities, and distinguishing characteristics to corporate entities or to those working within these organizations**.**

Edwin Sutherland introduced the white-collar crime concept and gave the original definition in 1939. He refers to crime (Edelbacher et al. 2016) by "persons of high social status" that are committed "in the course of" an occupation as types of white-collar crime. In this definition the acts of individuals are included. The second part of the definition, however, appears to omit individual crimes, such as income tax evasion or credit card fraud, which are usually unconnected with one's occupation. Likewise, occupational thefts committed by working-class individuals, such as embezzlement or bribe-taking, also seem to fall outside Sutherland's definition. Although the meaning of the term white-collar crime is notoriously uncertain, nevertheless, the term has garnered worldwide recognition and has become part of both popular and scholarly literature everywhere.

Austrian Definition of White-Collar Crime

White collar crime is not listed as a specific criminal act in the Criminal Code of Austria. It is included in the general definition of fraud.

Fraud is all behavior that happens to cheat somebody to gain advantages. There is only one exemption from the definition, insurance fraud. To avoid insurance fraud, attempts of insurance fraud all are crimes that follow the Austrian Criminal Code.

Crime against Payment Systems

Fraud in Opening Bank Accounts

The most dangerous kind of international financial fraud is connected with the opening of bank accounts.

Bank accounts are opened under a false identity. In the majority of cases, foreigners act under false identity, and in banks, they present false identity papers when they open an account. The defrauder is usually not known to the bank officials and appears usually only twice on the bank premises, first when opening the account and second when withdrawing the funds. Very often, a stolen or fake check is pre-

sented for credit entry. The incidence of Black Africans involved in this sort of crime is high. Banking frauds are often committed by way of faxed bank-transfers. Unknown defrauders send false transfer-orders by fax. Banks are unable to verify the transfer-orders in a short time. Counterfeiting is often detected only after the withdrawal of large amounts. Very often, fraudsters use well-known company names. These companies are known by the banks to transfer large amounts, so that a transfer order does not seem suspicious to them Edelbacher (1995).

As far as a bank is concerned, it is not always possible to use security codes. In a similar way, fake invoices are used for bank transfer. With these fake guarantees, the bank issues cash checks, which the unknown fraudsters immediately change into cash. It is only afterwards that the irregularities are detected.

Fraud through Mediation: "Ghost Money Operations"

Another scam is the so-called fraud through mediation. This form of fraud happens mainly to individuals, who need to borrow money and who cannot obtain further funds because they no longer have creditworthiness. They fall prey to "dubious" moneylenders. These moneylenders act as mediators, often unwittingly, handing over the victims to fraudsters. Then they attempt to sell a bank guarantee to the victim that can be used as a security for credit at a bank. The bank guarantee is worthless, because it is either from a letter box company or is counterfeit.

A similar form of mediation fraud is the so-called advanced fee fraud. This type of fraud requires the victim to participate in a collateral funding exchange, which means raising money against bank guarantees. It is common to all these forms of mediation fraud that the victim has to make an initial payment in the form of a commission, fee deposit, or some other type of payment Edelbacher and Thiel (2008).

Another form is the trade in gold, foreign exchange, and currency. There is also the so-called self-liquidating loan. It is a loan which is paid off through the interest generated and can even result in a profit. The role of the bank in these transactions is secondary. Their role is to provide evidence of legitimacy and an air of respectability while money is laundered in their premises. Other defrauders regularly use banks for their professional fraud. They build up a chain of correspondence with the bank and try to persuade them to act as trustees for very large financial transactions. In 99% of the cases, it is not money laundering but pure fraud against businessmen and is known as "ghost money operations."

Fraud through False or Stolen Securities

It is said that *zerobonds* to the value of billions are lying like bombs in bank vaults. Since the fall of the.

"Iron Curtain," a lot of so-called joint ventures were started with false certificates and stolen or false securities.

Two different groups of criminals are connected with these frauds. The first group deals in artificial diamonds with false certificates of authenticity, presented as genuine diamonds to be sold for large sums of money. The second group (the so-called gem-group) deals in gems, which are still in the uncut form (e.g., rubies from the Ural mountains). They issue false certificates which claim that the gems are worth more than they actually are. Because of their low value, it is not economic to cut and refine them. It appears that in both cases, the fraudsters are from Eastern Europe and so are the gems. Inquiries made to the experts, who issued the certificates, showed that the original certificates referred to stones other than the items in question.

Fraud through Checks, Check Cards, and Credit Cards

One form of crime which has not been sufficiently addressed at the international level is fraudulent use of payment cards (credit, debit, ATM, check guarantee,) and checks (national checks, Eurochecks and traveler's checks). Yet this form of crime has grown rapidly in line with the increase in the volume of transactions made by these payment means. Perversely, the very fact that cards are widely used and accepted has encouraged criminal groups to engage in falsification and counterfeiting.

In 1968, the Eurocheck system was introduced. European banks and savings banks agreed to redeem checks of other banks according to standardized conditions. In 1972, a standardized form of checks and check cards was issued. The standardized Eurocheck system depends on fraud-proof checks and check cards. Today, checks are not popular any more. Forms of crime related to checks seldom happen during the present time. Fraud can occur as a result of:

- Theft of checks
- Falsification of checks
- Falsification of check cards
- Fraudulent use of stolen,
- counterfeit checks
- Issue of checks without cover
- Theft or falsification of identity papers

In an effort to counter fraud, the industry has introduced advanced technology and fraud-prevention measures such as:

- The introduction of holograms and lithographic printing in the mid-1980s in order to protect against counterfeiting of cards
- Increased authorization of transactions to prevent the use of lost or stolen cards
- Increasingly sophisticated monitoring systems
- Measures to ensure that new or replacement cards actually reach the legitimate cardholder and are not intercepted, for example, by groups operating within the PTTs

- The introduction of technology to protect the magnetically encoded account information on the magnetic stripe
- The current move toward integrated circuit (chip) cards

The above security measures do provide an effective deterrent to fraud carried out by individuals. However, organized criminal groups have been able to overcome many of the current security measures to produce very-high-quality counterfeit cards.

Fraud Using Debit Card Machines: Bankomats

Since 1984, payment can be made using the card and PIN code. Every Bankomat card has a four-digit PIN code, which is read by a device. This device can read a magnet strip. In 1987, there were already 20 million Bankomat cards in Germany and 1.5 million in Austria. Later on the chip card technology was implemented and is used especially in Europe. Organized criminals have specialized on debit card fraud, and today it is possible to withdraw money fraudulently from an account using a Bankomat card, literally “a la carte,” on the principle that it is “better to hack than to crack.”

Fraud with Credit Cards

In 1996, more than 450 million credit cards were being used in the United States. In Austria, we have more than 1.4 million credit cards in use currently. Credit cards are cards, which entitle the holder to obtain money, goods, or services. All well-known credit cards, such as Eurocard, Visa, Diners Club card, and American Express follow this pattern. The predominate credit card scams are: 70% of credit cards are reported as lost and 30% of cards are either falsified or stolen. A focal point is total forgery of credit cards. For example, in July 1997, a number of Russian criminals who used such cards were arrested in Vienna. The amount criminal groups gain from card and check fraud was estimated at over 3 billion ECU worldwide and over 500 million ECU in Europe. This represents a substantial proportion of total financial crime.

Counterfeiting Banknotes and Photocopied Money

Ever since the creation of money as a means of payment, people have tried to imitate it and to pass fake money off as genuine money. The currency of the United States and the Euro are prime targets for counterfeiting in that they have the widest

international circulation. It is quite striking that after the fall of the "Iron Curtain," the amount of counterfeit money coming from Eastern Europe is now three times higher than it was in the past. Now that photocopying has reached a very high standard, it is also possible for non-experts to make false banknotes in a relatively easy way. Computer techniques, such as scanning, are also used to counterfeit money.

Falsification of Documents and Identity Cards

False identity cards and false documents have always been the basis for fraud. Many employees of finance institutions and banks do not check identity cards and documents to see if they are authentic. The saying "know your customer" is not always applied in banking transactions. In the experience of investigative police officers, it is international fraudsters who use false or altered identity cards and documents the most frequently. Since the opening of the Eastern borders and with the greater mobility of people, many more individuals come into Europe with counterfeit identity papers. To hide their real origin, they procure false identity papers on the black market and use these documents for entry into a country of their choice. More and more identity cards, passports, driving licenses, and other identity papers examined by the authorities show evidence of falsification.

Money Laundering

Drug trafficking was originally considered to be a matter for national concern, but its international nature quickly became apparent. Law enforcement authorities first began to cooperate on an international basis via informal dialogue and through Interpol. In 1988 the Vienna Convention established a legal framework for fighting drug-related crime, and in 1990 the Council of Europe Convention sought to tackle money laundering related to all types of crime, drug-related or otherwise (including money laundering related to card and check fraud). Both the G-7 and European Union have adopted measures to combat financial crime – the former by endorsing in 1989 the 40 Recommendations of the Financial Action Task Force and the latter by adopting Directive 91/308/EEC on money laundering. Slowly but surely, governments have adopted concrete measures and started legal and judicial cooperation which, although insufficient, should have a deterrent effect upon money launderers. Austria has become a very interesting country for criminals who try to launder money. Austria has a stable currency, a safe economy, a liberal foreign exchange policy, and, moreover, the banking secrecy and the possibility for the foreign money launderer not to have to reveal his personal data as a bank customer: The money launderer may remain anonymous.

According to the director of the Swiss National Bank, "Money Laundering" gives a "breathtakingly vivid description" of what is going on. Filthy money is put

into a washing machine, and clean white money comes out after the laundering process. Money laundering is a process, through which profits generated by criminal activities are transported, transformed, converted to, or mixed with legal funds, with the intention to conceal or hide the real origin, the kind, and the disposal of such profits (legal definition of money laundering in Austria: see Art. 165 StGB).

There are three phases in a money laundering process. They are:

1. The placement – channeling cash money.
2. The adjustment – changing cash money into disposable financial assets.
3. The reintegration – the "black money" is now laundered, it becomes "normal money" again, and it cannot be recognized any more as black money.

Austria was criticized heavily by the United States and the European Community for its indirect support of money launderers. The consequence was that Austria, now a member of the European Community, introduced laws against money laundering in the penal code and in the new banking law in 1993 and 1994. After these legal provisions were issued, a special bureau dealing with these forms of crime was installed in the Federal Ministry of Internal Affairs. Suspicious transactions have to be reported to these special bureaus by the banks.

Computer Crime and Telemarketing Crime

Technological innovations such as the Internet or electronic banking are extremely practical possibilities to commit crimes or to transfer illegal profits. The solidarity of democratic societies is endangered the most by these forms of fraudulent bribery. The electronic transfer of money and securities, through the Internet and other means, has facilitated the abilities of criminals to employ fraudulent schemes to further their goals. Computer crime was not such an important issue in Austria, in the past, but this is changing. Austria is not so important economically, but the country serves as a platform between the East and West and therefore becomes more and more endangered by international, transnational criminals. This is different from the problems of the other countries of Europe. Computer crime is becoming more and more a danger to their economic systems. The use of mobile phones as the vehicle to commit computer crimes has also become a problem. An enormous damage to telephone companies is caused by this type of crime. Immigrants from Africa are especially prone to using this form of computer crime as a way to stay in contact with their home countries.

Summary

In this chapter, it was shown how fraud is connected with many other types of crimes, including violent and property crimes. Also it was demonstrated how fraud and corruption are related.

There are many types of fraudulent scams and schemes that are employed by criminal offenders of all types. The majority of fraud cases are committed by individuals. The amount of money or goods the fraudsters obtain from victims is often small. However large fraudulent acts, those that are perpetrated by corporate executives, political leaders, and leaders of organized crime, could result in the fraudster receiving many millions of dollars.

These large-scale fraud schemes generally have international implications and require the corruption of political leaders, government officials, and often members of the police and judiciary in order to obtain the goals set by the fraudsters. This assertion is particularly true in those countries that are developing economically and have an unstable government. In fact corrupting government officials in business transactions of an international scope is often normal in some countries rather than being an abnormality.

Terrorist organizations tend to use any means, criminal and noncriminal, to achieve their goals. These goals can be of a political objective, religious objective, or a military objective, 20 such as overthrowing the existing government. Many of those who are corrupted, especially those who may work within an organization or government that is being targeted for terrorist acts, may not benefit monetarily by cooperating with the terrorist group. They are rewarded by the personal satisfaction of knowing that they assisted the terrorist organization in achieving its goal and knowing that they contributed to the achievement.

Criminal organizations have used all types of crimes to future their goals, which are primarily monetary. However, fraud and corruption are major tools that help the organized crime units to obtain power and control over other individuals, businesses, and government officials. One of the major goals of organized criminal groups is to transit from an illegitimate organization and be accepted as a legitimate organization. Corruption, fraud, bribery, and an occasional act of violence are the tools used in the transition process.

Discussion Questions

1. Discuss the difference between fraud and corruption, and give an example of how they are related.
2. Discuss how the Internet is used to facilitate fraud in the financial spector.
3. What are the essential characteristics of organized crime?
4. Discuss the methods used, including fraud and corruption, by crime organizations (e.g., Mafia), to infiltrate business enterprises.
5. Define money laundering and discuss the money laundering process.
6. Discuss the reasons why the governments of developing countries tend to be vulnerable to be corrupted.
7. Discuss how the innovations in mass communications (the Internet, electronic transfer of money, and securities) have resulted in increases in the amount of international fraud.
8. Identify the major organizations involved in the prevention and control of international fraud and corruption. What methods do they employ to investigate and control these crimes?

9. Identify the major types of fraud found in the payment systems.
10. Discuss the characteristics of white-collar crimes. What are the motives of corporate leaders for corrupting government and public service officials?

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Convenience Theory on Crime in the Corporate Sector

Petter Gottschalk

Introduction

Convenience is a concept that was theoretically mainly associated with efficiency in time savings. Today, convenience is associated with a number of other characteristics, such as reduced effort and reduced pain. Convenience is associated with terms such as fast, easy, and safe. Convenience says something about attractiveness and accessibility. A convenient individual is not necessarily neither bad nor lazy. On the contrary, the person can be seen as smart and rational (Sundström & Radon, 2015).

In the marketing literature, convenience store is a term used to define three phases in retailing. First, retailers identified a business opportunity in offering a new retail format based on the self-service idea. Self-service replaced over-the-counter service. Next, retailers identified customers' willingness to pay a little more if the store was always open and situated in the neighborhood or joint with the gas station. Finally, e-commerce represents another kind of convenience, where the ordering process can take place from home (Sundström & Radon, 2015). In all three instances, there are costs associated with convenience (Locke & Blomquist, 2016). In the case of self-service, customers have to find and physically handle items themselves. In the case of online shopping, customers have to find and electronically handle items themselves. Just like convenience is a driver for consumers when shopping, convenience is a driver for executives and other members in the elite when struggling to reach personal and organizational goals.

In the marketing literature, distinctions are made between decision convenience, access convenience, benefit convenience, transaction convenience, and post-benefit convenience (Seiders, Voss, Godfrey, & Grewal, 2007). In our convenience theory for white-collar crime, we make distinctions between economical convenience, organizational convenience, and behavioral convenience.

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Convenience Orientation

Convenience orientation is conceptualized as the value that individuals and organizations place on actions with inherent characteristics of saving time and effort. Convenience orientation can be considered a value-like construct that influences behavior and decision-making. Mai and Olsen (2016) measured convenience orientation in terms of a desire to spend as little time as possible on the task, in terms of an attitude that the less effort needed the better, as well as in terms of a consideration that it is a waste of time to spend a long time on the task. Convenience orientation toward illegal actions increases as negative attitudes toward legal actions increase. The basic elements in convenience orientation are the executive attitudes toward the saving of time, effort, and discomfort in the planning, action, and achievement of goals. Generally, convenience orientation is the degree to which an executive is inclined to save time and effort to reach goals.

Convenience orientation refers to person's general preference for convenient maneuvers. A convenience-oriented person is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Berry, Seiders, & Grewal, 2002).

In the marketing literature, convenience orientation is, for example, measured in terms of stage in a person's life cycle, family size, economic status, social status, and education (Sundström & Radon, 2015). Similar characteristics of convenience orientation might be developed for individuals in the elite regarding white-collar crime.

Convenience in the decision-making process is not only concerned with one alternative being more convenient than another alternative. Convenience is also concerned with the extent to which an individual collects information about more and goals (Puranam, alternatives and collects more information about each alternative. Market research indicates that consumers tend to make buying decisions based on little information about few alternatives (Sundström & Radon, 2015). A similar process can be explored for white-collar crime where the individual avoids the effort of collecting more information about more alternatives that might have led to a non-criminal rather than a criminal solution to a challenge or problem.

It is not the actual convenience that is important in convenience theory. Rather it is the perceived, expected, and assumed convenience that influences choice of action. Berry et al. (2002) make this distinction explicit by conceptualizing convenience as individuals time and effort perceptions related to an action. White-collar criminals probably vary in their perceived convenience of their actions. Low expected convenience can be one of the reasons why not more members of the elite commit white-collar offenses.

Convenience is of value because time and effort are associated with value. Time is a limited and scarce resource. Saving time means reallocating time across activities to achieve greater efficiency. Similarly, effort can be reallocated to create value elsewhere. The more effort is exerted, the more outcomes can be expected in return (Berry et al., 2002).

Convenience in white-collar crime relates to savings in time and effort by privileged and trusted individuals to reach a goal. Convenience is here an attribute of an illegal action. Convenience comes at a potential cost to the offender in terms of the likelihood of detection and future punishment. In other words, reducing time and effort now entails a greater potential for future cost. 'Paying for convenience' is a way of phrasing this proposition (Farquhar & Rowley, 2009).

Convenience is the perceived savings in time and effort required to find and to facilitate the use of a solution to a problem or to exploit favorable circumstances. Convenience directly relates to the amount of time and effort that is required to accomplish a task. Convenience addresses the time and effort exerted before, during, and after an activity. Convenience represents a time and effort component related to the complete illegal transaction process or processes (Collier & Kimes, 2012).

People differ in their temporal orientation, including perceived time scarcity, the degree to which they value time, and their sensitivity to time-related issues. Facing strain, greed, or other situations, an illegal activity can represent a convenient solution to a problem that the individual or the organization otherwise finds difficult or even impossible to solve. The desire for convenience varies among people. Convenience orientation is a term that refers to a person's general preference for convenient solutions to problems. A convenience-oriented individual is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Farquhar & Rowley, 2009).

Convenience motivates the choice of action. An important element in convenience is saving time in terms of efficiency in time savings, and another element is avoiding more problematic, stressful, and challenging situations. Convenience can be both an absolute construct and a relative construct. As an absolute construct, it is attractive to commit crime as such. As a relative construct, it is more convenient to commit crime than to carry out alternative actions to solve a problem or gain benefits from a possibility. Convenience is an advantage in favor of a specific action to the detriment of alternative actions. In white-collar crime, it seems that convenience is mainly a relative construct. Decision-making implies a choice between alternatives, where one alternative might be relatively more convenient. Convenience is a matter of perception in advance of possible criminal actions. Convenience must be viewed as a significant variable whose understanding involves complexity in multiple meanings (Sundström & Radon, 2015).

For example, the flexibility to choose the exact moment for making a deal or another kind of action can also be perceived as a matter of convenience. Convenience can also mean selecting a proper occasion, which, in turn, is about timing. There may be more reluctance to do something at a certain point in time than willingness to save or spend time. Thus, when something is convenient, it could mean saving time as well as spending time and doing it at the right moment (Sundström & Radon, 2015).

In addition to time convenience and timing convenience, there may be place convenience, where a potential offender finds the spatial circumstances convenient for crime (Sundström & Radon, 2015). In white-collar crime, the organizational setting is typically characterized by spatial convenience.

Three main dimensions to explain white-collar crime have emerged. All of them link to convenience (Gottschalk, 2016, 2017). The first dimension is concerned with economic aspects, where convenience implies that the illegal financial gain is a convenient option for the decision-maker to cover needs. The second dimension is concerned with organizational aspects, where convenience implies that the offender has convenient access to premises and convenient ability to hide illegal transactions among legal transactions. The third dimension is concerned with behavioral aspects, where convenience implies that the offender finds convenient justification.

Desire for Profits

Convenience theory as an explanation for white-collar crime suggests that offenders are attracted by convenience in three dimensions (Gottschalk, 2016, 2017). First in the economical dimension, offenders are attracted by crime as a convenient way of satisfying desires for personal and organizational profits. For some offenders, it is all about the American dream (Trahan, Marquart, & Mullings, 2005). Second in the organizational dimension, offenders are attracted by organizational opportunities for financial crime in a setting where offenders enjoy professional access and trust by others. Finally in the behavioral dimension, offenders perceive their own deviant behaviors as unproblematic and justified (O'Connor, 2005).

Convenience is a term often applied in studies of consumer behavior. Convenience theory adds something important to our understanding because it:

(a) Disaggregates the components of a consumer's decisions about services and similarly disaggregates the dimensions of a white-collar criminal's decisions about deviant behavior
(b) Explains why illegitimate actions may be chosen at the detriment of legitimate actions
(c) Provides a way to think about why organizations might not do anything about being an arena for crime

The key components of convenience theory are similar to Felson and Boba's (2017) problem triangle analysis in routine activity theory. Routine activity theory suggests three conditions for crime to occur: a motivated offender, an opportunity in terms of a suitable target, and the absence of a capable or moral guardian. The existence or absence of a likely guardian represents an inhibitor or facilitator for crime. The premise of routine activity theory is that crime is to a minor extent affected by social causes such as poverty, inequality, and unemployment. Motivated offenders are individuals who are not only capable of committing criminal activity but are willing to do so. Suitable targets can be something that are seen by offenders as particularly attractive.

When introducing routine activity theory, Cohen and Felson (1979) concentrated upon the circumstances in which offenders carry out predatory criminal acts. Most criminal acts require convergence in space and time of (1) likely offenders, (2) suitable

targets, and (3) the absence of capable guardians against crime. The lack of any of these elements is sufficient to prevent the successful completion of a crime. Though guardianship is implicit in everyday life, it usually is invisible by the absence of violations and is therefore easy to overlook. Guardians are not only protective tools, weapons, and skills but also mental models in the minds of potential offenders that stimulate self-control to avoid criminal acts.

When compared to convenience theory, routine activity theory's three conditions do not cover all three dimensions. The likely offenders can be found in the behavioral dimension, while both suitable targets and absence of capable guardians can be found in the organizational dimension. While routine activity theory defines conditions for crime to occur, convenience theory defines situations where crime occurs. White-collar crime only occurs when there is a financial motive in the economical dimension.

Another traditional theory is worthwhile to compare to convenience theory. Fraud theory with the fraud triangle suggests three conditions for fraud (Cressey, 1972): (1) incentives and pressures, (2) opportunities, and (3) attitudes and rationalization. Incentives and pressures belong in the economical dimension; opportunities belong in the organizational dimension, while attitudes and rationalization belong in the behavioral dimension. As such, the fraud triangle covers all dimensions of convenience theory. However, at the core of convenience theory is convenience in all three dimensions as well as opportunity found in the organizational setting based on professional role and trust by others. Furthermore, convenience theory emphasizes the relative importance of convenience, where offenders have alternative legitimate actions available to respond to incentives and pressures, but they choose illegitimate actions since these actions are considered more convenient.

Convenience theory relates to Clarke's (1999) hot products, where he studied the targets of theft. He found that hot products include residential burglary, theft from cars, theft of cars, commercial vehicle theft, and shoplifting. Hot products are targets for crime.

Convenience orientation is conceptualized as the value that individuals and organizations place on actions with inherent characteristics of saving time and effort. Convenience orientation can be considered a value-like construct that influences behavior and decision-making. Mai and Olsen (2016) measured convenience orientation in terms of a desire to spend as little time as possible on the task, in terms of an attitude that the less effort needed, the better, as well as in terms of a consideration that it is a waste of time to spend a long time on the task. Convenience orientation toward illegal actions increases as negative attitudes toward legal actions increase. The basic elements in convenience orientation are the executive attitudes toward the saving of time, effort, and discomfort in the planning, action, and achievement of goals. Generally, convenience orientation is the degree to which an executive is inclined to save time and effort to reach goals. Convenience orientation refers to person's general preference for convenient maneuvers. A convenience-oriented person is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy.

White-collar crime is committed for economical gain, which implies that items of value that belong to others are taken over in an illegal way. The takeover can occur directly by theft or indirectly by corruption, where competitors loose because the customer is bribed by another competitor. Other ways of depriving others of assets include fraud and manipulation.

The economical dimension of convenience theory is concerned with threats and possibilities where white-collar crime can help in terms of illegal financial gain. An illegal financial gain can help reduce or eliminate threats, and an illegal financial gain can help explore and exploit possibilities.

Not all members of the elite are as successful as they would like to be. Some feel that they are not provided the ability to achieve their ambitious goals. They blame the system rather than themselves for their lack of success, and they compensate by white-collar crime (Wood & Alleyne, 2010).

Organizational Opportunity

The organizational dimension sets white-collar criminals apart from other financial criminals. Abusing social security benefits, committing tax evasion, or committing Internet fraud on a personal level is not considered a white-collar crime. White-collar crime is defined as financial crime committed in a professional capability in an organizational context.

While possibilities in the economical dimension are concerned with convenient abilities for achievement of goals (avoid threats and gain benefits such as real estate and foreign establishment), opportunities in the organizational dimension revolve on how crime can be committed conveniently. The economical dimension answers the why question, while the organizational dimension answers the how question of white-collar crime. We distinguish between economic ability to realize wishes, meet needs, and fulfil desires and professional opportunity to implement white-collar crime in connection with regular business activities. Corruption, bank fraud, and embezzlement are typical examples of financial crime in professional settings.

An organization is a system of coordinated actions among individuals and groups with boundaries and goals (Puranam, Alexy, & Reitzig, 2014). An organization can be a hierarchy, a matrix, or a network or any other kind of relationships between people in a professional work environment (Dion, 2008).

Ahrne and Brunsson (2011) argue that an organization is characterized by membership, hierarchy, monitor, and sanctions. Organizations decide about membership, about who will be allowed to join the organization as employees. Membership brings a certain identity with it, an identity that differs from that of nonmembers. Organizations include a hierarchy, a duty to oblige others to comply with decisions. Hierarchy entails a form of organized power. Organizations can issue commands and can also decide upon rules that its members are expected to follow in their actions. An organization has the right to monitor compliance with its commands and

rules. Organizations have the right to decide about sanctions, both positive and negative. They can decide to change a member's status by using promotions, grading systems, awards, diplomas, and medals.

Organizational members have different roles that lead to different extent of power and influence. Some organizational members have to do and also do what they are told. Other members decide what should be done. Power and influence is associated with level in the organizational hierarchy, tasks to be performed, as well as individual freedom. Some members enjoy substantial individual freedom although they can be found at lower levels of the organization.

White-collar crime is committed by privileged individuals in the elite. They do typically enjoy substantial individual freedom in their professions with little or no control. A typical example is the chief executive officer (CEO). The CEO is the only person at that hierarchical level in the organization. Below the CEO, there are a number of executives at the same hierarchical level. Above the CEO, there are a number of board members at the same hierarchical level. But the CEO is alone at his or her level. The CEO is supposed to be controlled by the board, but the board only meets once in a while to discuss business cases. Executives below the CEO are typically appointed by the CEO and typically loyal to the CEO.

Power, influence, and freedom are typical professional characteristics not only of CEOs. Some politicians, government officials, heads of religious organizations, and other leading figures in society enjoy trust without control. Some independent professions, such as lawyers and doctors, enjoy the same kind of freedom.

The organizational anchoring may cause some revealed white-collar criminals to avoid investigation, prosecution, and conviction. The business may be too powerful or important to collapse (such as banks), and the criminals may be too powerful to jail. After the downturn in the US economy in 2008, many expected bank executives to be prosecuted, but they were not. Pontell, Black, and Geis (2014: 10) explain why it did not happen:

> From a criminological standpoint, the current financial meltdown points to the need to unpack the concept of status when examining white-collar and corporate offenses. The high standing of those involved in the current scandal has acted as a significant shield to accusations of criminal wrongdoing in at least three ways. First, the legal resources that offenders can bring to bear on any case made against them are significant. This would give pause to any prosecutor, regardless of the evidence that exists. Second, their place in the organization assures that the many below them will be held more directly responsible for the more readily detected offenses. The downward focus on white-collar and corporate crimes is partly a function of the visibility of the offense and the ease with which it can be officially pursued. Third, the political power of large financial institutions allow for effective lobbying that both distances them from the criminal law and prevents the government from restricting them from receiving taxpayer money when they get into trouble.

Similar lack of prosecution and punishment can be found in private fraud investigations. For example, Valukas (2010) identified executive misconduct as the reason for the bankruptcy at Lehman Brothers, but the investigation nevertheless concluded that executives were legally not to blame. Therefore, they were never prosecuted.

The organizational setting focuses on profession and position associated with a business or other kind of entity that makes it possible to carry out criminal acts. A profession is an occupation where a person is eligible by virtue of education and experience. In a narrow sense, a profession is a group of professionals with the exclusive right to perform certain work because they have completed a special education. Examples are medical doctors and attorneys. This definition is too narrow in our context. Profession is here broadly defined as a qualified occupational practice based on knowledge and experience. Dion (2009) argues that organizational culture makes it possible to adopt organizational purposes and objectives, which are basically deviant in comparison with social norms yet in line with the competition. Deviant purposes can be chosen when business corporations are trapped by doubtful, immoral, or disloyal means that are used by competitors. They could also be trapped by the business milieu as a social institution. Furthermore, they could be trapped by their own sector-based morality, which is oriented toward profit maximization.

Organizational opportunity is a distinct characteristic of white-collar crime that varies with the persons who are involved in crime (Michel, 2008). An opportunity is attractive as a way to respond to needs (Bucy, Formby, Raspanti, & Rooney, 2008). It is the organizational dimension that gives white-collar criminals the opportunity to commit economic crime and hide it in seemingly legal activities in the business.

Aguilera and Vadera (2008: 434) describe a criminal opportunity as "the presence of a favorable combination of circumstances that renders a possible course of action relevant." Opportunities for crime occur when individuals and groups can engage in illegal and unethical behavior and expect, with a certain confidence (Haines, 2014), that they will avoid detection and punishment. Opportunity to commit white-collar crime can be found at the community level, the business level, and the individual level. At the community level, control regimes might be absent, and entire industries may be available for financial crime. An example here could be the construction industry, where one can find instances of both cartels and undeclared work. Another example could be tax collection authorities that are unable to trace and control accounting figures from businesses, thereby opening up for tax evasion with minimal risk of detection and punishment.

Huisman and Erp (2013) argue that a criminal opportunity has the following five characteristics: (i) the effort required to carry out the offence, (ii) the perceived risks of detection, (iii) the rewards to be gained from the offense, (iv) the situational conditions that may encourage criminal action, and (v) the excuse and neutralization of the offense.

At the business level, ethics and rules can be absent, while economic crime is a straightforward business practice. An example here is subsidy fraud, where ferry companies report lower traffic number to ensure greater government transfers. Another example is internal invoice fraud, where the accounting department lacks overview over who is allowed to approve what invoices.

At the individual level, greed can dominate, where the business does not have any relevant reaction to economic crime. An example here might be law firms where

partners abuse money in client accounts. Another example is corruption, where the bribed person receives money from the bribing person, without anybody noticing on either side.

Benson and Simpson (2015) write that the organizational opportunity to commit white-collar manifests itself through the following three characteristics: (1) the offender has lawful and legitimate access to the premises and systems where crime is committed, (2) the offender is geographically separated from his victim, and (3) criminal acts appear to be legitimate business.

This is very different from street crime such as violence and burglary, where the offender has no legal access, the offender is at the same place as his victim, and the offense does not appear to be legal. A fundamental difference between white-collar crime and street crime is that while white-collar people conceal their crime but do not hide themselves, street criminals do not conceal their crime but hide themselves. Street crime is easily detected, while street criminals are not always easy to find. White-collar crime is hardly detected, but white-collar criminals are easy to find.

White-collar crime does not take place privately; it takes place on the job. The organization is the venue for crime. McKenndall and Wagner (1997) describes the opportunity by context and environmental conditions that facilitate rather than prevent the carrying out of criminal activities. For example, in the case of corruption, both the briber and the bribed are linked to a job context. The briber typically uses company money to pay, while the bribed receives the money personally because his organization is attractive to the bribing company.

The organizational dimension through work represents the offender's scope for crime. By virtue of employment, ownership, position, relations, and knowledge, the offender can explore and exploit his association with the organization to commit financial crime. As sales executive, the person can pay bribes, and as procurement executive, the person can receive bribes. As finance executive, the person may safely commit embezzlement by fixing accounting figures, and as chief accountant, the person can manipulate accounting to providing tax evasion. As chief executive, the person can sign fake contracts or order fraudulent appraisals that open up for bank fraud by asking the bank to finance future income to be expected from contract partners and sale of real estate. There are ample opportunities for economic crime by executives and others linked to enterprises. Examples of others include administrative managers, attorneys, auditors, bank managers, board members, boat dealers, car dealers, concert organizers, councilmen, management consultants, district managers, entrepreneurs, investors, mayors, medical doctors, members of parliament, nursery owners, property developers, real estate agents, ship brokers, stockbrokers, and surveyors.

White-collar crime opportunities occur through the three characteristics described by Benson and Simpson (2015). The opportunities are greatest for top executives and other members of the elite in society. In relation to convenience theory, the three characteristics make it comfortable, easy, and convenient to commit financial crime to solve a problem or answer to a challenge. It may be relatively simple and thus convenient for white-collar elite members to hide criminal activities in the stream of legal activities and thus give crime an outer semblance of credibility in a respectable business (Pickett & Pickett, 2002).

Opportunity makes a thief, it is sometimes stated. If the availability of legal opportunities to solve problems and exploit possibilities deteriorates, while illegal opportunities flourish and are considered convenient, then white-collar individuals will become less law-abiding. If fraud, theft, manipulation, and corruption are easily docked in the enterprise, while law-abiding alternatives are invisible or hard to implement, then opportunity makes an offender.

Organizational opportunity for economic crime depends on intellectual and social capital that is available to the potential white-collar criminal. Intellectual capital is knowledge in terms of understanding, insight, reflection, ability, and skill. Social capital is relations in hierarchical and transactional exchanges. Social capital is the sum of actual and potential resources available for white-collar individuals by virtue of his or her position in formal and informal hierarchies, networks, and matrices (Adler & Kwon, 2002). Formal as well as informal power means influence over resources that can be used for crime.

White-collar offenders are often not alone when committing financial crime. They may cooperate with people internally as well as with people externally. If there is internal crime cooperation, then it may be more convenient for each individual to participate. An environment where crime is accepted strengthens the organizational opportunity. If there is external crime cooperation, then it may again be more convenient for each individual to participate. External actors, who, for example, submit fake invoices or receive bribes, enter into a relationship with the internal actor(s) with a code of silence.

The organizational dimension of white-collar offenses is particularly evident when crime is committed on behalf of the business. A distinction is often made between white-collar criminals who commit financial crime for personal gain and white-collar criminals who do it for their employer (Trahan, 2011). The first is labelled occupational crime, while the second is labelled corporate crime. Examples of corporate crime include manipulation of financial figures for tax evasion and unjustified government subsidies, bribery to obtain contracts, false loan applications to obtain credit in banks, and money laundering in tax havens to recruit securities clients. The organizational anchoring of crime is evident in corporate offenses as crime takes place within the business and to the benefit of business (Bradshaw, 2015).

While occupational crime is often hidden by the individual to enrich himself by abusing corporate resources (Hansen, 2009), corporate crime is often hidden by a group of individuals to improve business conditions. In both cases, crime is committed by virtue of position and trust in the organization, which prevents monitoring, control, and accountability.

Heath (2008) found that individuals who are higher up on the ladder in the company tend to commit larger and more serious occupational crimes. The same is probably the case also for corporate crime. Empirical studies by Gottschalk (2016, 2017) show that corporate criminals are older, commit crime for a larger amount of money, and are connected to larger organizations than occupational criminals. The studies support the assumption that white-collar criminals at the top of the ladder commit financial crime for far larger amounts than white-collar collar offenders further down the hierarchical ladder. This finding applies both to occupational and corporate crime.

Corporate crime, often called organizational offenses or business crime (Reed & Yeager, 1996), typically results from actions of several individuals in more or less rooted cooperation. If a business representative commits a crime on behalf of the organization, it is defined as corporate crime. If the same person commits crime for personal gain, it is defined as occupational crime. At criminal prosecution in the criminal justice system, both occupational crime and corporate crime are individualized, because a company cannot be sentenced to prison. A business can only be fined (Bookman, 2008). The Norwegian database with 405 convicted white-collar criminals contains 68 offenders (17%) who committed financial crime on behalf of the organization. Corporate crime represents violations of integrity as well as failure to comply with moral standards, as in the example of corruption managed by Siemens in Germany (Eberl, Geiger, & Assländer, 2015).

The organizational dimension implies that the business is the basis for deviant acts. Sometimes the organization is also a victim of crime. In the Norwegian study, 28 percent of all convicted white-collar criminals victimized their own employers. Nineteen percent caused damage to society at large, for example, by tax evasion. Eighteen percent caused harm to customers, 15 percent caused bank losses, and 8 percent caused loss among shareholders, while 12 percent hurt others.

The organizational dimension of white-collar crime becomes also evident when several from the same enterprise are involved in offenses (Ashforth, Gioia, Robinson, & Trevino, 2008), and when the organization is characterized by a criminal mindset (O'Connor, 2005), whether it concerns occupational crime or corporate crime. A single, standalone white-collar criminal can be described as a rotten apple, but when several are involved in crime, and corporate culture virtually stimulates offenses, then it is more appropriate to describe the phenomenon as a basket of rotten apples or as a rotten apple orchard, like Punch (2003: 172) define them:

> The metaphor of "rotten orchards" indicate(s) that it is sometimes not the apple, or even the barrel that is rotten but the *system* (or significant parts of the system).

White-collar crime is characterized by opportunism. There must be an opportunity to commit elite crime. If opportunities are limited, there will be less crime. This is evident when looking at the gender distribution between women and men. There are far fewer women than men in positions of trust with privileges and little control. Therefore, it is not surprising that there are far fewer white-collar offenders among women than men. In Norway, women constitute only 7 percent of white-collar inmates, while the rest are men.

Opportunity arises out of certain jobs. For example, the opportunity to engage in health-care fraud is obviously facilitated if one has a job in the health-care system. Individuals who are in key positions and involved in networks based on trust have increased access to criminal opportunities. The opportunity perspective is important, because these offenses usually require special business-related access to commit conspiracies, frauds, embezzlements, and other kinds of financial crime (Benson & Simpson, 2015).

Offenders take advantage of their positions of power with almost unlimited authority in the opportunity structure (Kempa, 2010), because they have legitimate

and often privileged access to physical and virtual locations in which crime is committed, are totally in charge of resource allocations and transaction, and are successful in concealment based on key resources used to hide their crime. Offenders have an economic motivation and opportunity (Huisman & Erp, 2013), linked to an organizational platform and availability and in a setting of people who do not know, do not care, or do not reveal the individual(s) with behavioral traits who commit crime. Opportunity includes people who are loyal to the criminal either as a follower or as a silent partner.

Deviant Behavior

Most theories of white-collar crime can be found along the behavioral dimension. Numerous suggestions have been presented by researchers to explain famous people who have committed financial crime.

Crime is not committed by systems, routines, or organizations. Crime is committed by individuals. White-collar criminals practice a deviant behavior to carry out their offenses. White-collar crime is committed by members of the privileged socioeconomic class who are using their power and influence. Offenders are typically charismatic, have a need-to-control, have a tendency to bully subordinates, fear losing their status and position, exhibit narcissistic tendencies, lack integrity and social conscience, have no guilt feelings, and do not perceive themselves as criminals.

Convenience theory argues that white-collar crime is most common among people in their forties, an age when one is most ambitious and opportunities often are the greatest. Ambitions can be significant both on behalf of oneself and on behalf of the organization. At this age, many have taken on positions that enable and make it relatively convenient to carry out financial crime. The maximum extent of criminogenity is normally reached in a time frame where ambitions and opportunities are at a peak.

White-collar criminals are often effortlessly both before and after they have committed financial crime. They feel no discomfort at their crime, and they may live well with their crime. This lack of guilt feeling and lack of bad conscience can be explained by a number of behavioral theories, such as neutralization theory and self-control theory. Neutralization techniques help remove potential guilt feeling both before and after an offense, while a lack of self-control causes the threshold for committing an offense to decline.

Many theories applied to white-collar crime and criminals are developed along the behavioral dimension. By behavior is meant human movement patterns, actions, and reactions. A person's behavior is the sum of his or her responses to external and internal stimuli. For example, criminals are often more innovative than most people (Elnan, 2016).

Researchers have introduced numerous explanations for the behavior of known white-collar offenders such as Madoff, Rajaratman, and Schilling in the United States. Typical explanations include differential association theory (Sutherland, 1983),

self-control theory (Gottfredson & Hirschi, 1990), slippery slope theory (Welsh, Oronez, Snyder, & Christian, 2014), and neutralization theory (Sykes & Matza, 1957). Deterrence theory (Comey, 2009), obedience theory (Baird & Zelin, 2009), and negative life events theory (Engdahl, 2015) are other relevant theories.

The theories help illustrate how financial crime may be the most convenient action from a behavioral perspective to exploit an opportunity for profit. It is convenient for offenders to abuse their positions, resources, and power to inflict losses on others while at the same time enriching themselves or their organization (Pickett & Pickett, 2002).

Research by Ragatz, Fremouw, and Baker (2012) is an example of work that explores psychological traits among white-collar offenders. Their research results suggest that white-collar offenders have lower scores on lifestyle criminality but higher score on some measures of psychopathology and psychopathic traits compared to nonwhite-collar offenders. Similarly, McKay, Stevens, and Fratzi (2010) examined the psychopathology of the white-collar criminal acting as a corporate leader. They looked at the impact of a leader's behavior on other employees and the organizational culture developed during his or her reign. They found narcissism, and narcissistic behavior is suggested often to be observed among white-collar offenders (Ouimet, 2009, 2010). Narcissists exhibit an unusually high level of self-love, believing that they are uniquely special and entitled to praise and admiration.

Galvin, Lange, and Ashforth (2015) studied a number of well-known white-collar offenders in the United States and found that many of them identified themselves so strongly with the organization that they regarded themselves as the core of the business. This phenomenon can be called narcissistic identification with the organization. Such a strong identification with the organization can in itself lead to a higher level of white-collar crime. When the organization is perceived as himself or herself, he or she may argue that he or she is entitled to enrichment at the expense of the organization.

Criminal behavior is prevalent across all classes, and newcomers develop the attitudes and skills necessary to become delinquent by associating with individuals who are carriers of criminal norms. The essence of differential association is that criminal behavior is learned, and the main part of learning comes from within important personal groups. Exposure to the attitudes of members of the organization that either favor or reject legal codes influences the attitudes of the individual. The individual will go on to commit crime if the person is exposed more to attitudes that favor law violation than attitudes that favor abiding by the law (Wood & Alleyne, 2010).

Differential association can occur in the organizational setting but does not as such increase organizational opportunity to commit white-collar crime. Rather, differential association belongs to the behavioral dimension of convenience theory, as crime learning makes it more convenient to favor law violation.

Differential association by individuals can occur outside the organizational setting, such as exposure to law-violating attitudes early in life, exposure to law-violating attitudes over a prolonged period of time in different situations, and exposure to law-violating attitudes from people they like and respect. Once the

appropriate attitudes have developed, young people learn the skills of criminality in much the same way as they would learn any other skills, which is by example and training (Wood & Alleyne, 2010).

Individuals embedded within structural units by differential association are exposed to attitudes in favor of or opposed to delinquent and criminal behavior. Differential reinforcement of crime convenience develops over time as individuals are exposed to various associations and definitions conducive to delinquency (Hoffmann, 2002).

Control theory can be used in two different ways. First the theory of self-control proposes that individuals commit crime because of low self-control. The theory contends that individuals who lack self-control are more likely to engage in problematic behavior – such as criminal behavior – over their life course because its time-stable nature (Gottfredsson & Hirschi, 1990). Second, the desire to control and the general wish to be in control of everything and everybody might be a characteristic of some white-collar criminals, meaning that low self-control can be combined with control of others. Desire for control is the general wish to be in control over everyday events related to the organization (Piquero, Schoepfer, & Langton, 2010).

Self-control is the ability and tendency to consider all potential implications of a particular action. Individuals with low self-control fail to carry around with them a set of inhibitions, meaning they do not consider implications of their actions. As a consequence, these individuals who are low in self-regulation will engage in delinquent behavior (Ward, Boman, & Jones, 2015).

Self-control is the ability to consider consequences of actions that provide immediate rewards. The underlying assumption is that their rewards of offending are apparent to all. Individuals readily perceive the benefits of offending, but individuals with high self-control also perceive, and weight more heavily, the costs associated with immediate gratification. Conversely, those with low self-control place more weight on the here-and-now and fail to consider or appreciate the long-term costs associated with satisfying one's immediate impulses. Aspects of low self-control include impulsivity, risk seeking, a preference for physical (as opposed to mental) activities, opting for simple tasks (compared with challenging ones), temper, and insensitivity to others (Jones, Lyman, & Piquero, 2015).

Control theory diverts attention away from why offenders offend to why conformists do not offend. However, control theory posits that communities with a deteriorating social structure are a breeding ground for delinquency. The central contention of control theory is that people are inherently disposed to offend because offending offers short-term gains, and the central aim of those with criminal dispositions is to satisfy desires in the quickest and simplest way possible. Offending is prevented by the social bond, which operates on individuals' conscience (Wood & Alleyne, 2010).

Desire-for-control can be defined at the degree to which individuals want to be in control over whatever goes on in the organization. Those high in desire-for-control tend to manipulate events to avoid unpleasant situations and to ensure desired outcomes. They tend to attribute organizational success solely to their own hard work, while they blame failures on others. These individuals also tend to engage in more

risk-taking behaviors and work harder at a challenging task (Craig & Piquero, 2016). Therefore, many executives with a high degree of desire-for-control often have a low degree of self-control.

While it is expected that a high degree of self-control is required to climb the corporate ladder, executives who have reached the top may quickly loosen up their self-control and instead develop a desire for control. Craig and Piquero (2016) found that both low self-control and high desire-for-control are consistent predictors of intentions to offend.

Discussion Questions

1. What kinds of financial crime are committed by members in the elite in society?
2. How do members of the elite in society commit financial crime?
3. Why do members of the elite commit financial crime?
4. What is meant by convenience in crime?
5. How can white-collar crime be made less convenient?
6. How does willingness to commit crime increase organizational crime opportunities?
7. How does desire for profit increase organizational crime opportunities?
8. How can detection of white-collar crime be improved?
9. How can prevention of white-collar crime be improved?
10. What are the strengths and weaknesses of convenience theory?

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Identifying and Preventing Gray Corruption in Australian Politics

Tim Prenzler, Bricklyn Horne, and Alex McKean

Introduction

Australia has long been considered to rate highly on public perceptions of integrity (Graycar & Prenzler, 2013). However, the 2015 Transparency International (TI) *Corruption Perceptions Index* reported that Australia's score internationally had deteriorated from 85 in 2012 to 79, slipping from a rank of 7 to 13. This position was maintained in the 2016 report (Transparency International, 2016). Australia has seen a number of grand corruption scandals in the private sector in the last decade, such as the Visy Board and Australian Wheat Board price-fixing and bribery cases (Overington, 2017; Parker, 2007). In the public sector, the main grand corruption cases occurred in New South Wales (NSW) and involved the two main political parties – Labor and Liberal – in donations fraud, undue influence, kickbacks, and bribery at both state and local levels (e.g., ICAC, 2013, 2014, 2016). Australia's decline in the TI index may have been influenced by such cases. At the same time, the decline correlated with an accumulation of many more minor scandals and controversies, played out in the media. This paper explores these issues as they escalated over time, with a focus on the high-profile cases captured in media reportage.

Gray Corruption

"Corruption" is often viewed across a range of harms. For example, Graycar (2015) refers to a spectrum of misconduct in government from "grand" corruption – often involving large amounts of money and major distortions of the policy process – to various forms of "petty" corruption such as low-level favors by public officials.

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In somewhat similar terms, Graycar reported on a recent Chinese government drive against corruption that included both “tigers” and “flies” (2015, p. 87). Major and minor corruption can also be considered in terms of a color metaphor of “black” and “gray” (also “hard” and “soft”; Richter & Burke, 2007, p. 77; TI Australia, 2016, p. 2). “Black” relates to the most serious forms of corruption and also to behaviors – such as bribery – that are clearly prohibited by law resonating with the concept of “black letter law.” The “gray” metaphor can be used to refer to both minor corruption and behaviors often regarded as “corrupt” but where there is some legal ambiguity in statutory or case law.

On the surface, there are considerable differences between examples of black and gray corruption in terms of the severity of losses or insults to ethical standards. In some cases, there is clearly a mutual benefit motivating both the “corrupter” and “the corrupted.” Examples include company representatives providing gifts to purchasing officers or developers donating to politicians’ campaign funds in the hope of favorable planning decisions (Graycar & Prenzler, 2013). The victims, however, can be various, including companies excluded from fair dealing, taxpayers who fund inflated purchases, and political parties who cannot deploy large campaign budgets. From this perspective, the consequences of gray corruption can be widespread and extend beyond financial disadvantage. For example, “gratuities” given to police – such as discounted meals – often become habitual and highly visible; they undermine public confidence in police and often add up over a period of time to large a financial gain (Prenzler, Beckley & Bronitt, 2013). Gratuities can also lead to police neglecting their duty, discriminating in law enforcement, and even aggressively pursuing benefits from small businesses. Available public opinion surveys indicate majority opposition to gratuities for police and other public officials; and international surveys also show that other forms of gray corruption – such as nepotism, favoritism, and self-benefiting behaviors by public officials – involve public opposition on grounds of unfairness and reductions in the quality of public services (e.g., Hunady, 2017; Konald, 2007; Prenzler, et al., 2013; Truex, 2010). Public service codes of ethics have developed over time to reflect these views. As one example, the United Nations (1996) *International Code of Conduct for Public Officials* defines public office as “a position of trust, implying a duty to act in the public interest” and that, professionally and personally, public officials must conduct themselves in a manner that does not “impair public confidence” (section “Introduction”, 11).

The Australian Context

Australian politics is characterized by recurring controversies over alleged misconduct by politicians and public servants occurring outside legal definitions of corruption or enforcement. Misuse of politicians’ expenses entitlements is one example involving repeated scandals. For example, in the 1992 “travel rorts” scandal in the state of Queensland, 54 members of parliament from both major parties were found

to have taken 225 journeys that could not be explained in terms of government business (Criminal Justice Commission, 1992). An investigation revealed that most of the trips were for personal reasons, such as holidays. One member, who later became Treasurer, traveled with his wife to Sydney in order to coach his sporting team in a competition. The only sanctions applied were some temporary demotions from ministerial positions. A similar process occurred in 1997 in the federal "travel rorts affair," when Prime Minister John Howard sacked three ministers over the misuse of travel allowances (Brenton, 2012). In cases like these, it has been argued that legislation and guidelines are too vague to allow for successful prosecutions of what is often considered to be theft (cf. Criminal Justice Commission, 1992).

Another controversial gray area in Australian political ethics involves noncompetitive appointments of politicians to well-remunerated and attractive positions, especially government boards, and trade and diplomatic roles overseas (Atkins, 2013). These are often condemned as sinecures and rewards for vacating positions. Infamous recent cases include former federal Labor Opposition Leader Kim Beazley as Ambassador to the United States, and former South Australian Labor Premier Mike Rann and former federal Liberal Foreign Minister Alexander Downer as High Commissioners to the United Kingdom. Lies and false promises have also been a standard part of the political landscape and a common source of discontent. Two infamous cases which entered Australian political folklore involved Prime Minister Bob Hawke – who declared that "by 1990, no Australian child will be living in poverty" (in Koziol, 2017) – and Prime Minister John Howard who vowed there would be "no GST, never ever" before the 1996 election and subsequently introduced a GST, describing the promise as "noncore" (in Alexander, 2014, p. 1).

Politicians have been quick to downplay these problems as par-for-the-course in an adversarial democratic system, despite clear evidence that the behaviors are viewed cynically by the public and contribute to the low ratings applied to politicians' ethics (Bean, 2012; Roy Morgan, 2016). A number of public opinion polls in Australia indicate that this array of "gray" behaviors by both elected and appointed officials – including the acceptance of gifts and gratuities and personal favors and undue influence – are widely seen as "corrupt" in the sense that they entail an inappropriate exploitation of one's position (Bean, 2012; Prenzler, et al., 2013). Recent survey research also supports the TI findings, outlined above, that corruption has been seen as an increasing problem in Australia. The associated TI 2017 *Global Corruption Barometer* survey results found that majorities in the range 60–83 percent believed that there was at least some corruption among elected and appointed officials; 34 percent believed that corruption had increased, while only 5 percent believed it had decreased; 66 percent thought that corporate political donations were "a big problem"; and 41 percent thought "the government" was not doing well in "handling the fight against corruption," with only 45 percent believing it was doing well (TI Australia, 2017). These results have been supported by a range of other recent surveys, which also indicate that trust in Australian political institutions is undermined by perceptions of corruption (Graycar, 2014, McAllister, 2014; The Australia Institute, 2017).

The present study provides an account of the developing scandals in the gray corruption area in Australia, including at state and local levels but focused on the federal level during the Prime Ministership of Tony Abbott, from September 2013 to September 2015. The federal issues culminated in the forced resignation of the Speaker of the Lower House in an expenses scandal and initiation of a major review of politicians' entitlements; and Abbott's failure to effectively manage the issue contributed to his replacement by Malcolm Turnbull (Whinnett, 2015b). The period of the Abbott government saw sustained media attention on gray corruption issues, and the chapter is based on cases and critiques derived from the media database Factiva.com (primarily newspapers). The account is organized around six main topics: (1) misuse of politicians' expense accounts; (2) wasteful expenditures and pork barreling; (3) gifts and benefits; (4) lies and false promises; (5) cronyism, nepotism, and sinecures; and (6) political donations and undue influence. These findings are documented below, followed by a discussion section "Addressing the Problem: Ways Forward."

Gray Corruption Cases

Misuse of Politicians' Expense Accounts

Accusations of abuse of expense accounts by politicians was the most prominent gray corruption issue at the federal level during the period of the Abbott-led Liberal-National Coalition government, as played out in the media. In opposition, Abbott had vociferously attacked the preceding Labor Rudd-Gillard governments (2010–2013) over questionable conduct, including false promises and support for scandal-plagued members of the parliament. However, immediately upon obtaining government, Abbott was embroiled in an "expenses scandal" over past and present cases (Swan & Visentin, 2013, p. A004). The scandal was driven in part by a series of Fairfax Media investigations, supported by reader disclosures and Freedom of Information applications (ANAO, 2015a, p. 75; Needham, 2013). The campaign led to approximately AU$20,000 of repayments in a three-week period (Hall, 2013). The following lists some examples of high-profile cases from 2013:

- Controversy erupted over revelations that new senior ministers had previously used public money to attend the wedding of "shock jock" radio announcer Michael Smith, seen as a supporter of their Party. Under pressure, Attorney General George Brandis repaid $1683 of travel expenses, and Minister for Agriculture Barnaby Joyce repaid $615 (Stone, 2013).
- Revelations about a wedding in India attracted further controversy after it was revealed that Joyce, Foreign Minister Julie Bishop, and MP Teresa Gambaro had spent approximately $12,000 – ostensibly for "overseas study" – to attend the event (Robertson & Swan, 2013, p. 5). The politicians were invited guests of Australian billionaire mining magnate Gina Rinehart, whose client was the grandfather of the bride.

- It was also revealed that Joyce had attended three football games, at a cost to taxpayers of $4615, in his capacity as Shadow Minister. Free tickets to corporate boxes were supplied by a major bank and a rugby commission, but the government funded the accommodation, flights, and transfers. Joyce listed the trips as "official business" but without explanation (Swan & Visentin, 2013, p. A004).
- Controversy reignited over a previous repayment to Prime Minister Abbott of $9400, claimed for expenses when on a promotional tour for his autobiography *Battlelines* (Anderson, 2013).
- Abbott was also criticized for spending more than $23,000 of public money when he was Opposition Leader attending sporting events, including the Bathurst V8 Supercars, Coffs Coast Cycle Challenge, Melbourne Cup, and Birdsville Races (Hall, 2013).
- Incoming Attorney General George Brandis was told he could not relocate his custom built $7000 bookcase to his new office. A new bookcase – stocked with $12,800 of magazines and books paid for by taxpayers – cost $17,000 (Owens, 2014; Swan, 2013).
- Government MP Don Randall was forced to repay $5259 for an overnight flight of 3444 kilometers from Perth to Cairns – claimed as "electorate business" – after it was revealed he bought an investment property while in Cairns (Kirkpatric, 2013, p. 1). Randall stated he needed to make the trip to talk to a Queensland politician but could not explain why the conversation could not have been conducted by telephone.

The Opposition Labor Party sought to make capital out of the cases involving conservative politicians but quickly became mired in the same types of allegations. It was revealed that high-profile Labor Frontbencher Tony Burke had previously been forced to make 15 repayments totalling $6868 for incorrect travel claims (Anderson, 2013; Packham & Kelly, 2013). Revelations about repayments extended to 22 federal Labor politicians, including former Attorney General Mark Dreyfus – required to repay $466 claimed for accommodation in the capital Canberra when on a skiing trip in the nearby Snowy Mountains (Kirkpatric, 2013). It was also revealed that ministers in the Rudd-Gillard governments spent over $4 million in a 3-year period on special Air Force VIP flights when guidelines indicated they should have flown on regular commercial services (Iser, 2013).

In the period of the Gillard government, and the early period of the Abbott government, a good deal of the controversy over expenses was centered on the figure of Peter Slipper, who eventually provided an important legal test case. Slipper was a long-term member of the Lower House, mostly as a member of the Liberal Party. He was the subject of repeated allegations of excessive travel. In 2010, he became Deputy Speaker of the Lower House in a deal with the minority Gillard Labor government. In 2012, accusations of misuse of entitlements by Slipper became focused on three visits to wineries in the Canberra region via taxi at a cost to taxpayers of $954. This issue, and separate accusations of sexual impropriety, forced his resignation as Speaker in October 2012.

Pressure on the Australian Federal Police over Slipper's visits to the wineries led to an investigation and then prosecution. In 2013, Slipper was charged with a fraud-related offense of "dishonestly caus(ing) a loss" to the Commonwealth, under Section 135.1(5) of the *Commonwealth Criminal Code Act 1995*. Slipper described his prosecution and the failure to prosecute other politicians for similar conduct as "breathtaking hypocrisy" (in Swan, Bachelard & Hurst, 2013, p. 1). He was convicted in the Australian Capital Territory (ACT) Magistrates Court in 2014, received a community service order of 300 hours, and was ordered to repay the money. However, in 2014/2015, he successfully appealed to the ACT Supreme Court. The judge accepted the argument that it could not be proven that Slipper was not engaged in "parliamentary business" when he visited the wineries (Slipper v Magistrates Court, 2014). The decision was widely seen as a blow to efforts to improve political accountability and a case of legal reasoning at odds with common sense and public opinion (Waterford, 2015).

The Slipper case was eclipsed in 2015 by a case dubbed "choppergate," involving Bronwyn Bishop – a veteran Liberal member of parliament and Speaker of the Lower House in the Abbott government. In July 2015, stories emerged that in 2014 Bishop had chartered a return helicopter flight from Melbourne to Geelong for a Liberal Party fundraising event at a cost to taxpayers of $5227. Geelong is 1 hour by road from Melbourne. The disclosures sparked universal outrage, including from conservative commentators (Albrechtson, 2015; Bolt, 2015). Bishop repaid the cost of the trip and paid a penalty of $1307 but refused to apologize, and she refused to resign until August 2015. The furor over choppergate was also fueled by additional disclosures: notably that Bishop had spent $336,000 on luxury overseas travel in less than 2 years in the Speaker's Chair, including $88,000 on a 2-week European tour as part of an unsuccessful bid for Presidency of the Inter-Parliamentary Union (Lewis, 2015). She also spent over $200,000 over five years on chauffeured limousines and private cars, including to attend the opera and other entertainment events.

Bishop was something of an outlier as an individual, but "rorting" was a common theme that developed in media reportage in the period. For example, extensive coverage was given to a belated Australian National Audit Office assessment of the management of federal politicians' travel over 2012 and 2013 (ANAO 2015a). The report found numerous examples of uneconomic expenditures, such as the use of charter flights instead of regular commercial flights and questionable accommodation expenses. It also noted that many politicians were most likely using their parliamentary travel entitlements for travel that was for electioneering and outside the guidelines. Media summaries employed more dramatic language, as in the following example (Meers, 2015, p. 15):

> Federal politicians are racking up tens of millions of dollars in business-class travel on flights of less than 200 km and staying at hotels less than 30 km from their home, a damning report by the Auditor-General has revealed. One MP took a plane for nine return flights rather than drive 190 km between electorate offices. Another racked up $6300 chartering a plane for a 75-minute flight to pick up their partner before travelling elsewhere in the electorate to justify the flight.

Contrary to the circumlocutory language of the ANAO report, one newspaper account provided a plain language version of how politicians commonly gamed the system (Matthewson, 2015, p. 1):

> Perhaps the most common rort is to schedule an official commitment with a party or private event, so that the taxpayer foots any associated travel and accommodation bill. This was likely the case when 16 Government frontbenchers happened to be in Melbourne for official business around the same time as a major Liberal fundraising event. And when former PM Julia Gillard used a RAAF jet to travel to Byron Bay to inspect roadworks the morning after she attended the wedding of two staffers. The major parties even push the boundaries of MP entitlements at election time, leaving the official launch of the campaign until as close to polling day as possible, because at this point the taxpayer stops footing their travel and accommodation costs.

The ANAO report referred to three previous audits, going back to 2000, which identified the same problems.

"Choppergate" contributed to a slight drop in support for the government in the opinion polls – from 40% down to 39%, on a par with Labor (Whinnett, 2015a). One poll found that 58% of respondents believed Bronwyn Bishop should have resigned, with only 30% disagreeing (Beaumont, 2015). On the back of the scandal, support for a federal anti-corruption agency reached 73%, with only 11% of survey respondents opposed (Beaumont, 2015). The Treasurer and the Social Services Minister stated that Bishop's actions had failed the "pub test" regarding fair conduct (in Barnes, 2015, p. 1), although it was also pointed out that the Treasurer – Joe Hockey – had claimed $14,566 to fly his family business class to Perth in 2013 when in opposition (Shepherd, 2015).

As the weeks passed, the travel scandal issue became so sensitive that it became newsworthy when South Australian Liberal Party Senator Cory Bernardi claimed slightly less than $500 in travel entitlements to appear as guest speaker at a fundraising dinner in Queensland (Medhora, 2015). In an unsuccessful attempt to defuse the scandal, in August 2015, Prime Minister Abbott launched a review of the federal entitlement system. The report, which included recommendations for tightening the rules, was published in February 2016 (Conde, Tune, Jenkins, Nelson, & Bardo Nicholls, 2016; see below). However, adverse reportage about politicians' expenses continued as the year progressed. *News.com.au* published an article with the headline "The 10 most outrageous things pollies have spent our money on" (Staff Writers, 2016). Examples, ostensibly within guidelines but allegedly excessive, included the following:

- Labor Frontbencher Tony Burke, who led the charge against Bishop, claimed $8000 for his family to travel business class on a 4-day holiday to the iconic Uluru resort. Other expenses claimed by Burke included $48,951 for 6 days in Europe, $90 in fares for government cars for transportation to a Robbie Williams concert, and $16,000 for use of the Prime Minister's jet when in government, instead of using commercial flights (see also Lewis, 2015).
- A number of members of parliament spent extraordinary amounts of money on electoral office refits, including South Australian MP Tony Pasin at $579,000;

Tasmanian Senator Jacqui Lambie at $356,000; and Joyce, with two fit-outs totaling $670,748 (see also Roberts, 2015; Strathearn, 2015).
- Northern Territory MP Warren Snowdon spent $365,000 on travel and office expenses (see also Dunlop, 2016).
- Brisbane MP Peter Dutton spent $28,537 on family travel in 1 year.

Wasteful Expenditures and Pork Barreling

The excessive nature of government expenditures in other areas also drew increased media attention during the period of the Abbott government, including by state and local governments. Examples included the following:

- In Tasmania, *The Mercury* reported that the state government spent $8.6 million in 1 year on "ministerial and parliamentary support" (Smith, 2015, p. 59). This included the purchase of tickets for government-sponsored events and MPs' purchases of "camcorders, cameras, wafer-thin laptops, artworks, photos and a $2000 coffee machine" (Smith, 2015, p. 59).
- At the federal level, in 2014, taxpayers were billed approximately $100,000 for portraits of Gillard, Rudd, and Slipper (Marszalek, 2014).
- $55 million was spent by the federal government transferring five refugees to Cambodia in a failed resettlement deal (Jackson, 2016). By 2016 only one refugee remained in Cambodia.
- The federal government embarked on a $14.6 million publicity campaign for its unsuccessful higher education reforms, instead of negotiating with the Senate crossbench who had the power over the reforms (Knott, 2015).
- Controversial expenditures by local governments included a $7000 outdoor ping pong table in Darwin, $334,000 on a public art installation "Skywhale" in Canberra, $5500 for artists to build and then remove a brick wall in Melbourne, and $2 million for hedging along a 1 kilometer section of a street in Sydney (News.com.au, 2013; Sutton, 2013).
- *The Courier-Mail* analyzed pension entitlements for six federal politicians from Queensland who retired at the 2016 election, estimating a number would receive in excess of $200,000 a year (2.5 times the average wage), with one earning over $300,000 per year (Killoran, 2016).

Pork barreling was the focus of numerous accounts of excessive expenditures. In 2014, Fairfax Media outlets revealed that 90 percent of grants under the federal government's "Safer Streets" program – rolled out during the 2013 election – went to Coalition seats (e.g., Aston, 2014). Subsequently, the Auditor General released a report showing that the distribution of $19 million of funds, mainly involving street lighting and CCTV, was not based on objective assessments of safety needs and likely crime prevention benefits (ANAO, 2015b, p. 18; Aston, 2015).

Reporting of financial pledges and criticism reached a crescendo in the final week of the 2016 federal election campaign. The conservative national broadsheet *The Australian* carried a headline "Coalition wins hands down on pork-barreling" (Uren, 2016, p. 6). The article claimed the Coalition was "outspending" Labor by almost four dollars to one in targeted electorates, aimed at protecting the vote in Coalition seats and enticing swinging voters in marginal Labor seats (p. 6).

Another area of reporting concerned excessive public service salaries. There were recurring exposés of enormous salaries paid to university vice-chancellors. Most received close to, or in excess of, one million dollars per annum – more than twice the salaries of the Prime Minister, state premiers, and mayors but with significantly less responsibility (Hare, 2015, 2016). Repeated concerns about excessive public servant salaries reached a climax in 2017 with revelations that the CEO of Australia Post was paid $5.5 million per annum (Smith, 2017). The disclosure sparked a government review, which revealed that 15 public servants were receiving salaries of more than $1 million. One of the more egregious examples concerned $3.6 million per annum paid to the CEO of the National Broadband Network. The network has been arguably the most maligned infrastructure project in Australia due to enormous delays and cost blowouts (Battersby, 2016). Several media reports focused on the contradictory practice of awarding performance bonuses and large pay rises – well above inflation and general wage rises – to executives in government departments simply for doing their job or, in some cases, being rewarded despite reviews showing their departments were underperforming (e.g., Kemp, 2016; Killoran, 2015).

Expenditures on unwarranted by-elections was another area of adverse media reportage. The problem involved politicians standing for election with a commitment to a full parliamentary term and then resigning from parliament mid-term. When Prime Minister Rudd resigned after losing the 2015 election, the by-election in his seat cost taxpayers $1,269,680, and this was a typical cost (Australian Electoral Commission, 2017a). In the majority of cases, it appears that politicians who resigned were acting out of self-interest, such as taking up a lucrative employment position in the private or public sectors or simply because they were in a leadership position and lost an election – as in the Rudd case. (This problem overlapped with the larger ethical problem of politicians standing for election as a representative of a Party and then resigning from the Party and remaining in parliament as an independent or member of another Party.)

Budget cuts in 2014 triggered a revival of attacks on retired federal politicians' "Life Gold Pass": an entitlement of up to 25 business class return flights per year within Australia accompanied by a family member (Madden, 2015). In a 10-year period, the scheme reportedly cost over $12 million for approximately 25,000 flights (Hudson, 2014b). Prime Minister Gillard put an end to the scheme for new members, but the entitlement was maintained for existing and retired members. A report by *The Australian* contrasted several cases with examples of callous government funding restrictions (Hudson, 2014a, p. 10):

> Geoff Prosser, a millionaire former Liberal minister, sent taxpayers the bill for $18,891 worth of flights in 2012–13. His flight records show five return trips from Perth to Broome, where he just happens to own a holiday home... It makes it a bit hard to stomach government moves to axe an annual payment of $215 for children and orphans of war veterans because of the dire state of the budget when there's money to fly a millionaire with a generous super payout to his holiday home. And next time the government says it can't subsidize a lifesaving drug, consider that it still finds the cash for more than 100 retired politicians to board the taxpayer funded gravy plane. Former Nationals leader Ian Sinclair chalked up $28,254 for 53 flights in 2012–13 – that's one a week – for himself and family, which included travel to Lord Howe Island, where he owns a holiday cottage, in July, September, October, January and April. Another former Howard government minister, Robert Hill, regularly flies to the Whitsundays airport at Proserpine. Last financial year he and a family member landed there in September, December, March (at Easter), May and June. The flights contributed to the $34,771 worth of free travel he received.

Under pressure, in 2014, Prime Minister Abbott promised to add further restrictions to the scheme but then deferred implementation (Hudson, 2014b; Madden, 2015).

Gifts and Benefits

Gifts to politicians and public servants also attracted media scrutiny and criticism in this period, with one high-profile casualty. In 2014, NSW Premier Barry O'Farrell – in a case dubbed "Grange-gate" – was forced to resign following revelations he received a $2978 bottle of Grange from a company lobbying for a water contract (Norrington, 2014). In addition, the "choppergate" scandal (above) spiraled out to include revelations about gifts to the Speaker of the federal Lower House, Bronwyn Bishop, which included "a first-class, all-expenses-paid trip to Casablanca, theatre tickets and bottles of fine wine" (Lewis, 2015, p. 4).

Public servants were also caught out in gift and benefit scandals. In 2015, "Operation Kilo" by the Tasmanian Integrity Commission revealed extensive conflicts of interest in the public sector, primarily related to gifts supplied by companies involved in contracting. Examples included "golf days, movie nights (with partners and children), tennis tickets, cricket tickets, AFL (Australian Football League) tickets, music festival tickets, motor racing tickets, tickets to industry lunches, theatre tickets, and horse races" (Integrity Commission, 2015, p. 83). In the Tasmanian case, there was particular concern related to medical staff accepting gifts from pharmaceutical companies and medical device suppliers, including the payment of conference attendance costs (Atkin & Salmon, 2015). In an earlier case in Victoria, the *Herald Sun* released a story on free and discounted food given to police and emergency service workers by fast food outlets (Dowling, 2013). The report focused on police, given they had the greatest potential to skew services in favor of providers. Victorian Police Chief Commissioner Ken Lay wrote to McDonald's, asking them to halt the policy, concerned that discounts to police could lead to perceptions of bias. However, it was also revealed that Lay and other senior officers were "being schmoozed with corporate tickets to sporting events and other gifts and hospitality,"

including the "Australian Grand Prix suite, corporate seats at AFL matches and golf rounds linked to the Australian Masters" (Devic, 2013, p. 21).

Lies and False Promises

By the time of the 2013 election, lies and false promises were second nature to Australian political leaders. Labor Prime Minister Julia Gillard announced before the 2010 election that "there will be no carbon tax under a government I lead" (in Hannan, 2011, p. 6). A carbon tax was introduced by her government in 2011. As Opposition Leader, Tony Abbott sought to set himself apart from such spectacular false promises. In 2011, he declared "It is an absolute principle of democracy that governments should not and must not say one thing before an election and do the opposite afterwards" (in Australian Broadcasting Corporation, 2016, p. 1). However, on the eve of the 2013 election, in what was widely seen as a case of bad nerves, Abbott made it "our pledge" that there would be "no cuts to education, no cuts to health, no changes to pensions, no changes to the GST, no cuts to ABC or SBS [the two public broadcasters]" (in Wright, 2014, p. A004). Abbot then cited an alleged budget emergency as justification for large cuts to education and health, plans to reduce access to the aged pension, and attempted cuts to the ABC and SBS (Wright, 2014). Treasurer Hockey promised "tax cuts without new taxes" but then introduced a "deficit tax" and a tax on frontline medical services (in Alexander, 2014). The lies compounded the adverse effects of reduced expenditures, and the government took a large hit in the polls, down from 46% at the election to 39% (Maiden, 2014). One poll found that 72 percent of respondents viewed the debt tax as a broken promise (Maiden, 2014). In 2016, the Australian Broadcasting Commission checked the progress of 78 promises made by the Abbott government. It found that 30 had been achieved, 19 were "broken," 21 were in progress, and 8 had "stalled" (Australian Broadcasting Corporation, 2016, p. 1; see also Taylor, 2015).

Cronyism and Nepotism

The period of the Abbott government included repeated stories of cronyism and nepotism of the type outlined in the earlier background section to this paper. One high-profile case, which came to light in 2014, involved the gifting of a $60,000 scholarship to one of Abbott's daughters to attend a prestigious design college. The College Chair was a long-time friend and supporter of Abbott. The evidence, released by whistleblowers, indicated there were more deserving potential recipients (Nickless, 2014; Cheer, 2014). Several other cronyism and nepotism cases involved public servants. The most high-profile, covering both grand and gray corruption, involved two senior managers in the Tasmanian public health system. "Operation Delta" – an investigation by the state Integrity Commission

(2014) – found that two chief executives in the Tasmania Health Organization had engaged in extensive favoritism in recruitment and procurement. Jane Holden organized a job for her husband in maintenance work, despite the fact he had no qualifications. She also organized consultancy work for Gavin Austin, a former colleague, and then employed him as Finance Director without a proper open and competitive process. Austin then employed his wife and son. Holden was dismissed from her position and Austen resigned.

Cronyism reached its apogee in the transition from the Abbott to the Turnbull government in 2015 with the resignation of the federal Treasurer Joe Hockey and his appointment as Ambassador to the United States. In his drive to reduce the federal government deficit, Hockey had famously declared that a conservative government would put an end to the "the age of entitlement" (in Nadin, 2012, p. 2). However, his time as Treasurer was marked by an enormous increase in the deficit, largely because of his inability to negotiate budget cuts with the Senate. Hockey's brinkmanship and chronic underachievement made him particularly ill-suited for an ambassador role. However, the appointment – widely seen as a sinecure – opened the way for a new Treasurer to attempt to fix the deficit and turn around the government's fortunes (Bartlett, 2015). To add insult to injury, Hockey was allowed to "double dip": obtaining a $90,000 per annum parliamentary pension while receiving a salary of $360,000 per annum as ambassador, along with free accommodation, a chauffeur, and free air travel (Maiden, 2015). His premature resignation from parliament also caused a by-election costing $1,675,904 (Australian Electoral Commission, 2017a).

Political Donations and Undue Influence

Issues of cronyism and nepotism outlined above overlapped with the ongoing issue in Australian politics of party donations and undue influence. The issue was pervasive across all levels of government and included findings in the "black corruption" category. One example concerned a large energy company, AGL, which pled guilty in 2016 (and was subsequently fined) on 11 counts of breaching NSW political disclosure legislation in failing to report donations made to both Labor and the Coalition parties. The donations were made when AGL was seeking approval to build new gas wells. The exposure was the result of action by a community group, not a government regulator (Hannam, 2016). In another case, in 2016 the NSW Independent Commission Against Corruption (ICAC) found that members of the NSW Liberal Party had operated an illegal scheme to avoid disclosure laws and a ban on political donations by property developers by channeling donations to the Party through shell organizations (ICAC, 2016). The ICAC was constrained by case law from making a clear finding of "corrupt conduct" under its governing legislation, but it did find that there had been breaches of the 1981 NSW *Election Funding, Expenditure and Disclosures Act*, and the state Electoral Commission penalized the Liberal Party by withholding $4.4 million in public funding.

More generally, however, the issue remained in the domain of controversy, or "gray corruption." In 2013, at the time of the election of the Abbott government, the threshold for disclosure of political donations was $12,400 (Australian Electoral Commission, 2017b). This was widely seen as inadequate in that larger donations could be kept secret by being spread across party branches or – despite the NSW case outlined above – channeled through a range of "associated entities" including "think tanks" and ideologically based fundraising bodies (Leslie, 2016, p. 1). There were also ongoing concerns about extensive delays in disclosures, in that reports were made on an annualized basis, with up to 7-month delay in publication. This meant that many donations were only revealed after an election (Leslie, 2016). The system was also reliant on self-disclosure, with little in the way of proactive checking. Controversy also occurred around political parties requiring candidates to use particular companies in their campaign spend (e.g., for printing or IT services) and then channeling funds back to the party. In this period, concerns were focused on business donors seeking preferential treatment in government contracts and approvals (especially developers and miners), but a more bizarre case erupted over reports that Chinese companies had engaged in influence peddling by making donations in the interests of the Chinese Communist Party, prompting calls for bans on donations by non-citizens. The most high-profile case involved Labor Senator Sam Dastyari, who reportedly attempted to secure a $400,000 donation to the Labor Party by making a public statement that appeared to support China's territorial claims in the South China Sea, and had a travel bill paid by a Chinese donor (Uhlmann, 2017).

There were also ongoing concerns over party fundraising through expensive dinners with ministers, widely seen as buying access and influence (Sweet, 2013). Concerns extended to government funding of political parties. A system of funding based on votes in a preceding election was introduced in 1984 to reduce reliance on donations. However, this was characterized as just another impost on taxpayers, who were obliged to subsidize lurid attack ads (Young, 2013). At the 2013 federal election, parties received $2.49 for every first preference vote, adding up to $58 million (Australian Electoral Commission, 2017b).

The transition from the Abbott to the Turnbull governments saw no abatement in the negative media coverage of the political donations issue, and the rules remained in a gray patchwork across the country. In 2015, *The Age* newspaper described the rules as "grossly inconsistent across the nation, they lack transparency, fail to meet the most basic standards of timeliness, are open to abuse and are being rorted without any apparent shame by both of the major political parties" (Editorial, 2015, p. 16). In 2016, the ABC described the laws as "among the laxest in the Western world" (Leslie, 2016, p. 1).

Addressing the Problem: Ways Forward

The findings from this study strongly support the view that relatively "minor" cases of alleged corruption and conflicts of interest are widely seen as inappropriate and offensive. Adverse media coverage of gray corruption issues in Australia in recent

years is one indicator of a high level of public concern. There also appears to be a correlation between the escalation of these issues and the downward trend in integrity ratings for Australia. Available public opinion polls in Australia also lend support to the international literature indicating significant opposition to these more minor or ambiguous types of corruption and to the view that gray corruption undermines confidence in political and legal institutions. In a large number of the cases analyzed in the chapter, it appears that motivations included greed and a strong sense of entitlement and impunity. In some cases, careers were destroyed for relatively small amounts of money, with elements of risk-taking apparent, along with a lack of attention to detail. Media exposure was a key factor in forcing resignations, and loss of power and income, even where the law was deficient in ensuring accountability.

Overall then there is a strong case for enhanced prevention of gray corruption. However, the field of evidence-based corruption prevention is still in a nascent form. For example, Graycar and Prenzler, (2013) sought to identify available evidence of effective strategies and found there were very few cases available and hardly any clear intervention studies (see also Zhang & Lavena, 2015). The Graycar and Prenzler (2013) review did, however, provide strong support for the potential value of applying techniques from the more developed field of "situational crime prevention." This approach is focused on making large reductions in crime by closing off or significantly reducing opportunities in the settings in which offending occurs. The 25 techniques of situational prevention include a number that are particularly relevant to gray corruption, including "set rules," "post instructions," "alert conscience," "extend guardianship," "strengthen formal surveillance," "remove targets," "deny benefits," "reduce anonymity," and "assist compliance" (Cornish & Clarke, 2003, p. 90). Other valuable frameworks are available for addressing the problem, including the United Nations (1996) *International Code of Conduct for Public Officials* and the United Nations (2003) *Convention Against Corruption*.

The present study has shown that ambiguity about standards provides a major opportunity for misuse of public office. The essential first step to reduce the gray corruption problem therefore involves much clearer language in law and regulations regarding what is and is not prohibited and then communicating these standards. This is covered by the situational prevention techniques of "rules," "post instructions," and "alert conscience." Considerable work has been done in this area in relation to gifts and benefits to police (Prenzler, et al., 2013). Some jurisdictions have developed very detailed guidelines around a "near-zero" policy that makes reasonable allowances for very minor gifts that are appropriate in some circumstances – such as a gift of a pen to a police officer who addresses a community meeting – and specifies other situations where gifts are completely unacceptable such as free or discounted food in a commercial setting. The more useful police codes also include common scenarios faced by officers and enlargement of the rationales that lie behind prohibitions (Prenzler, et al., 2013).

The various scandals and controversies in Australia in recent years, and unremitting media condemnation, triggered considerable debate about best practice measures in the gray corruption area but with little in the way of action. One advance that provided a national model for transparency was the introduction of "real-time"

online data on political donations in Queensland in 2017 (Electoral Commission Queensland, 2017). The NSW ban on donations from property developers also provided an example of a strict principle, though with significant problems in terms of enforcement. The 2015–2016 review of federal politicians' expenses provided for some partial reforms, with recommendations to limit travel entitlements for holidays and families, strict limits on charter flights, a clearer definition of "parliamentary business," a greater gatekeeping role for bureaucrats in approving travel, monthly reporting of expenditures, and a 25% penalty on top of repayment requirements for false claims (Conde, et al., 2016). The government gave in-principle support to the recommendations, and implementation was slated for the latter part of 2017 (Remuneration Tribunal, 2017).

Commentary in the media was generally supportive of the reforms proposed in the entitlements review but suspicious of what any changes might mean in practice. There were criticisms of an alleged failure to clearly separate genuine electoral expenses from campaign spending and the ongoing absence of a code of conduct for politicians (e.g., Aston, 2016; Coghill, 2016; Peatling, 2016a, 2016b). The review also left the larger issue of political donations and campaign funding unresolved, and the nation was no closer to a consensus process for managing conflicts of interest. A number of critics and media commentators supported overseas models involving bans on corporate donations and/or caps on donations and campaign spending (e.g., Leslie, 2016; see Orr, 2016).

The entitlements review also bypassed numerous other issues covered in this chapter. Here, some useful guidance can be found in key ethical principles developed by the United Nations. The *International Code of Conduct for Public Officials* provides principles around public interest requirements that readily translate into rules that address ambiguities related to gray corruption. For example, principles of efficiency, effectiveness, and impartiality mean that it is absolutely essential that paid nonelected public sector positions are competitive (United Nations, 1996, Section I). All public sector employment positions – other than short-term nonrecurring contracts of a few months or less – must be advertised with an open application process, clear merit-centered criteria, and an independent selection panel. This would include ambassador positions, and the rules would go a long way to removing nepotism, cronyism, and sinecures.

Open application and selection by merit must also apply to all positions in politicians' electoral offices, and in media and policy advisory positions, to put the public service back to the ideal of impartial service – without positions being treated as rewards for service to a party. Rules also need to be absolutely clear about the need for public officials to declare real or potential conflicts of interest and, in most cases, absent themselves from decision-making when conflicts occur (United Nations, 1996, s II; 2003, Article 8). Similarly, procurement rules need to emphasize objective criteria, transparency, and open competition (2003, Article 9). Clear rules are also needed in relation to "trading in influence," "abuse of functions," and "illicit enrichment" (United Nations, 2003, Articles 18–20).

Rules also need to be communicated effectively, including through orientation programs for newly elected officials and in-service refresher programs. Rule setting

and communication in part "assist compliance," and this approach can be extended to better systems for booking travel and processing donations. At the same time, when these fail, or prove inadequate, there needs to be a backup system of deterrence and incapacitation through enforcement. One of the most important innovations in this area is the creation of anti-corruption agencies (Graycar & Prenzler, 2013). These agencies should have powers, resources, and responsibilities to investigate and prosecute suspected misconduct. They are a key element of the United Nations *Convention Against Corruption*, under Article 36 on "specialized authorities"; and they represent the application of the situational crime prevention techniques of "extend guardianship" and "strengthen formal surveillance."

The case studies in this chapter were drawn from media accounts – highlighting the importance of a free press in raising public sector integrity issues (Masters and Graycar, 2015). The charge was led by the Fairfax Group, which mounted a sustained investigative campaign, supported in part by Freedom of Information applications and reader reports. The campaign forced Rupert Murdoch's more conservative pro-government News Corp to take an interest. The whistleblowers in the cronyism/nepotism case involving the scholarship grant to Prime Minister Abbott's daughter were convicted of an offense of accessing confidential information and received good behavior bonds but had faced a potential 2-year sentence. The case was seen as one of a number that highlighted the lack of protection for whistleblowers in Australia (Hall, 2014). Public interest protections for whistleblowers should aid the process of public and media surveillance (Brown, 2013; Merritt, 2016).

Research on anti-corruption agencies, including in Australia, indicates that they are often highly constrained by narrow interpretations of the law, as represented by the failed Peter Slipper prosecution, and tend to be risk-averse in prosecuting cases in the criminal courts because of the high standard of proof (Graycar & Prenzler, 2013). However, apart from clarifying the law, gray corruption prevention and accountability can also be advanced by a larger role for these agencies in summary disciplinary decisions and adjudication of matters through misconduct tribunals – where the "balance of probabilities" applies as the standard of proof. This involves working with the best mix of noncriminal penalties and supportive behavioral change, through options such as employment dismissal, demotions, fines, retraining, and enhanced supervision. In addition, there would be merit in granting agencies a capacity to judge some conduct, such as blatant false advertising and excessive spending, as "unethical." This would constitute a type of "naming and shaming." The language of "false and misleading" claims – used in consumer protection law – provides a model (CAANZ, 2017). It is possible that this option would attract large numbers of politicized accusations, but an independent adjudicator, operating with clear standards, should generate a body of precedent cases and eventual reductions in cases. The system could potentially go a long way to meet public demands for action and address the widespread perception that politicians and many public servants flout common standards with impunity.

Summary

This chapter reviewed issues associated with the idea of gray corruption in Australia, focusing on scandals and controversies at the federal level during the period of the Abbott government, from 2013 to 2015, primarily as reported through the lens of newspaper exposés. The numerous examples covered a wide spectrum of types of alleged abuses – including politicians' misuse of expense accounts, excessive expenditures and receipt of gifts, cronyism and nepotism, and influence peddling through party political donations. Australia is a strong wealthy democracy with significant capacity to establish and enforce systems consistent with common ethical principles and public opinion. The failure to do this is itself a scandal.

Discussion Questions for the Chapter

1. How appropriate is the concept of "gray corruption"? Does it capture an area of policy deficit that needs correction?
2. Are lies and false promises in politics just something to be accepted as a natural part of a robust democracy or something that should be prohibited and sanctioned?
3. Do politicians and senior public servants need to be paid wages well above average?
4. Are gifts and benefits to politicians and public servants just a legitimate way of saying "thank you," or are they inappropriate means of enrichment and undue influence?
5. How can legitimate support for political activity, including financial donations to parties, be balanced against the need to prevent inappropriate influence?
6. Should all positions in the public sector involve appointment by merit through an open competitive process, or are governments entitled to make discretionary appointments?
7. How can citizens stop politicians and public servants engaging in profligate spending?
8. What criteria should be used to differentiate between legitimate and illegitimate expenses incurred by politicians?
9. Is an anti-corruption agency an essential element of an effective public sector integrity system?
10. Is gray corruption something that should be within the jurisdiction of an anti-corruption agency? Why? Why not?

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Fraud and Fraudulent Business Practices Related to the East Japan Earthquake

Minoru Yokoyama

Disasters Caused by the East Japan Earthquake on March 11, 2011

People living in the northeast region of Japan along the Pacific Ocean were severely hit by a large earthquake (magnitude 9.0) at 1446 on March 11, 2011. Even in Tokyo, which was about 375 km from the center of the earthquake, we witnessed some casualties and much damage caused by strong sway. About 30 min later a large tsunami hit the long stretch of seashore along the Pacific Ocean. A total of 15,270 people were killed and 8.499 were missing (*White Paper on Disaster Prevention in 2011*: 13).

After the earthquake the Fukushima No. 1 Nuclear Electric Power Plant was hit at 1527 by the first high wave of the tsunami, and at 1535 by second wave (Tokyo Electric Power Company, 2012: 121). As a result, all electric power supplies to cool the reactors stopped.[1] As these reactors failed to cope with this state of emergency, at 1536 on March 12 a phreatic explosion occurred at the No. 1 reactor, followed by an explosion at the No. 3 reactor at 1101 on March 14 and at the No. 4 reactor at 0614 on March 15; also on March 15, many radioactive substances were emitted from the No. 2 reactor. Many people had to leave their homes after these disasters. During this situation, some frauds occurred. In this chapter I provide a case study using articles by Asahi Shimbun.

[1] Two electric power generators meant for use in emergencies also stopped.

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Police Activities Soon after the Disasters

No serious rioting or plundering occurred soon after the disaster on March 11, which was highly regarded in foreign countries (Abe, 2013: 116–117). In the areas that experienced the disasters, about 6000 cash boxes were reported to the police as lost after March 11, 2011. The police endeavored to find them; 99.8% of the cash from those cash boxes were returned to the owners (*White Paper on Police in 2012*: 18). When people found cash in the disaster area, they reported it to the police (*Iwate Prefecture Police*: 187). However, the police strengthened their activities to prevent crime in these areas, especially near the Fukushima No. 1 Plant, where people evacuated their homes. Each day, 449 police officers in their 210 police cars, as members of the Squad for Community Policing, were dispatched to patrol the damaged areas, together with police officers from three damaged prefectural police forces: Fukushima, Miyagi, and Iwate (*White Paper on Police in 2012*: 16). In addition, security companies all over Japan sent many guard persons as volunteers to aid in crime prevention activities and to supplement the activities of police officers.

The Special Riot Squad for Investigation was also dispatched to the three aforementioned prefectures. Each day, 92 members of the squad were sent with their 23 vehicles to investigate (*White Paper on Police in 2012*: 17). They caught a total of 278 suspects for offenses such as theft and robbery during the period from March 13, 2011, to June 4, 2012.

On June 9, 2012, the National Police Agency published data about the number of reported penal code offenses for the 3 months from March to May 2011 in the three aforementioned suffered prefectures. In these prefectures all kind of offenses—including fraud—decreased compared with the corresponding period in 2010. However, because of the accident at Fukushima No.1 Plant as many as 99,000 persons left their homes unprotected, and the total number of thefts committed in Fukushima increased by 42%. The police exposed 16 cases of fraudulent business practices and 70 cases of fraud by June 4, 2012 (*White Paper on Police in 2012*: 17). In addition, the police watched the activities of Boryokudan, a group of Japanese gangsters, to ensure that they did not exploit people during reconstruction projects in the damaged areas .[2]

[2] In the 1980s Boryokudan founded or bought many enterprises in such business fields as real estate, construction, and the financial markets, in which some "secret" lieutenants worked as the executives (Yokoyama, 1999: 143). Boryokudan may have exploited the reconstruction projects in the damaged area through enterprises they controlled.

Warning against Fraud Soon after the East Japan Earthquake

In Japan, fraud and fraudulent business practices implemented through shrewd methods have increased, whereas the amount of conventional theft has decreased.[3] Therefore, many organizations warned against fraud soon after the East Japan earthquake. On March 16 the Saitama Prefecture Police issued a warning that mentioned several types of foreseen fraud (Asahi Shimbun, March 16, 2011). On April 14, the Consumer Affairs Center in Iwaki City in Fukushima Prefecture issued a warning of a fraud committed by taking advantage of those affected by the East Japan earthquake, because the center had already received information from a person in the damaged area that a swindler said to him, "I will took over debris at JPY100,000 if you contract now" (Asahi Shimbun, April 14, 2011). They warned citizens not to contract for unnecessary repairs in damaged homes and not to pay costs to have debris removed. In addition, the center informed citizens that they could bring debris to a temporary storage location free.

The National Consumer Affairs Center of Japan and the Consumer Agency established a special toll-free number for people living in three damaged prefectures (Fukushima, Miyagi, and Iwate) could call to receive a consultation. It was helpful for those suffering and prevented them from being victimized by swindlers. However, reports by victims of various kinds of fraud began to be received. The National Police Agency published data about fraud committed by taking advantage of those affected by the East Japan earthquake (Asahi Shimbun, August 5, 2011). A total of 31 suspects were arrested for fraud, including attempted fraud, by the end of July 2011. The total amount of damages by these frauds amounted to JPY33,750,000.

Fraud Soon after the East Japan Earthquake

For 2 months after the East Japan earthquake, consumer affairs centers all over the country performed more than 12,000 consultations (Asahi Shimbun, June 8, 2011). In late April, the National Consumer Affairs Center and Consumer Agency warned people not to be victimized by fraudulent business practices. They informed the citizenry about 53 cases in which victims sold precious metals to a swindler for a cheap price after receiving a telephone call from someone who stated, "After East Japan Earthquake the precious metal for a heart pace maker ran short. I am collecting the metal for patients of heart disease". In another case a swindler asked a person to buy the right of use in a senior home with a bath of hot spring in order to make sufferers enter this home. The police exposed other major frauds, which are described in the subsequent sections.

[3] Purchasing power in Japan has declined, as the number of people over 65 years old amounted to 26% of the entire population. Therefore, sales activities became very competitive and fraudulent business practices were rampant. On the other hand, habitual thefts such as pickpocketing and burglary decreased.

Fraud Related to Collection of Donation for Those Suffering Damage

Many people—not only in Japan but also all over the world—sympathized with people who suffered as a result of the East Japan earthquake, and they donated money. In addition, many volunteers began to collect money to donate to those who were suffering. One week after the East Japan earthquake a fraud occurred related to the collection of donations. On March 18 an unemployed 29-year-old man was arrested for taking JPY12,000 (US$120) under the guise of collecting donations on the street for those suffering after the earthquake (Asahi Shimbun, March 19, 2011). On March 19, 2011, a 53-year-old man, a self-professed director at an advising company, was arrested for attempted fraud: he had asked a 91-year-old woman to remit to his bank account a donation for sufferers (Asahi Shimbun, March 19, 2011).

According to research by the National Consumer Affairs Center of Japan, the consultation counter for consumers all over the country received 26 cases about collecting money for sufferers during the period from March 11 to March 27, 2011 (Asahi Shimbun, April 1, 2011). In most of those 26 cases, consulters lived in western Japan and did not experience any damage from the East Japan earthquake. Swindlers living in western Japan seemed to commit fraud more frequently than those in eastern Japan because they did not know how great the extent of the damage. According to data published by the National Police Agency on June 6, 2011, 274 cases of stealing money collected for sufferers were reported all over the country; a suspect was arrested in 54 of these cases.

Fraud Related to Repair of Damaged Homes

The East Japan earthquake damaged about 160,000 houses, among which about 80% were partially destroyed. Owners could continue to live in their home if they repair some damaged parts such as the inclined pillars, roof tiles and window glasses. On March 31, 2011, the Ministry of Land, Infrastructure and Transport established the consultation counter to give those whose homes were damaged a number to call about repairs to their houses. If the person wished, the Ministry dispatched an architect to their home to propose needed repairs and provide a cost estimate for the repairs.

Nevertheless, fraudulent business practices occurred related to repairs. On April 1, 2011, Asahi Shimbun reported the case of a woman in her 80s who might have been victimized. A man had visited her house in the disguise of an architect. Seeing the roof tiles that had been destroyed by the earthquake, he urged her to sign a contract for repair, but her relative made her refuse to sign the contract. However, he visited again to demand payment of JPY50,000 (US$500) as an inspection fee. She was lucky that her relative rushed to her house to make her refuse to pay it. In Japan, more and more swindlers are victimizing elderly people who live alone.

Fraud about the Sale of Goods

Immediately after the East Japan earthquake, people living in the damaged areas, and even in Tokyo, rushed to stores to buy such daily necessities as food and drink. These areas experienced goods shortages. People formed queues and waited patiently for a long time to buy goods at some stores. They never plundered. Someone, however, committed fraud to sell fake goods.

According to Asahi Shimbun, on June 18 a 30-year-old man working as a driving service agent in Wakayama Prefecture was arrested for selling PET bottles of tap water as mineral water through his online shop (By the way, Japanese call bottles made of polyethylene terephthalate PET bottles). He sold the bottles in the middle of March by advertising that the distribution of PET bottles was now being controlled because of the earthquake. It was not until October 25, 2011, that he was sentenced to 3 years of imprisonment with compulsory labor, with suspended execution for 5 years, for fraud and an offense of the Food Hygiene Law. In general, however, it is not easy for the police to collect evidence to prove fraudulent business practice.

A president of a company that sells healthy foods was arrested for an offense against the Pharmaceutical Affairs Law: he sold a bottle of mineral water containing iodine as a drug to rid the body of radioactive substances (Asahi Shimbun, May 26, 2011). His company earned about JPY4 million (US$40,000) by selling 440 bottles of the mineral water. He committed this offense by taking advantage of people's fear about radioactive contamination from the nuclear accident at the Fukushima No. 1 Plant.

Fraud Related to Activity by Fake Medical Doctors

Fraud decreased immediately after the East Japan earthquake. Within a few months after the earthquake, however, fraud, especially that related to activities to support the restoration of damage, increased gradually. In April, 2011, a 41-year-old man without a stable home and without a medical license began to provide medical activities to infants and elderly persons in Ishinomaki City in Miyagi Prefecture. In June he forged a document to prove he was a medical doctor and presented it to the Ishinomaki Council of Social Welfare. Then he succeeded in cheating the Nippon Foundation of JPY1,000,000 for a fund for his activities. He was sentenced to 3 years of imprisonment with compulsory labor (Asahi Shimbun, June 8, 2012). His sentence was severe because the judge thought that the man had betrayed both sufferers and volunteers.

Embezzlement of Relief Supplies

On December 5, 2011, Asahi Shimbun reported embezzlement by a 67-year-old former chairman of the Kinki Lions Club Council. In April and May 2011 the man was asked by Lions Club Councils in damaged areas to purchase relief supplies. As chairman he took charge of money for the purchase, from which he embezzled JPY4 million.

Fraud by Solicitation to Fund Fake Investments

The Consumer Affairs Center has recently received many consultations about trouble concerning the purchase of bonds and private equity. The total number of consultation increased from about 3000 in the 2005 fiscal year to about 14,500 in the 2010 fiscal year. During the period from March 11, 2011, to the end of August 2011, the Center received 63 consultations about the purchase of bonds and private equity related to the East Japan earthquake (Asahi Shimbun, September 2, 2011).

On June 8, 2011, Asahi Shimbun reported on the following case. In late April 2011, a 50-year-old man living in North Kanto received a telephone call. The caller said, "The demand for pure water will increase after the nuclear accident at Fukushima No. 1 Plant. If you buy a bond for a company selling a water filter now, I will buy it later at a price 2.5 times higher than the current price. I propose this offer to only 49 persons". Believing his solicitation, the man remitted JPY13 million to a bank account assigned by him. Later, however, the man could not contact the caller nor the company publishing the bond. As this case shows, men are more frequently victimized by fraud through solicitation to purchase bonds or private equity, whereas more women are victimized by remittance fraud.

Another swindler asked people to purchase equity in a company to support victims of the earthquake. He would say to a victim, "You should buy a private equity of a company with wind power stations, as any nuclear electric power plant will not be used in the future."

On February 13, 2013, Osaka Prefectural Police arrested a 53-year-old self-professed executive of a construction company for fraud (Asahi Shimbun, February 14, 2013). In April 2011 he said to an 80-year-old man with no occupation in Osaka, "My plan to construct temporary housings together with a construction company was adopted in Fukushima. I will import these housings from Korea. But I am short of money." Through this solicitation the swindler cheated the man of JPY25 million. In April 2011, the swindler also cheated a 60-year-old woman with no occupation in Osaka of JPY61 million by telling her that he was short the money needed to import 750 temporary houses from Korea[4] (Asahi Shimbun, February 14, 2013). The suspect was a former member of the Kansai Economic Federation and the Kansai Association of Corporate Executives.

A swindler established the Gunma Support Association for Individual Loan without registering as a financial trader. On November 14, 2012, Gunma Prefectural Police searched his house and five other places in three prefectures (Gunma, Saitama, and Tokyo) on the charge of an offense of the Financial Instruments and Exchange Law (Asahi Shimbun, February 7, 2013). At the end of March 2011, a woman affiliated with this association said to a 56-year-old woman in Kisarazu City in Chiba Prefecture, "The national government gave a subsidy for construction of the temporary housing. You will get 6% interest if you invest to support it." Through

[4] The suspect forged a document to "prove" the adoption of his proposal by the minister of Economy, Trade and Industry. He was arrested for both fraud and the use of a forged public document.

this solicitation the victim remitted JPY9 million to a bank account through the end of July 2011. The police estimated that the association collected approximately JPY500 million from 70 persons all over Japan through fraudulent solicitation.

Even after 2012, fraud related to support for sufferers continued. On June 10, 2014, Asahi Shimbun reported that Hiroshima Prefectural Police arrested three swindlers, including a 47-year-old man, in Tokyo for fraud. In the spring of 2013, the swindlers told a 74-year-old woman in Aichi Prefecture that they purchased for her a mountain forest in Fukushima Prefecture at a high price, fraudulently promising an increase in the price. In this way they cheated her of about JPY16 million. About 70 persons were cheated in a similar way of a total of about JPY400 million since December 2012.

Fraud by Taking Advantage of Support Systems for Sufferers

The national government and local governments established several support systems for sufferers and for people to participate in restoration enterprises. Fraud occurred against these support systems.

Sufferers could receive a certain portion of collected donations distributed by a local government if they applied and showed a disaster certificate and a residence certificate. In June 2011, a 61-year-old man who moved from Yamamoto Town in Miyagi Prefecture to a safe place before the East Japan earthquake and who did not renew his residence certification cheated Yamato Town of JPY1,230,000 of donations by showing the incorrect certificate. It was not until June 11, 2012, that the police arrested him for fraud (Asahi Shimbun, June 12, 2012).

Many sufferers lost identification materials such as passports and driver's licenses. Therefore, a special law was enacted for those who suffered from the earthquake to be able to open a bank account without identification. Asahi Shimbun reported on August 19, 2011, about fraud taking advantage of this system. On April 11, 2011, a 24–year-old businessman without a stable home visited a bank in Shinjuku in Tokyo. By stating that he was a sufferer who lived in Ofunato City in Iwate Prefecture, he successfully opened a bank account under a fictional name. Saitama Prefectural Police arrested him for taking several bankbooks through fraud. The police suspected that he took these bankbooks in order to resell them and make money.

Asahi Shimbun reported about another case on September 28, 2011. In July 2011 an unemployed 48-year-old man visited a shelter in Toshima Ward in Tokyo and pretended to be a sufferer of the earthquake. He informed that he had lost all identification materials in the tsunami, and in this way he cheated an officer of the Toshima Ward of JPY63000 for "welfare expenses." He received a sentence of 4 years of imprisonment with compulsory labor (Asahi Shimbun, March 20, 2012).

A 46-year-old man without a stable home forged a disaster certificate, and through its use he succeeded in living in municipal housing free from March to July 2011. He was arrested for fraud because he evaded paying JPY42,000 to rent the house. He was imposed a sentence of 3 years of imprisonment with compulsory labor for forging a private document and for fraud (Asahi Shimbun, June 30, 2012).

On April 14, 2013, a 35-year-old employee of a company in Tokyo was sentenced to 3 years of imprisonment, with its suspension for 5 years, for committing fraud (Asahi Shimbun, April 16, 2013). In April 2011 the man visited a ward office in Sendai City in Miyagi Prefecture to acquire a disaster certificate by pretending to be a sufferer. By taking advantage of the system to support sufferers in Okinawa, he fraudulently received about JPY1,070,000 to pay the fare for a flight from Sendai to Okinawa and to pay rent for an apartment regarded as temporarily housing. Judging from the three aforementioned cases, judges tend to impose severe punishment on defendants without stable homes.

Fraud Related to Simplified Procedures to Receive a Subsidy

Many subsidy systems were created to help sufferers recover from damage. The procedure to receive a subsidy was simplified in order to award subsidies as quickly as possible. For example, in July 2011, the Ministry of Education, Culture, Sports, Science and Technology issued a notification that local governments could decide on subsidies only by checking application documents when repair costs were less than JYP200 million. To take advantage of this system, a 55-year-old director and a 49-year-old kindergarten principal in Tagajyo City in Miyagi Prefecture destroyed ceiling panels themselves. On July 25, 2011, they applied for a subsidy to repair the ceiling panels and the wall of a gymnasium that was destroyed by the earthquake. In June 2012 the Miyagi Prefectural Police arrested them for cheating the government of JPY3,900,000 by padding the repair costs (Asahi Shimbun, October 28, 2012)..

Fraud against Support Systems for Small and Medium-Sized Enterprises

After the East Japan earthquake a special system was founded to restore the buildings of small and medium-sized enterprises. Under this system, an enterprise that had transactions with an enterprise in a damaged area could receive a special loan from a bank if the amount of sales during the 3 months after the earthquake decreased by more than 10% compared with sales during the corresponding period of the previous year.

Six months after the East Japan earthquake, the Special Investigation Team of the Tokyo Public Prosecutors' Office exposed a fraudulent business practice that took advantage of this system.[5] On September 15, 2011, a 38-year-old executive officer of a business consulting company was arrested for advising an apparel business how

[5] The public prosecutors' office has a special investigation team in three cities—Tokyo, Osaka, and Nagoya—to expose large scandals in political and economic fields.

to fraudulently receive a loan from a bank. On the basis of his advice, a 47-year-old executive officer of the apparel business company succeeded in cheating two banks of JPY110 million in loans by padding the amounts of transactions of the apparel business with companies in the damaged area (Asahi Shimbun, September 15, 2010). On October 5, 2010, they were prosecuted on charges of fraud. They were sentenced to imprisonment with compulsory labor for 2 years, 4 months (Asahi Shimbun, March 29, 2012).

Remittance Fraud

Since August 1999, swindlers have committed remittance fraud, taking advantage of the East Japan Earthquake and depriving elderly people of a large amount of money. On May 25, 2011, Asahi Shimbun described the following case.

A 76-year-old man living in Nishi, Tokyo, received five telephone calls on May 18, 2011. A swindler, impersonating this man's son, said, "I left my bag containing a promissory note in a train. I have to collect money before the contract. Please, give me money of JPY5 million. If a bank officer asks you about the reason for drawing money, please answer that I have to pay money for repair of my native house damaged by East Japan Earthquake.[6] The old man succeeded in drawing money from his bank account, and gave to a man pretending to be a colleague of his son. After handing over the money, the man asked his son about this and realized he had been a victim of remittance fraud. Through a similar technique, a man in his 80s who lived in Higashi Kurume City in Tokyo was deprived of JPY5 million on April 28, 2011; another man, also in his 80s, living in Nishi, Tokyo, was taken for JPY3 million on May 18, 2011. The police estimated that the same group of swindlers committed these remittance frauds. Calling a victim and pretending to be his/her son or daughter is a classic technique of swindlers committing remittance fraud (Yokoyama, 2018). The total number of remittance frauds reported to the police in Tokyo in 2011 amounted to 1563. Victims in these cases lost about JPY3,622 million (Asahi Shimbun, February 14, 2012).

Remittance fraud has also occurred in relation to support for sufferers. In early February, 2014, a 82-year-old woman in Kita Kyushu City in Fukuoka Prefecture received a telephone call in which a man asked her to donate money ot sufferers (Asahi Shimbun, March 28, 2014). She refused. Then he said, "Your deputy donated in your name, by which both you and your deputy violated a law. You need to bring a lawsuit in order to prove no fault." The swindler made her send by mail JPY5 million on March 18, 2014, and JPY20 million on March 24, 2014, for court costs. On March 27, 2014, she tried again to draw JPY50 million from her bank account to send to the swindler. At that time, she was given a warning by a bank officer, who reported the request to the police. However, the police failed to find the swindler.

[6] To prevent an elderly person from becoming a victim of remittance fraud, a bank officer working at the counter asks him/her why they want to draw such a large amount of money.

In May 2014, a woman in her 80s in Kochi City in Kochi Prefecture was cheated of JPY14 million in a similar way (Asahi Shimbun, September 3, 2014).

On July 1, 2014, a 68-year-old man in Shiga Prefecture received a telephone call from a person working for earthquake recovery in Fukushima. He was asked to call the Disaster Support Association. When he called the association, he received a request to send rent money by July 8. After he sent JPY6 million to a person in Osaka, he contacted the association, at which point he knew he had been defrauded.

On September 3, 2015, Akita Central Police Station in Akita Prefecture announced that a woman in her 70s in Akita City was deprived of about JPY30 million through remittance fraud (Asahi Shimbun, September 4, 2015). Since the beginning of July 2015, she received telephone calls from several people who pretended to be staff of a consumer information center or a nongovernmental organization. They informed her that she was in trouble regarding registration of her personal information with a company to supply prefabricated houses to sufferers of the East Japan earthquake. Upon their requests she sent money eight times to several places in Tokyo. She was informed that an investigator with the Finance Services Agency would visit her house on August 17, 2015. When the investigator did not come, she found that she had been defrauded. On June 23, 2016, Metropolitan Police Department arrested KK, a 36-year-old office worker in Tokyo as a leader of this remittance fraud scheme (Asahi Shimbun, June 24, 2016). The police announced that KK was the thirteenth member of a group of swindlers arrested for remittance fraud.

On October 21, 2015, Isezaki Police Station in Gunma Prefecture announced that a 81-year-old woman had been defrauded. On August 23, 2015, someone telephoned her requesting that she lend her name for a sufferer of the East Japan earthquake to enter a home for the elderly. She accepted this request, and the next day she received a telephone call from a person pretending to be a staff of the home. He said to her, “You will be arrested as an accomplice. You should send money to me in order to take procedures not to be arrested.” She sent JPY4 million to an assigned bank account. On October 26, 2015, Asahi Shimbun reported that Osaka Prefectural Police arrested KO, an unemployed 24-year-old man, and five other persons for remittance fraud. They swindled more than 20 persons in four prefectures of over JPY200 million. One was a victim in her 80s living in Yao City in Osaka Prefecture. During a telephone call someone requested her to lend her name in order to purchase temporary housing in areas damaged by the East Japan earthquake. Soon after she accepted the request, she received a telephone call from a person pretending to be an officer of the Finance Services Agency. He said to her, “Lending of a name is a crime. Money is needed to resolve this problem.” He suggested that she send JPY9 million to a women in her 80s living in Yokohama. A woman in Yokohama was also requested to pay money in a similar way. The caller said, “Another woman pays instead of you. If you receive money from her, please contact me.” After receiving JPY9 million she delivered it to a person who was dispatched by a swindler.[7] This is the most sophisticated way to commit remittance fraud.

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[7] Swindlers employ young people to receive the money and to draw money from bank accounts. The police sometimes succeed in arresting these young people. However, it is difficult for the police to gain information from them to help expose the swindlers’ organization.

On March 22, 2017, Hiroshima Prefectural Police announced that a part-time worker in her 80s in Kure City in Hiroshima Prefecture was cheated of about JPY150 million. In December 2015, she was informed through a telephone call that she was registered as a supporter for sufferers of the East Japan earthquake. Then she was given her number as a supporter. She received another telephone call in which she was asked to give her supporter number. After she did so, the first caller informed her that leaking her support number was illegal but she would not be arrested if she paid JPY30 million. She sent money seven times (totaling about JPY150 million) to houses in Kyushu and Shikoku through the end of 2016. This was the most continuous remittance fraud.

Metropolitan Police arrested three suspects in their 30s in Tokyo for attempted fraud. On June 6, 2016, they called an 82-year-old woman in Okayama City, pretending to be employees of companies supporting restoration after the East Japan earthquake. They asked her to lend her name to purchase a machine to decontaminate radioactive substances. After she approved it, they informed her that lending her name was a crime, and that she should pay JPY200 million. She reported this to the police, and the three swindlers were arrested for attempted fraud.

Fraud by Members of Boryokudan (Japanese Gangsters' Group)

About 30 years ago, the main illegal revenues of Boryokudan were sales of stimulant drugs, gambling and bookmaking, and strong-armed protection as bouncers (Yokoyama, 1999: 144). Because the police have strengthened regulation against these conventional illegal activities, however, Boryokudan have developed illegal interventions in economic activities to collect money. Police have recently strengthened the regulation of illegal money collected by Boryokudan (Yokoyama, 2016: 145).

The police knew that Boryokudan earned a lot of money by intervening in activities to restore areas damaged by the Hanshin Awaji earthquake in 1995. Twenty days after the East Japan earthquake, the National Police Agency issued a directive to exclude Boryokudan from restoration activities; this directive was addressed to all prefectural polices[8] (Asahi Shimbun, March 23, 2017). In addition, the National Police Agency requested associations in the construction industry, Tokyo Electric Power Company, relevant ministries and agencies, and local governments to exclude Boryokudan. However, a Boryokudan member committed fraud soon after the East Japan earthquake. During the 5 years after 2011, the police exposed 101 cases in which a member of Boryokudan was involved (Asahi Shimbun, March 23, 2017). However, it was the tip of the iceberg.

[8] The power of the National Police Agency is not as strong as the power manifested by the State Police before World War II (Yokoyama, 2001: 192). One of jobs of the National Police Agency is to direct the standards of police activities to all prefectural polices. They observe its directives because the National Police Agency controls them through personnel management and the allotment of national government subsidies.

Fraud Committed by Boryokudan Members after the East Japan Earthquake

A 45 year-old boss and four members of his Boryokudan at Kamitonda Town in Wakayama Prefecture employed 12 persons to collect donations at 26 locations in three prefectures—Osaka, Hyogo, and Nara—during the period from March 15 to May 18 in 2011. Together with employed persons they collected about JPY380,000, which the boss spent for activities for his Boryokudan.[9] It was difficult for the police to arrest them, because they pretended to collect money as a volunteers' group, but Wakayama Prefectural Police arrested him and the four Boryokudan members for fraud on July 9, 2012 (Asahi Shimbun, July 10, 2012).

Soon after the East Japan earthquake, many people donated money through their bank accounts. Because of this rash of donations, the computer system of Mizuho Bank, one of three megabanks, became disordered. The bank had to stop the use of all teller machines March 19–21, 2011. During this period, the bank allowed depositors to draw money (up to JPY100,000) by showing a cash card at a counter, without checking their account balance. A 45-year-old executive member of Boryokudan withdrew JPY900,000 from nine branches of the bank, although his account balance amounted to about JPY10,000. At the end of August 2011, the total amount of money drawn over account balances from Mizuho bank was over JPY200 million. The bank asked the Boryokudan member to return JPY900,000. He did not, so the bank filed a crime damage report with the police. He was arrested for fraud on October 12, 2011, which was specially reported by the mass media as an offense committed by a Boryokudan member (Asahi Shimbun, October 12, 2011).

Fraud Committed by a Boryokudan Member at Damaged Places

In the areas that suffered from the East Japan earthquake, many Boryokudan members committed fraud by taking advantage of the loan system established for the victims of the earthquake. The national government and prefectural governments established a system to offer interest-free loans up to JPY200,000 to victims of the quake to cover living expenses. During the period from late March to early May 2011, the victims of the earthquake could receive a loan by applying to a prefectural council of social welfare. The Ministry of Health, Labor and Welfare issued a notification to prohibit Boryokudan members from receiving these loans.[10]

[9] The boss's Boryokudan was affiliated with Yamaguchi-gumi, the largest among three wide-area Boryokudans. Because he had to pay a monthly membership fee to Yamaguchi-gumi, it seem he committed this fraud to maintain his Boryokudan.

[10] The discriminatory treatment of Boryokudan members has spread recently (Yokoyama, 2016: 145). However, the collected donation was distributed to all sufferers, as Boryokudan members were not legally prohibited from receiving the donations.

However, an officer at a council of social welfare gave the loan to many sufferers without carefully checking their status. The Miyagi Prefectural Police researched about 10,000 cases among the total of 40,000 cases of victims who were offered a loan to determine whether fraud had occurred and if so the amount of fraud. As a result, the police found 89 ineligible Boryokudan members who had received loans totaling about JPY10 million by hiding their Boryokudan membership from their applications for the loans (Asahi Shimbun, October 27, 2011). By the end of July 2011, the police had arrested 3 of the 89 Boryokudan members, and they were charged with fraud.

In Fukushima, about 170 Boryokudan members received loans illegally (Asahi Shimbun, November 29, 2011). Fukushima Prefectural Police also carried out research. It was not until September 10, 2014, that Kanagawa Prefectural Police arrested a 57-year-old executive of Boryokudan living in Koriyama in Fukushima Prefecture who did not repay a loan of JPY100,000 by the end of 2014; he had received the load from the Fukushima Prefectural Council of Social Welfare in April 2011 (Asahi Shimbun, September 11, 2014).

Miyagi Prefectural Police arrested three members of one Boryokudan on September 10, 2013, and three members of another Boryokudan on December 12, 2013, for taking a cash card by deception.[11] In summer 2012 these members presented to a credit union in Sendai application documents for a JPY500,000 loan for sufferers; in these documents they wrote about a false income. They succeeded in acquiring a card to receive a loan. They seemed to exchange information about fraudulently taking a card.

Fraud to Exploit Companies

On February 6, 2013, the Metropolitan Police Department arrested for fraud SS, a 52-year-old former executive of Boryokudan in Kodaira in Tokyo, and two other persons. In April 2011 these three suspects pretended to be officers of a construction company listed with the first section of the Tokyo Stock Exchange. They requested that the president of a civil engineering company dispatch workers to Miyagi Prefecture to process debris. The president dispatched about 30 workers in the late April 2011, after which he paid about JPY10 million to SS as a deposit. Because this deposit was not returned, his company became bankrupt. SS exploited a legal company in a sophisticated, fraudulent way that Boryokudan have recently adopted.

[11] Miyagi Prefectural Police continued to investigate a case of this card being taken fraudulently. On March 3, 2014, it arrested for fraud a 30-year-old executive of a company that sells used cars in Shiogama City, because he took a cash card fraudulently and withdrew JPY500,000 (Asahi Shimbun, March 4, 2014).

As the result of a recent law, Boryokudan members cannot formally manage a company.[12] However, they still substantially control many companies. They succeeded in earning money by making such companies participate in many restoration activities. The following case illustrates how Boryokudan can take over a company even though it does not have any legal control over it.

A legal company controlled by Boryokudan undertook jobs to decontaminate radioactive substances and to demolish houses damaged by the East Japan earthquake. Boryokudan received a JPY100,000 reward from the company for recruiting and dispatching workers and by exploiting a part of these workers' wages (Asahi Shimbun, March 23, 2017).

Boryokudan also earned money in conventional ways. For example, serving as "bouncers," they collected protection fees from bars and stores along bustling streets in such a big city in the reconstruction boom as Sendai and Koriyama, where many relief workers and dispatched workers entered. It was not easy for the police to expose the illegal money collected by Boryokudan during this time of crisis. However, many fraudulent business practices were exposed after 2012.

It is difficult for an investigation agency to expose some fraudulent business practices, because the border between a legal business practice and a fraudulent one is ambiguous. Therefore, in cases of fraudulent business practices related to the East Japan earthquake, it took a long time to expose them. The following sections describe the main fraudulent business practices exposed after 2012.

Scandal of Infinity

Asahi Shimbun reported on January 12, 2012, that prefectural police in Ehime, Gunma, and Miyazaki arrested for a fraud "A," a 60-year-old president of Infinity, a company selling used cars, together with a 45-year-old former sales staff and two other suspects.[13] Without registering as a trader of financial instruments and exchange, in July 2011 they advertised that they would open a business to sell used cars in the Tohoku area, where about 410,000 cars were flooded by the tsunami, and that they would return money, with 20% interest, within 3 months after receiving the investment. Through this advertisement they cheated two persons of a total of about JPY6 million.[14] "A" collected the investment fraudulently through the use of several

[12] According to research conducted by the police in February 1989, the estimated total annual revenue of Boryokudan amounted to JPY1,302 billion, of which 19.7% was acquired through legal means (Yokoyama, 1999: 143). Half of the illegal revenue was acquired by managing legal companies. To reduce the revenue of Boryokudan, the law prohibits Boryokudan members and their relatives from registering as an executive of a company.

[13] Usually, the mass media informs the public of the real name of an arrested suspect in a big scandal. It is curious that on January 13, 2012, and in March 2012, Asahi Shimbun wrote "A" instead of the perpetrator's real name.

[14] The public prosecutor did not prosecute other suspects because of insufficient suspicion (Asahi Shimbun, February 3, 2012).

tricks over the period from May 2008 to October 2011, cheating about 2500 people of more than JPY2500 million (Asahi Shimbun, March 15, 2012). This was a large, widespread fraud. Because delay by the police in exposing this fraud, the number of victims increased tremendously.

Scandal of a Company to Produce PET Bottles of Mineral Water

Many goods were in short supply immediately after the East Japan earthquake. A fraudulent business practices occurred concerning the shortage of mineral water. On February 20, 2014, the special investigation team of the Osaka Prosecutors' Office arrested for fraud SS, a 54-year-old president of a company that produces PET bottles of mineral water (Asahi Shimbun, February 21, 2014). In April 2011 he informed a food wholesale company that his factory produced 300,000 PET bottles of mineral water daily, although only several thousands of the bottles could in reality be produced. SS contracted the food wholesale company to purchase 3 million bottles. At that time he received JPY 52,500,000 as an advance payment. Because he delivered no bottles by the assigned date, the company charged him with fraud. On November 10, 2014, he received a sentence of 3 years' imprisonment with the suspension of its execution for 4 years (Asahi Shimbun, November 11, 2014). A judge stated that the defendant received the suspension because the defendant had promised to compensate the food wholesale company for the damage. It might have been a lenient sentence.

Scandal of an Organization Supporting Regional Development in Tokyo

The Metropolitan Police Department arrested TS, a 63-year-old former deputy chief director, and YK, a 64-year-old former director, of the Support Organization of Regional Development in Tokyo (Asahi Shimbun, July 15, 2014). In October and November 2012, they told the president of a construction company in Osaka, "We would dismantle a factory at the suffered area. We could make your company participate in it preferentially if you invested in our organization." Through this lie they cheated the president of JPY65 million.

Scandal of the Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster in Tokyo

The Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster, presided over by Fumio Kyuma, a former defense minister, was founded as a nonprofit organization (NPO) in August 2011, mainly to supply temporary

housing. On August 22, 2014, the Tokyo Prosecutors' Office prosecuted four persons on charges of fraud: KS, a 42-year-old former staff member of the NPO; HM, a 55-year-old former employee of the NPO; HS, a 44-year-old part-time worker; and SN, the president of a company that dispatches hostesses to a party (Asahi Shimbun, August 23, 2014). In April and May 2012, they claimed payment of about JPY12 million from Tokyo Electric Power Company as compensation for damages that SN suffered from a decrease in the number of hostesses dispatched because of the nuclear accident. KS, HM, and HS carried out this claim as deputies for SN through the use of their titles as part of the NPO, stating that the earnings of SN's company decreased because of the nuclear disaster. Through this lie they succeeded in cheating Tokyo Electric Power Company of JPY12 million. In fiscal year 2012 no activity occurred to support sufferers through the Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster.

On September 6, 2014, police arrested KS and HM again for another fraud, for which TS, the 54-year-old president of a construction company, was also arrested (Asahi Shimbun, September 6, 2014). The police officer responsible for coping with organize crimes at Metropolitan Police Department announced that three suspects claimed payment of about JPY18 million from Tokyo Electric Power Company and took it fraudulently between December 2011 and January 2012. TS's company received an order from an entertainment production company to construct a boarding house in Minami Soma City in Fukushima Prefecture. Although this construction was abandoned before the unclear accident because of the financial difficulty in TS's company, IS and HM claimed payment of compensation as deputies for TS.

On February 9, 2015, the police officers in charge of coping with organized crimes at Metropolitan Police Department arrested for fraud MN, a 77-year-old auditor of the Support Association for Sufferers of the East Japan Earthquake and the Nuclear Disaster, and SM, the 70-year-old president of a construction company. KS and HM also were arrested again for this fraud. In April 2012 they claimed payment of compensation money from Tokyo Electric Power Company on the pretext that SM's company could not produce shiitake mushrooms owning to the nuclear accident. Then, they fraudulently took about JPY41 million from Tokyo Electric Power Company. After being investigated by the Tokyo Public Prosecutors' Office, MN and SM received exemption from prosecution because they compensated the power company for damages (Asahi Shimbun, September 19, 2015). In January 2016, SN appeared at Tokyo District Court, where he admitted his guilt (Asahi Shimbun, February 27, 2016). Then he stated that an officer of Tokyo Electric Power Company taught him how to fill out application forms and that he paid to the officer a reward in the amount of 5% of the money received. Hearing his statement, the Metropolitan Police Department began to investigate the officer, who admitted to receiving several hundred million yen as a reward from SN, although he refused to admit being involved in the fraud.

On May 11, 2016, a judge announced that SN had swindled Tokyo Electric Power Company of money, totaling about JPY85 million, twelve times during the period from January 2012 to July 2012, conspiring with several member of the

Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster (Asahi Shimbun, May 12, 2016). He was sentenced to imprisonment with forced labor for 9 years. This scandal was the end of a series of frauds by people using the name of the Support Association for Sufferers of the East Japan Earthquake and Nuclear Disaster, a dormant organization. However, because the president of this organization was a former defense minister, investigation by the police might be delayed.

Scandal of Fujihisa Construction Company in Ishinomaki City in Miyagi

On October 30, 2014, Miyagi Prefectural Police arrested for fraud HI, a 52-year-old president of Fujihisa Construction Company (Asahi Shimbun, October 31, 2014). On April 2, 2011, HI became president of the Ishinomaki Support Council for Disaster Restoration. Because many volunteer groups carried debris from a house site to the adjacent road soon after the East Japan earthquake, in April the Ishinomaki City Government entrusted Fujihisa Construction Company with carrying debris on the road to a temporary storage site. Fujihisa Construction Company, together with four cooperative companies, only pretended to carry out this business, and afterward the company claimed payment of a total of JPY118,680,000 in fiscal year 2011, which the city government paid.

In March 2012 a whistleblower exposed the scandal at Fujihisa Construction Company. HI, as president of the Ishinomaki Support Council, borrowed a dump truck free from the Tokyo Support Council and used it to process debris. Fujihisa Construction Company included expenses for using this dump track in the claim for total payment. After this was exposed, the company had to return JPY4,660,000 to the city government. In addition, HI resigned as president of Ishinomaki Support Council.

Ishinomaki City Council established a special committee to research this scandal. HI was arraigned as a witness by the committee. At the committee meeting he refused to submit documentary evidence such as a payroll book and a work diary. Then, in September 2012, the City Council brought to Miyagi Prefectural Police a criminal charge against HI of an offense against the Local Autonomy Law. This minor offense might have been chosen because they regarded HI as a leading figure in Sendai City. After receiving the criminal charge, the police began to investigate this scandal.

In March 2014 the police searched the offices of Fujihisa Construction Company, four cooperative companies, and others. On September 3, 2014, the police heard from HI as a witness. The police found that one of four cooperative companies neither performed any job nor received any payment from Fujihisa Construction Company. In addition, it exposed that Fujihisa Construction Company claimed payment for costs of jobs that many volunteers had performed free. Receiving this

information from the police, the City Council brought forward a charge of a fraud. At last, on October 30, 2014, HI was arrested for fraudulently taking about JPY12 million. On May 29, 2017, HI was sentenced at Sendai District Court to imprisonment with forced labor for 4 years (Asahi Shimbun, May 30, 2017). He was judged as the principal offender of a dastardly corporate crime, and so his sentence was not suspended.

Scandal of Techno-Labo Company in Ibaraki Prefecture

On May 27, 2015, the special investigation team of Tokyo Public Prosecutors' Office arrested for fraud KO, the 55-year-old president of Techno-Labo (Asahi Shimbun, May 28, 2015). After the East Japan earthquake areas experienced electric power shortages. In fiscal year 2013, in order to supply more electric power, the national government established the subsidy system to cover a half of the expenses (up to a maximum of JPY500 million) to establish a new private power generator.[15] In the summer 2013 Techno-Labo contracted a Chinese company to purchase 25 diesel generators at about JPY300 million. When they imported these generators, they evaded a consumption tax. In May 2014, KO applied for a subsidy of JPY500 million on the pretext that money for this purchase amounted to about JPY1,010 million. Although specialists at a think tank entrusted by the government carried out site research at Techno-Lab, they could not find proof that Techno-Labo did not transmit any generated electric power to Tokyo Electric Power Company. On the base of results of this loose research the government decided to give the subsidiary, by which KO received the JPY500 million subsidy from the government. On May 11, 2017, KO was sentenced to the imprisonment with forced labor for 8 years and a fine of JPY3 million at Tokyo District Court (Asahi Shimbun, May 11, 2017). Before this sentence, he was demanded by the Ministry of Economy, Trade and Industry to return the JPY500 million subsidy. If he returned it, he might receive the more lenient sentence.

Scandal of BGB Company in Osaka City

On December 2, 2015, Osaka Prefectural Police arrested on a charge of fraud SN, a 49–year-old president of BGB Company, founded in 2000 to develop human resources. The charges stemmed from misuse of employee funds set aside for wage and leave allowances.

To maintain the employment of workers, the national government uses a system to subsidize a part of workers' wages and leave allowances. After the East Japan

[15] In fiscal year 2013 the government gave subsidies totaling JPY4500 million in 228 cases. The money received fraudulently by Techno-Labo amounted to 11.1% of the total subsidy amount.

earthquake, a special disposition was established in this system and enforced from March 2011 to March 2013. Under this special disposition, a company whose total amount of sales in damaged areas exceeded one third of all their products, the company could receive a subsidy. SN intended to swindle the government of this subsidy. Since June 2011 he had fabricated accounting documents to prove that the total amount of sale at Sendai Branch amounted to 34% of all products, although the actual percentage was very small. Applying 11 times to Osaka Department of Labor, by July 2012 he defrauded the government of about JPY290 million.

On January 7, 2016, Osaka Prefectural Police arrested SN again for another fraud. In autumn 2010 he bought a shell company for JPY200,000 and renamed it BGB East Japan (Asahi Shimbun, January 7, 2016). He pretended that the total amount of sale at Sendai Branch of BGB East Japan amounted to 57% of all products. Then, applying to Osaka Department of Labor, he defrauded the government of about JPY300 million. On October 18, 2016, SN was sentenced to the imprisonment with forced labor for 6 years for defrauding the government of JPY595,450,000 (Asahi Shimbun, October 18, 2016).

This scandal was just the tip of the iceberg. According to research from the Ministry of Health, Labor and Welfare, a total of about JPY2300 million given as subsidies under this system was not returned by the end of fiscal year 2015 (Asahi Shimbun, January 11, 2017). Many companies that did not return the subsidies they received did not respond to the research or denied their unlawfulness. It is very difficult for the Ministry to pursue criminal charges except for such an extreme case as the scandal at BGB.

Scandal of Ando-Hazama Construction Company

In June 2017 the special investigation team of the Tokyo Public Prosecutors' Office began to investigate for fraud Ando-Hazama, a semimajor construction company (Asahi Shimbun, June 19, 2017). Investigators heard from officers of the company and searched several locations, including a company building. During 2012 to 2015 the company received from Iwaki City and Tamura City in Fukushima Prefecture an order for a job to decontaminate radioactive substances. Ando-Hazama directed subcontracting companies to forge receipts in order to inflate a bill to these two local governments. In the case of jobs in Iwaki, the accommodation unit price per dispatched worker was increased by JPY2500, whereas the total number of employed workers was inflated to about 4300. In the case of jobs in Tamura, the corresponding price was increased by JPY500, whereas the total number of employed workers was inflated to 4500.

After this scandal was exposed, Ando-Hazama founded a research team. On June 9, 2017, the president of the company appeared at a press conference, at which he apologized for inflated bills to Iwaki City and Tamura City (Kahoku Shimpo, June 10, 2017). According to research results, the accommodation unit price was inflated

from JPY5,000 to JPY7,500 in Iwaki and to JPY5,500 in Tamura. As for the total number of employed workers, that number was inflated from about 11,000 to about 15,000 in Iwaki, and from about 5600 to about 10,000 in Tamura. Through this trick the company fraudulently received JPY 80 million from two cities. This scandal may come to an end only by prosecution of a director and his subordinates having ordered subcontracting companies to forge receipts if the company returns the money received. We are shocked that even a semi-major company conducted fraudulent business practices by taking advantage of restoration enterprises in damaged areas. Ando-Hazama must be strongly blamed for this scandal, although the mass media has not reported about it as big news.

Exposure of Bid-Rigging

In Japanese communities, bid-rigging is a conventional business practice. Fair market competition has recently been emphasized, however, using the American model as an example to follow. There, bid-rigging is severely regulated not only under the Anti-Trust Law but also under the Penal Code, for example, Article 96-3 on obstruction against compulsory execution and Article 96-6 on auction related to a public contract. When bid-rigging violates the Anti-Trust Law, the Fair Trade Commission has the power to perform research, to issue a cease and desist order, and impose an administrative fine. In addition, in a serious case the Commission brings criminal charges in a criminal court.

It was very difficult for the Fair Trade Commission to collect evidence to prove bid-rigging. Then, through revisions to the Anti-Trust Law in 2005, a system was introduced to reduce or exempt an administrative fine imposed on a company that reports participation in bid-rigging in advance.[16] Under this system the Fair Trade Commission exposed the following bid-rigging cases related to the East Japan earthquake.

Bid-Rigging by 30 Civil Engineering and Constructing Companies in Chiba

Chiba prefectural government requested competitive bids for engineering works to repair roads and to fix damage from the East Japan earthquake. The Fair Trade Commission investigated 30 civil engineering and constructing companies for illegal rigging before this bid. Asahi Shimbun reported on December 18, 2013, that the Commission certified the illegal restraint of trade committed by these companies, an offense of Article 3 of the Anti-Trust Law,. The companies were told that the

[16] This system was expanded through revisions to the law in 2009.

Commission would issue to them a cease and desist order to prevent reoccurrence of bid-rigging. In addition, the Commission would issue an order to pay an administrative fine totaling more than JPY200 million to about 20 of the 30 companies.[17] It took a long time for the Fair Trade Commission to issue those orders.

Bid-Rigging by Companies to Construct an Agricultural House

The East Japan earthquake destroyed many agricultural houses. As an enterprise to fix damage, the national government paid all expenses to construct a steel agricultural house. This construction was carried out through competitive bids to a local government.[18] After the construction was finished, a steel agricultural house was lent to a farmer, who paid only administrative expenses to the local government for its use. Asahi Shimbun reported on October 6, 2015, that the Fair Trade Commission entered and inspected seven companies that constructed agricultural houses on suspicion of repeated bid-rigging, that is, illegal restraint of trade prohibited by the Anti-Trust Law. The seven companies included such major companies as Iseki & Co., Watanabe Pipe, Mitsubishi Mahindra Agricultural Machinery, Yanmar Green System, Sankin B & G, Inochio Agri and Daisen. During 2012 to 2014 they submitted 22 successful bids, totaling about JPY17,500 million, to seven local cities and towns in Miyagi and Iwate. The percentage of the average amount for jobs acquired of the maximum bid price decided by an order agency amounted to 94.4% (Asahi Shimbun on October 7, 2015). This high rate proved bid-rigging by these seven companies.

Asahi Shimbun reported on December 21, 2016, that the Fair Trade Commission decided to issue to five companies both a cease and desist order and an order to pay an administrative fine totaling about JPY600 million. The Commission issued only a cease and desist order to Mitsubishi Mahindra Agricultural Machinery, which acquired no job through successful bids. On the other hand, Yanmar Green System did not receive any orders because it had reported the bid-rigging in advance to the Commission. On February 16, 2017, the Fair Trade Commission issued the above-mentioned orders to pay administrative fines after hearing excuses from the five suspected companies (Asahi Shimbun, February 17, 2017).

At the same time the commission gave a complaint to Miyagi Agricultural Public Corporation, which bid to take on such jobs as designing a steel agricultural house and estimating a price to construct it. After bidding the Watari Town Government in Miyagi Prefecture contracted with five companies for a total of about JPY7, 400 million, before which some officers of the public corporation had leaked to the five companies the maximum bid price in order to rig the bid. Knowing of cases of such leaking, the Fair Trade Commission submitted a proposal to take adequate measures

[17] Other companies would not receive the administrative fine because its estimated amount was under JPY1,000,000.

[18] For example, the Watari Town Government in Miyagi carried out bids to order about 100 steel agricultural houses for growing a strawberry.

to avoid future leaks, which the commission regarded as illegal behavior that induces and facilitates bid-rigging. However, the Commission refrained from pursuing criminal charges for an offense against the Law to Prevent Governmental Manufactured Bid Rigging.

Bid-Rigging by Road Repair Companies in Tohoku District

All major companies that repair roads participated in bidding to receive a job to repair highways and main roads damaged by the East Japan earthquake. Some rigged bids to acquire a certain amount of profits without competition. In January 2015 the Fair Trade Commission began to conduct compulsory research related to 20 road repair companies on suspicion of bid-rigging (Asahi Shimbun, January 20, 2016). In December 2015 the special investigation team of the Tokyo Public Prosecutors' Office began to hear from officers in charge of bidding at these companies. On January 20, 2016, the commission and the special investigation team started to inspect 13 road repair companies on suspicion of bid-rigging carried out in summer 2011. At that time the Tohoku Branch of East Nippon Expressway Company submitted 12 competitive bids to repair highways. Through successful bids, 12 companies acquired 12 jobs, the total amount for which was about JPY17,600 million. The percentage of the average amount of jobs acquired of the maximum bid price decided by the Tohoku Branch of East Nippon Expressway Company amounted to about 95%, which was higher by 10% than that in the fiscal year 2010.

On February 29, 2016, the Fair Trade Commission reported to the Attorney General 10 road repair companies and 11 officers in charge of bidding on suspicion of illegal restraint of trade, an offense of the Anti-Trust Law. Seikitokyukogyo was not accused because it reported its participation in bid-rigging to the Fair Trade Commission before the compulsory research in January in 2015.[19] In February 2016, those 10 road repair companies and 11 officers in charge of bidding were prosecuted in Tokyo District Court. All defendants admitted their guilt in court.

On September 6, 2016, the Fair Trade Commission issued a cease and desist order to 20 companies (Asahi Shimbun, September 7, 2016). In addition, the Commission issued an order to pay an administrative fine totaling JPY1,409,510,000 to 11 companies that acquired jobs through a successful bid.[20] The next day, judges at Tokyo District Court served a guilty sentence for the first time to 3 of the 10 prosecuted companies (*The Nikkei*, September 8, 2016). They imposed a penal fine of JPY180 million on Maeda Road Construction in Tokyo. In addition, they imposed on an officer in charge of bidding a sentence of imprisonment for 1.5 years with

[19] Kajima Road and Kokiwakogyo were also not accused. Kajima Road failed to acquire the job by the bidding owing to document deficiencies. Kokiwakogyo acquired the job in the place of a company assigned by the bid-rigging.

[20] Seikitokyukogyo was not imposed the administrative fine owing to presenting a report in advance to the commission, although it had acquired the job by a successful bidding.

suspension of its execution for 3 years.[21] In case of Gaeart TK in Tokyo and Kitagawa Hutec in Kanazawa, each company received a penal fine of JPY120 million, and an officer in charge of bidding received an sentence for imprisonment for 1 year, 2 months with suspension of its execution for 3 years. Officers may regard the sentence given to them as heavy, because they participated in bid-rigging as a work requirement they had taken over from their predecessors. The heavy criminal punishments imposed in the scandal will deter other companies from bid-rigging.

Bid-Rigging by a Road Repair Company in Kanto District

During the period from September to November 2011, the Kanto Branch of the East Nippon Expressway Company submitted competitive bids for eight jobs to pave roads damaged by the East Japan earthquake. Through successful bids, seven companies acquired seven jobs, of which the total amount was about JPY9,900 million. On March 24, 2016, the Fair Trade Commission entered and inspected eight road repair companies on the suspicion of the illegal restraint of trade; of these, five companies acquired jobs through successful bids (Asahi Shimbun, March 24, 2016). On August 1, 2016, the Fair Trade Commission decided to issue a cease and desist order to the eight companies. In addition, the commission decided to issue an order to pay an administrative fine totaling JPY480,290,000 to five companies that acquired jobs through successful bids. Because the companies did not present an excuse, the Fair Trade Commission issued these two orders on September 21, 2016. Because the scale of this scandal was smaller than that of the bid-rigging by road repair companies in Tohoku District, the Fair Trade Commission did not pass on the five companies to the Attorney General on suspicion of an offense of Article 3 of the Anti-Trust Law.

Bid-Rigging by Major Construction Companies

On April 4, 2017, the Fair Trade Commission entered and inspected buildings of a Tohoku branch and head offices of 18 construction companies on suspicion of bid-rigging (Asahi Shimbun, April 5, 2017). In the subsequent days it entered for inspection the buildings of other 13 companies (Asahi Shimbun, April 6, 2017). The Tohoku Agricultural Policy Division of the Ministry of Agriculture, Forestry and Fisheries ranked 31 major construction companies as "A"; these were qualified to bid for jobs worth more than JPY200 million to restore damaged farmland. The amount of money paid for jobs related to this scandal was estimated to total about JPY50,000 million.

[21] An officer in charge of bidding of Maeda Road Construction played a role of a mediator together with the officers in NIPPO, Nippon Road and Seikitokyukogyo. Therefore, judges gave the severer sentence to Maeda Road Construction than that to Gaeart TK and Kitagawa Hutec.

Much farmland was damaged by the tsunami. To restore it, local governments carried out construction, a portion of which the national government undertook through the Tohoku Division. Many retired high-ranking officials of the Ministry and its Tohoku Agricultural Policy Division were employed by major construction companies. Because those people could exchange information with former colleagues and officials working at the Ministry and the Tohoku Division, they might play a role as mediator in bid-rigging in this scandal. Research into this scandal by the Fair Trade Commission seems to continue.

Summary

Conventional property crimes such as theft did not increase after the East Japan earthquake. A special type of a fraud and fraudulent business practices related to the East Japan earthquake *did* increase, however. Soon after the earthquake the mass media reported sporadically about cases of minor fraud committed by individuals. Swindlers and their groups ran rampant, especially with regard to remittance fraud. Fraud committed by members of Boryokudan were also exposed, which might be just the tip of the iceberg.

A special type of fraud was committed by taking advantage of the governmental subsidy systems in place to help sufferers and to restore damaged areas. This fraud was committed not only by individuals but also by organizations. It is not easy for law enforcement agencies to expose fraud by organizations because the border between legal business practices and illegal ones is sometimes ambiguous. However, they succeeded in exposing several fraudulent business practices after 2012.

To secure money for restoration enterprises, a special law was enacted on December 2, 2011, by which all people are obliged to pay a special tax for restoration enterprises for 25 years starting in 2013.[22] Companies that participated in fraudulent business practices and bid-rigging should be strongly blamed for committing wicked corporate crimes, through which they betrayed not only sufferers but also all taxpayers.

This chapter examined the responses of the Japanese government to a natural disaster—a major earthquake and a tsunami—that hit eastern Japan in 2011. Government agencies, including the police, and many people from all walks of life provided assistance to the victims of these catastrophic events. However, despite the government's efforts to prevent crimes related to the earthquake, this event opened the door for criminals to profit from others' losses.

This chapter examined predominant crimes such as fraud and corruption, as well as the factors that enabled companies and individuals to commit these crimes during and after the catastrophic events. The types of fraud that were the most prevalent included selling fake medical supplies, charging for the repair of property and never completing the repairs or completing jobs with substandard materials, stealing identities, making false claims to insurance agencies, creating fake investment schemes,

[22] The amount of this special tax is 2.1% of all reported income.

embezzling relief funds and supplies, inflating the costs of goods needed in the relief effort, selling supplies and equipment and not delivering the goods, and collecting donations for victims but not delivering those donations to the victims of the disaster. A section of the chapter is devoted to the methods used by the Japanese government and service agencies to prevent fraud and corruption related to natural disasters.

Discussion Questions

1. Discuss the reasons for the increase in crime, particularly various frauds, during and after a major natural disaster.
2. Discuss how fraudsters are able to use the fear of the victims of a major disaster to perpetrate their crimes.
3. What were the predominate types of fraud committed against women after the East Japan earthquake?
4. Discuss which categories of people (elderly, young, men, women, poor, rich) were most vulnerable to becoming victims of fraud after the East Japan earthquake.
5. What steps did the government and criminal justice agencies take to protect the victims of the East Japan earthquake from also becoming victims of crime?
6. Discuss various ways in which volunteers assisted victims of the East Japan earthquake.
7. Differentiate between fraud and corruption and discuss how the two can be connected in disaster situations.

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Fraud and Corruption in the Healthcare Sector in the United States

Peter C. Kratcoski

Introduction: Fraud

There are several definitions of fraud that fit into the context of this chapter. The Legal Dictionary (2017, p. 1) defines fraud as "A false representation of a matter of fact-whether by words or by conduct, by false or misleading allegations, by concealment of what should have been disclosed-that deceives and is intended to deceive another so that the individual will act upon it to her or his legal injury." Learn About the Law (2017, p. 1) states, "Fraud is a broad term that refers to a variety of offenses involving dishonesty or 'fraudulent 'acts. In essence, fraud is the intentional deception of a person or entity by another made for monetary or personal gain." The Legal Dictionary (2017, p. 1) notes that there are five separate elements that must be proven in the prosecution of a person charged with fraud. These are:

- A false statement of a material fact
- Knowledge on the part of the defendant that the statement is untrue
- Intent on the part of the defendant to deceive the alleged victim
- Justifiable reliance by the alleged victim on the statement
- Injury to the alleged victim as a result

The criminal code of the United States, as well as the codes of all of the individual states, has specific laws defining fraud as a criminal act. The type of offenses, the severity of the offenses, as well as the punishments for the conviction of fraudulent offenses will vary. For example, the fraudulent registration of aliens is punished as a misdemeanor under federal law. The Centers for Disease Control and Prevention (CDC) (2017, p. 1) reported that, "Health care fraud perpetrators steal billions of dollars each year from Federal and State governments, from American taxpayers, and some of our country's most vulnerable citizens. Fraud drives up the cost for

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everyone in the health care system, in addition to hurting the long term solvency of the Federal health care programs, like Medicare and Medicaid, upon which millions of Americans depend."

After an examination of fraud in the healthcare industry, the Association of Certified Fraud Examiners (2017, p. 1) concluded, "Essentially fraud in health care is just like in any other industry. Fraudsters with the means and opportunity take full advantage to unjustly profit. Health care crooks inside and outside the industry include patients, payers, employers, vendors, and suppliers, and providers, including pharmacists. Organized crime rings and computer hackers also play roles in committing health care fraud."

Several examples of cases of healthcare fraud are given in Box 1 to illustrate the various types involved in healthcare fraud.

Box 1 Healthcare Fraud

Healthcare Medical Treatment Provider

Bolingbrook doctor charged with dispensing drugs illegally. *Medicare fraud* (/2014-02-20/news/ct-doctor-arrest-bolingbrook-tl-0227-20140220_1_medicare-fraud-health-care-fraud-complaint). By Geoff Ziezulewicz and Tribune reporter (February 20, 2014)

A southwest suburban doctor has been charged with dispensing prescription medication illegally and fraudulently billing Medicare, according to federal authorities.

Healthcare Service Provider

Hospice owner charged with Medicare, *Medical fraud* (/2014-01-27/news/ch1-hospice-owner-charged-with-medicare-medicaid-fraud-20140127_1_hospice-care-hospice-owner-medicaid-fraud). By James Meisner and Tribune reporter\January 27, 2014

As the head of one of the fastest-growing hospice and nursing home networks in the state, Seth Gillman often talked about his mission of improving the quality of care for those in the final stages of life. "Give patients everything they need, even that little extra that makes life worth living, Gillman told the health care site Life Matters Media in November, citing the poor hospice care he witnessed his grandmother receive a decade ago.

Medical Fraud: Bribing a Politician

Blagojevich fundraiser accused of healthcare fraud (/2012-06-21/news/ct-met-nayak-arrested-20120621_1_mayak-s-oak-brook-blagojevich-fundraiser-blagojevich-case), By Jeff Coen and John Chase, Chicago Tribune reporters /June 21, 2012

A longtime friend of U.S. Rep. Jesse Jackson Jr., who was at the center of a Senate seat scandal that sent ex-Gov. Rod Blagojevich to prison, was arrested Wednesday in his own federal fraud case, accused of bribing doctors to send patients to his surgical centers. Raghuveer Nayak, a wealthy businessman and

(continued)

former campaign fundraiser for both politicians, was indicted on charges he secretly paid hundreds of thousands of dollars to physicians from 2000 to 2010.

Fraud in the Pharmaceutical Industry

U.S. sues Novartis, alleging kickbacks to pharmacies (/2013-04-23/business/sns-rt-us-novartis-fraud-lawsuitbre93mic9-20130423_1_kickback-pharmacies-myfotic)

Bernard Vaughan and Jonathan Stempel and Reuters|April 23, 2013

(Reuters) – The U.S. government filed a civil fraud lawsuit against Novartis AG on Tuesday, accusing a unit of the Swiss drug maker of causing the Medicare and Medicaid programs to pay tens of millions of dollars in reimbursements based on fraudulent, kickback-tainted claims. U.S. Attorney Preet Bharara in Manhattan said Novartis Pharmaceutical Corp had since 2005 induced at least 20 pharmacies to switch thousands of kidney transplant patients to its immunosuppressant drug.

Amount of Healthcare Fraud

Morreale (2015, p. 100) noted that "Health care expenditures in the United States are rising from an estimated $2 trillion in 2006 to an estimated $5 trillion in 2020."

U.S. recovers $4.2 billion from healthcare fraud probes: report *(/2013-02-11/lifestyle/sns-rt-us-healthcare-fraudbre91aozo-20130211_1_healthcare-fraud-health-care-fraud-fraud-and-waste) Reuters|February 11, 2013*

(Reuters)- The Obama administration said on Monday that its efforts to combat fraud in the Medicare and Medicaid healthcare programs were paying off as the government recovered a record $4.2 billion in fiscal 2012 from individuals and companies trying to cheat the system. For every dollar spent investigating healthcare fraud over the past 3 years, the government recovered $7.90, according to a report released on Monday by Attorney General Eric Holder.

The cases presented above demonstrate the variety of perpetrators of healthcare frauds as well as several types of crimes, including theft, bribery, embezzlement, and counterfeiting of documents. The Association of Certified Fraud Examiners (2017, p. 1–2) provides a list of the top healthcare fraud schemes. They are:

1. Billing for services not rendered
2. Billing for a non-covered service as a covered service
3. Misrepresentation of dates of service
4. Misrepresentation of locations of service
5. Misrepresenting provider of service
6. Waiving of deductions and/or co-payments
7. Incorrect reporting of diagnoses or procedures (includes unbundling)
8. Overutilization of services
9. Corruption (kickbacks and bribery)
10. False or unnecessary insurance of prescription drugs

As shown above, healthcare frauds can include the providers of direct services, the suppliers of healthcare supplies and equipment, and those who receive the healthcare. Other healthcare fraud scams frequently found in the healthcare industry include an insured healthcare individual sharing their information with another person who is uninsured in order for that person to obtain medical care and the theft of patients' insurance cards that are later sold to criminal organizations who then bill the insurers for healthcare services or supplies that were not provided.

Medical Insurance Fraud

Edelbacher and Theil (2012, p. 100), in an explanation of insurance fraud, state, "Insurance fraud is a crime against property. The specific nature of this type of fraud is based on the insurance contract that obligates an insurance company to indemnify (pay) an insured contingent on an uncertain, future event. In cases of fraud, such events are caused intentionally, or claimed falsely, a genuine loss is exaggerated, or a contract is unlawful."

In the case of health insurance, any of the above can and often applies. For example, insurance companies may write policies for subscribers in which important provisions are hidden or disguised.

Kratcoski and Edelbacher (2015, p. 69) report, "Insurance fraud may be committed by the insurers as well as by those who are insured. Although the majority of the insurance fraudulent claims are made by those holding insurance policies, legal providers of services and insurance companies also commit fraud by inflating billing, or deliberately misrepresenting the facts of a policy, not paying appropriate worker's compensation deductions to the government, and even embezzling funds collected from policy holders." In regard to health insurance fraud, the FBI (2015:1) reported that in the United States, the amount of health insurance fraud is more than tens of billions of dollars each year.

According to the Coalition Against Insurance Fraud (2017, pp. 3–7), the most frequent and costly frauds pertaining to health insurance include:

- *Bodily injury* claims relating to fake automobile accidents. "Staged-crash rings fleece auto insurers out of billions of dollars a year by billing for unneeded treatment of phantom injuries. Usually they are bogus soft-tissue injuries such as sore backs or whiplash, which are difficult to medically identify or dispute" (Insurance Research Council, February 2015 (/downloads/Insurance Research Council/02-15pdf)).
- *Medical expenses.* "Medical expenses reported by auto-injury claimants continue increasing faster than inflation even though injury severity continues downwards" (/downloads/Insurance ResearchCouncil/03-15pdf).
- *Suspicious claims.* "Insurers identified potential fraud in 7.4 percent of automobile claims within the first 125 days."

- *Fraudsters are beginning to use a "credit card" model* to secure larger settlements. "They file small initial claims to test the carrier and then lodge large multi-feature claims" (Inovatus, February 2013 (http://www.verisk.com/underwriting-v/resources/article-autoinsfraid.pdf)).
- *Medical identity theft.* "Thieves steal a consumer's personal information to lodge fraudulent claims against the victim's health policy." ... "2.3 million Americans were victimized in 2014" (Ponemon Institute, February 2015 (http://medidfraud.org/org/wp-contents/uploads/2015/02/2014_medical_ID-Theft-Study1.pdf). Sponsored by the Medical Identity Fraud Alliance(http://medidfraud.org/).
- *Cyber security.* **"**Healthcare breaches remain a major problem affecting millions of Americans annually. More than 27 million patients were affected by healthcare breaches" (Protenus, Inc. January 2017 (http://www.protenus.com/hubfs/Breach_Barometer?Protenus Breach Barometer-2016 Year in Review-final version.pdf)).

The US Government Accountability Office (2016) reported that "mobile medical and health devices are a big security risk as reported by healthcare professionals, with *fishing, spearfishing* and *whaling* being the leading type of attack." Cyber security attacks come from those inside the healthcare organizations as well as from those outside the organizations.

Social Security Disability Program

Pianin (2016, p. 2) reported, "The $150 billion Disability Insurance Trust Fund, which recently received a bailout from Congress to avert a cash flow crisis, provides monthly benefits to individuals who are unable to work because of severe long-term physical or mental disabilities. The means-tested program provides financial assistance to disabled, blind or elderly individuals, as well as low-birth-weight babies."

The Social Security's Disability Insurance Trust Fund (2017, pp. 1–3) provides a yearly summary of the number of the applications for disabled worker benefits, the number of awards granted, the number in current payment status, and the number of terminations. Thus, it is possible to follow the trend in the awards granted and those who have been denied disability benefits.

In 2002, there were 1,682,452 applications for disability worker benefits. Of these applications, less than half (44.61%) of the applications were approved, and there were more than 5.5 million receiving benefits at the end of 2002. In subsequent years, the number of applications for disability benefits continued to increase, but the proportion of applications receiving awards declined. For example, in 2010, there were 2,935,798 applications with slightly more than one third (35.85%) of the applications being approved for benefits. However, the number of people receiving benefits in 2015 was 8,204,710, an increase of one

third more than the number receiving awards in 2002. In 2016, the number of new applications decreased by 21%, and the number of awards decreased by almost 29% when compared to 2015. The number of individuals receiving disability worker benefits was 8,808,736, 2.3% fewer than the peak year of 2014 in which 8,954,518 were receiving worker's disability benefits at the close of the year. The number of applications is counted rather than the number of individual applications, since some individuals apply for the benefits more than one time during a given year.

The Social Security Administration has been able to reduce the numbers of recipients who were not eligible to receive funding under the Social Security Disability program through the implementation of new auditing programs. However, cuts in funding for the review of cases have resulted in a huge backlog. Pianin (2016, p. 3) reported, "With growing concerns over potentially billions of dollars of Social Security fraud in recent years- from phony disability insurance claims to retirement payments for decreased beneficiaries- Congress late last year (2014) approved a major crackdown that included harsher criminal and civil penalties and fines. The reforms include the promulgation of a new felony specifically for conspiracy to commit Social Security fraud that is punishable by up to 5 years in prison and fines of up to $250.000."

Workers' Compensation Insurance

Wikipedia (2017, p. 1) notes, "Workers' compensation is a form of insurance providing wage replacement and medical benefits to employees injured in the course of employment in exchange for mandatory relinquishment of the employee's right to sue their employer for the tort of negligence." Wikipedia (2017, p. 1)continues, "While plans differ among jurisdictions, provision can be made for weekly payments in place of wages (functioning in this case as a form of disability insurance), compensation for economic loss (past and future), reimbursement or payment of medical and like expenses (functioning in this case as a form of health insurance, and benefits payable to the dependents of workers killed during employment (functioning in this case as a form of life insurance)."

Kratcoski and Edelbacher (2015, p. 79) reported, "In the United States, worker's compensation insurance provides protection for employees who are involved in accidents while on the job. The employer and the employee both contribute to the insurance, and federal and state laws regulate the insurance programs. It is a no fault program, meaning that the employee is provided with such benefits as medical expense and lost wages, even though the accident may have been the result of carelessness or negligence on the part of the employee. As with any insurance system, there are opportunities to engage in fraud."

The Coalition Against Insurance Fraud (CAIF) (2014, p. 2) claims the most frequent frauds (scams) made by workers are:

- Workers get injured off the job but claim to have been injured while on the job, so the worker's compensation policy covers the medical expenses.
- Workers inflate the injury, so they can collect more money and stay off the job longer.
- Workers actually fake injuries.
- Workers who have old injuries that never healed correctly claim they are new injuries that occurred while on the job.
- Malingering, that is, pretending to be disabled, even though the person is healed enough to return to work.

Although the larger portion of workers' compensation fraud is committed by employees, Kratcoski and Edelbacher (2015, p. 80) note, "On the other side of the coin, the employers have been known to engage in various types of fraud relating to worker's compensation. The most common are illegally reducing the amount of compensation premiums they owe and trying to cover it up with fake accounting or tax records, and creating dummy companies. Other professionals who have engaged in worker's compensation scams include doctor and clinic directors, who inflate the extent of injuries and take kickbacks, and attorneys who file bogus lawsuits against the insurance providers."

Fraud Committed by Suppliers of Health Services

Fraud and other crimes relating to medical care have been detected in facilities providing health services such as hospitals, nursing homes, and residential facilities for the elderly and the disabled. Morreale (2015, p. 105) provided several examples of opportunities for administrators and staff of nursing homes and other types of assisted living facilities that offer healthcare for the elderly and handicapped to engage in corruption and fraud. He states, "Many nursing homes beds are paid for, at least in part, by Medicare or Medicaid. In limited circumstances, nursing homes will have beds that are only 'private pay' beds. In circumstances where the quality of care is questioned, patient harm or death occurs, consideration should be given to potential health care fraud."

Morreale (2015, p. 102), referring to a National Health Care Anti-Fraud Association report on fraud (2014), uses the concept *Gang*-visits to illustrate a type of fraud that may be perpetrated by administrators of residential living facilities. "Gang-visits are services that are provided in a group setting within an organized living community. This may be a social service center or group home, assisted living facility (ALF), or SNF. Previous schemes include several group therapies or podiatry treatments (clipping vs. debridement). While these services are acceptable, some unscrupulous providers bill these services as if they were provided individually, in a private setting, rather than billing for a lower per patient fee for group treatment."

Baladerian, Coleman, and Stream (2013, p. 3) provides information on fraud and corruption pertaining to abuse of people with disabilities. Almost one third of the respondents in a nationwide survey indicated that they, or a member of their family, were victims of financial abuse. Although the exact nature of the financial abuse was not specified, much of the abuse occurred in hospitals, nursing homes, or other residential facilities serving the handicapped.

A report on hunger in America (Hunger Notes, 2016, p. 1) revealed that "In 2015 there were 43.1 million people in poverty." A large number of these were receiving some form of federal assistance from SNAP/Food Stamps, WIC (Special Supplemental Nutrition Program for Women, Infants, and Children), National School Lunch Program, Temporary Assistance to Needy Families (TANF), Medicare, the State Children's Health Insurance Program, and other sources, such as Meals on Wheels, Food Banks, and programs generally administered by the local governments or by private nonprofit agencies. The opportunity for fraud and corruption exists in any of these programs designed to assist the poor, both for the administrators of the programs and for those who receive the benefits.

Fraud by Healthcare Providers

The National Health Care Anti-Fraud Association (NHCCA, 2014, p.1) lists a number of frauds perpetrated by dishonest healthcare providers. They include:

- "Billing for services not provided."
- "Billing for more expensive procedures than those actually provided."
- "Performing medically unnecessary procedures in order to collect more insurance money."
- "Misrepresenting non-covered treatments as medically necessary covered treatment in order to obtain more insurance money."
- "Falsifying a patient's diagnosis to justify tests, surgeries, or other procedures that are not medically necessary."
- "Unbundling-billing each step of a procedure as if it were a separate procedure."
- "Billing a patient more than the co-pay amount for services that were pre-paid or paid in full by the benefit plan under terms of a managed care contract."
- "Accepting kickbacks for patient referrals."
- "Waiving patient co-pays or deductibles for medical or dental care and overbilling the insurance carrier or benefit plan (insurers often set the policy with regard to the waiver of co-pays through its provider contracting process, while, under Medicare, routinely waiving co-pays is prohibited and may only be waived due to financial hardship)."
- "Theft from funds from senior citizens can be construed as HC fraud by certain states. When money is taken from a Medicaid or Medicare beneficiary, the government insurance programs need to take on a greater share of the costs. It is the

position of many states from which the funding is being provided, that this constitutes Medical fraud."

Research completed by Price Waterhouse and Coopers (2014) pertaining to employees of insurance companies who were involved in some form of fraudulent activities reveals that the typical offenders were older men who had established a high-level position in the insurance organization. Their fraudulent activities might not have led to immediate financial gain.

Possible motives for their actions might include the thought that they were doing what was expected of them, that is, "cutting costs," saving the company money by committing some type of fraud against policy holders, or perhaps they viewed their behavior as a step toward a promotion in the future as a reward. Kratcoski and Edelbacher (2015, p. 74) noted that the majority of the frauds committed by insurance agency personnel are against individual policy holders. They contend, "In these cases, the offender is an anonymous person to the insurance company and there is no existing personal relationship between the offender and the victims. This type of relationship makes it easier to commit insurance fraud because there is no criminal energy needed to be active against a congregate person or victim."

Other types of fraud and corruption that relate to healthcare are the completion of illegal medical operations and the procurement of medical equipment. The sale of human body parts, such as sperm, blood, plasma and bone marrow, eggs, and livers, is made both legally and illegally, depending on the particular item being sold. For example, Kasperkevic (2014,pp. 1–5) found in a review of the Internet-based prices for body parts that sperm is sold for $100 dollars a donation, eggs can sell for as high as $8000, and bone marrow, a body part that is illegal to sell, can run as high as $3000. Blood banks can often obtain blood from donors without giving any compensation, except a tee shirt or a five or ten dollar gift card.

Small-Jordan (2016, p. 2) contends that the price of illegal sales of human organs on the black market is a matter of supply and demand. Small-Jordan states, "According to the American Transplant Foundation, 123,000 people in the United States are on the waiting list to receive an organ. Every 121 seconds a new name is added to the list and an average of 21 persons per day die due to a lack of organ availability. Corneas, kidneys, livers, lungs, intestines, and bone marrow are the most common transplant needs."

The extent of organ trafficking in the United States is not known. Small-Jordan (2016, p. 2 provide information on a survey completed by USA Today in 2008 in which information was obtained from federal and local law enforcement agencies, public agencies, and medical universities, revealed that over a period of 19 years more than 15,000 families had filed lawsuits on the basis of a claim that a member of their family had body parts illegally sold.

Many individuals donate some of their vital organs to organizations without expecting compensation. In addition, individuals can donate or sell blood, sperm, or eggs on the open market without any concern for the action being illegal. On the other hand, it is a violation of the law to sell specified body organs. According to

Small-Jordan (2016, p. 2–3), a violation of the law occurs when a victim is tricked into giving up an organ and is paid for an organ that cannot legally be sold or when doctors treat people for ailments that may or may not exist, and when the organs are sold without the victims' knowledge.

Unborn, USA (2017, pp. 1–2), claims, "The largest unregulated industry in our nation, the abortion industry, and its collaborators in the medical research fields have found a way around the law to profit from illegal trafficking of human fetal tissues." The organization contents that those who know how to play the game, such as abortion clinics, medical researchers, and hospitals, can profit from the industry and not violate the guidelines of the National Institute of Health or violate federal law. Unborn, USA, claims that abortion clinics receive millions of dollars for family planning services each year; pregnant mothers donate their aborted babies to the clinics; body parts wholesalers collect the fetal material, and technically the fetal materials are donated to the wholesalers, who pay a "site fee" for the removal of the parts from the clinic; specimens are flash frozen and shipped to those who have a need for the human fetal tissue such as pharmaceutic, government, and research laboratories; and the wholesalers bill these research facilities for "retrieval costs" that include all operation costs and a profit. Thus, technically, the human fetal tissues are never sold, and laws have not been violated.

Those who have researched the trafficking and sale of body parts in the United States and other countries and the effect of fraud and corruption on the transplantation of body organs contend that the problem cannot be eliminated by increasing the amount of law enforcement, rather, it will take legislative action.

Columb (2015, p. 40) states, "The industrial and technological structure that transplantation necessitates contends to be a distinctly Western public policy design, responding to the interests of the transplant industry rather than internal health development needs. For instance, while transplants produce high revenues for insurance and pharmaceutic companies, organ procurement organizations, medical professionals, hospitals and their shareholders, the profits are largely remitted into the private sector at the expense of public health care provision. Subsequently, access to healthcare is increasing becoming a feature of one's ability to pay." As a result, it appears that the value of human beings is subject to the relative and comparative wealth of individuals. In such situations, the value of a human life in terms of providing transplants to those in need of them becomes an economic concern, subject to ability to pay, rather than a purely medical decision.

Extensive fraud has been uncovered in the sale of artificial limbs. Morreale (2015, p. 110) gives the following to illustrate an extensive case of fraud for prosthesis, "In another South Florida case, a DME supplier billed Medicare for $150 million in prosthesis over a 6-month period. Again, in South Florida counties of Broward and Dade, this DME supplier billed and was paid $150 million for prosthetic legs. When investigators received complaints from patients about payments for artificial legs, they found that there were thousands of artificial legs billed by an unscrupulous DME supplier. This would have meant that tens of thousands of patients in only two counties had lost their legs in accidents or by surgical means."

Investigation and Prosecution of Fraud in Healthcare and Other Social Security Programs

In the United States, as well as in many other countries throughout the world, the amount of fraud and corruption committed by those who are the beneficiaries of such entitlements as healthcare, workers' compensation, and workers' disability benefits has increased to such a degree that the money loss constitutes a significant threat to the welfare of the society.

In the United States, individual states and the federal government have established investigative units to detect and prevent cases of healthcare fraud. The Centers for Disease Control (CDC) (2017, p. 1) noted that the Centers for Medicare & Medicare Services have implemented high-tech tools to detect cases of fraud, and the Department of Health and Human Services (HHS) has developed working relationships with local, state, and federal law enforcement agencies for the investigation of individuals and organizations suspected in engaging in criminal activities pertaining to healthcare and to collect the evidence necessary to prosecute those found to be criminally involved. Theoharis (2017, p. 1) states, "Medicaid and Medicare programs are paid for, at least in part, by the federal government.... Fraud typically occurs when a healthcare company or individual provider attempts to collect (by methods such as) over-billing for healthcare services, or by performing unnecessary procedures."

Fraud is a broad concept and covers many specific types of crimes that are either directly or indirectly connected to an illegal act. In regard to healthcare, Title 18 of the US Code, Section 1035 – false statements relating to healthcare matters – specifies fraud as whoever, in any matter involving a healthcare benefit program, knowingly and willfully:

1. Falsifies, conceals, or covers up by any trick, scheme, or device a material fact
2. Makes any materially false, fictitious, or fraudulent statements or representations or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years or both.

The Insurance Information Institute (2014, p. 11) indicated that in the United States, insurance fraud is covered in a number of federal legislative acts, including the Affordable Healthcare Act of 2010, the Health Insurance Portability and Accountability Act of 1996, and the Violent Crime and Control Act of 1994. Also, if there is evidence of racketeering, the organization can be prosecuted under the racketeering involvement in a criminal enterprise (RICO) (Legal Information Institute, pp. 1–2). If fraud is detected in the provision of medical aid during a major disaster or emergency situation, the person or organization can be prosecuted under Title 18 US Code 1040 – fraud in connection with disaster or emergency benefits.

To assist in the achievement of the goal of investigating and prosecuting those involved in entitlement related fraud, CDC (2017,p. 1) states, "HHS and the

Department of Justice (DOJ) have also launched a joint effort to prevent fraud- The HealthCare Fraud Prevention action Team (HEAT). The creation of HEAT demonstrates a Cabinet-level commitment to fighting fraud at the highest ranks of the government. A key component of HEAT is the Medicare Strike Force which is comprised of interagency teams of analysts, investigators, and prosecutors who target emerging or migrating fraud schemes, including criminals masquerading as healthcare providers or suppliers. Since 2007, HEAT's Medicare Strike Force, has charged more than 1400 defendants who collectively falsely billed the Medicare program more than $4.6 billion."

The fight against fraud and corruption in healthcare programs and other entitlement programs such as disabled workers' compensation requires considerable cooperative efforts by many federal, states, and local agencies as well as many private agencies. For example, the Federal Bureau of Investigation (FBI) works very closely with state and local agencies in the investigation of various crimes pertaining to healthcare. Kratcoski (2012, p. 381) states, "The White Collar Crime Unit of the FBI is charged with investigating frauds committed by business and government officials. The investigation of fraud and corruption relating to healthcare is a major function of the FBI's White Collar Crime Unit." Morreale (2015, p. 103), referring to the investigation of fraud and corruption of the agencies providing healthcare and the beneficiaries of the healthcare under the Affordable Healthcare Act and other healthcare programs, notes, "As of 2014, there were seven zones for oversight of several states and territories, with several contracts awarded to organizations that have established investigative units. These units are made up of fraud investigators, data analysts, and statisticians. The current group of contractors include Health Integrity, Cahaba, Advanced Med, and Safe Guard Services. Each of these contractors has access to claims data and maintains liaison with the MACs and with the Office of Inspector General (OIG) for Health and Human Services (HHS), the Medical Fraud Control Units (MFCU), the FBI, state Departments of Health, and the U.S. Attorney's Office."

As noted earlier in the chapter, there are many organization, financial groups, organized criminal groups, and individuals who have been able to obtain huge amounts of money from the healthcare system by engaging in fraud in the United States. A major problem with the systems used to detect and prevent fraud in Medicare and Medicaid is that the discovery of the fraud by the investigative agencies often occurs long after the fraudulent suppliers of medical services or medical equipment have been compensated. In this regard, those who are directly involved in the investigation of fraud and corruption in the healthcare and disabilities programs should have similar types of education and work experiences as the investigators in private insurance companies. Derrig (2002, p. 276) contends that the best defenses against insurance fraud are the adjusters, computer technologists, prosecutors, and special investigators working as a team. Kratcoski and Edelbacher (2015, p. 75–76) state, "the large majority of the cases of suspected fraud never reach the prosecution stage for several reasons, even if some evidence of fraud or abuse was found. Once a claim has been filed, much of the original work is completed by the claims adjuster. Generally, the claims adjuster will have enough facts relating to the claim to deter-

mine if the claim is legitimate or if there is need for additional investigation. If there are red flags that indicate the possibility of fraud, a second step in the investigation will result. A special investigator will generally be assigned to the case and law enforcement officials may also become involved. The third step involves gathering more evidence and if the amount of evidence is sufficient, the person who filed the fraudulent claim will be charged with a crime and possibility prosecuted."

The personnel involved in the investigations of fraud, including the claims adjusters, special investigators, police detectives, and prosecutors, generally have special training and skills related to economics, data analysis, and computer programming. They also must have the ability to make good decisions, since the decision to criminally prosecute a case and file a civil suit to force those who received funds based on fraudulent information to pay back the money received or to not pursue an investigation of a suspected fraudulent claim because of the relatively small importance of the claim is generally a matter of the judgment of the investigators and prosecutors. Morreale (2015, p. 111) suggests that the government agencies that oversee Medicare and Medicaid should adopt techniques to detect fraud similar to those used by credit card companies and insurance companies. In this regard the contends, "While 'gig' data is reviewed by fraud contractors for Medicare, it takes time to determine spikes in the billing. The criticism is that these spikes are not found in the early stages, and often, significant sums have been paid to the unscrupulous operators."

Prosecution of Healthcare/Workers Compensation Fraudsters

The annual report of the US Health Care Fraud and Abuse Control Program for 2016 Centers for Disease Control and Prevention (CDC), (2017) billion in fraudulent healthcare settlements was deposited in the US Department of the Treasurer and cases involving many hundreds of millions were in negotiation. These cases, settled by way of either civil suits or criminal prosecutions, reveal some of the successes of the combined efforts of local, state, and federal investigative agencies, as well as private investigative agencies in the detection and prevention of fraud in the healthcare system.

Summary

Despite the efforts of the US government and private agencies to prevent and control fraud and corruption in the entitlement programs for those in need of healthcare, workers' compensation, and handicapped workers' insurance, there is considerable evidence that the amount of fraud and corruption in these programs is huge.

Fraud and corruption in these programs may be committed by those who administer the aid programs, those who provide the services, and those who receive the

benefits. Research and government reports reveal that programs such as Medicaid and Medicare and various programs designed to provide assistance to the poor and handicapped that reach millions of individuals have been hampered in the achievement of their goals as a result of corruption and fraud, despite the efforts of government and private programs to prevent such criminal activity.

Some individuals receiving benefits of various forms of healthcare, workers' compensation, and other entitlements have a legitimate claim to the benefits but as a result of greed claim more than they deserve by filing false information. Others who do not have a legitimate claim to receive benefits from these programs commit fraud by falsifying reports, stealing others' identities, or working in conjunction with criminals through bribery, extortion, or kickbacks.

The introduction of new sophisticated techniques and equipment to screen those making claims and track those whose applications may appear suspicious or who have a record of attempting fraud in the healthcare, workers' disabilities, and poverty programs has led to some success in the detection of fraudsters, as well as in the prevention of fraud in these programs. The cooperation of federal, state, local, and private investigation agencies and the sharing of information by these agencies have resulted in many successful criminal prosecutions for fraud, as well as the retrieval of billions of dollars from fraudsters who illegally received funds from government programs.

Discussion Questions

1. Discuss the reasons why fraud is such a serious criminal justice problem in the entitlement programs in the United States.
2. What categories of people are eligible to receive benefits from the social security workers' compensation program? What are the most prevalent types of frauds committed in the workers' compensation program?
3. Discuss the methods used by private insurance companies to detect fraud in health insurance programs.
4. Discuss the process followed in the investigation of corruption and fraud in the insurance industry.
5. Discuss the reasons why it is necessary for local, state, federal, and private agencies to cooperate and share information when investigating cases of fraud pertaining to government entitlement programs.
6. The US Code and all of the criminal codes of the states provide the elements of the crime of fraud and the penalties for being convicted of fraud. However, these definitions differ in content as well as in punishments. Discuss the reasons why it is difficult to obtain a standardized definition of fraud.
7. Discuss the reasons why some categories of people, such as the elderly and the handicapped, are susceptible to becoming victims of fraud.
8. Discuss the types of fraud committed most frequently by those receiving healthcare benefits.
9. How does the structure of the Medicare and Medicaid programs open up opportunities for corruption and fraud by those who administer these programs?
10. Discuss the major types of fraud committed by the suppliers of healthcare.

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Corruption and Fraud in Policing

John A. Eterno and Eli B. Silverman

Introduction

The mission of modern policing in democracies is onerous. Agencies must fight crime while obeying legal restrictions and maintaining good relationships with the communities and people they serve. It follows that as a prerequisite to democratic policing, law enforcement must be free from corruption. Policing throughout modern history, however, is riddled with examples of corrupt activity. Whether it is a simple act of extorting money from a motorist in exchange for not writing a summons or taking money to look the other way at organized criminal activity, the sins of law enforcement must be controlled if we are to call ourselves civilized. As written in the New Testament (Matthew 7:4), "How can you say to your brother, 'Let me take the speck out of your eye,' when all the time there is a plank in your own eye?" That is, police must be corruption free or they will turn a blind eye to society's ills.

Police agencies, unfortunately, have been rife with corruption. Equal protection and due process become meaningless to such organizations. Indeed, corruption threatens the very fabric of democracy. Such agencies are unable to maintain confidence with the public and cannot possibly protect residents who hunger for decency, honesty, integrity, and, most of all, justice. Police officers who represent society must somehow rise above the dirt and set a shining example. This is not easy nor is it meant to be; rather, it is the highest of callings. In some cases, officers must give their lives for others, but just as important is the everyday officer who must live untarnished by the passions of humankind.

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The founding fathers of the United States recognized the weaknesses of the human condition. They emphasize the need of government to be controlled. Those in power must be checked. This is the essence of a limited government as opposed to tyranny. While not perfect, democracy offers a hope of some control. As Winston Churchill (1947, November 11) most eloquently states, "It has been said that democracy is the worst form of government except all the others that have been tried."

In order for police to have the credibility they need with the public, they must first police themselves. This is the essence of the social contract. From the beginnings of the American experiment with democracy, the founding fathers were concerned about government abuse of power. In Federalist Paper No. 51, James Madison writes, "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." Corrupt officials who abuse their offices cannot be permitted if democracy is to succeed. Corruption is a cancer to democratic institutions.

This is the birth of checks and balances and tripartite government – three (3) separate but equal branches of government. As an arm of the executive branch, police are, therefore, checked and balanced by the judiciary and legislative branches. Individual police officers can be arrested, and police department may be subject to judicial consent decrees and legislative appropriation controls. In addition, as an arm of the executive branch, law enforcement police may be subject to presidential, gubernatorial, or local executive control. The executive will appoint the police commissioner or agency head who generally serves at that elected official's discretion (although some are elected directly such as some sheriffs). When it comes to corruption, commissions are often formed by the executive or legislature to oversee the problem activity. These bodies are rarely permanent and corruption often returns after a short period of repose.

Other outside agencies sometimes help police the police as well such as prosecutors, the Federal Bureau of Investigation, inspector generals' offices, and others. Also, civil suits aimed at a police agency provide some level of oversight. For example, when New York City was sued by the Center for Constitutional Rights, the judge's ruling imposed a court monitor (see *Floyd v. City of New York,* 2013).

Corruption fighting can be complicated and each agency has its own protocol for dealing with it. Each agency, then, handles corrupt activities as they occur. In policing, the temptations can be great and the stakes are high – including life and death. Fighting corruption is an imperative for democratic government to properly function.

Another important aspect of fighting corruption is that, despite numerous oversight bodies, it is often left for the police themselves to police their own. Internal affairs units and bureaus are commonplace today. According to the New York City Police Department Patrol Guide 207–21, corruption and other serious misconduct are defined as "Criminal activity or other misconduct of any kind including the use of excessive force or perjury that is committed by a member of the service whether

on or off duty." There is a specific procedure for handling such events. Allegations must be reported to the internal affairs, and not reporting is considered an act of corruption in and of itself. The language of the procedure is strong and steadfast. Officers are given the option of reporting anonymously as well. Nevertheless, the strong language cannot overcome powerful informal mechanisms such as the blue wall of silence that operate in every department.

The effectiveness of the Internal Affairs Bureau in any department is subject to question. It is very difficult to study because most departments do not allow intense outside scrutiny with respect to these and other investigative units. While departments rave about how successful they are in the fight against corruption, it is not unusual for wholesale scandals to publicly emerge on a regular basis. In New York City, regardless of the measures taken to stop corruption after every scandal, systematic public corruption scandals occur with alarming regularity nearly every 20 years.

History of Corruption in NYPD

Using the New York City Police Department (NYPD) as an example, we can see that corruption is not uncommon (Silverman, 2001). This may be due to the temptations of police work (e.g., bribery, large amounts of cash widely available, drugs), the relative low pay especially compared to surrounding jurisdictions, the police culture, and other factors. The history of NYPD and corruption is informative. Most importantly, we see how corruption evolves with each scandal. That is, once corruption occurs, it evolves into a new form to deal with the new method of fighting it.

The NYPD began in 1848 and was modeled in the typical fashion – as a paramilitary organization. In its earliest years, patronage and corruption were commonplace. In the 1890s there was a brief attempt by then Police Commissioner Theodore Roosevelt to rid the department of corruption. Mr. Roosevelt did have an impact but it was short-lived and more form than substance. Through the 1930s the department was insular and self-protective.

Corruption scandals occur roughly every 20 years. In 1895 the Lexow Commission unearthed bribery, monthly payoffs from mobsters and brothels, voting interference, brutality, and extortion. These were the years of the infamous Tammany Hall. In this case, the corruption was from the top. The Lexow Committee found enormous corrupt activities. William Devery, one of the ring leaders, was identified as a problem officer and had a short stint of being suspended. Devery later rose through the ranks. Tammany Hall eventually lost elections taking power away from them. Ultimately, the people had spoken. Exposés by *Harpers Weekly* and the *New York Times* helped usher in reform. Theodore Roosevelt as governor also had some impact.

In 1912 the Curran Committee exposed enormous levels of police graft and extortion. The Commission recommended higher salaries, better training, and recruitment. Despite a public outcry, the changes to the department were superficial.

The Seabury investigations in the early 1930s read like a broken record – repeating the improprieties exposed in the past. There was widespread corruption and extortion in the police department and in city government. These included payoffs from brothels and local prostitutes as well as mobsters among numerous other improprieties. Governor Franklin Delano Roosevelt was eventually involved. Jimmy Walker, the corrupt mayor of New York City, was forced to leave office ending the era of the famed Tammany Hall corruption (Mitgang, 1986). FDR eventually went on to become one of the nation's greatest presidents. The special prosecutor, Thomas Dewey, later lost his presidential election bid to Harry Truman in one of the closest elections in American history. As prosecutor, Dewey eventually persuades Mayor Fiorello LaGuardia to appoint a reform Police Commissioner Lewis J. Valentine. Mayor LaGuardia was elected in 1933 on a reform platform and did much to fight corruption in New York City (Editor Encyclopedia Britannica, 2016).

One might think that a corruption scandal of that size would keep officials clean for quite some time. Unfortunately, another key corruption outrage occurred in early 1950. Between 1942 and 1948, Harry Gross was a bookmaker whose empire in the New York City and surrounding area became enormous. He testified that his payoffs to police were over one million a year. A large number of officers were involved; 21 officers were ultimately convicted, and hundreds of others resigned (McFadden, 1986). The way the bribes worked seemed so simple. One exchange went like this:

> "I was on the street taking business of a customer," he said, "and a police officer grabbed my hand where I was putting it in my pocket." He says, "You're a sucker for working this way, cheating this way. You ought to get an O.K."
>
> "So I asked him what he wanted, 50 or a hundred?" He says, "What won't hurt you?" So I gave him the 50 and asked him how I got an O.K. He says, "I'll let you know in a few days." (McFadden, 1986).

At its peak he was bringing in about $20 million per year. Eventually Mr. Gross was caught, and when he testified the extent of the scandal became known. The mayor William O'Dwyer resigned, and the police commissioner departed as well. There were the typical police reforms, but as we will see, these did little to stop payoffs at the NYPD.

Moving ahead to the early 1970s, a five-member commission named after its chair Whitman Knapp was formed by Mayor John Lindsay to investigate, yet again, corruption in the New York City Police Department. The key whistleblower was Detective Frank Serpico who for years reported to superiors about plainclothes officers taking money from drug dealers, prostitutes, and others to look the other way. The extent of the corruption was quite widespread. The commission categorized the problem in terms they called meat eaters and grass eaters. Meat eaters were exceedingly corrupt. They would extort money and take bribes directly. However, as the commission saw it, the root of the problem was really grass eaters. These were those officers who did not actively extort but would look the other way or take money when it was opportunistic. Essentially the police culture was such that officers would not "rat out" other officers. While Serpico came forward, most officers, more or less, simply went along with what was occurring. Administration took no action and the

culture of corruption became business as usual. It was not until the story broke in the *New York Times* that those in power began to take the corruption seriously.

Yet another 20 years later, corruption morphed and another scandal occurred. The Mollen Commission in the 1990s similarly found a culture of corruption. However, in this case it was more localized at the precinct. Similarly, the more aggressive officers were aware of the culture of not "ratting out" fellow officers and used that to their advantage. Eventually nearly the entire precinct became corrupt. In this case the corruption was eventually unearthed by the arrest of the ringleader, Officer Michael Dowd, in a suburb of the city. Dowd was the main culprit and ultimately testified against many of his fellow officers at the commission. From this a permanent body was formed to assess corruption fighting practices in New York City called the Commission to Combat Police Corruption. Yet even this is not enough. Much more needs to be done as authorities need to be proactive in its fight against corrupt officers.

Corruption continues to change as departments develop mechanisms to stop its proliferation. Even the widespread changes after the Knapp did not stop corruption from occurring. There are important lessons to be learned, however, from these past events. One of the more critical is the enormous influence of the police culture.

Importance of Police Culture

Nearly every job has its own culture. For policing, however, the influence of the job culture is very powerful. Indeed, an important reason for the police to have their own internal affairs investigators is the police culture. Such investigators have a familiarity with the police culture, politics, and bureaucracy. Investigators from the outside are often stymied by these factors. Peter Manning (1987, p. 11) writes about the police culture, "Dependency, autonomy, authority, and uncertainty are key themes in the occupational culture." He also sees two subcultures in police departments. First is the subculture of officers, those who are working on the street. This subculture emphasizes dependency and uncertainty. The other subculture is the administrative cadre (paper pushers), which emphasizes centrality of authority and strives to preserve police autonomy.

In policing some of the key elements of its culture include a distinctive language, intense loyalty to other officers, and maintaining respect on the street (Eterno, 2003). Words such as skell, mope, and asshole take on very specific meanings to officers in New York City. Other departments may emphasize other words, but "asshole" seems fairly common (e.g., Van Maanen, 1978). In some situations the mere identification of a person by a fellow officer as a "mope" or similar derogatory name can lead to extralegal actions. This is especially true at situations in which officers are handling a person in a direct manner such as person or car stoops (Eterno, 2003). Research in this area has strongly suggested that the attitude or demeanor of a suspect is critical to officers' doing extralegal actions (such as writing a summons or making an arrest even though the action was not supported by evidence)

(Lundman, 1994; Worden & Shepard, 1996). However, some research has countered this and suggested that demeanor is critical but officers will not make the arrest or write the summons without legal proof in support of the action (Klinger, 1994).

This demeanor or attitude effect – and the entire police culture – is based on the dangerous nature of police work. Due to this danger, police must rely on one another for protection. Knowing that they must rely on their brother and sister officers, police are exceedingly reluctant to talk to corruption-fighting officials. Officers talking to internal affairs are often labeled “rats” or “snitches.” Once an officer has such a reputation, it is very difficult to work with others. Thus, “ratting out” another officer is something that most officers are very reluctant to do. Because of this, within the last 20 years, some agencies have finally adopted anonymous methods for officers to make complaints. Social scientists have known for many years that the more anonymous methods of garnering information are far more likely to lead to truthful responses. Police departments were exceedingly slow to adopt such tactics. This too may be a function of the police culture including a strong inclination “to protect their own.” Why police officials would consider corrupt officers part of the fold is another question. However, history is rife with examples of officers protecting corrupt officers. Both the Knapp (early 1970s) and Mollen Commissions (early 1990s) in New York City revealed officers unwilling to come forward even about egregious corrupt behaviors. In fact the Knapp Commission felt that those officers who do not come forward and report were the root of the problem. Nothing has changed. Officers are just as reluctant today to reveal corruption as they have been in the past although the mechanisms for reporting have, at least, become more sophisticated. However, this does not mean that internal corruption investigation units are having more success or are investigating corruption complaints in the way that they should.

While internal affairs detectives are often labeled rats themselves, they arguably perform the most important function of the department – keeping it free from corruption. Since these internal affairs officers come from the ranks of their own, they have a better understanding of the culture and mores of a particular department. This can help or hinder an investigation. Assuming these officers are of the highest quality, they can use their intimate knowledge to advance an investigation. However, if they are less than stellar, they can surreptitiously derail an investigation by, for example, revealing to their colleagues that an investigation is being done. For example, in an exposé by the *Village Voice*, reporter Graham Rayman writes about a common theme of internal affairs officers not maintaining the confidentiality of officers coming forward to complain about corrupt activities in the department. Rayman (2010) writes, “…all IAB [Internal Affairs Bureau] complaints are supposed to be confidential. That rule is necessary because police officers who complain about their colleagues can and do face retaliation [due to the powerful police culture]. But the reality seems to be that an officer’s home command will find out fairly quickly that an Internal Affairs complaint has been made. Several officers have complained to the *Voice* that shortly after they filed complaints with Internal Affairs, their home commands knew about it and then pursued various types of retaliation against them.”

Typical Treatment of Newly Exposed Corruption

Whistleblowers such as Frank Serpico leading to the Knapp Commission teach important and lasting lessons. Newer scandals such as seen in the Mollen Commission and exposed by then police officer Michael Dowd show a more sophisticated corruption that uses the police culture to protect itself. Most recently more sinister types of corruption emerge led by whistleblower Adrian Schoolcraft among many others. This newer corruption reveals itself in the form of crime report manipulation, quotas, and illegal and aggressive stop practices. These manifest themselves through the performance management system known as Compstat. It seems that each corruption scandal leads to more and different levels of oversight, but corrupt police offices constantly change their tactics to overcome the newer corruption fighting methods and the cycle of corruption continues.

Regardless of the era, the whistleblowers are the ones who seem to suffer the most. It does not matter what level or type of corruption they expose, the bureaucratic response is often ruthless and predictable. When first told of an incident, the bureaucracy will resort to denial. The whistleblower at this stage is often just ignored. Officers Serpico and Schoolcraft tried desperately to go through proper channels. To their dismay, nothing of significance happened although false promises by those responsible are often made.

If this fails the agency will usually stall for time by stating something like the issue is being investigated. The hope of the administrative officials is that the issue will fade away as reporters turn to other stories with more "meat on the bone" (more interesting to the public). However, if the pressures continue on the department, a few meaningless sound bites will be released to quell the hunger of the public.

If ignoring fails, the department will circle the wagons. The next step is blaming a "few bad apples" – a fig leaf approach. That is, the department tries to cover up the systemic corruption in favor of a localized few individuals. The incident is considered isolated and perhaps a few sacrificial lambs are slaughtered. Those few who are targeted for prosecution will generally be lower ranking officials. If things continue to get messy, the department might get some friendly scholars or other outsiders with a respectable image to weigh in stating how the department is filled with honesty and integrity. Usually these individuals have little to no clue about what is happening and trust the local official who asked them to intervene.

If this fails, the department will often state they reviewed everything and will make some changes as a result. The changes, nearly all superficial, do nothing to change the status quo. For example, when sex crime victims complained that their crime reports were not being taken, a superficial investigation was conducted. Department procedures were found to need adjustment, and that supposedly took care of the problem.

When all these previous tactics fail, the department will generally set up some sort of meaningless committee on its own with a few friendly appointees in charge. Great fanfare will be taken to show how neutral and detached the committee is. It is generally nothing of the sort. Such committees will have little real force. They will generally not have subpoena power or the power to call witnesses – a toothless tiger.

It is only when the mayor or other important political official receives political heat sees the truth and gets involved that a true commission is set up. The Knapp, Mollen, Christopher and other such commissioners are examples. While the commission operates, true changes take place. Yet once the commission is disbanded and the agency returns to normal operation that the corruption simply morphs. A new form of corruption will erupt that overcomes the mechanisms put into place in an earlier era. This is much like the Maginot Line that the French put into place after World War I. Fixed fortifications, however, were now useless in the newer form of war called blitzkrieg. It is the same with corruption mechanisms of earlier eras that quickly age as newer forms of corruption emerge.

Police Agency Treatment of Whistleblowers

Unfortunately, whistleblowers do not fare well. Many of them are very altruistic. They believe in the system and are blindsided by the way they are treated. Most will try to work through the system itself but soon find so many roadblocks in their way that they become disillusioned. Even recent examples of whistleblowers show this pattern. The most typical retaliation is transfer to another unit. Sergeant Robert Borelli is an excellent example of this. He was a precinct crime analysis sergeant in the 100 precinct. When he came forward, first to his superiors and oversight units and then to the press, he was summarily transferred to the Bronx (a very undesirable transfer for someone who lives on Long Island or Queens). This occurred despite the fact that he had audiotapes to support his position. He eventually went to the media to expose the unethical activities (Eterno & Silverman, 2012).

Officer Adil Polanco also came forward about crime report manipulation and quotas. His situation led to a suspension. The department claimed he filed false documents (i.e., the summonses his supervisors were forcing him to prepare). He continued to air his version of events through the media. We point out that there were unofficial actions alleged by him as well such as placing a large amount of stickers on his locker of the union president. While he was eventually reinstated as a police officer, officer Polanco went through a great ordeal simply to try to tell the truth about what he saw around him.

Some of the most horrific examples of retaliation however include departments willing to forcibly hospitalize their own. Police Officer Adrian Schoolcraft tried desperately to inform the oversight authorities within the department about crime report manipulation, quotas, and similar events. He had very specific evidence including audiotapes that proved him correct. He was met with fierce resistance from within the department. Indeed, internal affairs apparently called his precinct and publicly asked for him. Schoolcraft claims that he went home sick after that call with permission from the desk supervisor. The department claims he left without permission. Therefore, to make sure he is okay, they went to his home. Audiotapes document the events that took place at his home. There was a confrontation that

ultimately led to Officer Schoolcraft being forcibly restrained and brought to the hospital. He spent six (6) days there. After, he was suspended without pay and the department tried to stop him from getting any welfare assistance from the government. Officer Schoolcraft eventually sued and settled for approximately 1 million dollars. Additionally, an internal report unearthed by reporter Graham Rayman showed that nearly all of Officer Schoolcraft's allegations were true (NYPD Report Confirms Adrian Schoolcraft's…2012).

Lest readers think this was an aberration, an eerily similar event occurred in Australia. The case of the late Detective Sergeant Philip Arantz of Australia's New South Wales Police Force is on point. In 1971, Arantz, a well-regarded detective, was ordered by the police commissioner to "undergo a psychiatric assessment and the police medical officer certified him mentally ill. He was kept for three days at Price Henry Hospital and it was later revealed that Allan (the NSW Police Commissioner) had called the hospital psychiatrist who wrote in his report 'Possible political expediency is bringing pressure to bear on patient's admission'" (Five-Yeomans, 2011).

According to Arantz, the police surgeon

> … is alleged to have decided that I was paranoid and had to be disarmed because he feared I might shoot the commissioner. At the direction of Allan, I was then conveyed by two senior officers to a psychiatric ward at Prince Henry Hospital. I left the psychiatric ward with a certificate from a qualified psychiatrist attesting to my sanity. (Arantz, 1993, p. 7).

The psychiatric report said that there was "no evidence of psychosis ... an intelligent man with some obsessional traits, but they are not out of control and in the interview he was at all times alert, rational and showed appropriate effort" (Arantz, 1993, p. 7). Suspended without pay on December 7, Detective Sergeant Arantz was charged with departmental misconduct, and on January 20, 1972, he was dismissed from the police force with no pension.

Arantz had to wait 13 years, until 1985, to receive a pitiful government compensation award of $250,000. In return, Arantz had to agree not to engage in further public debate or in any court action. He also was denied what he most fervently desired – "notional" reinstatement – which, in Australia, would have cleared his name. It took another 4 years (1989) before he received this reinstatement. He died in 1998 at the age of 68 and was posthumously awarded the Police Commissioner's Commendation for Outstanding Service, the New South Wales (NSW) police's highest award (Brown, 1998).

The political and police treatment of Schoolcraft, Polanco, and Arantz certainly have disconcerting parallels. All three cases appear to be both startling and unconscionable. It is especially noteworthy that these organizations were not small, remote, nonprofessional, poorly trained police departments. Instead, two major police organizations were involved in what appears to be abusive and illegal actions. The NYPD of over 35,000 officers is the United States' largest police department. The NSW police department of approximately 16,000 is Australia's oldest and largest police force. These events, therefore, do not represent the aberrant deviations of obscure isolated police departments.

How does one explain such rash and overwhelming organizational handling of three relatively obscure police officers? Political and police organizational treatment of Schoolcraft, Polanco, and Arantz were astonishingly parallel because their challenges of official performance-based crime statistics were remarkably similar. Schoolcraft, Polanco, and Arantz apparently spoke truth to power. They shared a strong conviction that official crime statistics ought to be genuine. They believed that police effectiveness and public trust are both enhanced by accurate crime reports. In their own ways, Schoolcraft, Polanco, and Arantz were in positions to observe misclassifications and manipulations of crime data and statistics. Of course, they were not unique; however, they were three of a very select group willing to risk retaliation and being ostracized from the organizations for which they worked. They paid a very high price.

What can Be Done?

In New York City, a new whistleblower's law was recently passed. It is meant to protect those who blow the whistle on government corruption. While this is a good first step, we see little change in the way whistleblowers are treated. Again, this may be cultural, and more than a law is needed to change the deeply rooted patterns of corruption that have developed over many years.

In some countries corruption has simply become a way of life. Yakov Gilinskiy, for example, talks of corruption in the Russian Federation as a way of life. Simply trying to get a passport will require a bribe to the right official (Gilinskiy, 2010).

Dealing with the police culture and the changing nature of corrupt practices requires a dedicated cadre of officials whose entire job is to fight corruption. However, as policing expert David Bayley suggests, if the political will is not there, change will not take place (Bayley, 2001). This means the political leaders such as the mayor must be dedicated to reform. Thus, political and police leadership are critical to any endeavor to clean up a police department. It cannot be assumed that those in power actually want the corruption to end. The infamous Tammany Hall, the lack of cooperation for whistleblowers, wholesale corruption in various nations, and the strength of the police culture are examples of enormous hurdles that corruption fighters must overcome.

Some tools have proven effective assuming the political and police leadership are there. To the extent possible, anonymous reporting mechanisms need to be set up so that both officers and the public can report corruption to those in authority. There must be a way to report such that those reporting do not have to identify themselves. New York City has developed such a system where an officer, for example, can call internal affairs and get a special number so that if the allegations prove true and investigations are done, the officer who blew the whistle can possibly escape arrest and charges.

The use of undercover officers who work in precincts side by side with officers is essential. These officers are recruited out of the academy and are selectively assigned to areas of concern. Integrity control officers of higher rank who work at the street level are also invaluable.

Integrity testing of various sorts must also be implemented. Random drug testing, the use of sting operations, and undercover officers are all successful tactics. Other approaches include sting operations such as placing large amounts of money in a stolen car and then videotaping the officers' reactions when they see the money. Do they steal or properly voucher the money? Another operation might include undercover officers acting like crime victims. They could present patrol officers with a report of a crime. Later they can determine whether the crime was properly documented. Such tactics are very helpful when done seriously. They are, at a minimum, a deterrent.

Body cameras for all officers would seem a logical tactic as well. Body cameras document indents in which the public may claim corrupt activity including brutality. When officers know they are being filmed, they are more likely to act in a reasonable manner. In addition, the public must be allowed to video officers in action as long as they do not interfere with the police operation (Simonson, 2016).

More research on corruption supported by government and other authorities is also a prudent step (Eterno, Verma & Silverman, 2016). Policies need to be developed to handle new ideas. The support of the research community is also necessary and helpful. Police need to be as proactive at fighting corruption as they suggest they need to be about fighting crime. While there is no magic bullet to end corruption, the suggestions made in the chapter are a healthy start.

Summary

Police corruption must be controlled in order for democratic institutions to thrive. However, police corruption occurs with alarming regularity. The New York City Police Department's history with regard to corruption is an excellent example. Scandals occur with surprising regularity every 20 years. One of the more recent scandals in the 1970s was dealt with by the Knapp Commission. They found that officers known as "grass eaters" – those doing minor corrupt activities or turn the other way at corruption – are the main problem. The police culture is also critical to understanding police corruption. Officers must rely on one another for protection and, therefore, are less likely to voice concerns about fellow officers. The police culture also feeds into a phenomenon known as the attitude or demeanor effect. Officers will do illegal acts to maintain respect in personal encounters. Whistleblowers tend to be treated very poorly by the agencies in which they work. The chapter highlights specific responses by enforcement agencies to reports of corruption. Lastly this chapter highlights ways to fight corruption such as the use of integrity testing and anonymous reporting of incidents.

Discussion Questions

1. How do checks and balances reduce police corruption?
2. During the past century and a half of the NYPD history, what were the major corruption scandals that occurred in the Department?
3. Discuss what factors tend to be related to the regularity of corruption scandals in the NYPD.
4. How does the police corruption change after each scandal?
5. In the Knapp Commission's findings, "grass eaters" were found to be the root of the corruption in the police. What do "grass eaters" do or not do that leads to corrupt actions by the police?
6. What are the key elements of police culture that appear to spark corruption?
7. Knowing about the attitude effect, how might you act if stopped by the police?
8. How do law enforcement officials typically react to corruption being exposed in their departments?
9. How are the whistleblowers typically treated when they expose corruption in police departments?
10. Discuss what can be done to stymie corruption in law enforcement?

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Fraud and Corruption in Times of Disaster

Peter C. Kratcoski

Introduction

If one studies carefully the reaction of people during and after man-made and natural catastrophic events such as floods, tornadoes, hurricanes, fires, oil spills, terrorist attacks, and wars, it is remarkable to see the great contrasts in human behavior. One witnesses the heroic actions, particularly from the first responders, those who give aid in the form of money or personal services, and also the minority who use the event as a way to enhance their own finances through fraud, scams, and corruption, often further victimizing those whose lives were already devastated.

Looking at fraud and corruption in a historical view, many examples of corruption and fraud were recorded during wars. Various scams were directed toward Union soldiers returning to their homes after the end of the US Civil War. For example, Jordon (2016, p. 28) notes, "Rascals and quick charlatans began offering ex-soldiers up to $300 in exchange for army discharge papers, with which they could pretend to be Union veterans and petition for government employment, bounty equalization, disability pensions, or homestead lands."

Drastic changes in a government generally result in an increase in fraud and corruption. Plywaczewski (2000), Kratcoski (2000), and Edelbacher (2012) note that during and after the breakup of the Soviet Union, the "black market" was extensive, often organized by former Soviet government officials. The Vietnam War provided ample opportunities for corruption and fraud, the perpetrators often being military leaders, government officials, private businesses, and individuals who were in positions to engage in such deviant behavior.

The recent hurricanes, floods, tornadoes, and terrorist acts that occurred in the United States resulted in numerous instances of heroic deeds, self-sacrifice, and assistance to the victims of the catastrophic events. However, numerous cases of

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fraud and corruption on a grand scale were also uncovered during and after such events. For example, a Federal Bureau of Investigation report (2011) documented billions of dollars bilked from the government by fraudsters after Hurricane Katrina devastated a good portion of New Orleans and other parts of Louisiana in 2005. The example given in Box 1 illustrates some of the best in terms of response to disasters.

Box 1 Examples of a Caring Society
(Akron Beacon Journal 10/22/2017 A 1, A14)

Five past presidents attend concert to raise money for the victims of Hurricane Harvey, Irma, and Maria.
"Hurricane Harvey slammed into the Texas Gulf Coast as a category 4 hurricane on Aug.25, eventually unleashing historic flooding in Houston and killing more than 80 people…."

"Hurricane Irma subsequently hit Florida and Hurricane Maria battered Puerto Rico, while both affected the U.S. Virgin Islands."

"George Bush senior appeared in a wheel chair at the event. His wife Barbara and George W. Bush's wife Laura Bush, were in the audience."… "There is a precedent for former presidents joining forces for post-disaster fundraising. George H.W. Bush and Bill Clinton raised money together after the 2004 South Asia tsunami and Hurricane Katrina and the next year Clinton and George W. Bush combined to seek donations after Haiti's 2011 earthquake."

Sustenance for body and soul after floods.

Max Becherer and Emily Wagster Pettus – Associated Press (Akron Beacon Journal, A8 8/22/2016).
Walker, LA.: "As waters rose amid torrential rains earlier this month, National Guard rescue crews dropped people off at South Walker Baptist Church because it sits high on ridge of relatively high ground in Livingston Parrish near Baton Rouge. Even as the flooding has receded, in recent days, the church- like many other places across hard – hit south Louisiana- has continued providing sustenance for the body and soul."

"It sheltered 96 people in the days after the storm, and the Rev. Mark Caroll, pastor, said the sanctuary is still a dormitory for over 20 people who lost their homes, including a man who had been living in his car until Saturday. It is also housing volunteers who have come to help people rebuild."

Cooperative policing for coping with crisis situations.
Yokoyama (2016, pp. 97–118)

"The largest earthquake ever recorded in Japan, with a magnitude 9.0 occurred at 2:46 p.m. on March 11. A number of smaller earthquakes, or aftershocks, occurred for several months." (p.99).

"About 30 minutes after the first large quake, a large tsunami began to come ashore along the Pacific coastline."… "At 3.27 p.m., the tsunami hit

(continued)

Fukushima No.1 Nuclear Electric Power Plant and caused all electric power to be lost in the plant. Due to the seriousness of the situation, a second meeting of the Emergency Headquarters to Cope with the Disaster was held a short time later." (p. 100).

"Numerous victims who had been rescued were taken to temporary shelters, set up in schools and other buildings. Basic necessaries such as water, food medications, natural gas, fuel, and gasoline were in short supply. Working with the Self-Defense Forces, the police assisted in bringing the necessary goods to the victims by truck and helicopters. A few days after the quake, enough basic goods to meet the survivors' needs were donated by many people and supplied by governments and various organizations." (p. 110).

Large-scale destruction of the environment and the death of humans resulting from human error or planned destruction as well as from natural forces bring out those who wish to profit from such catastrophic events by engaging in various criminal activity, including fraud and corruption. The examples given in Box 2 illustrate some of the types of crimes that are perpetrated by fraudsters during and after such events.

Box 2 Examples of Fraud and Corruption During and After Disasters

FBI joins locals in task force to fight disaster fraud after North Bay fires (Jill Tucker (2017, p. 1), SFgate)

"The fires were still smoldering in Santa Rosa and other North Bay communities when the first signs of disaster-related fraud appeared, targeting victims and well-meaning donors. And illegal schemes continue to be reported, two months after the fires killed 44 people and flattened entire neighborhoods, said FBI spokesman Prentice Danner."

Mallonee (2017, p. 2)

Fraud inevitably follows disasters, so authorities in Texas, Florida, prepare for post-storm scams.

"The Texas attorney general's office said Thursday that it has received more than 3,200 complaints about scams, fraud and price gouging since Aug.25, for things such as $99 for a case of water. In Baton Rouge, where the National Disaster Center is located, the number of fraud reports went from 79 the week before Hurricane Harvey to 425 in the week after the storm hit, center director and U.S. Attorney Corey R. Amundson said."

Contractor fraud grows 5 years after Sandy; (Shawn Marsh- Associated Press) Akron Beacon Journal, A14, 11, 2017.

(continued)

"Trenton, NJ: After superstorm Sandy flooded the first floor of his New Jersey home with 4 feet of water, Rich Bindell shelled out tens of thousands of dollars to a contractor he knew was approved by the state and had done other work in his town.

Five years after the storm, the construction projects remains unfinished and the contractor faces up to 10 years in prison after admitting this month to scamming more than 30 homeowners and employees of about $ 1.9 million."

"James 'Jaime' Lawson is one of more than 200 people charged in New Jersey with $11 million worth of Sandy- related fraud in a list that continues to grow five years after the storm. Most of those cases involved homeowners filling fraudulent applications for relief funds, but others have been contractors like Lawson."

Akron Beacon Journal (2017a, 2017b).

"Washington: White House disavows deal".

"The Trump administration scrambled Friday to distance itself from the decision to award a $300 million contract to help restore Puerto Rico's power grid to a tiny Montana company from Interior Secretary Ryan Zinke's hometown. The White House said federal officials played no role in the selection of Whitefish Energy Holdings by the Puerto Rico Electric Power Authority. The administration disavowed the contract amid a growing number of investigations and a bipartisan chorus of criticism."

FBI: fighting fraud – Oct. 2008.

"Hurricanes and other natural disasters- like the summer's California wildfires- bring out the best in people, who volunteer to help with cleanup efforts and make charitable contributions to victims. But disaster also brings out the worst in people-and not just crooks and scam artists. Sometimes, when it appears there's easy money to be made and no one is watching, otherwise law-abiding citizens can get caught up in crime (FBI 2008, p. 1)."

"How else to explain the case of the fire chief who's now serving 14 years in jail? The Louisiana resident, who had no previous criminal record, volunteered to organize medical relief efforts in Baton Rouge shortly after Hurricane Katrina devastated the Gulf Coast in 2005. He then proceeded to steal and sell nearly $500,000 worth of government –owned defibrillators.

When the theft was discovered and an investigation was begun, the fire chief tried unsuccessfully to hire a hit man to kill a witness that could link him to the crime."

B.S. Charles (2015, p. 2).

Disaster fraud: criminals capitalize on catastrophes.

"A couple in Huntsville, Alabama, were ordered to return $2.1 million (http://www.al.com/news/index.ssf/2015/06/alabama_couple_says_they_cant.htmi) they received as compensation for alleged revenue loss after the oil spill occurred. The couple concocted an elaborate scheme to move money through bank accounts so it would appear as a financial loss and subsequently allow them to collect relief funds."

Fraud, Corruption, and Organized Crime during Economic Depression and Political Instability

Schopper (2012, p. 23) notes, "We can assume that even in prehistoric times a quest for security against physical violence, extreme weather conditions, and famine was pursued. However, technical skills were minimal, production of goods was not very effective, and rural economies depended on the unpredictable upturn of the annual harvest cycles." Schopper continues by stating, "To a certain extent, the family, the clan, and the neighborhood were able to help when serious threats arose. People commonly had the conviction that fate affected everyone's life, no one could escape fate, and everyone had to come to terms with his fate."

Over the centuries, societies changed, countries became economically developed, and the rise of capitalism and democratic governments led to changes in the determination of who had the responsibility to provide some type of relief when people suffer catastrophic losses due to natural and human disasters. The governments of the developed countries have taken on a greater responsibility to provide assistance to those who are unable to assist themselves during and after a calamity such as an economic depression, flood, earthquake, tornado, or hurricane.

One would expect that the quest for security that has existed in humans since the beginning of civilization should now be realized. However Schopper (2012, p34) states "In reality, in today's world we are confronted with management mistakes, management waste, fraud, corruption, and other illegal behaviors, along with insufficient equity bases and other problems that are hard to control." These problems, along with the blending of legal and illegal practices during and after times of disaster in a community or country, can lead led to a decline in the security of the people, despite the efforts of the government and other agencies to provide assistance to those who have suffered tremendous losses due to natural or man-made disasters

Dovoysek and Mastnak (2012, p. 3) note that "in some countries, particularly those in a state of economic development, both the economic sector and the political sector may become dependent on organized crime, resulting in widespread corruption in those countries." Kratcoski (2017, p. 6) states, "Research on citizens' perceived corruption of the police reveals that there seems to be a direct correlation between the stability of the government and the economic system and the amount of corruption."

Hetzer (2012, p. 222) contends that the failure of governments to recognize the collusion and corruption between the corporate enterprise and many political leaders has not only resulted in an increase in fraud and corruption during a world economic crisis as in the case of 2007 but this form of collusion actually played a major part in the inception of the economic crisis. He states, "The profit-making intentions of economic agents, the ambitions of politicians, the financial requirements of parties, and the greed of public officials have become increasingly interconnected and can no longer be ignored." He contends that the activities of the political leaders and business leaders are such that they are difficult to control, even if such activities are corrupt. Hetzer (2012, p. 225) states, "Corruption always signals failure of leader-

ship, as is evident in all EU member states where economic interests, personal ambitions, and political objectives are linked. A particular form of corruption that has recently developed is corruptibility as a result of incompetence. Overloaded state bureaucracies rely on the assistance of private individuals who supposedly have special superior knowledge that enables them to pursue their own economic interests even within a legislative procedural framework. The discussion about the economic prerequisites for and consequences of corrupt behavior in business appears to have taken on a puerile or childlike quality recently. In particular, the comments that other competitors make. For example, on foreign markets, 'everyone is doing it' and 'contracts cannot be won without the payment of bribes' reflect a childish mentality or a debased sense of right and wrong."

The assertions made by Hetzer are reiterated by Tomasic (2012, p. 177). He contends, "The global financial crisis has revealed massive financial frauds and misconduct that have long been aspects of our markets but were submerged by the euphoria that dominated these markets in good times." Tomasic believes that corporate crimes have penetrated markets. Such crimes are difficult for the legal system to prosecute, since those responsible for committing the crimes are powerful and the financial institutions they represent are often considered so important to the economic welfare of the country that the government must overlook the criminal activity. Tomasic (2012, p.177) contends, "This is especially so where these crimes are of enormous proportions or involve powerful individuals or corporations. Their seeming invulnerability to regulation is enhanced in boom times, and this is furthered buttressed by powerful political forces supporting risk taking. These political forces have served to muzzle or curtail the activities of enforcement agencies directly through the lack of adequate resources and indirectly by promoting ideologies that legitimize the minimal role of government in marketed and industry self-regulation." Tomasic argues that the financial enterprise is driven by a culture of greed whereby powerful corporate leaders and bankers are able to operate with a minimum of government regulation. A call for stronger regulations only occurs after a financial crisis, and if new government regulatory laws are enacted, they either receive minimum enforcement or are softened once the crisis is considered to be over.

Terrorism, Organized Crime, Fraud, and Corruption Relating to Disasters

Raghavan (1999, pp. 64) stated that in India, "Dissatisfaction with the government may occur because off shortages of food, fuel, or water, labor disputes, or what may appear to be disrespect for religious traditions. Any of these could trigger protests, violence, or terrorism."

Kratcoski and Das (2003, p. 17) note, "Terrorist groups have access to vast funds from the illegal drug trade and other criminal activities. They have used these proceeds to buy heavy weapons and high-tech communications equipment in

Eastern Europe. Seized military equipment includes armaments of exclusively Russian origin, suggesting links between Russian organized crime and Colombian guerrillas. The relationship between the guerrilla terrorist groups and nacro –terrorism has become so intense that it has been impossible to separate the two."

Edelbacher and Kratcoski (2010, p. 86) observe that "Currency counterfeiting, document forgery, and document theft are examples of crimes frequently committed by terrorist groups. In a world characterized by anonymity and impersonality, in which officials increasing rely on documents to establish a person's identity, the possession of a complete set of documents is the only way a person can establish that he or she exists. These documents give the bearer certain rights, entitlements, and services. Counterfeited, forged, or fraudulently obtained documents are useful for all criminal activities, as they help hide the real identity of the perpetrators. Organized crime groups and terrorist groups often use the identities of persons who have died, a form of identity theft. The appropriate identification documents are forged with ease."

Antinori (2012a, b, pp. 148, 157) demonstrates how organized criminal groups are able to gain a foothold in the legitimate financial system of a country during a time of economic crisis, using the Mafia criminal organization in Italy. Antinori (2012a, b, p. 149) contends that the operations of the present-day Mafia centers on, "buying off state officials to gain complicity of state officials in order to engage in the activities that will produce the largest profits." He states, "The power of the mafia is widely enhanced and favored by collusion with government officials and political representatives, particularly in the Southern territories. Another important factor to consider is the current weakness of political parties in Italy. They are far weaker than they were in the past. As a result, benefits from political participation have decreased. The loss of power led many politicians to adopt a "look out for yourself" attitude that made corruption far more likely." Antinori (2012a, b, p.152) contends, "The modern mafia is no longer a predator; it has become an entrepreneur. It controls more than a territory; it manages entire market segments. As a result of the economic crisis, usury is thriving and pollutes whole segments of the economy. The free market is secondary. Poor quality products are used to construct major public works despite huge costs of constructions granted to mafia-controlled businesses."

Although Antinori is referring specifically to the Mafia in Italy, the same conditions can be found to a lessor or greater degree in many countries throughout the world. As previously noted, when a country is in a state of economic crisis and the political leadership is weak, the opportunities for organized criminal organizations to increase their profits increases.

In order to achieve its goals of increasing its wealth, Antinori (2016, p. 43) noted that the Mafia has concentrated on gaining access to several areas of business as fertile grounds to infiltrate, including health-related businesses such as testing laboratories, private clinics, residential homes, and rehabilitation centers. Several other areas include businesses related to sports such as amateur clubs, suppliers of sporting equipment and supplies, and construction of sports facilities and multipurpose centers and clubs. Two other areas of business infiltrated are related to transporta-

tion such as trucking; providing local services, tourism, and professional transportation; and businesses relating to surveillance and private security such as nocturnal security guards, security services in nightclubs, construction site security, and personal protection services. Antinori (2016, p. 44) states, "The infiltration of the Mafia in the socioeconomic fabric may allow, especially in times of crisis and/or economic contraction:

1. Provision of more effective services;
2. Provisions of services in the most favorable trading conditions;
3. Provisions of services that could not have been granted because of
   a. Lack of a reliable financial lender;
   b. Small or denied banking support."

Common Types of Fraud/Corruption during and after Disasters

The types of fraud and corruption that typically emerge after large disasters are similar to those that occur during normal times, with the exception that being a victim of a natural or man-made disaster may motivate one to engage in an act that is illegal, such as claiming losses to property or physical harm that far exceeds the amount of damage the disaster caused, an act that the person would not have engaged in during normal times. In regard to corruption, the disaster provides the public official, corporate leader, or head of an organized crime unit a new opportunity to make profit under conditions in which the risks of the illegal transaction being detected are perceived as being relatively low. Thus one sees fraud and corruption on a very small scale, often involving a few hundred dollars or less, such as a building inspector being paid off for overlooking some structural damage to a building caused by the natural disaster, as well as fraud and corruption on a large scale, involving hundreds of millions of dollars, such as that which occurred after the collapse of the banking industry in 2003 that led to a worldwide economic recession.

Fraud in the Financial Enterprise

Edelbacher, Theil, and Kratcoski (2012, pp. 399) refer to Wolfgang Hetzer, an author who has completed considerable research on white-collar crime, particularly financial crime. Hetzer notes that the crisis in the economic and financial enterprise, in part, was created by a failure in economic policy and the failure to recognize the crisis was created by "individual and collective self-deception, economic interests, and political calculation." Criminal laws are biased. They apply to "'losers' and are not applicable to the rich. The recent financial crisis has shown that the directors and leaders of corporations and financial firms do not always put the common good

above their own personal interests and that of some of their leaders and that some of these leaders are motivated by greed and are open to corruption."

Some of the key elements that may have had an effect on the onset of the man-made worldwide economic crisis of the first decade of the twenty-first century relating to fraud and corruption include a high-risk environment and a political ideology, in which the powerful interests of the banking and financial sectors were able to pursue their own interests without interference from government regulations. Some of these activities were later recognized as criminal.

Charles (2015, p. 1) states that disaster fraud can be dived into five major categories. The categories are:

- Charitable solicitation fraud is the act of soliciting funds by posing as a legitimate charitable organization.
- Contractor and vendor fraud is the act of posing as a legitimate vendor, worker, or repairman to collect payment but never complete the tasks in question.
- Price gouging is the act of increasing the costs of goods and services in a disaster zone.
- Property insurance fraud is the act of reporting fraudulent claims or inflated claims to collect insurance premiums.
- Forgery is the act of pretending to be someone you are not for financial gain (i.e., signing and cashing stolen or fraudulently acquired checks).

Those responsible for providing relief to victims of disasters, such as the Federal Emergency Management Agency (FEMA), recognize some predictable phases that occur before, during, and after a natural disaster. First, there are fraudsters who, in anticipation of the drastic harm that is expected to occur as the result of a flood, hurricane, tornado, or forest fire, begin to target disaster relief money provided by the government or donations offered by private individuals and organizations for the victims of the disaster. For example, Jackman (2017, p. 2), quoting Walt Green, previous US attorney in central Louisiana and head of the Fraud Center, noted, "Green said charity fraud is often the first to occur, with false websites set up to collect donations. When the National Weather Service releases its list of storm names each year, he said, people buy up domain sites as 'Irma Relief' or 'Help Harvey' in hopes of fooling well-intentioned donors." Investigators found 5000 questionable Katrina-related websites after the storm, not just from the area of the disaster but nationwide. While Katrina was still slamming into Louisiana, a man in Florida launched "AirKatrina.com" claiming he was a private pilot performing rescues and needed money for fuel. He wrote that he saw people huddled on roofs and that "I will hear these screams for the rest of my life." He was nowhere near Louisiana, but he raised $40,000 in 2 days, authorities said.

Unfortunately, the number of victims of natural disasters who need assistance in making their homes livable far exceeds the number of reputable contractors available to provide the assistance needed. Thus, some victims, out of necessity, sign agreements with companies without having the opportunity to check out their credentials and later find out that they were not only victims of the disaster but victims of fraud.

Harman (2017, p. 5) notes "Fraudulent contractors will also prey on homeowners. Interestingly, after a large catastrophe, people who have no business working as contractors think they can make a lot of money by pretending to do all sorts of home repairs. These bad actors should not be confused with legitimate companies that are insured, bonded, have well-trained staffs, and may be from out of town because they are part of a much larger network and are bringing in additional resources to help a local company that is inundated by the amount of work to be done."

The fraudsters who pose as legitimate contractors and vendors who obtain contracts to do cleanup work and repairs after the catastrophic event is over are very plentiful and perhaps the most difficult to prosecute, once their scams are detected, as noted by Jackman (2017, p. 2). He states, "As the storm passes, contractors swoop in to clean up debris, take down trees, and perform other clean-up tasks. Some will take the money and simply disappear. Some will have FEMA benefits signed over to them. Some will actually do the work. Experts said victims can only tread carefully, do their homework, and hope they don't get fleeced." The following exemplifies a case of this type of fraud. Charles (2015, p. 2), quoting a news outlet, wrote, "A website was seeking donations (http://www.komonews/local/Wildfire-website-seeking-cash-made-inaccurate-claims-32,818,901.html) for food for firefighters. It claimed that the group was hosting the official command center for over 150 firefighters combating the local wildfires in the state of Washington. Upon investigation, it became clear to local authorities that this was untrue. Authorities questioned the website and it was promptly taken down- but funds went unaccounted for."

Insurance Fraud (Health, Home, Life)

Brody (2006, p. 1) notes, "Disaster-related property insurance fraud against insurance companies include losses, faking repairs, claiming loss services, and in some cases, deliberately causing damages to property to collect on insurance policies in the wake of a disaster. 'Hard insurance fraud' occurs when someone deliberately fabricates a claim, 'soft insurance fraud' (also known as opportunistic fraud) occurs when a normally honest person pads a legitimate claim."

Harman (2017, p. 4) provides examples of the different ways that some insured will try to scam insurance companies after a major natural disaster, such as a flood or hurricane. For example, if flood waters sweep people's possessions away, it gives them a chance to claim the loss on possessions that they never had or to inflate the value on possessions they owned. Others may claim damages for property that was not damaged by the natural disaster or make claims on potential healthcare matters such as mold and viruses that contaminated their home, as in the case of a flood.

Identity Impersonation and Identity Theft

Reporting on fraud involving identify impersonation and theft relating to the Irma hurricane disaster, Mallonee (2017, p. 1) noted, "Fraudsters are impersonating FEMA officials and asking hurricane victims for personal identifying information. The complaints also involve charity fraud, suspicious ads for inspectors, and threats of disconnection of services." Mallonee (2017, p. 2) obtained information from a FEMA official who contended that the stealing of identities of the victims of a disaster or the impersonation of a relief official are the most common forms of fraud committed after a major man-made or natural disaster has occurred. Referring to statements made by Don Cazayoux, a former US attorney and now connected to the National Center for Disaster Fraud (NCDF), identity theft is the most common type. In addition to impersonating FEMA officials, fraudsters pose as workers from relief agencies, such as the Red Cross, insurance adjustors, and representatives of legitimate construction companies or volunteer organizations, or pose as a victim of the disaster by stealing the identity of persons who have a legitimate claim.

PBSO NewsHour (2017, p. 1) reports, "Federal and state officials are warning residents, volunteers and officials in flood zones in Texas and Louisiana that they could be targeted by storm related scams, contract corruption, document fraud, identity theft and other crimes. They emphasize that the easy availability of personal information and documents on the Internet has widened criminal activities and potential victims to anywhere in the U.S."

Prevention of Fraud Relating to Disasters

A number of government agencies, as well as private organizations, have implemented a number of programs relating to the prevention of disaster-related frauds. Many of the prevention programs are self-serving, as in the case of insurance companies, who obviously want to limit their liability for payments for property destruction or personal injury to those who are eligible for such benefits. Government agencies such as the Federal Emergency Management Agency (FEMA), National Center for Disaster Fraud (NCDF), Multi-State Information Sharing and Analysis Center (MS-ISAC), and the Federal Trade Commission (FTC) also have a mission of providing assistance to only those who deserve assistance, and with the help of federal law enforcement agencies, such as the FBI, the government attempts to prevent fraud and corruption after a natural disaster, as well as bring those who commit fraud to justice. Thus, disaster fraud prevention, investigation, and law enforcement programs are planned and implemented with different goals and use different strategies. The missions and goals of such agencies are similar in content and pursued through:

1. Public service education
2. Enactment of legislation
3. Law enforcement

Many of the prevention programs consist of public service announcements designed to provide information to potential victims to be aware of fraudulent activities and how to communicate with protective agencies if they are a victim of fraud. The goal is to prevent a large amount of disaster-related fraud by making the potential victims aware of the scams that are used by fraudsters during and after a natural disaster and learn how to avoid such trickery.

Fraudsters realize that people are usually extremely generous in their response to aiding victims of floods, fires, hurricanes, tornadoes, and other large-scale disasters. They see the events unfolding on television, with interviews of people who may have lost everything, including their homes and possessions. This leads kind-hearted people to desire to do something to aid those who are in such dire need. Harman (2017, pp. 2–3) notes "Fraudsters may reach out on line, on the telephone, via e-mail, or even face-to-face, using same approaches as legitimate organizations. Any charity or group that does the following should probably be avoided:

- Can't prove that the contribution is tax exempt.
- Thanks you for a donation you don't remember making.
- Pressures you into contributing,
- Asks for cash donations or requests that money be wired."

According to Harman (2017, pp. 2–3), other tricks used by fraudsters to try to separate the potential victims from their money are:

- Phishing (setting up phony website links in which there is a claim that the donations will go to the victims of the disaster, when in reality they go to the fraudsters).
- Fraudulent contractors (storm chasers).
- Informing victims of the disaster that their insurance payments are overdue and if money is not sent immediately, the policy will be canceled.
- Public claim adjusters may charge a large fee to make an estimate on the amount of damage suffered by a policy holder.
- Fraudsters selling damaged equipment or vehicles, such as automobiles, and not disclosing that they were damaged by the natural disaster.

PBSO NewsHour (2017, p. 3) reported, in anticipation of the spike in disaster-related frauds, including charity fraud, in the aftermath of Hurricane Harvey, "On Wednesday, the government-funded Multi-State Information Sharing & Analysis Center reported more than 500 domain names associated with Harvey had been registered over the preceding week. The majority of those names, the center reported, used words associated with philanthropy and aid, including 'help', 'relief', 'donate' and victims. The center warned of 'the potential for misinformation' and that 'malicious actors are also using social media to post false information or link to malicious websites.'"

Legislation

Legislation to prevent fraud related to natural and man-made disasters has been enacted by all levels of government, including local, state, and federal, in the United States. The fallout of the economic crisis in the United States during the first years of the twenty-first century resulted in new legislation designed to curtail and control corruption and fraud in the economic enterprise. Kratcoski (2012, p. 374) noted, "The U.S. financial crisis began in 2007, spurred by the collapse of such enormous investment enterprises as Bear Sterns, Enron, and WorldCom. The U.S. Securities and Exchange Commission (SEC) reacted by beginning to exercise authority it already possessed to investigate and regulate the complex financial structures that developed." In addition to the changes in the SEC approach to the regulation of the activities of Wall Street, The US Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 (Pub. 1. 113–203, H.R. 4173.29) (n.d.). This Act was designed to "promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ' too big to fail.' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes" (H.R.4173, http://www.sec.gov/). Search News (2017, p.1) reported "The Act established a number of new government agencies tasked with overseeing various components of the act and by extension various aspects of the banking system. Several of the key components of the Act included *The Financial Stability Oversight Council and Orderly Liquidation Authority* that monitor the financial stability of major firms whose failure could have a major impact on the economy (companies deemed "too big to fail"). The council has the authority to break up banks that are considered to be so large as to pose a systemic risk. It can also force them to increase their reserve requirements." Similarly, the new Federal Insurance Office is supposed to identify and monitor insurance companies considered "too big to fail." Search News (2017, p. 1) reports, "A major part of the Dodd-Franks Act was the creation of The *Bureau of Consumer Financial Protection (CFPB*) (H.R.4173–8). Several of the key provisions of the Bureau include: preventing predatory mortgage lending, the assumption being the subprime mortgage market was the primary cause of the 2008 economic catastrophe), it prevents mortgage brokers from earning higher commissions for closing loans with higher interest rates and higher fees and protects potential borrowers from being steered into loans with high interest rates. The CFPB also governs other types of consumer lending, including credit and debit cards, and addresses consumer complaints."

Several provisions of the Dodd-Frank Act were eliminated or revised by the actions of President Trump, who in 2017 issued an executive order to have a review of directed regulations and provisions of the Dodd-Frank Act and a report on the Act with the purpose of making legislative reform.

Preventing Fraud during and after Natural Disasters

At the federal level, the *National Center for Disaster Fraud* was created by the US Department of Justice in 2005. The FBI (2011, p. 1) states "The National Center for Disaster Fraud (NCDF) was originally established by the Department of Justice to investigate, prosecute, and deter fraud in the wake of Hurricane Katrina, when billions of dollars in federal disaster relief poured into the Gulf Coast Region. Now, its mission has expanded to include suspected fraud from any natural or manmade disaster. More than 20 federal agencies, including the FBI, participate in the NCDP, allowing the center to act as a centralized clearinghouse of information related to Hurricane Irene relief fraud." PBSO NewsHour (2017, pp. 1, 2) reported that "It (NCDF) has arrested and prosecuted defendants for disaster-related crimes, including more than 1,460 in connection with crimes associated with Hurricanes Katrina and Rita. Those prosecutions, between 2005 and 2011, targeted defendants in 49 federal districts across the country- a clear indication that criminal activities spawned by Harvey could originate anywhere."

The FBI (2011, p. 1) provides the following guidelines for persons to follow to try to avoid being victims of fraudsters in times of natural and manmade disasters:

- Do not respond to any unsolicited (spam) incoming e-mails, including clicking on links contained within those messages, because they may contain computer viruses.
- Be skeptical of individuals representing themselves as surviving victims or officials asking for donations via e-mail or social networking sites.
- Beware of organizations with copycat names similar to but not exactly the same as those of reputable charities.
- Rather than following a purported link to a website, verify the legitimacy of nonprofit organizations by utilizing various Internet-based resources that may assist in confirming the group's existence and its nonprofit status.
- Be cautious of e-mails that claim to show pictures of the disaster areas in attached files, because the files may contain viruses. Only open attachments from known senders.
- To ensure contributions are received and used for intended purposes, make contributions directly to known organizations rather than relying on others to make the donation on your behalf.
- Do not be pressured into making contributions, as reputable charities do not use such tactics.
- Do not give your personal or financial information to anyone who solicits contributions.
- Providing such information may compromise your identity and make you vulnerable to identity theft.
- Avoid cash donations if possible. Pay by debit or credit card, or write a check directly to the charity. Do not make checks payable to individuals.

- Legitimate charities do not normally solicit donations via money transfer services.
- Most legitimate charities websites end in .org rather than .com.

The FBI is cooperating with numerous local, state, and federal law enforcement agencies in the prevention and control of the types of fraud and corruption that have typically emerged during and after major disasters. For example, even though the fires in Santa Rosa and other North Bay communities were still smoldering, Tucker (2017, p. 1) reports, "The agency (FBI) announced Wednesday that local, state, and federal agencies have launched a task force to combat fire fraud. They will collaborate, share information, and use intelligence obtained from previous disasters, including hurricanes in Houston, Florida and Puerto Rico, to identify crime trends that are already popping up in areas affected by the blazes."

The Multi-State Information Sharing and Analysis Center (MS-ISAC), started in 2003, is a private nonprofit organization that focuses on improving cybersecurity for federal, state, local, tribal, and territorial governments. Membership in the organization is open to all state, local, tribal, and territorial governments with the only requirements being that a government entity completes an agreement that it will abide by the provisions and responsibilities of the organization when it becomes a member. The MS-ISAC technical manual (2017, p. 5) provides the responsibilities for MS-ISAC members. Members agree to:

- Share appropriate information between and among the members to the greatest extent possible.
- Recognize the sensitivity and confidentiality of the information shared and received.
- Take all necessary steps to protect confidential information.
- Transmit sensitive data to other members only through the use of agreed-upon secure methods.
- Take all appropriate steps to help protect our critical infrastructure.

The contributions MS-ISAC has made to protect the security of the infrastructure in the United States have been recognized. Its contributions have been particularly important during and after a major catastrophic natural or man-made disaster was experienced in the United States. MS-ISAC (2017, p. 5) states, "The U.S. Department of Homeland Security has designated the MS-ISAC as its key cybersecurity resource for State, Local, Tribal and Territorial governments, including chief information security officers, homeland security advisors and fusion centers."

Summary

Major disasters in which large numbers of people become victims tend to bring out the best in people as well as the worst in some. Most people feel good about having the opportunity to assist fellow beings in times of disaster, either by

engaging in volunteer work such as assisting in rescue activities for victims of floods, fires, hurricanes, and other disastrous situations or by providing assistance through financial aid. However for some, these catastrophic events provide opportunities for personal gain.

Research has revealed that in times of man-made disasters such as war, dramatic changes in government, or the collapse of the economy there are numerous opportunities for fraud and corruption. In fact, some scholars have indicated that government leaders in collusion with leaders of the financial enterprise have engaged in corruption to the extent that it has had a major impact on the economy of a country, even leading to an economic collapse. Once the economy is in a severe recession or depression, the door is open even wider for additional corruption and fraud from other groups such as criminal organizations.

The aftermath of war and internal conflict often brings in new leaders that can be more corrupt than those that were replaced.

In this chapter, the major types of fraud and corruption that occur during and after disasters were presented and illustrated by examples. For some of the victims of natural and man-made catastrophic events, some individuals see these events as an opportunity to make financial gains that far exceed the losses they experienced from the disaster and what they rightfully deserved. Their fraud is accomplished by "padding," the assumption being that with the volume of claims being processed, the insurance companies will not have the personnel or resources to thoroughly investigate every claim.

Other types of fraudsters who capitalize on major disasters include those who raise funds for victims but never give the funds to the victims, questionable construction and repair contractors, and those who steal the identities of victims in order to make claims. Building contractor and repair frauds associated with the aftermath of major disasters include over charging, doing shoddy work, or not completing the work.

Efforts to combat corruption and fraud include public service educational programs geared toward informing potential victims how to avoid fraud, legislation, and innovative law enforcement programs. Private profit-making agencies, nonprofit organizations, and government and law enforcement agencies have implemented numerous programs designed to prevent fraud during and after major catastrophic events.

A major reform in the financial sector of the United States was made after the recession of the US economy in the early part of the twenty-first century. The Dodd-Frank Wall Street Reform and Consumer Protection Act created the Financial Stability Oversight Council designed to monitor the financial stability of major firms and the Consumer Financial Protection Bureau, designed to protect consumer from predatory mortgage lending, as well as protecting consumers from lenders who charge excessive fees and interest rates. The Act also provided protection for "whistleblowers" who expose corruption and fraud within the organizations in which they are employed.

The Federal Emergency Management Agency, the National Center for Disaster Fraud, and the Multi-State Information Sharing and Analysis Center work/cooperate with other federal, state, and local law enforcement agencies as well as private nonprofit service agencies to provide emergency care and services during and after natural and man-made disasters. These agencies provide information and support to those who become victims of fraud during or after the catastrophic event and assist in the investigations of corruption and fraud related to the event.

Discussion Questions

1. Discuss the types of fraud in which some victims of natural disasters engage. What are the reasons why people who are normally law-abiding are motivated to commit crimes pertaining to a natural disaster?
2. Discuss the reasons why organized criminal groups have new opportunities to engage in corruption and fraud after a country has experienced a major economic recession.
3. What are the major types of fraud associated with the some construction/building trades that develop after a major natural disaster?
4. Discuss several ways fraud is committed via the Internet during and after a major man-made or natural disaster. What methods are used by the Multi-State Information Sharing and Analysis Center to combat Internet fraud related to natural disasters?
5. Some researchers believe white-collar criminal activity in the financial sector played a large part in creating the economic recession in the United States during the first decade of the twenty-first century. What types of crimes (questionable financial practices) committed by corporate and Wall Street executives were considered causes of the economic recession?
6. Discuss several of the major provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act designed to eliminate abuses in the financial sector and protect the consumers from fraudulent practices.
7. What are some of the major guidelines offered by the FBI to assist people from becoming victims of fraud during a natural disaster?
8. What are the five major categories of fraud used by fraudsters to victimize those who have experienced substantial losses from a natural disaster? Give an example of each type.
9. Discuss the reasons why man-made disasters such as war or the collapse of governments open up opportunities for corruption and fraud.
10. Discuss some of the ways fraudsters use the Internet to commit fraud during times of natural or man-made disasters.

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Part II
Introduction: Methods to Prevent Fraud and Corruption

The second section of this book focuses on enumerating the ways criminal justice agencies and governments combat corruption and fraud. The strategies and techniques used require the combined efforts of public and private agencies.

In Chap. 9, the authors detail the steps followed by private insurance agencies to detect potential fraud cases and to investigate those cases in which fraud is strongly suspected. The insurance companies rely on their claims from adjusters and investigators during the initial steps of the investigation, but must determine at what point it is appropriate and necessary to enlist the aid of the police and prosecutors in the process.

In Chap. 10, the author focuses on the difficulty of preventing corruption and fraud in developing countries. Such factors as a poor, unstable economy and weak political leaders operating in an unstable environment tend to encourage enticements in the form of bribes from foreign corporations leaders. In some countries, corruption in government is accepted as part of the culture. As a result, the prevention of corruption is difficult. However, the author gives several examples of corruption prevention programs that appear to be effective.

In Chap. 11, the author presents the processes used by private investigators employed by large corporations and businesses that have the sole purpose of detecting and preventing crime within the organization. These private investigators are specifically trained and have experience in investigating the types of fraud and related crimes by which employers are most frequently victimized.

In Chap. 12, the author discusses how civil society (the citizenry) becomes involved in the prevention and control of corruption in government and public service agencies. The author uses Slovenia to provide examples of the interplay of corruption between government leaders, the police, the judiciary, and private business enterprises. However, the main thrust of the civil society involvement is through involvement of global organizations such as non- government organizations (NGOs) connected to the United Nations, EUROPOL, and other international organizations that encourage civil society involvement and request research and recommendations on crime prevention programs.

In Chap. 13, the authors complete a summary of the information presented in the book chapters and make projections on the most threatening crimes relating to fraud and corruption for the future of the global society. Such crimes as Internet frauds of various types, fraud and corruption used by criminal organizations, and the corruption of political leaders and service agencies by terrorist organizations constitute major problems in many countries at the present time and are likely to be even greater problems on a global scale in the future.

Fraud and Corruption in the Insurance Industry: An Austrian Perspective

Maximilian Edelbacher and Michael Theil

Introduction

In democratic countries economy only functions, if basic principles are respected. Evidence of this thesis can be dramatically found by reviewing the history of countries in transition. After World War I and World War II, Germany, Austria and other European countries experienced a dramatic breakdown in the basic principles of law. Immediately after the breakdown of the monarchy and the Nazi regime, banking systems were destroyed, money was lost, and a black market developed in Germany, Austria and other European counties. These markets were ruled by violence, fear and organized criminals. People did not trust each other as well as the public institutions, and law and order were not functioning. The basic principles in a stable democratic country are:

1. Pacta sunt servanda **(1)**
2. Uberimae fidei **(2)**

Edelbacher (personal experiences) served on several missions by UNO and OSCE in Central Asia between 1999 and 2005. During the time he spent on these United Nations missions to countries in the midst of political turmoil, he immediately recognized that these principles where not fully respected in some of Central Asian countries. For example, rules and regulations of a banking system were not in power in one of these countries. People lost their money deposited in

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the banks, broke down, and were no longer functioning shortly after the democracies were in transition. The people had no trust in the banking system and avoided saving money in the banks.

Basics of Insurance

The idea of insurance was originally developed to protect human beings against the consequences of natural disasters and other catastrophes which would otherwise ruin their lives if they did not have some relief from their losses. Theil (2012, p. 279) sums up the underlying principles followed by insurance companies. Theil states, "The main competence and therefore, the main reason for existence of insurance companies is their unique capability of dealing with risks other economic entities are unable or barely able to handle. In particular, the core techniques that insurance companies to manage risk are risk selection, risk pooling, building of reserves, and further transfer of risk". Thus the basic principles of insurance during the present time are based on the idea of solidarity and sharing of risks. The group, through their purchases of policies, contributes to the solution of the problem of the individual who may have suffered a tremendous loss as a result of some form of a disaster.

This notion of solidarity can be summed up in the following proverb:

> "A sorrow shared is a sorrow halved",
> as the proverb goes, or
> "One for all, and all for one".

However, this notion of solidarity presupposes mutual trust among the participants, the notion of "uberimae fidei". At the same time, the insurance industry is based on the probability of making a profit. The probability that the money taken in from premium holders will exceed that which is paid out to premium holders is the basic mathematical principle upon which the industry is based. If the mathematical assumptions, the precalculated harmony, are upset, the system will be out of balance. Crime is a factor, which may destabilize and seriously endanger the system. Thus, the development of crime has to be closely observed, and if the rate of crime increases, the insurance industry must develop counteracting mechanisms to combat the threat to the industry.

Insurance Fraud

Insurance fraud is sometimes referred to as the country's most popular sport. On the one hand, this type of fraud is not perceived as a criminal act; on the other hand, people tend to assume that insurance companies – in their glass-fronted palaces – are rolling in money. Those committing insurance fraud are unaware of any perpetrator-victim relation. A depth analysis on the meaning and the purpose of insurance illustrates this point more clearly.

Insurance fraud is not a new problem; as Prof. Dr. Geerds, University of Frankfurt am, Germany (1983), noted, insurance fraud has been committed ever since insurance has been available in the market. Fraud has been committed by all classes of individuals and by businesses and industry all over the world. Insurance fraud is a crime against property. The specific nature of insurance fraud is determined by the insurance contract between the insurer and the insured. This contract obligates the insurance company to indemnify the insured contingent on an uncertain, future event. In the case of insurance fraud, such an event is:

– Brought about on purpose.
– Pretended to have occurred.
– An actual loss is exploited.
– A contract is made on an unlawful basis.

Legal Provisions against Insurance Fraud in Austria

According to the Austrian Criminal Code of 1975, the definition of insurance fraud is met if there is an intent to cause damage, a loss has occurred and/or an attempt has been made to cause a loss (Geerds, 1983). In the course of the revision of the Criminal Code, Section 151 was introduced as a special provision covering insurance abuse. However, it turned out that in practice this provision is no more than a dead letter, as it is only applied to a very limited extent – mainly in the case of fictitious ski theft (Austrian Criminal Code, 1975, p. 92).

The provision of Sect. 298 of the Criminal Code (Austrian Criminal Code, Section 146ff, 1975, Section 298) regarding the pretence of a punishable act is applied occasionally. As a matter of principle, the police and the law enforcement authorities apply the general provisions of the Criminal Code regarding fraud, i.e. Sects. 146 and following, to combat insurance fraud.

Section 167 of the Criminal Code (Austrian Criminal Code, Section 167, 1975), i.e. the provision on perpetrators making voluntary amends, may give rise to problems in the course of co-operation between the insurance industry, the "anti-fraud squads" and the criminal police. The jurisdiction and the award of damages are based mainly on the so-called contingency principle, which means that a case is assessed according to the effect and the consequences of the event.

Understanding the Psychological Aspect of Insurance Fraud Motivation

In a literal sense, in reference to insurance terms, it is the event rather than the material property, which is covered by insurance. However, the victim expects the insurer to replace the property lost, regardless of why the loss occurred. Hence, taking out

insurance is perceived as a way of "making the damage undone". Moreover, many policy-holders – particularly those hit by major accidents – expect more than just financial indemnification. They want someone who cares and understands, that is, policy-holders desire human support and assistance, and they need someone to talk to about their fears and anxieties. Given the fact that insurers are neither confessors nor psychotherapists, many people feel left alone in their despair, particularly those who do not have family and friends to console them regarding their loss.

The insurance company has failed to fulfil their longing for care, recognition, love, feeling of community and security in life. In the event of a loss, the individuals concerned perceive the service they are getting from the insurer as materialistic and formalistic, but not very helpful in psychological terms.

After having paid their insurance premiums for a long period of time, many people become aware of two things:

1. *In the event of a loss, you never get what you really expect.*
   - The loss has occurred despite payment of the premium.
   - The accident cannot be made undone.
   - Claims adjustment and indemnification are experienced in purely material terms; personal care and attention are lacking.
2. *Having been loss-free for some time, many people tend to take stock*:
   - After so many years of paying the premium, one has never received anything from the insurance company.
   - Hence, an attempt will be made to get at least part of the money back.

For the individual, the insurance principle and the idea of solidarity underlying the insurance system are rather difficult to grasp, since people are not made sufficiently aware of the fact that "a sorrow shared is a sorrow halved". This is due, in some part, to the advertising line taken by many insurance companies, who have a tendency to underline the savings idea and the "waste not, want not" approach above that of a "we care" approach.

Organization of the Insurance Business in Austria

The Austrian insurance branch registered 88 members and 26,300 employees. The volume of premiums rose from 9.5% to 15%, 32 billion Euro in the end of 2005 (Association of Austrian Insurance Companies, 2006). Results of the year 2006 showed excellent performance of the insurance business in Austria, and it is presumed that more than a 10% of growth will be expected over the ensuing years (Association of Austrian Insurance Companies, 2006). The reason for the rapid growth is predominately due to the expansion to the eastern part of Europe. The Bulgaria and Romania developments were very fruitful. Austrian insurance companies and financial institutions make a lot of money in this portion of Europe.

Dimensions of Insurance Fraud in Austria

Last statistics show that about 3.2 million cases of damages were reported to Austrian insurance companies. It is estimated that between 5 and 10% of these reports may be fraudulent reports. That means the dimension of insurance fraud may reach nearly 1 billion Euro. Out of this about 15% can be clarified and stopped as fraud by specialists of insurance companies and reported to police and justice.

Types of Crime Affecting Private Insurance Industry

The following types of crime, as covered by the Austrian Criminal Code, are connected with insurance fraud:

- Homicide, bodily injury and traffic accidents
- Property offences, such as robbery, burglary, theft of motor vehicles, embezzlement, cheque and credit card fraud, insurance fraud, arson, white-collar crime, industrial crime and drug-related crimes

As regards homicides, bodily injuries and traffic accidents, no reliable statements can be made on their economic dimension. At a meeting of insurance experts held in Maria Alm (3), the amount of insurance paid resulting from aggressive offences was quantified within a range of ATS 40 to 50 billion (Kuratorium Sicheres Österreich Meeting in Maria Alm, 1993). This figure should only be taken as a rough estimate. In the case of homicides, the assumed loss of productivity would also have to be taken into consideration, to establish an estimate of the total loss from homicides. In the case of bodily injuries due to negligence, the average costs of treatment and therapy would have to be related to the number of cases reported.

The economic impact of crimes against property is easier to quantify. An attempt to establish the costs of crime for the national economy resulted in a total economic loss of ATS 4.4 billion due to robberies, burglaries and high-tech crime. In 1993, for example, 15,214 dwellings and 13,424 shops were broken into. Assuming an average indemnification of ATS 20,000 per burglary loss, a total of 0.573 billion were paid out by insurance companies for burglary claims in 1993. If indemnification paid out under fire, household accident and motor-all-risk insurance policies are added to the above, the total loss amounts were to approx. ATS 9 billion = € 0,0678 billion in 1993 and will have increased nearly double in 2006.

The costs of drug-related crime are not to be underestimated. At the Kuratorium Sicheres Osterreich meeting in 1993, addiction-related costs in Austria were estimated at ATS 5 billion.

Types of Insurance Fraud in Austria

Types of insurance fraud reveal all kinds of criminal activities. Murder cases, violence crime, burglary, theft of cars, arson cases and a very great number of accidents are the main "modi operandi" of criminals who engage in insurance fraud. As the number of stolen cars, burglaries and robberies has increased dramatically in the last 5 years, insurance companies are confronted with enormous losses not only by insurance fraud but actually also by increasing crime rates. Especially the number of burglaries has doubled in the last 5 years.

Profile of the Offenders

Based on the personal experience in police work (**3**), insurance fraudsters were not as mobile as other fraud criminals in the past. But this fact will probably change very soon, because criminals learn easily.

Analysing the profiles of insurance fraud criminals in Austria, based on the statistics of the last 30 years (Edelbacher, 1995), it can be assumed that:

Approx. 3% are organized criminals/terrorists.
Approx. 12% are professional criminals.
Approx. 85% are non-professional criminals.

Insurance fraudsters are found in all income classes, education levels and age categories. Females are represented more often in cases of insurance fraud than their appearance as offenders for other types of crime.

A study of PricewaterhouseCoopers published in the year 2005 (Edelbacher, 2017) analysed a picture of white-collar criminals showing rather men, more than 35 years old, and established in the higher-ranking leadership. But this analysis dealt only with white-collar crime in firms, and criminals are coming rather from the inside than from the outside. Some insurance fraud is perpetrated by the staff of the insurance companies, but the amount in terms of the total number of cases is relatively small. Generally, offenders are persons who are known to the insurance agencies only by their policy numbers. The main feature of an insurance fraud is that there is no existing personal link between the offender and the victim. This relationship generally makes it generally so easy to commit insurance fraud, because there is no criminal energy needed to be active against a congregate person or victim. To commit robbery or burglary, for example, there always has to exist aggregated criminal energy against a person. The criminal in violent crimes must be aware of the victim's strengths and abilities to fight back in a direct person-to-person criminal event. This is not necessary when committing insurance crime. It is a safer and more elegant way to make money.

Fight Against Insurance Fraud

Although many investigators believe the amount of insurance fraud is widespread, little is known about how to detect it. Many attempts have been made to find indicators for insurance fraud. These attempts are however hampered because very often they are relying on characteristics of previous fraud cases. Edelbacher (2017, p. 11) notes "At the Vienna University of Economics and Business Administration we elaborated indicators including information about uncovered fraud cases. The methods applied to the detection and prosecution of insurance fraud are based on criminalistics. Criminalistics is concerned, above all, with the investigation and solution of criminal cases and is defined as the science of crime control through crime detection and crime prevention. The investigative techniques used are aimed at the detection of criminal behaviour and the solution of criminal cases".

Criminologists study the underlying causes leading to criminal behaviour, while the goal of the criminalists is to detect the crime and/or to investigate the crime and hopefully arrest the perpetrator of the crime. The long-range goal is to clear the crime and close the books. To this end, the investigator uses the tactical and technical means of criminal investigation (Schwind, 1993).

Indicators of Insurance Fraud

The methods used to recognize crimes are based on principles developed in the field of criminology. These principles follow a three-step process. They are:

1. First: a starting information, suspicion.
2. Second: knowledge has to be added to the original knowledge base.
3. Third: sufficient evidence is gathered to convict the alleged criminal/offender.

The investigator follows the seven "golden rules" related to gathering of evidence and establishing sufficient proof to convict the perpetrator of the crime. The "**six golden rules**" (Schwind, 1993, p. 9) are:

1. *Who* has committed a crime?
2. *What* was done?
3. *When* did the crime happen?
4. *Where* was the crime committed?
5. *How* was the crime committed?
6. *Why* was the crime committed?

Methods to Recognize Fraud

Basically recognizing fraud can be done in two ways: gathering material evidence and interviewing people who are involved in the investigated crime. For a long period of time, interviewing was the only method used to prove a crime. That has changed dramatically since evidence gathering became more and more important. Especially forensic methods have improved so very much that a change of strategic methods was the consequence.

Strategies of Insurance Companies

Insurance companies have a major problem in recognizing fraud because of the enormous number of cases they have to deal with each day. In Austria each year, about three million cases of compensation are asked by customers, and it is very difficult to filter the suspicious cases from those that are legitimate. This problem became more and more difficult to solve because the number of employees, who deal with such cases, is reduced each year. The basic fact is that each year an increasing number of compensation cases has to be handled by a decreasing number of insurance employees. Very often the fluctuation of employees is dramatic, and the professional knowledge of the more experienced employees is lost.

The Board of Insurance Investigators (Edelbacher (2017, personal experience/interview with P. Klaus, 4/7/1996)) to fight fraud was founded in 1996. This forum still exists, the basic goal of the Board was to gather knowledge about what is going on in the field of insurance fraud and to find answers on what to do and how to do it in order to be successful in combatting fraud. Each insurance company selects and educates an expert or a number of experts who deal with insurance fraud. These experts co-operate at the board of experts which is homed in the Austrian Board of Insurance Companies (Verband der Versicherungen Österreichs). This board has regular yearly meetings, exchanges knowledge and co-operates with law enforcement agencies, prosecutors service and judges. Checklists of indicators of fraud were developed to provide indicators of fraud. The Board of Experts reports to the authorities of their companies and the Austrian Board Organization of Insurance.

Central Information Bureau (ZIS)

The central information system (ZIS-Austria) (Edelbacher, personal experience (2017)) (Edelbacher, 1996) and interview with P. Klaus, 4/7/1996) was introduced by the Association of Austrian Insurance Companies in the early 1990s, following the Dutch model. Edelbacher (2017, p. 13) notes, “Detecting fraud is, above all, a problem of large numbers. With more than 3.2 million loss events per year, it is

quite impossible for 1500 claims managers to identify each and every case of insurance fraud. For years, demands had been voiced for insurance companies to establish files of policy-holders reporting losses. A comparison of such files permits the statistical evaluation of loss frequencies and loss probabilities".

The preliminary work on the present Austrian system was started in 1989. Based on the Dutch system, the Dutch system provides not only for the establishment and maintenance of files but also for an exchange of information between the police authorities and the insurance industry. These methods have been particularly successful in the solving of motor vehicle theft. Unlike German motor vehicle insurance companies, which only report cases meeting certain criteria to the German association, Austrian insurers report all current motor vehicle loss data to the computer centre of the association on a daily basis. Thus, the Austrian system is more efficient than the German one. Since the beginning of 1996, it has been possible for all insurers to report losses also in other classes of business (household, fire, marine insurance, etc.) automatically to the computer centre for further processing within ZIS. To optimize the supply and evaluation of data, the individual insurance companies still have to adjust their own EDP systems accordingly. The following checklists were developed by the Association of the Austrian Insurance Companies and are in the training manual of Austrian insurance companies.

Box 1 Two examples of a checklist (Association of the Austrian Insurance Companies, 2006)
Check personal profile of insurer and victim

- Check family name – are there existing relations, family and friendship between insurance owner and victim?
- Check first name – very often first and second names are changed to irritate the insurance company.
- Check date of birth – changes of this dates can be a starting point of fraud.
- Check profession of your customer – it may explain an irregular claiming.
- Check family status – can be important.
- Check education – it can be the link between insurer and claim customer.
- Check liquidity – can be crucial; very often lack of money is the motive for fraud.
- Check dates of insurance contract – fraud is started rather soon after signing contract.
- Check insurance policies themselves.

Checklist to analyse a claim

- Check report of claim (compatibility and plausibility).
- Check report and compare what was told to the insurance company and what was told the police.

(continued)

- Check what was told to friends and family.
- Check causality of the reported claim.
- Check plausibility of circumstances.
- Check ownership.
- Check travelling.
- Check report of experts.
- Check circumstances of the claim.
- Check papers (originals.)
- Check behaviour of your customer.

In Austria insurance companies decide how to deal with their customers. If an insurance company is suspicious about a claim and can prove the illegality of the claim, it can be decided to inform the customer about their goals of regulation or to make a criminal report to the police. If the customer agrees to withdraw his/her claim, a report to the police is not necessary. It all depends which deal is settled between insurance and customer.

Strategies of Police

Law enforcement authorities depend on the findings they get from the claim managers of the insurance companies. In addition, they have access to other sources of information, such as their own internal records on suspects, categories of infractions and general findings. Criminal record searches and other investigative methods, such as searches for persons and property; information systems of the criminal police; evaluation of information received from public prosecutors' offices, courts and banks (as a rule, the latter can only be obtained upon judicial order); queries addressed to insurance companies, credit card companies, car hire companies, casinos and registration offices and queries concerning the registration of motor vehicles; inspection of the land register; and queries addressed to postal and other authorities, including queries addressed to foreign authorities via Interpol, widen the range of possibilities for the police to obtain information in cases of fraud or other criminal acts. Once the desired information is available, further steps are taken in the following order (Association of Austrian Insurance Companies, 2006):

- Description of the state of affairs
- Co-ordination within the investigating authority
- Co-ordination with other authorities
- Analysis of the state of affairs/further planning
- Establishment of contacts with other authorities
- Co-operative arrangements with other authorities/institutions

- Participation in working groups/special commissions
- Development of fraud control strategies
- Implementation of operational measures
- Arrest/questioning of suspects
- Reporting to the public prosecutor's office/court

Basically, other organizations, institutions, detective agencies or individuals act according to the same pattern. The question of whether or not to take operational measures at an earlier stage of the investigation (e.g. observation) should always be considered. For some time, insurance fraud used to be a popular method applied by terrorist organizations in need of money.

Those who have police experience know that criminals quickly learn what techniques the police use to investigate crimes, and they know that criminals will change their mode of operations to confuse the police. The criminal community is not bound to formal restrictions. They exchange knowledge and practical experience and adapt easily their patterns of behaving to stay successful. Insurance defrauders learn fast about which insurance companies are difficult to cheat and which companies are easy targets. The new structure of the European Union with the lowering of security at the borders makes it easier for criminals to use the opportunity of a free market and the advantage of freedom of mobility of people and goods. Until recently international insurance fraud was not a great problem, but this is likely to change in Europe because the market has changed (Edelbacher, 2016).

The growth of the insurance markets in Europe might result in an increasing amount of fraud by organized criminal groups and terrorist groups. This experience was learned from the intelligence gathered on organized crime and terrorist activities in other types of crimes, such as smuggling of humans, drugs and weapons. No borders mean diminished control. This is an advantage for the transnational economy as well as for criminals. A growing market means growing danger for the global society.

Methods of Prevention

Edelbacher (2017, p. 15) states "It is interesting to note that insurance fraud often hinges on some form of collusion between suspects, insurance staff, repair workshops and persons with insider or expert knowledge. According to police experience, a certain amount of tension often exists between the office workers of an insurance company and its field staff, which may result in operational weaknesses. Sometimes, not enough care is exercised in the selection and recruitment of insurance staff. Another identifiable 'weakness' results from the intensive and frequent points of contacts between the sectors concerned, the claims handling procedures applied and the difficulties of objective loss adjustment. In many cases, the mere inspection of the property to be insured would be enough to prevent a loss; however risks are frequently underwritten without adequate knowledge of the facts of the case".

As has been pointed out for years, improvements are needed both on the part of the police and in the insurance industry. To some extent, improvements have already been achieved.

The Public Image of the Insurance Industry

The insurance industry should be making a continuous effort to remind everybody of the underlying principle of insurance. On this issue, Bogner (1987) stated that it takes "continuous effort and unconditional sincerity with customers if the insurance industry is to improve its public image. In addition, the insurance companies must provide concrete examples of their commitment to providing quality service to their customers. A good marketing organization alone will not protect companies against the deterioration of their public image in the coming decades". Dr. Höfner referred to a certain feeling of unease among the public, which manifests itself more specifically in the form of discontent with high premium payments, slow loss adjustment and insufficient indemnification. On top of that, the luxurious office building occupied by insurance companies is taken as a sign of unsatisfactory management of the policy-holders' money. An insurance company is perceived to work well if:

- Claims are handled quickly.
- Customers get personal service and sound advice.
- The company acts as a true partner of the insured.

However opinion surveys have shown that people regard insurance companies as being hard to understand, impossible to influence, rather selfish, showing little social concern and uncaring but necessary, nevertheless. Hence, there is a need for:

- More information
- A clear presentation of the services offered
- Transparent management
- Individual and personal advice by qualified staff

Involving the Public in the Prevention of Insurance Fraud

As mentioned earlier in this chapter, the public tends to have a relatively negative image of insurance companies. Thus, the common citizen may not be too concerned about the insurance companies losing money as a result of fraud. In fact, some members of the public who are policy-holders and were not satisfied with the outcome of a claim they filed may have some degree of satisfaction in knowing that the insurance companies were victimized. They fail to see that the additional costs the insurance companies may incur as a result of fraud and are generally passed on to the policy-holders through an increase in the cost of their premiums. Thus it makes

sense for the insurance companies and the public to join hands in combatting insurance fraud, in that in the long run, both may benefit from attempts to prevent fraud through public relations activities.

Public relations activities should underline the fact that insurance fraud is not a petty offence but a criminal offence punishable under criminal law. It is important to make people understand that insurance fraud is not fashionable; it is not directed against anonymous institutions but against all the honest policy-holders who do not engage in fraud and therefore have to pay a higher premium. At the same time, attention should be drawn to the high probability of insurance fraud being detected (through special measures, well-trained claims managers and dedicated computer programs). For years, the insurance industry has been co-operating closely with the Federal Ministry for Internal Affairs of Austria. Numerous measures are being taken – with considerable success – to maintain a high level of security in the country. Security, after all, is a matter of great concern for everybody, as it affects all aspects of our lives.

In order for the insurance companies to be successful in their attempt to enlist the public in the fight against insurance frauds, they must make several significant changes. These include:

Maintaining high standards and ethical principles In an era characterized by materialism and selfishness, it is essential for enterprises to set examples by adopting firm positions. In practice, this means that director generals and managing board members have to be made aware of the need for clear guidelines, patterns of behaviour and principles to go by. If purely economic considerations impact on the decision whether or not to report a case to the police, such principles become watered down and become unclear for both staff members and clients. If the top management does not comply with the rules, why should others follow such guidelines.

Establishing clear guidelines and patterns of behaviour The outcome from the interrogation of insurance crime offenders showed that a lot of criminals were motivated to engage in an insurance fraud because of their personal disappointment in dealing with insurance companies. Very often something was sold as insurance coverage that was not fulfilled when assistance by insurance was needed. Such an experience was very often the starting point of insurance fraud.

Establishing transparency of terms and conditions of insurance contracts Simple and transparent terms and conditions, easy to understand for everybody, have always been high on the list of desiderata of the insured. Given such conditions, they would have to worry less about the "small print" on the policy form and the promises made by the insurance agent, which cannot be kept in the event of a loss.

Correcting the handling of claims The line that separates goodwill claims handling practices from insurance fraud tends to get blurred. Occasionally, insurance companies

decide to indemnify the policy-holder even if a formally valid claim does not exist. Thus, policy-holders may feel tempted to present their loss events in a somewhat modified form than the way the event occurred. Correct loss adjustment based on uniform principles and unconditional reporting of serious losses – cases of fraud – to the authorities would therefore be desirable (adoption of generally valid guidelines for all insurance companies).

Establishing a long-term approach Insurance companies would be well-advised to adopt a long-term approach and look beyond the annual presentation of the balance sheet. A focus on individual customer care, the granting of bonuses for additional safety measures taken, the issue of profit-sharing certificates and others are instruments well-suited for the long-term planning and monitoring of corporate performance in the insurance industry.

Increasing awareness-building and training Insurance fraud can be counteracted through awareness-building and training measures. Frequently, fraud may already be suspected upon first inspection of the loss, if the description of the situation given by the person reporting the loss or his accomplice cannot be objectively verified by the loss inspector. Through appropriate training, police officers and insurance staff can be sensitized to the fact that things may not always be what they appear to be at first sight and that action should only be taken upon thorough investigation of all elements of the event. What looks like a burglary may not necessarily be one. And what looks like a fire may be more than just that.

Recruitment of specialists We live in an age of growing specialization. Naturally, this also applies to insurance fraud, a broad field ranging from fictitious theft to arson, and from self-mutilation to murder. To meet the continuous challenges of solving fraud cases takes the investigator's full personality; it takes intelligence, eloquence, skill, stamina and imagination, as the perpetrators of fraud are skilled and imaginative and it takes a smart investigator to track down a smart offender (Kratcoski & Edelbacher, 2016). Hence, finding suitable specialists is a justified concern of both the law enforcement authorities and the insurance industry. If this issue is not taken as serious as it should be, it can be the starting point of a wrong development in the long run. Very often the growing of the market is the only concern of an insurance company, but this approach is too short in understanding the complexity of the problem.

Co-operating with the law enforcement authorities Co-operation between the law enforcement authorities and the Austrian Insurance Association has been intensified following the establishment of the Association's computer centre. The Insurance Fraud Control Office is planning a wide range of activities for the near future. Training seminars are to be offered for claims managers and members of the "anti-fraud squad" employed by insurance companies. Specialized seminars are intended to deepen the contacts between the law enforcement agencies and the insurance industry.

Changing the reporting practice of insurance companies Besides ethical principles, clear, practical and procedural guidelines and co-operation with the law enforcement authorities, the reporting of punishable offences by the insurance companies is another important issue to be discussed. Based on personal police experience (**4**), reporting practices of insurance companies in Austria tend to vary greatly from company to company. This is a fact which not only the police but also the offenders are aware of. Professional defrauders, in particular, know very well which company will or will not report suspected cases of fraud to the police. They clearly benefit from this lack of uniformity of reporting practices. The perpetrators know very well where to claim a fictitious loss and adapt to new circumstance rather than not to try to commit the fraudulent act. As it already was mentioned, criminals have the ability to learn very fast. Their ability to adapt to new conditions is better than the ability of official organizations.

Innovations for the Prevention of Fraud

Private investigators as well as the public police will have to be constantly learning how to use the new technologies if they are to be successful in the detection and prevention of fraud in the insurance industry. We are living in a fascinating world of technical revolution. Especially the electronic sector is developing so fast that we have to learn to utilize the new methods for obtaining information almost every day. Computer technology has influenced administration and investigation techniques dramatically. The main problem of investigation in the insurance industry is handling and selecting the great number of claims. There is the pressure to recognize in a very short period of time what claims to appear to be fraudulent in order to start an investigation in such cases.

New computer software opens opportunities to find better strategies to succeed in selecting and differing bad claims from those that are legitimate (Schwalb, 2007a). The longer frauds go undetected, the larger the potential for loss and the smaller the chances of recovery.

The Association of Certified Fraud Examiners (ACFE) (2002) estimated that six percent of the insurance organizations' revenues will be lost each year as a result of occupational fraud. This 6 percent constitutes hundreds of billions of dollars lost to fraud in the insurance industry worldwide. For example, in 1 year, The ACFE's 2002 Report to the Nation on Occupational Fraud and Abuse covered 663 occupational fraud cases that caused more than $7 billion in losses. More than half of the frauds in this study involved losses of at least $100,000, and nearly one in six resulted in losses in excess of $1 million. In addition to the direct dollar costs of fraud, organizations must cope with a range of indirect costs. Damage to a company's reputation can have substantial fallout and possibly lead to drastic setbacks in the economic market. The loss of customers' confidence in the company generally translates into reduced revenues and profits. Also, employee morale can suffer, impacting organizational productivity and the ability to attract and retain qualified staff.

The Traditional Approach to Preventing Fraud

Organizations traditionally have looked to prevent and detect fraud by implementing appropriate internal controls. Internal audit typically tests and validates these controls during regular audit processes. Although this approach generally leads to a discovery of almost 20% of the fraud cases, the internal controls are essentially reactive. Internal controls combined with external audits are responsible for uncovering an additional 30 percent of the detected fraud, but the balance of cases, more than half of the detected fraud cases, come to light through tips or by chance discovery. In many organizations, both systems and their underlying transactions have become increasingly complex, with data volumes growing at an exponential rate. While strong internal controls and audit procedures play a role in preventing and detecting fraud, it is unrealistic to assume that they can be completely effective. The ACFE (2002) study found that 46 percent of detected frauds occurred because of insufficient controls. An additional 40 percent of the fraudsters exploited the situations where controls were ignored. For many organizations, there remains a strong likelihood that a significant number of frauds are simply never detected. Even when frauds do come to light, many detection methods, such as audit procedures, are employed after the fraud has taken place. The longer frauds go undetected, the larger the financial loss is likely to be and the smaller the chance of recovering the funds or assets from the perpetrator.

Both the Association of Certified Fraud Examiners and the American Institute of Certified Public Accountants specifically refer to the use of computerized analysis to assist in fraud detection techniques. Such analyses are particularly effective in detecting frauds that fall into the most common fraud categories – asset misappropriation and fraudulent disbursements. Both professional associations detail indicators of the most common types of fraud and cite examples of the kinds of analyses that can be performed to detect them. However, many organizations use such techniques only on an occasional test basis and often only in reaction to suspected problems. In many cases, the tests performed are fairly simplistic and are unlikely to uncover more sophisticated fraud schemes. *Transactional analysis* is one of the most powerful ways of detecting fraud within an organization Schwalb, 2007b. To maximize its effectiveness as a fraud detection system, the transactional analysis needs to:

- Work with a comprehensive set of indicators of potential fraud – taking into account the most common fraud schemes as well as those that relate specifically to the unique risks a particular organization may face.
- Analyse all transactions within a given area and test them against the parameters that highlight indicators of fraud.
- Perform the analyses and tests as close to the time of the transaction as possible, ideally even before the transaction has been finalized and preferably on a continuous monitoring basis.
- Allow easy comparisons of data and transactions from separate business or operational systems.

This last point is of particular relevance. Many suspicious transactions or patterns only come to light when transactional data from one system is compared to that of another. In a simple example, this would involve comparing addresses of paid vendors with employee addresses, to detect potential "phantom vendor" schemes. Individuals intent on fraud seek out organizational "soft spots" where there is little regular cross-system data validation – they provide a golden opportunity for frauds to continue undetected. A well-designed and well-implemented fraud detection system, based on transactional analysis of operational systems, can significantly reduce the chances of frauds occurring and then remain undetected. The sooner indicators of fraud are available, the greater is the potential to recover losses and address the weaknesses of the anti-fraud control system. The timely detection of fraud directly impacts the bottom line by reducing losses for an organization. Effective detection techniques serve as a deterrent to potential fraudsters, as well as employees, who know experts in fraud prevention are present and are looking for fraud and thus are less likely to commit fraud because of a greater perceived likelihood that they will be caught.

The many contributions to fraud prevention in the insurance industry include: ACL enables timely fraud detection and prevention, and ACL provides businesses with complementary services and assists in the completion of business intelligence. ACL's approach is to give organizations access to all their data, thus enabling them to independently analyse and validate data and transactions for integrity, in a fraction of the time that was required in the past. ACL's powerful analytics and robust capabilities have enabled tens of thousands of organizations around the world to achieve fast feedback, reduce risk, assure compliance, minimize loss and enhance profitability while making decisions with speed and confidence. With ACL's assistance organizations can now trust their data. ACL is a proven performer, with clients in 176 countries, including 83 of the Fortune 100 and nearly half the Global 500. ACL clients also include more than 500 national, state and local governments on six continents and all the *Big Four* accounting firms.

Summary: A Need for International Co-Operation

Crimes of fraud have plagued the insurance industry ever since its first development many centuries in the past. Although the crime persists, the method used to commit the crime by fraudsters has changed dramatically. The methods to be used to detect and investigate fraud in the past were generally determined by the individual insurance companies. However, in the present time, as a result of the huge increase in international crime, it requires international co-operation among the members of the insurance industry as well as that of the police and the public to prevent fraud in the insurance industry.

Another important issue is to create enough flexibility and mobility in the organization to be able to react to new dangers. The enlargement of the European Union brings in more diversity between the poor and rich countries. It is possible that

criminals will see the enlargement of the European Union as a challenge. We have seen such a development in the field of international financial fraud. It would be very logical if defrauders will expand their field of expertise in insurance fraud. A number of Austrian insurance companies are expanding their businesses in those nations that have recently become members of the European Union. Their goal is to create new markets and expand their businesses. But we can fear and expect that not only will business grow but criminal gangs will also use the growing market for their interests by expanding their illegal enterprises.

Austrian insurance companies have reduced their activities to fight insurance fraud because they only see the new opportunities of the growing market and not the increased threat from criminals. It looks like they are neglecting to employ the mechanism that is effective in detecting insurance fraud. This neglect may create danger becoming more vulnerable to the criminals who are constantly learning new techniques for committing crime. A key feature of this new weakness in the fight against fraud is that each insurance company is concentrating only on its own success and fail to realize that co-operation is a necessity to combat crime in the industry. The Association of Austrian Insurance Companies is weakened when the individual interests of each company are their main goal, not the interests of the entire industry. Such behaviour may be short-minded as seen in a longer run and period of time. The quick success makes individual insurance companies blind against the possible new dangers, especially since the nature of insurance fraud has become more global and some of the criminals from the Eastern European countries are very efficient in developing new techniques for committing fraud.

Discussion Questions

1. Discuss the reasons why some policy-holders rationalize and justify their fraudulent activity.
2. What are some of the major reasons for the increase in international insurance fraud?
3. Identify the types of fraud that are most frequently committed against the insurance companies, and give the profiles of the types of offenders.
4. Identify transactional analysis, and discuss how this approach is used in combatting insurance fraud.
5. Discuss the typical process followed in the investigation of potential insurance fraud by insurance fraud investigators.
6. Discuss the process followed by the public police in the investigation of insurance fraud.
7. Identify the underlying principles of insurance, and discuss how fraud can lead to a disruption of the insurance industry.
8. Austria has often been identified as a "pass-through" country. Discuss the meaning of this designation, and indicate how being a "pass-through" country is related to international crime and insurance fraud in Austria.
9. Discuss the relationship between the "open borders" policies of the European Union and different types of international crimes, including insurance fraud.
10. Discuss how new innovations in technology have benefitted insurance fraudsters. How have these innovations benefitted the insurance fraud investigators?

Notes 1. Roman law, “pacta sunt servanda” – “treaties have to be fulfilled”.
2. Roman law, “uberimae fidei” – “you have to trust each other”.
3. Edelbacher, personal work experience.
4. Edelbacher personal observation.

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Challenges in Controlling, Combating, and Preventing Corruption in Developing Countries

Branislav Simonović

Introduction

It is usually emphasized in literature that corruption became a subject of serious scientific research in earnest in the 1990s and that the World Bank and nongovernmental organizations, like Transparency International, that began to openly discuss, measure, and analyze corruption significantly contributed to the process (Cuervo-Cazurra, 2016: 36). The interest for corruption studies in developing countries can be related to the development of globalization during the 1990s and in the years that followed. As the third world countries' markets as well as former communist countries' markets opened, numerous possibilities were created for expanding of trade and investments in the countries rich with resources and population (Potz et al., 2016: 82). One of the obstacles which has emerged is corruption, and it increases the price of work, encourages organized crime, compromises the legitimacy, and weakens the economy.

There is no doubt that corruption exists in all the countries in the world. While it persists in the developed countries and democracies, in the developing countries, it flourishes. There is a qualitative and quantitative difference between the corruption in developed and the corruption in developing countries. However, corruption differs among the developing countries themselves. Why do some (developing) country democracies experience more corruption than others (Treisman, 2000: 399)? Scholars have tackled this question by studying how various social and cultural factors, economic policies, institutions, and the rule of law are related to corruption (Yadav, 2012: 1028). If a phrase from Tolstoy's *Anna Karenina* is paraphrased (Tolstoy, 1996), "Happy families are all alike; every unhappy family is unhappy in its own way," and applied in the subject of the corruption in the developing countries, it could be said that the corruption in each one of them is a destiny, an accident,

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and a sad story of a country and its people who are connected to ineffective state systems on one hand and unscrupulous and greedy politicians on the other.

The most frequently stated definition of corruption is that it is “the abuse of (public, or entrusted) power for personal gain (Treisman, 2000: 399; Transparency International 2016; Cuervo-Cazurra, 2016: 36) or for the benefit of a group to which one owes allegiance” (Camaj, 2013: 22), which emphasizes greed of those who have the authority and the power. The essential element of corruption is unlawful use of power, or the abuse of power. Greed (abuse of law and abuse of authorities) of those in power is not controlled and prevented enough in the developing countries, since the institutions in these countries are not completely independent, professional, and effective. The corruption in developing countries can be observed as the system’s weakness, governance failure, and institutional dysfunction (World Bank, 2000: 4). However, it appears that historical and cultural aspects of corruption shouldn’t be neglected either.

The main initiator of corruption in developing countries lies within the political system. “It is predominantly an assessment of corruption within the political system, and covers most common forms of corruption” (Bhattacharyya and Hodler, 2015: 15). A rigid, closed, and nondemocratic political system represents a trigger of corruption, while long democratic tradition represents barrier for corruption. Treisman stated that “While the current degree of democracy was not significant, long exposure to democracy predicted lower corruption” (Treisman, 2000: 399). The developing countries with high corruption rate have the lack of democratic tradition as a rule.

Apart from lack of democratic tradition, processes of transition also have a deep impact on corruption in developing countries. It has been shown in practice that the transition involves many factors that generate corruption. The process of transition represents the collapse of political, economical, and traditional system and the creation of new system, new society, and new values. “In the transition countries, the shift from command economies to free market economies has created massive opportunities for the appropriation of rents (that is, excessive profits) and has often been accompanied by a change from a well-organized system of corruption to a more chaotic and deleterious one” (Fokuoh Ampratwum, 2008: 81). Negative effects of transition process and its impact on corruption flourishing were clearly manifested in former socialist countries during the transition from a planned economy to a market economy (for the example of Kazakhstan, see Nurgaliyev et al., 2015), former colonies in postcolonial period during the creation of independent countries (e.g., see Angeles and Neanidis, 2015), and after the wars and armed conflicts during the periods of receiving foreign aid and reconstruction of both physical infrastructure and public institutions (Doig and Tisne, 2009). Moran emphasizes that the processes of transition have been evident in the various forms of democratization: transition from authoritarian rule, transition from communism, decolonization, and the emergence of new nation-states (Moran, 2001: 379).

Economic consequences of corruption in developing countries are serious. Corruption disables or decelerates the development. In literature, it is described as “economic cancer” (cited by Uberti, 2016: 318) which has “corrosive effect to the

development of a state" (cited by Charron, 2011: 68). Furthermore, there is a relation between the poverty and corruption. "Extensive research shows that poor countries are associated with substantially more corruption than their wealthier counterparts" (Chang and Golden, 2010: 11). In some developing countries, the corruption rate is extremely high. These countries are among the poorest of the world, leading many development experts to view corruption as one of the most threatening and pervasive obstacles to alleviating global poverty (Blackburn, 2012: 402). A cursory inspection of the data reveals that many of the most poor and corrupt countries in the past are among the most poor and corrupt countries today. This conjures up the idea of poverty traps and the notion that some countries may be drawn into a vicious circle of widespread deprivation and wholesale misgovernance from which there is no easy escape (Blackburn, 2012: 404).

Manifold harmful consequences emerge from corruption in developing countries, and they complicate forming of democratic institutions, the rule of law, and a just and rightful community. "Corruption has been blamed for the failures of certain 'developing' countries to develop… corruption is viewed as one of the main obstacles that post-communist countries face in attempting to consolidate democratic institutions and open, market economies" (cited by Treisman, 2000); it "undermines democratic institutions, ethical values and justice, inflicts damage to the sustainable development and the rule of law" (UN General Assembly resolution, 2007; Nurgaliyev et al., 2015: 140). It leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism, and other threats to human security to flourish (UN Secretary General Kofi Annan, cited by Fokuoh Ampratwum, 2008: 76). In addition, corruption often creates a hugely inequitable distribution as it favors those individuals and firms with political connections or the best "corruption technology" rather than those with the highest skills or the most efficient production technology (Kis-Katos and Schulze, 2013: 79).

Corruption Conceptualization in Developing Countries

The efficiency in corruption control varies significantly in different countries of the world. Corruption as illegal and immoral behavior exists in all states of the world, but the extent of its manifestation, its presence in different social layers, citizens' attitude toward it, and the reaction of a country and its efficiency of anti-corruption measures greatly vary in developed countries with long democratic tradition in comparison to developing countries with no democratic tradition and no independent institutions.

The research shows that anti-corruption measures do not have desired effect in developing countries, and they do not decrease corruption rate significantly, although the same measures are effective in developed countries. "The most frequent approach has until today been to use the 'tool kits' of ideas provided by the international community in line with the logic of a 'one-size-fits-all' approach" (cited by: Persson et al., 2013: 451). Neoliberal approach does not see the difference

among the various historical factors which affected the development of corruption in developing countries (Fokuoh Ampratwum, 2008: 78). Corruption is observed as a contemporary phenomenon in a given country, and it should be tackled with standard set of measures estimated as optimal by the countries with developed democracy and the international anti-corruption bodies (such as Transparency International, 2000). The recommended measures are, in essence, in accordance to Klitgaard's formula: $C = M + D - A$, that is, corruption equals monopoly *plus* discretion *minus* accountability. They generally comprise reduction of the monopoly and discretionary powers of officials, increase of the possibility of catching the perpetrator, higher accountability of officials, higher wages, better working conditions, etc. (Klitgaard, 1998).

In the attempt to provide the answer to the question why anti-corruption reforms in countries plagued by widespread corruption fail, Persson et al. state that they are based on a theoretical mischaracterization of the problem of systemic corruption. More specifically, the analysis reveals that contemporary anti-corruption reforms are based on a conceptualization of corruption as a principal-agent problem (Persson et al., 2013: 449).

Principal-Agent explanation of Corruption in Developing Countries

Principal-Agent (P-A) model is the most common explanation of corruption in literature. Its characteristic is not making the difference in corruption among the developed democracies, developing countries, autocratic regimes, etc. On the other hand, fundamental anti-corruption strategies and practical anti-corruption initiatives present in international community are based on this model.

The model is based on the interactions and interrelations between the principal (P) and the agent (A). The principal is superior, and it can be one person or a collective body (government, ministry, governmental body, managerial board on any level of social hierarchy) which has confided its jobs to the agent. "More specifically, in line with this view, a collective body of actors is assumed to be the principal who delegates the performance of some government task to another collective body of actors, the agents" (Persson et al., 2013: 452). The problems arise on the level of information asymmetry when the principal is unable to monitor the agent adequately, when the agent doesn't inform the principal about all the important matters, or when the agent betrays the interests of the principal. The agent becomes involved in corruption and performs the tasks for private benefit (and not for the benefit of the principal, authority, or public) because the gained benefit outweighs the consequences in the case of getting caught in corruption (Rose-Ackerman, 1978; Klitgaard, 1988). Bearing in mind the risk of betrayal of interests (abuse of trust by agent), the principal should control the work of the agent by using anti-corruption strategies: monopoly decrease and decrease of discretionary privileges, increase of

transparency, greater responsibility, etc. Corruption appears when the principal is not capable of controlling the agent's actions (Bauhr and Nasiritousi, 2012:554).

According to this model, the citizens are the principal, and civil servants are agents working for the citizen's welfare, which is the case in the societies with developed democracy and democratic tradition. Citizens choose and change the government on democratic elections, and the government representatives are expected to act in the interest of citizens. "The usual agency view is that a government official is the agent and citizens or the superiors of the government official are the principals who need to design incentives and controls to prevent the government official from asking for bribes" (Cuervo-Cazurra, 2016: 42).

There are numerous problems in the application of this model in practice when it comes to understanding of corruption and its suppression in developing countries. Firstly, principal-agent model implies that the principal is always benevolent, with good intensions and not corrupt. However, the model becomes useless in the societies where corruption is endemic, and it has entered all the layers of society, as well as government and all institutions, which is a characteristic of developing countries. In that case, there is no principal which can control the agent, since the principal itself is corrupt. "By implication, if the supposed principal is also corrupt and does not act in the interest of the public good, the principal–agent framework becomes useless as an analytical tool since there will simply be no actors willing to monitor and punish corrupt behavior" (Fokuoh Ampratwum, 2008: 77; Persson et al., 2010; Persson et al., 2013: 452; Carson and Prado, 2016: 57).

In the developing countries, citizens have never had the role of a principal. From a historical point of view, they were the subjects and servants of slaveholders, colonialists, the rich, the powerful, and subjects in communist regime. In those countries there is no tradition of democratic society in which the citizens decide and which can successfully control the corruption of the authorities and those with power. Real mechanisms which citizens can use for successful corruption control are very limited. This can be observed in the practice of elections in developing countries where politicians involved in numerous corruption scandals remain in power for years (e.g., Carson and Prado, 2016: 57). Real position of citizens in developing countries is still far from the point where they can be seen as principals in accordance to this theory. The fact is that the politicians make promises about combating corruption within their election campaigns and treat it as one of the priorities (which is not sincere in most cases). In developing countries, this raises citizens' hope that they can influence corrupt politicians. Occasionally, there are public protests against the corrupt politicians (e.g., during years 2016 and 2017, there were protests in Romania, the Czech Republic, Slovakia, in the Dominican Republic, etc.). Street protests of the citizens against corrupt politicians imply that the citizens are aware that they should combat corruption. On the other hand, they imply that the citizens do not trust the systemic institutions which are supposed to combat corruption. Street protests of the citizens against the corrupt ruling politicians show the inability of the systemic institutions through which citizens should realize their role of principals.

Patron-Client Explanation of Corruption in Developing Countries

Patron-client relations are relations of exchange between individuals of unequal status: in the simplest model, "patrons" enjoy privileged access to state-created resources (e.g., property rights and economic rents), while "clients" gain access indirectly through their personal relationships to "patrons" (Uberti, 2016: 328).

The explanation of corruption based on patron-client relation is a far better explanation for the existence of corruption in developing countries than the previous theory. This understanding starts from the fact that corruption in developing countries has deep historical, social, economic, and cultural roots and that it cannot be understood if it is observed exclusively as institutional failure.

The origin of specific patron-client relations can be found in traditional societies. Clientage emerges from traditional relations of authority in agrarian that is preindustrial societies. In these settings, authority is based on traditional patterns of loyalty, fealty, and deference and is cemented through nonreciprocal forms of exchange involving the "distribution of material resources and perks, distributed and consumed as though they were the private property of the ruler" (Kitschelt and Wilkinson, 2007: 3; Uberti, 2016: 328).

Historic roots and specificity of patron-client relation vary in different countries of the world and/or regions in the distribution of political power between different groups of civil society. There is a description of specificities of patron-client relation model in some parts of Asia (Khan, 1998; Uberti, 2016), Africa (Hope, 2000), Mexico, and Latin America (Kitschelt and Wilkinson, 2007:182–226), as well as the description of transition processes according to this model in postcommunist societies (Kitschelt and Wilkinson, 2007: 227–250). Apart from the differences, there are evident mutual characteristics of patron-client relation in given countries. This relation survived industrialization process and adapted to current conditions in given countries and the specificities of social economic relations, and it had the strong impact on, among other things, creation and maintenance of corruption.

When the former colonial countries have become independent (Angeles and Neanidis, 2015), and after the fall of communist systems, the power was assumed by the elite groups which, at the moment of changes, have accumulated capital and had resources and/or power under their control. True democratization of society, the development of democratic institutions and control in accordance with the laws could not be achieved in such conditions. Newly appointed ruling structures were in favor of keeping and nourishing the patron-client relation as a relation of essential social, economic, and political dependence and inequality in the society.

Kitschelt and Wilkinson emphasize that due to their interest to remain in power and have privileges, politicians consciously delay the reforms and liberalization of economics, keeping the means of influence on economy and other processes within the countries they are ruling by keeping the patron-client relation (Kitschelt and Wilkinson, 2007: 3). Hope, on the example of Africa, emphasizes that "Along with the emergence of the patrimonial state came the expanded role of state activity.

Economic decision-making became centralized and public enterprises proliferated. This resulted in an expanding bureaucracy with increasing discretionary power which was put to use as a conduit for graft. Public enterprises then became a playground for corruption and state intervention in economic affairs was the precipitating cause of such a situation" (Hope, 2000: 20).

Irrespective of the differences which exist in the developing countries, patrimonial relations are based on the loyalty networks which have their own hierarchy pyramids and on top of which is a patron who can be one person (a president of a country or prime minister) or a collectivity (royal family, ruling party, ruling ethnical group). Systems of subordination and loyalty are based on networks which are directed from the top of the pyramid (government, ruling party, etc.) to the bottom where there are local authorities, local communities, and legal entities. Higher position within the pyramid (closer position to the patron and ruling structures or better position in ruling party) enables gaining a smaller or greater share of power (formal or informal), more privilege, easier access to profitable business, possibility to take bigger corrupt amounts taken during the work in civil service sector, and higher level of being "untouchable" for the formal control institutions and anti-corruption agencies.

Uberti emphasizes patronism as a privileged approach to resources which comprises all the levels of society starting with the microlevel of local bureaucracy, through central country's level, up to the international level. In such conditions corruption is rooted in all structures of the social hierarchy, it has an endemic character, and it is common in the developing countries in the processes of capitalistic transition (Uberti, 2016: 335–339).

While describing neo-patrimonial forms of social organization in African countries, Hope, says: "This exercise of state power has led to the supremacy of the state over civil society and, in turn, to the ascendancy of the patrimonial state with its characteristic stranglehold on the economic and political levers of power, through which corruption thrives for it is through this stranglehold that all decision-making occurs and patronage is dispensed. Such is the pervasiveness of the patrimonial state in Africa that the citizenry have adapted to it. Individuals, as well as those people in positions of authority and/or influence, tend to shift their loyalties and political allegiances to the ruling regime of the day for reasons of personal survival and economic gain" (Hope, 2000: 19). Where neo-patrimonial politics was less pervasive and governments more committed to development and to limiting corruption, as in Botswana, corruption was lower and growth and investment were higher (Coolidge & Rose-Ackerman, 2000, cited by Rock and Bonnett, 2004: 1012, note 15).

In Latin America neo-patrimonialism is reflected in the form of hyper-presidentialism. Hyper-presidentialism is defined as a system of government with strong presidents facing limited institutions. Much of the literature on corruption in Latin America focuses on the role of hyper-presidentialism in very costly high-level political corruption. "… in a significant number of cases presidents in this region have harnessed… the whole apparatus of the state to the task of their personal enrichment" (Whitehead, 1989, 2000, cited by Rock and Bonnett, 2004: 1001).

In former communist (socialist) countries which entered the process of capitalistic transition, neo-patrimonialism is visible through the great level of control which the presidents, prime ministers, and presidents of ruling political parties have over all the institutions and processes in the country, especially in areas of human resources and control of public goods and resources. All the significant and well-paid positions in civil service and public sector (on all the levels, from local community to the government) are, by the rule, available to the members of ruling party or people connected to them. Connection to the ruling party or politicians is rewarded with the good positions, high salaries, good business opportunities (even though they are on the edge of being illegal or are illegal), and, more importantly, protection from all kinds of control, especially tax control.

Political Will to Combat Corruption in Developing Countries

The approach that the effective fight against corruption requires, strong political will, anti-corruption strategy, institutional setup, adequate resources (human and financial), effective legal framework, and general public support (Bartkus, 2012: 42), is indisputable. However, if there is no political will for improvement of anti-corruption reforms, none of the conditions mentioned above will be functional in decreasing corruption. For example, political will affects creation of anti-corruption regulations, as well as their implementation. But it is not enough to enact a law if there is no political will for its application. The conclusion of OECD and the Council of Europe's Group of States Against Corruption (GRECO) (Batory, 2012: 66–67) is that developing countries have no lack of anti-corruption laws. Most countries in the world have adopted anti-corruption laws. Many of these laws are state of the art. But they are not uniformly observed or enforced. And, sometimes both government officials and business act as though they are above these laws. In worst cases, they can operate with a kind of immunity from the law (Reinforcing Political Will to Fight Corruption in Eastern Europe and Central Asia, High-Level Meeting 2012: 30).

It can be observed that in developing countries, there is no lack of anti-corruption rhetoric either (Kpundeh and Dininio, 2006: 42). There is even too much of it. However, there is no political will for the improvement of anti-corruption reforms. The main factor which is decelerating successful realization of anti-corruption activities in developing countries is the lack of political will (About this problem generally: Brinkerhoff, 2000: 240; in the countries in Asia: Quah, 2015; in Latin America countries: Ruhl, 2011: 48; in Ukraine: Derevyanko, 2012: 36; in Nigeria for the restriction of anti-corruption agencies' actions, see Umar et al., 2017). This is why it is very important to investigate the matters of political will while analyzing the subject of combating corruption in the developing countries.

Political Will

Inapplicability of (P) principal-agent (A) concept in most developing countries can be seen through the analysis of the term "political will" as one of the important determinants of any anti-corruption policy. In many developing countries, there is a lack of honestly interested parts ready for enforcement and implementation of effective measures of anti-corruption politics. While political leaders can publicly support the reforms, legal and political will for combat against corruption in many countries is partial, doesn't exist, or is inconsistent. In some countries, anti-corruption policy and programs for combating corruption are used in order to remove or discourage political or economic rivals, for consolidating and maintaining of exiting systems of power and patronage, and to enable the maintaining of corruption, especially on elite level (Carson and Prado, 2016: 57).

Defining the term political will directed toward the improvement of anti-corruption strategies starts from the definitions based on the *principal-agent* model. The main characteristic of these definitions is that political will is observed as a manifestation equally divided among all subjects of society. When the term political will is defined, all subjects have the same "power, influence, and importance," and there are no differences between the strength and influence of governments' political will and political will of nongovernment sector. The final conclusion from this assumption is that there is the same level of responsibility for both the government and civil sector for the realization of political will in practice.

For example, Kpundeh defines the term political will in the same way in the papers published at different periods of time: "political will", as the concept is discussed here, refers to the demonstrated credible intent of political actors (elected or appointed leaders, civil society watchdogs, stakeholder groups, etc.) to attack perceived causes or effects of corruption at a systemic level. It is a critical starting point for sustainable and effective anti-corruption strategies and programs. Without it, governments' statements to reform civil service, strengthen transparency and accountability, and reinvent the relationship between government and private industry remain mere rhetoric (Kpundeh, 1998: 92; Kpundeh and Dininio, 2006: 41). The focus is on the motives and actions of political actors in support of anti-corruption reforms (Kpundeh and Dininio, 2006: 41). Quath had the same point of view and opinion: "Political will can be generated from the top down by the government and public agencies and/or from the bottom up by civil society organizations and the mass media" (Quah, 2015: 15).

In the developed countries, where independent institutions of democratic society function well and the civil service sector is developed, there is a strong control of executive authorities and independent work of anti-corruption institutions, so it is possible to implement P (principal)-A (agent) model to define political will. In these countries, there is a possibility to generate political will for corruption control which has the same social power and influence in both directions: "from the top down by the government" and "from the bottom up by civil society."

Such a model is not possible in developing countries, and we should bear in mind that the absolute majority of this planet's population lives in developing countries. (More than six billion people live in countries with a serious corruption problem – Transparency International report 2015.) Could we possibly compare political will (and strength) of a dictator (absolutist) from Africa, Latin America, Eastern Europe, or some other country who has all the power and control with the political will of unsatisfied citizens who have no other solution when they want to object against corruption (from an objective point of view), except to protest in the streets? Undoubtedly the proportion of strength of political will is not equal in the two opposing categories of actors. One should also bear in mind the restricted influence of nongovernment organizations (NGOs) in developing countries where these organizations are very often the government's alibi for its corrupt practices.

For the understanding of political will and the improvement of anti-corruption policy in developing countries, definitions which do not favor P-A model (principal-agent) but emphasize leading role of authorities are more adaptable, for example, political will as "the extent of committed support among key decision makers for a particular policy solution to a particular problem" (As emphasized by BS). This definition is useful because it dissects the concept of political will into these four components: (1) a sufficient set of decision-makers, (2) with a common understanding of a particular problem on the formal agenda, (3) who are committed to supporting and (4) a commonly perceived, potentially effective policy solution (Post, Raile, and Raile, 2010: 659, cited by Quah, 2015: 12). For the purposes of this paper, the definitions stated by Brinkerhoff are also acceptable: "Political will refers to the intent of societal actors to attack the manifestations and causes of corruption in an effort to reduce or eliminate them" (as emphasized by BS). It is defined as the commitment of actors to undertake actions to achieve a set of objectives – in this case, anti-corruption policies and programs – and to sustain the costs of those actions over time. This commitment is manifested by elected or appointed leaders and public agency senior officials (Brinkerhoff, 2000: 242). Brinkerhoff's other definition of political will is also acceptable "the commitment of actors to undertake actions to achieve a set of objectives – in this case, anti-corruption policies and programmes – and to sustain the costs of those actions over time" (Brinkerhoff 2000: 242, cited by Quah, 2015: 13).

Characteristics of Political Will in Developing Countries

Historically, political will in developing countries was manifested in practice in different ways, bearing in mind authorities' attitude toward political corruption. Political corruption was a taboo in most former communist and socialist countries. Those who indicated the problem of political corruption risked to be labeled as the "enemies of the country and the people" with all the resulting consequences. The existence of contradiction between the authorities and citizens within the society was not accepted. Criminal and corruption were interpreted as individual excesses

of the country's enemies and the remains of the previous regimes. As such, they were strictly punished. This was a reality in all communist and socialist countries during the "Cold War."

Afterward, political will was reflected in the acceptance of corruption as the marginal problem related exclusively to single excesses of individuals and not related to the system or the country's political organization. Corruption was observed as the matter of criminal law, and criminal repression of corruption was the solution. Individuals who did not have the political protection of those in power were punished. This was the dominant understanding in former socialist countries in the pre-transition period.

Until recently, political will was reflected in rhetorical acceptance of corruption in post-communist countries as a systemic phenomenon. However, there was no political interest in undertaking systemic measures for the repression of corruption (e.g., Schmidt, 2007), especially political corruption.

Today's expression of political will of the ruling parties and authorities in developing countries has changed under the influence of international factors, international donors, and international organizations (Klitgaard, 1998; Yeh, 2011) but also under the influence of actions of the public. The political authorities in developing countries today accept the existence of corruption as a systemic problem, attend international anti-corruption conferences, adopt anti-corruption laws, and found anti-corruption agencies. However, political will of political authorities is usually expressed only on the rhetorical level in order to strengthen their power, to gain political points in public, to placate external agencies (Kpundeh and Dininio, 2006: 42), and to fight the opposition and political opponents (Quah, 2015: 17; Schmidt, 2007: 217). The honest political will for corruption suppression is simulated. Anti-corruption laws are adopted, and anti-corruption agencies are founded, but there is no material or operational support for the effective work (Kpundeh and Dininio, 2006:42; Umar et al., 2017) from such agencies. People close to the ruling regime are employed in anti-corruption agencies funded by the government (practice in Serbia). The manipulation of the ruling elite and the dishonest political will result in unsatisfied citizens, a decline in anti-corruption enthusiasm, withdrawals of the citizens from anti-corruption bodies and projects, and the disappearance of ideas that corruption can successfully be combated in the country. This syndrome is all too familiar to political scientists and cynical citizenry around the globe (Kpundeh, 1998: 94). Therefore, the main characteristic of behavior of authorities in most developing countries is simulation of existence of honest political will to suppress political corruption. Ruling regime's political will is expressed via corruption politics' sabotage, failure to implement anti-corruption regulations and measures which they themselves have enacted under the pressure by international and national factors but with no real urge to implement them.

Since the "virus" of democratization and the need for equality have spread across the developing countries, political will for corruption suppression is being formed on the level of citizens becoming aware of the problem and having the determination to do something about the problem of corruption. Such political will is more or less articulated and organized, depending on the level of democratization in given

developing country. In the given context, we can speak about political will for corruption suppression from down to up. One of the main characteristics of political will for corruption suppression in developing countries is *the existence of asymmetrical, disproportional influence of political will* manifested *from the top down by the government* and *from the bottom up by civil society*.

The other characteristic of political will in developing countries is hidden or real *conflict among the various bearers of political will* directed toward corruption suppression. Political will in developing countries is characterized by different interests and motives of representatives of the authorities and citizens. Political will of ruling party and authorities is dishonest because of their need to keep all the privileges they have. It is expressed only formally, on the level of rhetoric, and it is manifested on the level of simulations. Political interests and political will are not manifested the same way by the representatives of authorities and by the representatives of civil society. The latter have the interest and the need for the democratization of society and the improvement in combating corruption. Bearing in mind the different interests and needs of the two parties, it can be concluded that in the base of political will for corruption suppression, there is a conflict (mostly hidden but sometimes visible) between the corrupt system and the civil society. "…some analysts had warned that a '*de facto* tolerance of corruption' will eventually prove socially catastrophic, through massive protest or anti-democratic regimes, in post-communist 'infant democracies'" (cited by Schmidt, 2007: 220). Apart from that, within this context, it is possible to speak about forming of coalitions for realization of political interests of all the parties involved and with various political consequences. For these reasons, it seems that the definition of political will given by Kpundeh (Kpundeh, 1998: 92; Kpundeh and Dininio, 2006: 41) would be more general (applicable to developing countries as well) if there should be the difference between the political will in the narrow and wider sense. Narrow sense of political will would include authorities and ruling regime politicians on decision-making positions. The wider sense of political will directed toward the improvement of anti-corruption policy would include members of social communities, NGOs, and political opposition organizations. One should bear in mind that the disagreements and confrontations could possibly occur between the two groups who represent political will.

Political will for the improvement of anti-corruption policy in developing countries can be *original* and *imposed* (extorted). Political will is original when it is created by the political authorities of the country in the dialogue with all the other representatives of society (opposition, civil society, citizens' initiatives). The example of Hong Kong can be used to illustrate this (Kpundeh, 1998: 105; Yeh, 2011: 635). In this case, the internal dialogue and initiatives can possibly lead to permanent progress in the area of democratization and anti-corruption policy. *Imposed*, that is extorted political will, is formed in a given developing country under the influence of international factors which, on one hand, pressure the government to start democratic and anti-corruption reforms, while on the other hand, they finance segments of civil society. In these cases, projects have no chance for real success, since there is no *original* political will and due to the forming of non-principal alliances between the representatives of the authorities and organized representatives of civil societies. The motivation of the latter is usually lucrative in essence.

On the patron-client level, political will related to corruption can be *primary* and *derived*. Primary political will is the one which is represented by the highest-level political authorities and their representatives (patron and his staff). *Derived* political will is the one which is recognized as the patron's will by those on lower steps of the governing ladder (people in managing positions, in courts of law, prosecution, the police, public sector, editors in media, and others) and which they imply in everyday practice while leading and managing the institutions they work in. (The client tries to grasp the hidden meaning, to read between the lines, to fulfill the patron's wishes and needs, to get "under the patron's skin.") There is a very good example of this practice in Serbia, where editors in media show very strict self-censorship in order not to displease the authorities and jeopardize their editorial position. Interestingly enough, there are two exceptions to the rule. First, the political will of the authorities is given the advantage over the real legal solutions (if necessary, the laws are not obeyed to a certain extent). Second, the manager or leader of the institution tries to fulfill his or her own personal corruptive ambitions while working, such as providing jobs for people from his or her personal circle, acquaintances, and relatives and performing various misuses of the position he or she has, while the patron's will is also being fulfilled by the action of the manager or leader of the institution in which he/she is employed (Kitschelt and Wilkinson, 2007).

Regime Type and Political Will

Brinkerhoff points out that political will does not exist in a vacuum, it is a dynamic phenomenon, but it is influenced by a set of environmental factors, subject to shifts and modulations over time in the face of changing circumstances and events (Brinkerhoff, 2000: 243). The specific *regime type*, in coaction with other factors, has certain influence on the political will. It is a widespread opinion in literature apart from the fact that authoritarian regimes have a higher degree of corruption and a weaker political will to control corruption when developing democratic states are compared to developed democratic states. There are also significant differences between the states that fall into this category. Even in the states characterized by electoral authoritarianism, where there is a multiparty system and regular elections, political responsibility is compromised by formalizing the principles of a democratic society, and corruption may well be used by rulers as part of a larger strategy of political patronage. The only purpose of the elections is reinforcing and prolonging the authoritarian rule while encouraging corruption rather than reducing it (Chang and Golden, 2010: 1).

Geddes contends that authoritarian regimes differ as much from each other as from democratic political systems. He classifies authoritarian regimes as *single party*, *military*, and *personalistic*, as well as *mixed or hybrid* (Geddes, 2004, cited by Chang and Golden, 2010: 6). In his paper, Chang proves the thesis that personalistic authoritarian systems (especially those in postcolonial Africa) are the most susceptible to corruption. Even military and single-party dictatorships are less corrupt (Chang and Golden, 2010; Zaloznaya, 2015: 350). In authoritarian states

with a personalistic system of rule, the purpose of institutions and elections is not to constrain themselves but to strengthen patron-client networks and to weaken opposing parties (Wright, 2008: 342; Chang and Golden, 2010: 6). The researchers show that not all autocratic systems show high level of corruption. There are exceptions, that is, some states "as their governments were perceived to grow *more* autocratic" (Zaloznaya, 2015: 349), which successfully control corruption to a certain extent, by keeping it at an acceptable level. The examples of this are Singapore and South Korea in Asia (Quah, 2015: 16). Chile, Uruguay, and Argentina have similar historical and cultural traditions and income levels but very different levels of corruption (Cuervo-Cazurra, 2016: 41).

Political will of ruling structures in autocratic states is also influenced by the time horizons. Longer time horizon, that is to say, prognosis that the existing regime will rule longer, improves the control of corruption, thus leading to its reduction and vice versa. Political instability, term limits, certain electoral defeat, and decisions to retire all reduce the time horizons (Brinkerhoff, 2000: 244–245; Kpundeh and Dininio, 2006: 44; Shim and Eom, 2008: 312). Shorter time horizon of rule does not encourage devotion to long-term issues like systemic corruption (Brinkerhoff, 2000: 245; Chang and Golden, 2010: 2).

The results of the research conducted in Belarus provide the interesting observation that autocratic regime can manipulate the political will directed toward the control of corruption by tolerating corruption in certain fields as a reward for political loyalty (e.g., in health care, secondary education, etc.), while in other fields which do not show loyalty toward ruling structures, severe control measures are applied which lead to significant reduction of corruption. The examples are universities in Belarus (Zaloznaya, 2015).

An unequal treatment of state authorities regarding corruption can be observed in Serbia. However, it is not expressed in a certain field as a whole but individually, relating to certain legal entities and persons from the business world or politicians depending on the affiliation or (non) loyalty to the centers of political power. The close relationship with the ruling structures allows the protection and tolerance of illegal and corrupt behavior. Inspection and tax control rarely visit the companies whose owners are close to the ruling authorities. Contrary to that, inspection and tax control frequently visit the companies owned by the "renegades from the authorities" or those who have publicly shown opposing opinion. Consequently, the practice shows that some legal persons are extremely successful during the rule of a specific party; however, they often go bankrupt when the ruling structure changes.

One opinion often encountered in literature is that the nature of the *ruling coalition affects the level of corruption, that is to say, that the level of corruption is decreased due to the competition in the government* (Chang and Golden, 2010:13). This is not the case in Serbia. Ruling coalitions in Serbia affect the level of corruption by weakening the control, which leads to a corruption increase. Division of power in Serbia leads to coalition agreements between parties and the division of sectors, where each party has a monopoly within the relevant ministry. In order to "keep the peace" in the government, with the aim to maintain the ruling coalition (which emerges as the primary political goal), corrupt behavior of the party members

and scandals within the sector, under control of their party, are tolerated. It is inconvenient for the government to allow the risk of premature elections due to a corruption scandal.

Corruption in developing countries is not always a matter of political will, political strategy, or schemes of the ruling regime. In fact, many regimes suffering from pervasive bureaucratic corruption are highly disorganized and declining autocracies, weakened by the mass-scale looting of state resources. Most corruption actually takes place in defiance of the state rather than as a result of informal governmental permission (cited by Zaloznaya, 2015: 350). The appearance of mass, endemic, uncontrolled corruption is especially expressed in the period of transition and political instabilities.

Indicators of Political Will

Defining the indicators of political will is one of the questions significant for the estimate of the honest dedication in combating corruption in a given state. Absolutistic, nondemocratic, corrupt systems have the need to present themselves in a positive light in front of international organizations and foreign donors. That is why the attempts to create a list of indicators and the criteria of their assessment are worthy of our attention. With this in regard, Kpundeh points out that the principal challenge in assessing political will is the need to distinguish between reform approaches that are intentionally superficial and designed only to bolster the image of political leaders and substantive efforts that are based on strategies to create change. Many well-intended regimes have engineered their own destruction through inept or ineffective efforts, while exploitative rulers have successfully hidden their motives behind a facade of cosmetic measures (Kpundeh, 1998: 99). It is not easy to assess actual political will, as it is covered, on one hand by strong rhetoric of the ruling structures, and undertaking active "anti-corruption measures" programed to fail, on the other hand. That is why Brinkerhoff rightfully argues that political will exhibits a latent quality; it is not visibly separate from some sort of action. Measuring it can only be done indirectly. Evidence of political will, therefore, is often cited ex post facto, from a retrospective point of view. This leads to one of the vexing methodological problems in examining the role of political will and reform, the tendency to engage in post hoc circular explanatory arguments (Brinkerhoff, 2000: 241).

It is not easy to create a list of indicators of political will. For instance, Kpundeh lists the following indicators in one of his older works: The first is the degree of analytical rigor that has been utilized to understand the context and causes of corruption. The second indicator relates to process: Has the regime adopted a strategy that is participative, i.e., incorporating and mobilizing the interests of many stakeholders? The third indicator is derived from the distinction between "demonstrative" and "strategic." The fourth indicator is the prevalence of incentives and sanctions. The fifth indicator of political will is the creation of an objective process that monitors the impact of reform and incorporates those findings into a strategy that ensures

policy goals and objectives. The sixth indicator is the level of structured political competition in both the economic and political spheres (Kpundeh, 1998: 99–100).

The same author presents an edited list in another paper. The first indicator of political will is the *domestic origin of the initiative*. The second indicator is *a high degree of analysis*. The third indicator is *a high level of participation* in the reform process. The fourth indicator is the *inclusion of prevention, education, and sanctions* in reform strategies. The fifth indicator is *the dedication of adequate resources* for anti-corruption reforms. The sixth indicator of political will is the *objective monitoring and evaluation* of reform efforts (Kpundeh and Dininio, 2006: 42–43).

Quah lists five indicators of political will. First, there must be comprehensive anti-corruption legislation. Secondly, the anti-corruption agencies must be provided with adequate personnel, budget, and equipment as well as operational autonomy to enable them to perform their functions effectively. Third, the anti-corruption laws must be enforced impartially, regardless of the offender's position, status, or political affiliation and without political interference. Fourth, political will exists when the government avoids the use of corruption as a weapon against its political opponents. Fifth, anti-corruption efforts must be sustained, and their impact must be monitored by the government (Quah, 2015: 13).

Not all the indicators listed in the above three lists have the same value. Some of them are general, not precise enough, and unclear. Corrupt and authoritarian government can manipulate the actual importance of certain indicators. For instance, the indicator marked as rigorous analysis of the causes of corruption in a country or high-degree analysis is imprecise. Anti-corruption bodies which are influenced by the corrupt government can always tune the analysis to suit the government's best interests. Perhaps a more precise indicator could be *the position of the given state on the corruption lists made by international organizations* which are in charge of monitoring corruption on an international level. Comprehensive anti-corruption legislation is not a reliable indicator of political will. For instance, in Serbia and in many other developing countries, anti-corruption legislation, in its essence, demonstrates quality; however, the implementation of this legislation is not satisfying. Adopted anti-corruption laws are applied partially, selectively, or not applied at all. Due to this, it would be much better to define *as an indicator the percentage of compliance of national legislation with anti-corruption legislation in developed countries, together with the degree of implementation of anti-corruption legislation in practice* what extent laws are applied (whether they are applied impartially or selectively). With regard to this, a valuable indicator could be *the efficiency and political independence of courts in corruption cases*. This indicator would comprise several parts which would be subject to establishing correlations among them and other statistical relations. The indicator would be comprised of the following parts: the number of reported criminal deeds (the citizens do not report corruption unless they have confidence in the anti-corruption policy of the state); the number of legally convicted persons; the length of the criminal proceedings (in highly corrupt states, the criminal proceedings for the cases of political corruption last for years until the statute of limitations expires); the number of cases with expired statute of limitations in correlation with the position of the convicted; convicted persons from the field of

politics, big business, persons on various levels of state authority, and management in comparison to regular citizens and those on lower-level management positions; and the relation between the pronounced sentences and sentences stipulated by law. This indicator is important since the states with corruption on a high level, as a rule, have the court system which is ineffective and selective. *Domestic origin of the initiative is a quality indicator*. Anti-corruption reforms initiated from the inside have higher chances of success than the reforms imposed by external factors. Additional quality indicators are *the dedication of adequate resources for anti-corruption reforms* and *operational autonomy*. For instance, Quah presents the research which clearly shows the existing correlation between allocating money per capita for funding anti-corruption agencies and the degree of corruption in the given country. Countries which allocate more money to anti-corruption agencies have a lower rate of corruption (Quah, 2015: 14). Indicator of the existence of political will could also be *unhindered work of investigative journalism, independent anti-corruption bodies,* etc.

Challenges in the Realization of Anti-corruption Political Will

Developing states face numerous challenges regarding the implementation of political will for improvement of anti-corruption reforms. Even when the honest idea and motivation exist, the road is long, tiresome, and most often unsuccessful. Even when the new ruling structure replaces the old one thanks to the anti-corruption campaign based on the criticism of former corrupt ruling structure, upon assuming their duties, they face numerous challenges that melt the anti-corruption promises made during the elections as the spring sun melts the snow. Numerous factors affect the disintegration of the honest political will of anti-corruption enthusiasts such as various interest groups being coalition partners in the government, tycoons and rich people who have much to lose if the corruption is eliminated, those who finance political parties and electoral campaigns, and those who, from the very start, have different motives, as well as the corrupt bureaucratic apparatus on different levels of state administration and the monopoly of vested interests on power (e.g., see Brinkerhoff, 2000: 246; Kpundeh and Dininio, 2006: 44). Compromises are the first thing each government encounters in its mandate, which represent the start of disintegration of political will. Worldwide examples demonstrate that many political leaders who assumed the ruling position on the momentum of anti-corruption rhetoric rather quickly found their place in the corruption networks of their predecessors (Persson et al., 2013: 454).

Successful anti-corruption reforms include various coalitions (NGOs, civil society, anti-corruption agencies, citizen grassroots movements) and public support. However, civil society institutions and anti-corruption enthusiasm of the citizens are weak in the developing countries (no doubt due to the fact that they have been disappointed many times in the past), which is why it is difficult to gain confidence and wide support for anti-corruption reforms. Kpundeh notes that a weak civil society

may also undermine reform and that the monumental task of reforms should be the transforming not only of institutions but also the political culture of opportunism (Kpundeh, 1998: 92, 94).

Various factors affect the weakening of political will, provided that it even exists. The time melts it and so does enjoying in the privileges and benefactions, while the affairs of the closest associates together with the ineffective judicial system, the influence of financial and organized crime, and many other factors undermine the political will. Commissioner in Hong Kong has aptly described the fragility of political will by referring to it as "a candle flame" which can be easily "extinguished by any passing political breeze" (cited by Quah, 2015: 15).

Challenges in Combating Corruption in Developing Countries

In most developing states, the institutions are ineffective in combating corruption. The main point that can be found in all the analyses, research, and papers that pertain to corruption in developing states is regardless of which part of the world the country is located, anti-corruption agencies, the police, prosecution, and courts do not fulfill their purpose with regard to combating corruption.

One of the general observations that can be found in the literature related to developing states is that there is a great gap between the laws that regulate the operation of anti-corruption bodies in the cases of corruption and implementation of legal norms in practice. For instance, Persson et al. note that "while the majority of thoroughly corrupt countries now have a strong legal anticorruption framework, they still struggle to translate those laws into practice" (Persson et al., 2013: 454). It seems that this remark is only partially true. There is no doubt that implementation of the law is less effective in the states more susceptible to corruption. One of the reasons is the lack of legal tradition and legal culture, which, according to Treisman, is more noticeable in developing countries that are outside the legal heritage of Great Britain and common-law system (Treisman, 2000: 402). However, it should not be disregarded that upon bringing anti-corruption laws in developing states and certain provisions and details, loopholes even are included in the law, which disables effective application of the law which is in accordance with the political will that aims not to approach combating corruption too seriously, thus leaving the door open for the privileged.

The main reasons of the inefficiency of the anti-corruption institutions are still political influences on the anti-corruption bodies, police, and judicial system, all of which have a significant (essential) influence on their work. Judicial system can function as the key institution in the exercise of legal responsibility only if it is politically independent from other state authorities. In accomplishing the role of combating corruption, legal decisions should be free from political influences (Camaj, 2013: 27). One of the general characteristics in a number of developing states is the absence of the distribution of power and, contrary to that, existence of the unity of power

(which is an old idea from the communist period). This enables the ruling parties and executive power to meddle in the work of all institutions, even the courts.

In the literature that studies corruption in developing states, the following statements can often be found: "Generally, the independence of these ACAs (anticorruption agencies) in most developing countries has been doubted…. In countries where corruption is extensive, the effectiveness of the judicial procedure is undermined by the activities of corrupt political elites." One observation related to Nigeria (Umar et al., 2017: 3) notes "The state has been controlled by the ruling party. The overlap between party and state is still very strong. This undermines the introduction of accountability practices" (case Mozambique) (Doig and Tisne, 2009: 383); "… in Africa, the establishment of domestic anti-corruption agencies has not been sufficient to fight corruption because those institutions do not operate independently of African leaders" (Yeh, 2011: 633); "Experience in Tanzania, as in Uganda, suggests that domestic anti-corruption agencies cannot be effective when they lack independence and are dominated by the executive branch of the national government" (Yeh, 2011: 165). Critics describe new anticorruption institutions and laws as 'toothless' and assert that corrupt high officials have little to fear, particularly because the judicial systems that are supposed to prosecute corruption are themselves weak, politicized, and corrupt (the work researches corruption in Central America; see Ruhl: 2011: 54); in the Case of India: "According to the Global Integrity Report (2009), none of the existing anti-corruption institutions are sufficiently protected from undue and excess political interference in practice. Starting with appointments to defining powers, these institutions are directly controlled by the government" (Vadlamannati, 2015: 1036); "Such findings highlight the ongoing concern that corruption is caused by the inability, or unwillingness, of state officials to comply with rules and regulations." (insights from Asia Pacific Viewpoint; see Walton, 2013: 68). "Global Integrity 2010 reports that Kazakhstan law enforcement agencies are not protected from biased intervention into personnel policy. Appointments in the Kazakhstan police are often based on non-professional criteria and party loyalties, as well as personal relationships" (Nurgaliyev et al., 2015: 141). Similar situation can be found in Serbia and other Balkan states. Ruling political parties have a dominant influence on the appointment of managing positions in anti-corruption institutions which has a significant negative influence on combating and preventing corruption. Even if the law stipulates that the job vacancy is advertised for the positions of the management, those who have political support are always appointed.

The forming of "toothless" anti-corruption agencies is a kind of an expertise of the ruling structures in developing countries where there is no political will for combating corruption. In this way the form is accomplished ("on the way to so-called democratization"), but the content and the real function of the anti-corruption agencies become senseless. Apart from the influence of human resource policy, especially the one related to the appointment of managing positions in the anti-corruption institutions, other ways are applied to sabotage combating corruption (in coaction with politicized human resources policy), for instance, the passing of the laws that limit the independence and the efficiency of anti-corruption institutions (for Ukraine, see Markovskaya et al., 2003) or the fact that anti-corruption agency

has no legal authorization to investigate corruption cases; instead it only works on prevention but without the support of the media (the case in Serbia). Anti-corruption agencies do not receive sufficient financial and logistic means for normal operation, or their human resource potential is insufficient having in mind the number of employees or their professional competences (Walton, 2013: 68; Umar et al., 2017: 1). In order to start a procedure against a corrupt person with a political influence, it is necessary to obtain permission from the relevant authority. "Prosecuting the medium and top-level bureaucrats is highly difficult because before investigating the suspect, the agencies must get permission from the same authorities against whom the case has to be investigated" (an example from India – Vadlamannati, 2015: 1036). Quah describes a special disciplinary procedure that leads against the perpetrators of corruption in China who are members of the Chinese Communist Party (CCP). This procedure avoids regular court procedure, and the sanctions are milder. "…by protecting corrupt party members from investigation and prosecution by the procuratorates, the CCP is encouraging its members to be corrupt rather than to remain honest" (Quah, 2015: 17).

Apart from the political influences that hinder the effective operation of anti-corruption agencies in detecting and preventing corruption in developing states, police, prosecution, and courts are the institutions which are also susceptible to corruption. In the case of police corruption, for instance, we single out the example of Kazakhstan: "Kazakhstan police is one of the most corrupt public institutions and citizens believe the police to be the most corrupt organization in Kazakhstan, whose efforts are now increasingly focused on providing its own interests" (Peculiarities of the Kazakhstan corruption, 2012, cited by Nurgaliyev et al., 2015: 142). Similar situation with regard to police corruption can be observed in Indonesia, as well (Kis-Katos and Schulze, 2013) many other developing countries. In Kazakhstan and countries from the region, it was noticed even that there was a purchase of managing working positions in the police: "Thus, the price of the position of the police department chief in South Kazakhstan is 30 to 100 thousand dollars. Moreover, in the future the applicants are obliged to pay 10 thousand dollars a month. Incidentally, a similar pattern worked in the neighboring Kyrgyzstan, where positions in the police are bought and sold" (Nurgaliyev et al., 2015: 142).

Political influences on the work of the prosecution and courts in the cases of corruption are more or less expressed in a large number of developing states. A significant indicator that expresses the existence of political will for combating corruption and the indicator that points out political independence of the prosecution and courts is the data on the number of persons that were convicted of corruption under the conditions that they belong to the top class of political and economic ruling structures of the given country, provided that they did not previously become political opponents, that is, renegades from the ruling establishment. There were cases in the Balkan region when certain politicians were convicted of grand corruption and led to the termination stage (politically, economically, personally). This happened only in the cases when they became renegades from the current ruling structure after previously being a part of it (in Montenegro, Croatia, and Slovenia). Conviction of corruption is a punishment for political disloyalty to the regime. It is not a rare case

in other developing countries that anti-corruption policies and programs have been used to eliminate or discourage political or economic rivals, consolidate and maintain existing systems of power and patronage, and perpetuate corruption, especially at the elite or "grand" levels (Carson and Prado, 2016).

In Serbia there are no recorded cases of "big fish" that belong to the ruling political and economic establishment, being convicted of corruption. Court procedures have been initiated against these persons, following the arrest recorded live and broadcast on TV accompanied by great media attention. However, as a rule, such proceedings last for years until the statute of limitations expires. The following factors lead to the expiry of the statute of limitations in the cases of grand corruption in Serbia: change of the law on criminal procedure and accompanying laws (on judges and members of the jury) which leads to the starting of new procedures; change of the court council and starting the new court procedure; the results of expert associates are received after a year or more; furthermore, additional expert analysis is added and required, which prolongs the court procedure; president of the court council holds only one or two hearings during one year; changes of lawyers require time for the new lawyer to analyze the case; in the preliminary proceedings and investigation, certain procedural mistakes are made, while the defense attacks and requires that certain evidence is excluded; prosecution amends the indictment into a minor criminal deed which means that the statute of limitations automatically expires; and the prosecution decides not to continue with the proceeding without explanation. It is especially interesting that in Serbia, no one has ever (no prosecutor, no judge, no president of the court) been summoned to responsibility as the statute of limitations expired in their cases.

Higher state officers also have protection from the court prosecution and conviction of corruption. For instance, during 2015 on the territory of the Court of Appeals in Belgrade (Serbia), a research was conducted on the court cases related to the cases of bribery of police staff. Among the convicted on managing positions, there were only managers of operative level, chiefs of the sections, and commanders in police stations (15%). Among the convicted, there was nobody who had managing position of medium, high, or strategic level of management (Simonović et al., 2017). Similar situation of invincibility of high police officials who are protected from the criminal prosecution for corruption exists in other developing countries. Either the procedures are not initiated or the corruption remains unproved. For the example in Kazakhstan, see (Nurgaliyev et al., 2015: 145).

Political influences of the state, government, and ruling structure on the judicial system regarding the cases of corruption are mentioned in other developing states as well, which can be observed in various manifestations (see Doig and Tisne, 2009). For instance, the indictment or court trial is being procrastinated (for practice in Nigeria, see Umar et al., 2017: 10; for practice in India, see Vadlamannati, 2015: 1049). Due to the political influences, the judges decide not to apply the law, while the incompetency of the judges is evident. Furthermore, the fact that the judges are corrupt is tolerated as a compensation for low salaries, etc. (for practice in Southeast Asia, see Kis-Katos and Schulze, 2013: 92). Apart from the procrastination of the court proceedings in the cases of corruption, many of which end when the statute of

limitation expires, there is an evident disproportion between filed criminal charges, criminal charges initiated, and convictions, as well as disproportion between the type and the length of pronounced sentences. With this in regard, Ruhl states an interesting and essentially true observation: "Conviction rates reflect the strength of the criminal justice system as much as the level of corruption; convictions will be more frequent in high-integrity countries like Sweden than in thoroughly corrupt nations such as Zimbabwe" (Ruhl, 2011: 35). For instance, according to the data regarding Nigeria, out of the 2538 investigated cases, only 68 were convicted. This represents a conviction rate of 2.6% (Umar et al., 2017: 9). In Hungary, which has somewhat less than 10 million people, the rate of finalized court proceedings related to corruption is extremely low. Since 2005, the number of finished court proceedings and resulting convictions has varied between 200 and 500, with only 200 cases closed in 2009 – indicating both that the number of court cases overall is quite small and that proceedings often take a very long time to complete (Földes 2010, cited by Batory, 2012: 71–72). As a rule, the cases that appear before court are those of petty corruption. All of this leads to citizens losing confidence in the justice system and government measures that are undertaken in the process of corruption control. Low detection and conviction rates are undoubtedly at least partly due to the usually cited reasons such as overburdened and slow courts and under-resourced law enforcement agencies, where badly paid officers investigate corruption cases, sometimes without sufficient training and specialized expertise (Batory, 2012).

In Croatia (with the population of around 4 million people) during 2011 and 2012, anti-corruption agency USKOK filed charges against 1738 persons. Charges against 1164 persons were rejected. Indictments were raised against 443 persons. The courts issued 339 verdicts, of which 313 were convictions (Reinforcing Political Will to Fight Corruption in Eastern Europe and Central Asia, 2012: 20). In Serbia with the population of 7.3 million people in 2016, a total of 106 criminal charges were filed for three criminal deeds of corruption (3 for trading in influence, 69 for receiving a bribe, and 34 for giving a bribe). When it comes to convictions for the criminal deeds of corruption in 2016, the courts have brought a total of 103 verdicts (Table 1).

At first sight, based on the statistics, it could be concluded that Serbia does not face problems regarding corruption. It is interesting to mention the fact that in Serbia for the criminal deed of taking a bribe, quite often, the pronounced sentences are below the legal minimum predicted for this criminal deed, which means that the sentence is mitigated (Janković, 2016). This strongly contradicts the proclaimed policy of the ruling politicians that in Serbia there is zero tolerance of corruption.

Table 1 Persons convicted of the criminal deed of corruption in Serbia in 2016

	Total	Prison	Fine	Conditional sentence	House arrest
Trading in influence	3	–	–	3	–
Receiving bribe	54	21	–	9	24
Giving bribe	46	16	1	24	5

Source: The Statistical Office of The Republic of Serbia

This gap between rhetoric and practice is a widely present phenomenon in developing countries, which can also be seen on the example of Africa (Persson et al., 2010: 10).

Regarding the abovementioned arguments, it is interesting to mention risks – benefits theory described by Rose-Ackerman. According to this theory, corruption is a rational criminal deed, and the perpetrator calculates the risks and benefits of giving bribes. Thus, a well-established law enforcement can be an anti-corruption factor. Increasing the risk of detecting corruption and applying adequate sanctions have the repelling effect on the perpetrator in his cost-benefit calculus (Rose-Ackerman, 1999; Shim and Eom, 2008: 301). Theoretically, this is true; however, in developing states cost-benefit calculus functions in a completely opposite direction. Extremely low efficiency of the police in detecting this criminal deed, extremely long criminal proceedings that often end when the statute of limitation expires, mild sentences, and the invincibility of the persons with political protection have a stimulating effect on the persons prone to corruption. Therefore, starting with cost-benefit calculus theory, corrupt persons in developing states have motives to behave in such a manner, considering the fact that the probability of detecting the criminal deed is quite low and the probability of strict sentence is even lower, that is, it is almost reduced to mere theory. “In a context in which corruption is the expected behavior, the benefits of corruption should be expected to outweigh the costs, and vice versa” (Persson et al., 2010: 3).

It is interesting to mention the opinion on cost-benefit calculus, with regard to Hungary, which is presented by Batory: “These factors taken together mean that a cost–benefit calculus should clearly push the rational citizen toward not reporting corrupt practices: not only is the disclosure of wrongdoing potentially dangerous, but also likely ineffective in terms of getting a perpetrator disciplined or behind bars. It is consequently not particularly surprising that according to a 2007 Gallup poll, only 6% of respondents reported corruption when they encountered it. Low detection rates in turn weaken or remove incentives for those who engage in corruption to come forward in exchange for impunity” (see Batory, 2012: 73).

Corruption Prevention

Programs of corruption prevention in developing states usually do not give the desired results. The size of the effect of the corruption preventions is depressingly small (Treisman, 2000: 439). Anti-corruption reforms have not only failed to prevent the persistence of corrupt activities but have also created *new* opportunities and incentives for corruption (cited by Persson et al., 2013: 454). According to the results of a global research conducted in 107 countries, the majority of people around the world believe that their government is ineffective at fighting corruption and the corruption in their country is getting worse. According to the citizens, the most corrupt institutions are political parties, police, and the judicial system. The large majority of respondents in 88 countries (82%) perceived their governments to be ineffective in fighting corruption. The respondents from the 107

countries included in the survey gave the following reason for not reporting an incident of corruption that they were aware of: "I do not know where to report it," 15%; "I am afraid of reprisals," 35%; "It wouldn't make any difference," 45%; other 5% (Global Corruption Barometer 2013). (For the experience in Hungary related to the above research, see Batory, 2012.) The lack of confidence in the anti-corruption policy of the government limits citizens' participation in anti-corruption activities and programs and their willingness to report corruption. According to the citizens who responded on the question of reasons for not reporting corruption, in the process of reporting corruption of powerful people, a reprisal could lead to the loss of the job (e.g., responds from Hungary, see Batory, 2012), or, apart from losing the job, a reprisal could even be death under inconspicuous circumstances, which is a serious reason for concern (for the responds from Uganda and Kenya, see Persson et al., 2013: 459). One recent research that encompassed nearly 60,000 people across 42 countries in Europe and Central Asia indicates that almost a third of the people in the region don't report corruption because they fear the consequences (fear of retaliation or a negative backlash, such as losing one's job (Global Corruption Barometer 2016)). The concept of a *whistle-blower* has not yet become a regular practice despite being predicted by law in developing states. The risk of reprisal from being a *whistle-blower* seems to be especially present if one reports on someone in a high position (Persson et al., 2010).

Citizens Accept Corruption as a Necessary Evil and They Adapt to It

The analysis of the literature on corruption in developing states denotes that the citizens accept corruption as a necessary evil. They attempt to react to the corruption pragmatically and to adapt to the given circumstances in a highly corrupt society. "If you do not pay a bribe, you will simply be without service" (Persson et al., 2010: 16). "Well, if everybody seems corrupt, why shouldn't I be corrupt?" (see Persson et al., 2013). There is an effect of expectations in citizens related to accepting corruption as a model of behavior which additionally reinforces corruption. If citizens believe that everyone is corrupt, then they will accept corruption as a model of behavior (Batory, 2012: 75). There is also the effect of dual morality in countries where corruption is widespread. On one hand, the citizens condemn corruption, while on the other hand, they accept corruptive schemes in order to meet certain needs. "Regardless of religion, people who live in highly corrupt countries tend to condemn corruption. However, they also may feel that their own corrupt behaviour is justified given the systemic nature of the corruption" (Marquette, 2012: 24). With this frame of mind, certain authors note that corruption in developing states is innate, that is to say, it is a way of life. "Finally, both outsiders and insiders sometimes argue that particular countries or nationalities have a culture that is conducive to corruption. Russian corruption, for instance, was recently described by the columnist William Safire as 'congenital.'" According to the Argentine playwright

Mario Diament, "corruption in Latin America is not merely a social deviation, it is a way of life" (cited by Treisman, 2000: 442).

Starting from the fact that in highly corrupt countries everyone has certain benefits, primarily ruling structures, followed by the rest who have adapted to corruption schemes, Persson criticizes principal-agent theory and presents a different conceptual approach to corruption, defining it as the collective action problem of corruption, which leads to the conclusion that corruption is a problem of the whole society (Persson et al., 2010: 12).

Although this conclusion is partially true, one should not disregard the fact that the rules of the corruption game are a consequence of historical and traditional inequalities and divisions in the society. They are imposed from top to bottom, by those who have the power, the capital, the resources, state apparatus, and its mechanisms in their hands. In developing states corruption is imposed on the citizens, as were slavery and exploitation. The blame for corruption cannot be distributed equally. The thesis that corruption in developing states is a congenital phenomenon is unacceptable in the same way as the thesis on the innate criminal. Furthermore, the thesis that all citizens are prone to corruption is unacceptable, as well. Even in extremely corrupt states, there are people who are not prone to corruption, who condemn it and do not accept corruption as a way of life.

Not every person holding a high position requires bribes. It is necessary to differentiate legally and morally the role and the blame of those who ask for bribes and those who are asked to give them. There are unscrupulous persons that ask for bribes by placing citizens in a situation of extortion to a smaller or greater extent. There are cases when a doctor, a surgeon, or a corrupt predator refuses to operate on a patient in an acute life-or-death situation, before he receives a bribe from family members. What are the possibilities of family members in that situation: to report the case to the ineffective and corrupt police and prosecution or to give up on their family member or to collect the money and give it to the doctor?

International Organizations and Corruption Prevention Projects

International organization has given a significant incentive to the actualization of the matters related to the prevention of corruption in developing states. There is a significant contribution of the international organizations, including the Transparency International (TI), the International Monetary Fund (IMF), the World Bank (WB), the United Nations (UN), the European Union (EU), European Bank for Reconstruction and Development (EBRD), World Trade Organization (WTO), the Organization of Economic Cooperation and Development (OECD), and certain states that fund corruption prevention projects. Under the influence and pressure of the international community, the governments of developing states ratified international anti-corruption conventions and documents and formally started to

implement anti-corruption reforms by bringing anti-corruption laws and establishing anti-corruption bodies, with the aim to gain international loans and favorable international business opportunities, in order to present the image of the country brighter than it is in reality. Considering the fact that there is a lack of serious political will of the ruling structures for the implementation of these programs, they often do not give the effects expected by the international donors and the public.

Anti-corruption bodies established in the developing states can be divided in several groups. The first group includes the bodies founded by governments or the parliaments of developing states. These are various types of anti-corruption agencies, some of which are only authorized to provide consulting services; others are responsible for prevention only; while some are authorized to perform investigation activities. Overall, their work is rated as insufficiently effective. Political corruption is out of their reach. Most often they have an entire range of limitations: they depend on political influences of the authorities; their legal status does not allow them to work effectively; they are characterized by the absence of financial, human, and technical resources (Dionisie and Checchi, 2008; Serbia, U. N. D. P. 2008). Should, at any moment, they start to work seriously and enter the sphere of political corruption, these agencies suffer repressive actions by their own government (e.g., the funds allocated for financing the agency are reduced by half; for the example of Slovenia, see Dionisie and Checchi, 2008: 15).

The second group involves anti-corruption bodies from the nongovernment organizations (NGOs) category. They are usually financed by international donors or by funds provided by certain donor states. Their independence from political influences of the governments is different. They can be independent from the government of their countries or under a minor or major influence. The significance of NGOs is estimated as very positive as they contribute to raising the anti-corruption awareness of the citizens and contribute to the development of the understanding that governments should not abuse state budget filled by the citizens' tax payments (Yeh, 2011). Nevertheless, in Russia NGOs are connected with the "color revolutions" which provide fertile ground for the Russian government to identify NGOs as undermining national security or stability (Schmidt, 2007: 220). Such understanding of the role of NGOs is also seen in other former socialist countries, both by the authorities and by citizens. Regardless of the political viewpoint, NGOs have their weaknesses, which limit the efficiency of their work to a significant extent and undermine the confidence of the citizens. NGOs implement programs, as received from the foreign donors, which are not adapted to the local context and conditions. As such these programs are doomed to failure even before they start. Additionally, NGOs focus more on leaving a good impression on foreign donors than gaining the trust of the citizens (Walton, 2013). In developing countries, for instance, in Serbia and Bosnia and Herzegovina, NGOs are a business for those involved in their work. The main motivation of the persons engaged in the NGOs is providing the financing by the foreign donors. Regarding this problem Walton writes about "the anti-corruption industry itself" (Walton, 2013). These experiences show that anti-corruption programs, themselves, can be additional sources of corruption, which results in citizens being even more disappointed and unsatisfied by the anti-corruption

policy, and they feel that combating corruption is futile. Overall, NGOs do not have enough confidence of the citizens, nor do they have significant credibility which limits their attempts to start anti-corruption actions on a wider scale.

A third group includes authentic anti-corruption initiatives and anti-corruption movements that stem from a national setting or local communities. They are a product of dissatisfaction of the citizens caused by the growing corruption of the authorities, or they are initiated by the concrete decisions of the governments and (or) corruption affairs. Since the beginning of the 1990s, in developing countries it was not unusual to see tens of thousands of citizens on the streets demonstrating their dissatisfaction with the corruption in the government and asking for resignations of various officials. The effects of these mass anti-corruption movements mostly did not give significant results. Even if they happened to cause the changes in the ruling structures, the new authorities did not change the rules of the game (Khan, 1998). Widespread access of the Internet in developing countries opens new possibilities for raising the anti-corruption awareness in citizens, especially the youth, who have access to modern communication technologies.

Conclusion

There is no "magic key" to establishing effective anti-corruption movements in developing countries (Marquette, 2012: 14). There are likely to be no instant results from attempts to prevent corruption (Nurgaliyev et al., 2015). It is necessary to accept the fact that those who are in power and who have their grasp on the economic fortune will not give up on the privileges easily nor willingly. They will apply all kinds of cunning deceptions and frauds in order to trick the opposing side, that is, the international community and the citizens of their country. Coordinates and models of behavior of the ruling structures are determined by greed, lack of morality, and lack of political will to change anything that jeopardizes their interests.

The institutions of civil society in developing states do not have the tradition and political power to assume the role of the principal and successfully control the governments of their countries. In its essence corruption is not a matter of good or bad organization, which is the basis of principal-agent theory. The problem is in the fact that corruption is not only a (criminal) legal or economic matter, but it is conditioned by tradition, culture, and morale (Marquette, 2012). It is difficult to make a principal out of a slave, a servant, or a client. Many of them are dreaming of switching places with the master. That is the reason why it happens that parties and individuals who present themselves as great opponents of corruption and come into power riding on the momentum of an anti-corruption campaign, soon after assuming the authority, also assume the corruption schemes of the previous regime.

International community and the majority of citizens of developing states have their interests in reducing the level of corruption. Corruption increases the price of investments and services and limits the democratic and economic development, and it has a tendency to spread on other regions and countries. Controlling corruption

cannot be understood as a revolutionary action of "honest" enthusiasts, but it is waging a war in trenches where gradually, step by step, field by field, maneuver space of the opponent is narrowed down. There is an interesting idea that in the attempts of combating corruption in developing countries, the international community has a role as an "external principal" with the aim to facilitate a transition from highly corrupt to less corrupt states (Persson et al., 2013: 384). A serious warning can be found in literature, which should not be overlooked. It points to the fact that the insistence on the processes of democratization in a country should not be separated from the process of introduction of anti-corruption reforms. These processes should go hand in hand, from the very beginning, as otherwise corruption will be built in the democratic processes and the reform (Doig and Tisne, 2009). This is precisely what happened in the Balkan states after the disintegration of former Yugoslavia. The international community was interested in ending the conflicts and introducing democratic processes. The matter of anti-corruption reforms was left waiting. As a consequence, "democrats" assumed power, and soon they adopted the corruption schemes, which was in contradiction to the reform processes, while the corrupt model of behavior was deeply rooted. A significant part of the funds "pumped in" the Balkan states by the international community ended up in private pockets.

If combating corruption is understood as waging a war in trenches, chances of success are reserved for those strategies that involve gradual narrowing down of the space for corruption by exerting smaller or greater pressure of the international community on the governments of developing countries. It is necessary to go past the stage of bringing anti-corruption norms and start their implementation. Modernization of administration, that is, the support to introduction of e-administration, represents a field that can show an evident improvement relatively quickly (Cho and Choi, 2004; Prasad and Shivarajan, 2015: 24; Soans and Abe, 2016: 53). Better control of international funding, insisting on internal financial control, the improvement of the rule of law (insisting on "frying a few big fish," Klitgaard, 1998), and support to investigative journalism and freedom of media are long-term strategies, as well as support to authentic (original) civil anti-corruption initiatives. Contribution to raising the awareness of the public in this process can be very significant. For now, there are no prompt and revolutionary solutions.

Discussion Questions

1. What are the consequences for a developing country that experiences a high level of corruption?
2. Explain the principal-agent (P-A) model of corruption and the patron-client model of corruption.
3. Which of the two models better explains corruption in developing countries?
4. Define political will, and explain the role of political will in combating corruption in developing countries that are in the process of becoming democracies.
5. Discuss the challenges that must be overcome when attempting to implement effective anti-corruption programs in developing countries.

6. Why are some anti-corruption agencies and programs found in developing countries considered to be “toothless”?
7. Why are the police and the courts in developing countries generally ineffective in combating corruption?
8. Discuss the reasons why the laws enacted in developing countries to combat corruption are generally not very effective. Why do the laws fail to achieve their purpose?
9. Discuss the reasons why the citizens of developing countries tolerate corruption in the government and public service agencies.
10. Discuss the role of the international community in preventing corruption in developing countries.

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Fraud Examiners in Private Investigations of White-Collar Crime

Petter Gottschalk

Introduction

Investigating white-collar crime is like any other investigation concerned with the past. Investigating is to find out what happened in the past. A negative event or a sequence of negative events can be at the core of an investigation. If there is no certainty about events, then finding out whether or not something has occurred can be at the core of an investigation. An investigation can be concerned with events that did occur or events that did not occur. An investigation is a reconstruction of the past. Information is collected and knowledge is applied to reconstruct the past.

What happened or did not happen? Investigators first develop their know-what in terms of events or absence of events. It might be a bribe that was paid, money that was embezzled, tax that was not paid, or a bank that was defrauded. An investigation typically starts by finding facts about what happened.

How did it happen or not happen? Investigators develop a hypothesis about the path for what happened. They identify information sources that support or disapprove the hypothesis. If the hypothesis is discarded, then a new path for what happened is identified.

Why did it happen? Investigators try to establish causality in terms of cause and effect. The cause may be a motive, another event, or something else. Causality is easily assumed but very difficult to prove in terms of evidence in an investigation.

Who did what to make it happen or not happen? This is where investigators have to be very careful, especially when it comes to suspects of misconduct and crime. Investigators should work just as hard to prove innocence as to prove guilt. Investigators should give suspects the benefit of the doubt. Suspects must be given the right of contradiction, where they can disagree with what investigators claim to have found out about them.

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Investigators should involve themselves in neither prosecution nor sentencing. Investigators should leave to public prosecutors whether or not a person or persons should be prosecuted. If the evidence is not convincing and compelling, then charges should not be pressed. If the prosecutor fails to convince the judge in the question of guilt, then the defendant is to be acquitted. Defendants are to be given the benefit of the doubt.

Investigators collect information from a number of sources, and they apply a variety of knowledge categories. Information collection involves sources such as interviews with witnesses and suspects, search in documents and e-mails, and observation of actors. Knowledge categories include organizational behavior, management decision-making, business practices, market structures, accounting principles, deviant behaviors, personal motives, violation of laws, and past verdicts.

While being like any other investigation concerned with the past, investigating white-collar crime has its specific aspects and challenges. For example, while street criminals typically hide themselves, white-collar criminals hide their crime. Burglars leave traces of the crime and disappear from the scene. White-collar criminals do not disappear from the scene. Instead, they conceal illegal actions in seemingly legal activities. Bribed individuals stay in their jobs, bribing individuals stay in their jobs, embezzling individuals stay in their jobs, and those who commit bank fraud stay in their jobs. They hide their criminal acts among legitimate acts, and they delete tracks. They create an atmosphere at work where nobody questions their deviant behavior.

Another challenge in white-collar crime investigations is the lack of obvious victims. At instances of burglary, murder, or rape, there are obvious and visible victims. In the case of tax evasion, nobody notices any harm or damage. In the case of subsidy fraud, where a ferry company reports lower passenger numbers, the local government does not notice that it has been deceived. Victims of white-collar crime are typically banks, the revenue service, customers, and suppliers. The most frequent victim is the employer, who does not notice embezzlement or theft by employees.

A third challenge in white-collar crime investigations is the resources available to suspects. While a street criminal tends to be happy – at least satisfied – with a mediocre defense lawyer, white-collar criminals hire famous attorneys to help them in their cases. While a street crime lawyer only does work on the case when it ends up in court, white-collar lawyers involve themselves to prevent the case from ever ending up in court. A white-collar lawyer tries to disturb the investigation by supplying material in favor of the client, while preventing investigators insight into material that is unfavorable for the client. This is information control that aims at preventing investigators from getting the complete picture or aims at helping investigators to get a distorted picture of past events. In addition, white-collar lawyers engage in symbolic defense, where they use the media and other channels to present the client as a victim rather than as a potential offender.

White-collar crime investigations are carried out by a variety of professionals in different organizations. Detectives in law enforcement agencies are the most typical crime investigators. All nations in the world have police investigators who

reconstruct the past when an offense has occurred. Maybe the most well-known agency is the Federal Bureau of Investigation (FBI) in the USA. The FBI has the authority and responsibility to investigate specific crime assigned to it and to provide other law enforcement agencies with cooperative services, such as fingerprint identification, laboratory examinations, and training. The FBI also gathers, shares, and analyzes intelligence, both to support its own investigations and those of its partners. The FBI is the principal investigative arm of the US Department of Justice (Kessler, 2012). In its white-collar crime program, the FBI focuses on identifying and disrupting public corruption, money laundering, corporate fraud, securities and commodities fraud, mortgage fraud, financial institution fraud, bank fraud and embezzlement, healthcare fraud, and other kinds of financial crime.

Other countries have similar bureaus. For example, in Norway, the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) is the central unit for financial crime investigations. Økokrim is both a police specialist agency and a public prosecutors' office with national authority. Both the FBI and Økokrim focus on complex investigations that are international or national in scope and where the agencies can bring to bear unique expertise or capabilities that increase the likelihood of successful white-collar crime investigations.

Outside regular law enforcement, we find other investigating agencies within the public sector. An example is the IRS Criminal Investigation Division in the USA. The division investigates potential criminal violations of the US internal revenue code and related financial crime in a manner intended to foster confidence in the tax system and deter violations of tax law.

Outside governments' criminal justice systems, private investigators can be found internally in organizations and externally. An example of internal investigators is fraud examiners in insurance companies who investigate insurance customers' claims. Another example is internal investigators in banks who investigate suspicions of fraud and money laundering. A final example is internal auditors and compliance officers who investigate suspicions of financial crime.

External investigators are fraud examiners who are hired by clients to perform investigations in the clients' organizations. While the investigators are employed by law firms, accounting firms, and consulting firms, they are hired by business and government organizations to carry out internal investigations. They have backgrounds such as forensic accountants, police detectives, business lawyers, organizational psychologists, and executive managers.

Private Internal Investigations

The purpose of an internal investigation by fraud examiners is to reconstruct the past. The past may be an event or a series of events where, for example, someone did something to somebody. Events are typically negative and have caused some damage. The goal of an investigation is to uncover the facts in a particular situation.

In doing so, the truth about the situation is the ultimate goal. A private investigation is mainly after the facts, with the goal of determining how a negative event occurred or the goal of determining whether the suspected action occurred at all. The goal may also be to prevent a situation from ever occurring in the first place or to prevent it from happening again.

Private fraud investigators are not in the business of law enforcement. They are not to find private settlements when penal laws are violated (Schneider, 2006). Their task is to reconstruct the past as objectively and completely as possible. They are not in the blame game business (Gottschalk, 2016).

Internal private investigations examine the facts, sequence of events, and causes of negative events as well as who are responsible for such events. Pending on what hiring parties ask for, private investigators can either look generally for possible corrupt or otherwise criminal activities within an agency or a company or look more specifically for those committing potential white-collar crime. In other situations, it is the job of the private investigators to look into potential opportunities for financial crime to occur, so that the agency or company can fix those problems in order to avoid misconduct down the road.

Internal investigations include fact-finding, causality studies, change proposals, suspect identification, and assessment of financial irregularities. The form of inquiry aims to uncover unrestricted opportunities, failing internal controls, abuse of position, and any financial misconduct such as corruption, fraud, embezzlement, theft, manipulation, tax evasion, and other forms of economic crime.

Characteristics of a private investigation situation include a serious and unusual event, an extraordinary examination to find out what happened or why it did not happen, develop explanations, and suggest actions toward individuals and changes in systems and practices. A private investigator is someone hired by individuals or organizations to undertake investigatory services. A private investigator also goes under the titles of a private eye, private detective, inquiry agent, fraud examiner, private examiner, financial crime specialist, or PI (private investigator) for short. A private investigator does the detailed work to find the answers to misconduct and crime without playing the roles of a prosecutor or a judge. The PI stops the investigation before passing any judgment on criminal liability.

An internal investigation is a goal-oriented procedure for reconstructing past events. It is a procedure of creating an account of what has happened, how it happened, why it happened, and who did what to make it happen or let it happen. An internal investigation is a reconstruction of past events and sequence of events by collecting information, developing knowledge, and presenting evidence (Osterburg and Ward, 2014).

Internal private investigations typically have the following characteristics:

- Extraordinary examination of suspicions of misconduct and crime.
- Goal-oriented data collection.
- Based on a mandate defined by and with the client.
- Clarify facts, analyze events, and identify reasons for incidents.
- Evaluate systems failure and personal misconduct.

- Independent, careful, and transparent work.
- Client is responsible for implementation of recommendations.

White-collar crime investigations are a specialized knowledge industry. Williams (2005) refers to it as the forensic accounting and criminal investigation industry. It is a unique industry, set apart from law enforcement, due to its ability to provide "direct and immediate responsiveness" to client objectives, needs, and interests, unlike police who are bound to one specific legal regime (Williams, 2005: 194). The industry provides flexibility and a customized plan of attack according to client needs.

Investigations take many forms and have many purposes. Carson (2013) argues that the core feature of every investigation involves what we reliably know. The field of evidence is no other than the field of knowledge. There is an issue of whether we can have confidence in knowledge. Confidence in knowledge occurs when knowledge is documented in terms of evidence. A private investigator accumulates knowledge about what happened.

Reasons for Private Investigations

Criminal investigation is initiated when there is a need to study negative incidents and events that happened in the past. Contrary to the police, regulators, and other investigative agencies, forensic accounting and corporate investigation firms are able to conduct their investigations under a cloak of secrecy providing resolutions that are largely private in nature and which help to safeguard the client from embarrassment and unwanted publicity. Many companies want to deal with misconduct internally by resolving the matter by themselves. They want no publicity. They want to avoid courts, for example, because they do not want their shareholders, customers, or suppliers to see that misconduct and crime has occurred. Cases are resolved through informal means such as negotiated settlements and termination of an offending employee (Williams, 2014).

Corporations and other organizations value the possibility of secrecy, discretion, and control that private specialists bring to investigations. Openness could lead to problems such as reputational loss, which can have economic repercussions. While private investigations can consider secrecy, openness is a key characteristic of a public criminal justice procedure. Meerts (2014) argues that the reluctance of victim companies to report crime to the police because of fear of reputational damage is a well-researched subject. Reputational damage provides a motivation for a company to avoid publicity (Dupont, 2014: 272):

> The reputation of a company represents a valuable asset that can quickly become a liability when the erosion of customers' and suppliers' trust provokes a loss of competitiveness. Shareholders are also very receptive to such signals and several security managers explained how their performance was indirectly tied to their company's public valuation. The ambiguity that characterizes this risk category explains why contract security firms providing

> investigative and consulting services of all sorts are routinely called in before the police – when the police are involved at all – in order to minimize external scrutiny and to maximize procedural control.

An important advantage of private investigations is legal flexibility. After an internal investigation, the client can choose from an array of legal alternatives and can decide which is best for the current case. Law enforcement, however, is more limited, generally working toward a criminal prosecution or taking no further action by dismissing the case. Minimizing and repairing damage is often the focus of private investigations, and thus other legal possibilities than those provided by criminal law are attractive. Employers often have nothing to gain by triggering a criminal justice procedure (Meerts, 2014).

Another advantage of private investigations is private examiners' role in the deterrence of fraud. The principle of deterrence is important in the perspective of convenience theory as described below. However, poor investigations do not deter people from committing fraud.

Private sector investigative consultants conduct inquiries for their clients in cases of suspected corporate crime. Recent developments internationally when it comes to corporate criminal liability have led many business and government organizations to recruit consultants to develop internal compliance systems because the function of such systems is increasingly taken into account by prosecution authorities.

While public police are bound to the legal definitions of criminal conduct, corporate security is more flexible and can adapt to the definitions provided by their clients. Private investigators can focus exclusively on the occurrences pointed out as problematic by their clients. This means that private investigators can examine behavior harmful to their clients that is not criminal and, conversely, that they can ignore behavior that is criminal but not damaging to their client (Meerts, 2014).

Internal investigations in private and public organizations serve important functions in society. They allow entities to discover misbehavior within management, make corrections, and define future conduct to assure compliance with laws, regulations, policies, and guidelines. Private investigations offer organizational solutions to organizational problems, while providing an incentive to corporations and public authorities to unmask misconduct. Internal investigations also allow corporations as well as other organizations to quietly examine allegations that may later prove to be wrong, without fear that disclosure will hurt the organization's or an individual's reputation (Green and Podgor, 2014).

Another reason for private internal investigations is that white-collar crime often is a difficult crime for police to handle. Police forces and their resources are frequently stretched thin and mainly focused on potential terrorism, physical violence, and threats to the health of citizens. Successful prosecutions of white-collar crime are frequently knowledge and labor intensive, and a decision has to be made as to where people and man-hours are going to be allocated (Brooks and Button, 2011).

Private Fraud Examinations

Fraud investigations into individuals and organizations by private investigators have increased in intensity. No amount of legislation can protect against dishonesty (Coburn, 2006). When an organization wants to investigate facts, causes, and responsibilities for an incident, the investigation can be carried out by financial crime specialists and fraud examiners. Fraud examination has elements of intelligence, investigation, as well as analysis, like we know it from police work. Characteristics of inquiries where the term fraud examination is used include fact-finding, causality study, change proposals, and suspect identification.

Fraud examination as intelligence emphasizes the systematic and goal-oriented collection of information that is transformed and analyzed according to a rigid procedure to detect suspects' capacity, dispositions, and intentions. The purpose is to improve both prevention and detection of crime. Risk-based techniques can be applied to survey environments and persons in order to collect information on their moves. Intelligence can also be defined as the result of information collection about possible offenses and potential suspects to make conclusions about threats, point out problems, and identify criminal activity with an intention to follow the case.

Fraud examination as investigation is the systematic and goal-oriented collection of information to confirm or disconfirm that an action is crime and that the actor is a criminal. Investigation is to prepare evidence for court proceedings. An investigation occurs only when something wrong has happened, while intelligence occurs when something wrong might happen.

Fraud examination as analysis is the process of breaking down a complex material or subject into smaller pieces to improve understanding and insight into the case. Analysis is to create meaning based on data by manipulating, interpreting, and reorganizing the structure of collected evidence. To analyze is to ask questions such as what, where, how, who, when, and why. What happened? How did it happen? Why did it happen? Elements of know-what, know-how, and know-why are created through analysis.

While fraud examination has elements of intelligence, investigation, and analysis as we know it from police work, it is something different. For intelligence, something might happen. For investigation, something has happened. For analysis, evidence is to be produced. In fraud examinations, something might happen or something has happened. Fraud examiners do not know when they start their work.

Wikipedia applies the following definition of a private investigator:

> A private investigator (often abbreviated to PI and informally called a private eye), a private detective or inquiry agent, is a person who can be hired by individuals or groups to undertake investigatory law services. Private detectives/investigators often work for attorneys in civil cases. A handful of very skilled private detectives/investigators work with defense attorneys on capital punishment and criminal defense cases. Many work for insurance companies to investigate suspicious claims. Before the advent of no-fault divorce, many private

investigators were hired to search out evidence of adultery or other conduct within marriage to establish grounds for a divorce. Despite the lack of legal necessity for such evidence in many jurisdictions, according to press reports collecting evidence of adultery or other "bad behavior" by spouses and partners is still one of the most profitable activities investigators undertake, as the stakes being fought over now are child custody, alimony, or marital property disputes.

Private investigators can also be used to perform due diligence for an investor who may be considering investing money with an investment group, fund manager or other high-risk business or investment venture. This could serve to help the prospective investor avoid being the victim of a fraud or Ponzi scheme. By hiring a licensed and experienced investigator, they could unearth information that the investment is risky and or that the investor has suspicious red flags in his or her background. This is called investigative due diligence, and is becoming much more prevalent in the 21st century with the public reports of large-scale Ponzi schemes and fraudulent investment vehicles such as Madoff, Stanford, Petters, Rothstein and the hundreds of others reported by the SEC and other law-enforcement agencies.

Wells (2003) argues that becoming a fraud examiner – a kind of a financial detective – is not for everyone. Detectives – either in the law enforcement or in the private sector – typically have distinct personality traits. They need to be as good with people as they are with numbers, and they need to be inclined to be aggressive rather than shy and retiring.

Gill and Hart (1997) found that the market for private fraud examinations is growing; because client companies are rarely keen to involve the police in fraud investigations, a prosecution may expose them to speculation about their internal procedures. Corporate clients tend to take the greatest care to ensure the confidentiality of the investigations they commission. Private investigators receive instructions to examine various kinds of fraud.

Financial Crime Specialists

The Association of Certified Financial Crime Specialists (ACFCS) was created to respond to a growing need for documented, verifiable, and certifiable knowledge and skill in the financial crime field and to meet the career development needs of the diverse and growing number of specialists in the private and public sectors who work in this field (CFCS, 2013).

ACFCS is a member organization that provides training, news, analysis, and networking to a worldwide membership of professionals in financial crime field. ACFCS awards the Certified Financial Crime Specialist (CFCS) certification to persons who meet certain qualifications and pass a rigorous examination offered at 700 authorized testing centers worldwide. It is a credential that tests competence and skill across the financial crime spectrum, including money laundering, corruption, tax evasion, compliance, investigations, and other fields.

A private investigation is conducted by a variety of private sector financial crime specialists who can be investigators, forensic accountants, or lawyers, all whom may be supported by investigative analysts, who the government usually calls intelligence analysts.

ACFCS stresses the importance of the following topics for financial crime specialists:

1. The challenge of financial crime
2. Financial crime overview, commonalities, and convergence
3. Money laundering
4. Understanding and preventing fraud
5. Global anti-corruption compliance and enforcement
6. Tax evasion and enforcement
7. Asset recovery
8. Financial crime investigations
9. Interpreting financial documents
10. Money and commodities flow
11. Compliance programs and controls
12. Data security and privacy
13. Ethical responsibility and best practices
14. International agreements and standards

In the UK, it is expected that companies contribute to detection of law violations in terms of self-reports. For a self-report to be taken into account as a public interest factor tending against prosecution, it must form part of a genuinely proactive approach adopted by the corporate management team. Prosecutors will consider whether it has provided sufficient information, including making witnesses available and disclosing the details of any internal investigation, about the operation of the corporate body in its entirety. This is according with the UK Serious Fraud Office Guidance on corporate prosecutions.

According to the UK Serious Fraud Office Guidance on corporate prosecutions:

1. Initial contact, and all subsequent communication, must be made through the SFO's Intelligence Unit. The Intelligence Unit is the only business area within the SFO authorized to handle self-reports.
2. Hard copy reports setting out the nature and scope of any internal investigation must be provided to the SFO's Intelligence Unit as part of the self-reporting process.
3. All supporting evidence including but not limited to e-mails, banking evidence, and witness accounts must be provided to the SFO's Intelligence Unit as part of the self-reporting process.
4. Further supporting evidence may be provided during the course of any ongoing internal investigation.

ACFCS – www.acfcs.org – offers the CFCS certification exam from its headquarters in Miami, Florida. This is the CFCS examination outline:

- Understanding financial crime: financial crime commonalities, money laundering controls and investigation, ethical responsibility, and best practices
- Investigating financial crime: financial crime investigation, fraud detection and investigation, money and commodities flow

- Enforcement actions and mechanisms: tax evasion and enforcement, asset recovery
- Compliance: programs and controls, global anti-corruption compliance and enforcement, international regulations and standards, data security and privacy

The University of New Haven and the Association of Certified Financial Crime Specialists (ACFCS.org) announced in 2013 that the Department of Criminal Justice at the University of New Haven was the first to offer a course leading ACFCS certification. Students enrolled in the course on investigating financial crimes were to learn the legal, ethical, and practical aptitudes necessary to become financial crime specialists. The course was to use the 340-page CFCS Certification Exam Study Manual and online, on-demand preparation course from ACFCS as its educational materials (www.newhaven.edu).

Certified Fraud Examiners

The Association of Certified Fraud Examiners (ACFE 2016) was created for similar reasons as the ACFCS. Becoming a certified fraud examiner requires documented academic and professional qualifications. Formal education in the fraud examination field is new and limited (Wells, 2003). The ACFE website (www.acfe.com) addresses the needs of ACFE members and also provides free resources to the general public (Anders, 2006). Certified fraud examiners have ample career opportunities, since the CFE certification was created in response to the demand for expertise in fraud prevention and detection (Morgan and Nix, 2003).

Perhaps Debbie Cutler was born to be a fraud examiner (Wells, 2003: 77):

> When I was young, my family referred to me as Perry Mason," she said. "I was a very inquisitive child who wouldn't give up until I got the answers." It was happenstance that led her to combine her natural talents with her accounting degree. "I'd spent 10 years in public accounting performing traditional audit work," Cutler said. "One day a partner invited me to help investigate an accounting malpractice case that included fraud allegations against a U.S. senator. I jumped at the chance, and as it turned out, I loved the work.

Like in other countries, investigators in the USA have a variety of backgrounds. It is not only lawyers, accountants, and business consultants who are investigators. Sociologists and criminologists may also undertake tasks relating to the investigation. Examples are mentioned by Kennedy (2013), who writes about forensic sociology and criminology. Investigation by sociologists and criminologists might be concerned about people who have neglected responsibility, people who have abused their positions, or organizations where training and guidelines have been missing.

Thus, fraud examiners encompass a wide array of professions, including auditors, accountants, fraud investigators, loss prevention specialists, attorneys, educators, sociologists, and criminologists. While fraud examiners in the USA can work independently, many are also member of the ACFE. Fraud examiners provide a

broad range of services to businesses and governmental agencies as either employees or independent consultants (ACFE, 2008). A fraud examiner may assist in a fraud investigation by procuring evidence, taking statements, and writing reports (Machen and Richards, 2004).

When hiring a fraud examiner, a company should seek an evaluation that is both disinterested and reliable (Machen and Richards, 2004: 68):

> These objectives, however, can occasionally conflict. Where employees within the organization conduct the fraud investigation, the results of such an investigation may be considered suspect because they are obtained by parties who are or at least appear to be biased. Thus, while the company may prefer to use examiners with historical knowledge and details about the company, personnel, and accounting systems, their retention may raise issues of credibility. On the other hand, while the investigation of a fraud examiner who has no prior connection with the company may be unbiased, the resulting evaluation may also exhibit the examiner's inexperience with the particular organization and its business practices.

In balancing the twin goals of disinterestedness and reliability, Machen and Richards (2004) suggest that a company should consider the purpose of the investigation. Where the results are to be used in-house or where the company is simply establishing a fraud prevention system, there is less concern regarding credibility. Thus, a fraud examiner who has knowledge of the business may be a smarter choice in that instance because of such examiner's familiarity with the company. In contrast, where information from the fraud investigation may be subject to scrutiny by those outside the company, the appearance of disinterestedness becomes more critical, and the company should consider hiring an independent fraud examiner.

Within the broad category of fraud examiners are forensic accountants who specialize in a unique brand of accounting that departs from the traditional methods employed in the accounting field (Machen and Richards, 2004).

Similar to the situation in the UK, where companies are expected to contribute to detection of law violations in terms of self-reports, companies in the USA are expected to make disclosures. Prosecutors in the USA consider whether the company made a voluntary and timely disclosure as well as the company's willingness to provide relevant information and evidence and identify relevant actors inside and outside the company, including senior executives. This is according to a resource guide to the US Foreign Corrupt Practices Act.

In their report to the nations on occupational fraud and abuse, ACFE (2014) analyzed more than a thousand cases of occupational fraud. The majority of cases reported (61%) were referred to law enforcement for criminal prosecution. The median loss for cases referred to prosecution was $200,000, while cases that were not referred had a median loss of $75,000.

The Association of Certified Fraud Examiners is not a USA-only organization. The CFE designation is an international designation, and the ACFE has reported approximately 40% of its membership is outside of the USA. These are all fraud fighters. Rumors tell that there are at least 16 CFEs in Norway.

Police Versus Internal Investigations

An investigation is an investigation, regardless of whether the investigator belongs to a police agency or a private firm. The goal is to uncover the facts in a particular situation. In doing so, the truth of the situation is the ultimate objective. However, an investigation by the police is going to start with a crime or a suspected crime, and the end goal is going to arrest and successfully prosecute the guilty person(s) or, alternatively, dismiss the case because of innocence or lack of evidence. A private investigation is mainly after the facts, with the goal of determining how a negative event occurred or with the goal of determining whether the suspected action occurred at all. The goal might also be to prevent a situation from ever occurring in the first place or to prevent it happening again. Of course, if there was no event, there is nothing to investigate. Fraud awareness as prevention and fraud investigations can be carried out separately and have different objectives.

The purpose of an internal investigation is to define the points to prove and then collect documentary, interview-based, and other evidence which either confirms these or finds that there is no case to answer. These conclusions and the evidence, on which they are based, are set out in a report which should then be considered by a person or people external to, and independent from, the investigation process.

Police investigations differ from private investigations because they aim to convict a person of a crime or dismiss a person from the case, while internal investigations are used more to evaluate potential for economic crime to occur and to get rid of the issue internally rather than through the involvement of the police.

Private investigators tend to be offense focused, while police investigators tend to be suspect focused. However, despite these differences, there is sufficient commonality between the two types of investigation so as to make cooperation and joint working between the two possible. For example, they each gather intelligence on accepted cases, interview suspects in accordance with defined procedures, and preserve evidential continuity. In addition, both separate intelligence from investigation, employ trained and qualified staff, use credit reference and other publically available data, record their investigations in a computerized case management system, and utilize interview rooms and evidence storage.

The roles of police officers and private investigators are different in the fact that they do not have the same powers. Police officers have strict rules that they have to follow within their department. They are responsible for following the rules and guidelines set before them by their law enforcement unit. Private investigators have more freedom to explore and conduct inquiries into suspected crime and criminals. However, the police officers' advantage is their ability to seize documents and subpoena the guilty party. The police have formal power in terms of law enforcement on behalf of society. While private police have less power in their work, they enjoy more freedom in how they do their work. Private investigators do not have the same powers as the police and do neither have to work according to strict guidelines such as the police.

The government allows the police to conduct special investigation activities such intrusive inquiry, covert human operations, infiltration, surveillance, and covert recording of communications. The police may set up undercover enterprises, institutions, organizations, and units. During undercover questioning, law enforcement officers can mask their identity or purpose of the questioning.

The criticism that comes with white-collar crime is the cost of policing fraud. When dealing with small internal frauds, "police would be called but often they did not offer help" (Brooks and Button, 2011: 307). The lack or number of limited resources has constrained the police force in dealing with fraud. The private sector has criticized the police for their lack of willingness to tackle the issue of investigating fraud, but it is sometimes out of their control when resources are not available to confront the issue. It is sometimes also a question of whether the police view fraud as a serious crime or if they have the capabilities in education and training to tackle economic crime (Button, Frimpong, Smith, & Johnston, 2007).

Organizations may feel that the police lack commitment to their cases and not report it. Their next step might be to report it to the private investigation sector. This can result in problems in which fraud may be seen as a private matter and "can downgrade the seriousness of the offence as it does not require a public 'state' sanction, censure and condemnation and is hidden, and dealt with in-house in a secretive manner" (Brooks and Button, 2011: 310). People go to private investigators when they feel that the police will not take their issues seriously. However, the police still hold power when preparing an arrest and identifying whether or not a place is relevant for search of evidence. The police must be present when an unwanted search occurs on business premises or homes.

Gill and Hart (1997) argue that distinctions between public and private forms of policing are becoming increasingly blurred, and a number of hybrid organizations have materialized as gray policing. The two sectors overlap in different ways. While the public police have traditionally expressed skepticism about the caliber of their private sector counterparts, there are a number of examples of effective cooperation as well. In some instances, public police have benefited from an additional source of relevant information.

Private investigators have the criticism of whether or not they have a bias toward the client that hires them to investigate the organization. They are the ones usually paid to do the investigation by the client to find something out of the ordinary. This can cause a bias when conducting their research. The private investigator might report in the client's favor because they are the ones paying for the investigation. The investigator might not want to go against the client that is paying for their service. This will result in a negative effect toward the other parties involved. Clients "may themselves attempt to influence investigations in order to limit lines of responsibility and produce narrow interpretations of incidents" (Williams, 2005: 199). There will then be "a constant tension between commercial imperatives and professional standards" in white-collar crime investigations (Williams, 2005: 199).

A private investigator can potentially challenge the rule of law by taking on all three roles of police investigator, public prosecutor, and court judge. This kind of

privatization of law enforcement can represent a threat to the criminal justice system in democratic societies (Gottschalk, 2016).

Private investigators may work alongside police detectives in order to collect evidence. Direct evidence is physical proof of an illegal act such as forensic samples such as hair, clothing fibers, or computer documents. Indirect evidence is collected through interviewing witnesses or potential accomplices or through someone identifying the offender, for example, in a photograph (Carson, 2013).

Witness intimidation should be minimized or completely avoided in interviews. Certain witnesses to an investigation might feel intimidated by the alleged wrongdoer, even by the simple fact that the alleged wrongdoer is in the workplace. Even worse, the alleged wrongdoer (and even the complainant) might intimidate, harass, or retaliate against witnesses in an attempt to influence the outcome of an investigation. Extreme circumstances might require removing the suspect, the complainant, or witnesses from the workplace via paid suspension.

Investigative Thinking Styles

Financial crime specialists and fraud examiners might be compared to police detectives in their thinking styles and investigative approaches. As argued by Wells (2003), becoming a fraud examiner – a kind of a financial detective – is not for everyone. Detectives – either in the law enforcement or in the private sector – typically have distinct personality traits. They are as good with people as they are with numbers and documents, and they are inclined to be curious, creative, and aggressive, rather than shy, isolated, and retiring.

Dean (2005) developed a set of four thinking styles, which later were enhanced by Staines (2013), as illustrated in the figure:

- *Thinking style 1: Investigation as method*. Detectives describe this way of thinking as following a "method" that is driven by a set of basic procedural steps and conceptual processes for legally gathering information and building evidence. The method style is underpinned by a preference for following established rules and procedures, such as standard operating procedures, in order to gather information and build evidence in investigation.

The investigator is trained in procedural steps of investigation and takes an evidence-focused rather than suspect-focused approach. According to Tong (2009b), the science of investigation exists in direct opposition to the conception of the art of investigation, which is related to the risk thinking style. The science of investigation is taught in classrooms and documented in manuals and handbooks, while the art of investigation is stimulated by creativity as well as innovative and untraditional approaches.

Method thinkers are characterized by the desire to avoid confusion, a rigidity of thought, and a reluctance to consider alternative views as long as they are not along the main lines of investigation. They process information extensively and carefully

and focus their attention on a few critical hypotheses. They work within existing rules and frameworks. They are checking all the boxes on a checklist. They apply a structured approach to investigative procedures.

- *Thinking style 2: Investigation as challenge.* Detectives describe this way of thinking as a
- "challenge" driven by the intensity that is generated by the four key processes of the job, the victim, the criminal, and the crime. The challenge style is underpinned by an intense motivation, and the job is perceived by the challenge thinker as an opportunity to fight crime and make community safe.

There is also a perceived need to seek justice for the victim. The stimulating nature of whether or not a crime has occurred provides motivation for the challenge thinker, and generally, the more interesting the possible crime, the more challenged and motivated the detective becomes. Because the challenge thinking style often involves deep emotional involvement by the detective, it can lead to extreme feelings of sympathy and antipathy as well as immense satisfaction if the case is successfully solved. Alternatively, failure to solve the case can result in feelings of being a looser and extreme frustration.

At the extreme, the challenge style can lead to the fragmentation of other aspects of the detective's life in such a way that often the price to be paid for this addiction to the investigative challenge is marriage problems, financial problems, and unstable private personality. The challenge thinker is really a crime fighter, as discussed by Siegel (2009). The challenge thinker is vulnerable to problematic outcomes in life if he or she is not able to mediate personal enthusiasm or passion for the job. Some level of drive and enthusiasm is of course necessary to maintain commitment to the job. However, it is more desirable for detectives to subscribe to the challenge style only to the extent that it keeps them interested and committed to their job and not to the extent they become overwhelmed and experience burnout. This is also important when considering the possibility of the challenge style acting as a force that can potentially motivate police honesty as well as private investigator honesty in an impatient search for answers (Goldschmidt and Anonymous, 2008).

Goldschmidt and Anonymous (2008) reviewed the circumstances that may lead police officers to act dishonestly. One reason was to see a case won, the suspect convicted and sent to prison, and justice seemingly served. Another reason was to respond to a system they perceive to be overly sympathetic toward offenders, while neglectful of victims and which ignores the common sense and the expected guilt of offenders. These two circumstances are conceptually related to the challenge style, where the detective is motivated by the need to seek justice for the victim and rid the organization or the community of offenders.

- *Thinking style 3: Investigation as skill.* Detectives describe this way of thinking as a "skill" that requires a set of personal qualities and abilities that revolve around the central skill of relating effectively to a diversity of people at a number of different levels throughout an investigation. A detective who employs the skill

style is successful at relating to and building relationships with others in order to ensure successful prosecution of a suspect.

Relationships are built with witnesses, whistle-blowers, victims, suspects, and managers. In the case of police investigations, relationships are built with people in the criminal justice system, such as magistrates, judges, and juries. In the case of private investigations, relationships are built with the client, various internal and external information sources, as well as others involved in the investigation. In order to relate to the various individuals, the detective is required to master several abilities, such as communication, personal flexibility, investigative focus, and emotional detachment. The skill style is grounded by the notion of information as the lifeblood of an investigation, and the presumption is that most of the important investigative information comes from communicating with others.

A detective has to be able to share and trade information with individuals who might be useful to the investigation. Sometimes there is a need to turn a blind eye in order to gather important case-related information. It is important to be persistent yet fair. The detective needs to approach investigative interviewing with an open mind. Sometimes a detective needs to display a certain level of warmth, flexibility, and emotion in order to successfully communicate and retrieve important information. In this regard Tong (2009b) discussed the craft of detective work, which emphasizes the importance of understanding and being able to relate to others. It is important to be able to deal with individuals from a range of backgrounds, and it is also critical when questioning individuals who are suspected of having some form of mental illness, intellectual disability, or personality disorder (Herrington and Roberts, 2012).

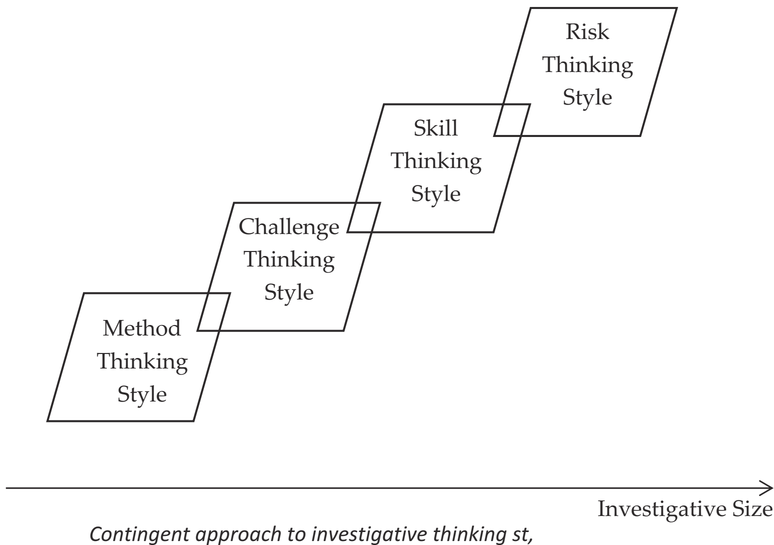
- *Thinking style 4: Investigation as risk.* Detectives describe this way of thinking as taking a "risk" that must be legally justifiable, in order to be proactive through the use of creativity in discovering and developing information into evidence. By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new/different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence). The risk style is particularly useful in protracted and complex investigations whereby strict adherence to the method style has been unfruitful.

The risk thinking style is underpinned by the notion of taking justified risk. Risks taken by detectives must be legally justifiable, logical (make sense as pertaining to the rest of the investigation), and laterally justified (i.e., be economically and conceptually practicable). By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new and different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence).

Risk thinkers demonstrate creativity in their investigative approaches. Creativity and intuition are perceived as essential qualities of any criminal investigator. Fictional characters such as Sherlock Holmes have worked to further entrench these

notions of the "born detective" who is naturally creative and intuitive. Detectives can be creative in their job by generating new ways of performing their work, by coming up with novel procedures and innovative ideas, and by reconfiguring known approaches into new alternatives.

Detectives emphasizing the risk style tend to be entrepreneurs, who are characterized to see possibilities and openings where others see problems and locked doors, based on their intuition (Tong, 2009a). Generally, an entrepreneur is a person who operates a new unit or venture and assumes some accountability for the inherent risk. It is a person who takes the risks involved to undertake a procedural venture. Entrepreneurship is the practice of starting new investigative steps or revitalizing mature procedures in response to identified opportunities.



Contingent approach to investigative thinking st,

Sometimes investigation can remind of a production line, where cases are investigated after each other, in a routine fashion (Corsianos, 2003: 305):

> Detective work tends to parallel an assembly line; that is, detectives routinely process one case after the other with little or no difference in officers' investigative approaches and/or attitudes towards cases. But, police decision making and officers' overall treatment of cases are significantly influenced in specific situations. Specific factors such as the time and energy dedicated to solving the crime, the number of officers, technology, budget, and police attitudes towards the accused and officers' perception as to the seriousness of the case affect the investigation.

In the production line, experienced detectives are able to discern good from bad information intuitively and at the same time be creative in their approach to investigation. Historically, investigation has been thought of as an art form resembling thinking style 4, because it is difficult to articulate and exists beyond procedures and protocols taught to recruits and novice detectives. The qualities that make a good investigator go beyond academic degrees, specialized training, or book learning,

because all the theory in the world means nothing if the detective cannot read an organization in search of white-collar crime. In this respect, Tong (2009a) highlights the need to capture and articulate the qualities of the artistic and intuitive investigator so that they may be passed on.

Thinking styles can be viewed in a hierarchical continuum as illustrated in the figure.

Investigative complexity and time taken to complete investigation require more advanced thinking styles. This does not necessarily reflect the idea that one thinking style is better than another style. Instead, thinking styles are more or less appropriate depending upon complexity and time for investigation. While a less complex and new investigation might be solved using only the method style, a more complex and/or a more time-consuming investigation will require the challenge, skill, or risk styles or a combination of these. This represents a contingent approach to investigative thinking styles, where the appropriateness of a thinking style is dependent on the investigative situation.

Investigative instinct is very important in conducting complex fraud examinations. Coburn (2006) argues that investigators tend to ignore other possibilities because there is no evidence, rather than using instinct to lead them to evidence. It is important to think outside the square.

Evaluation of Investigations

An investigation report written by fraud examiners should always be evaluated by the client. Here are some characteristics of an evaluation:

- Evaluation is a systematic study of work done or work in progress.
- Evaluation is an objective assessment of activities.
- Evaluation implies assessing or estimating the value of something.
- Evaluation involves analyzing to determine if the investigation did what it was intended to do and if the investigation had expected impact.
- Evaluation is a planned process where the goal is to develop knowledge that is sufficient to judge a completed fraud examination.
- Evaluation applies predefined and explicit criteria.
- Evaluation follows in the aftermath of activities.
- Evaluation can be formative versus summative, goal-oriented versus process-oriented, self-performed versus stranger-performed, etc.

It is certainly interesting to study the quality of investigations and investigation results. The solving of cases – meaning that examiners really found out what had happened and were able to document it – is an interesting issue to study. The extent to which witnessing evidence supports answers varies greatly depending on methodology, experience, and personal qualities including thinking styles among private investigators. One hypothesis might be that many of the investigations could have had a completely different outcome with another and perhaps more qualitative

investigation method based on advanced styles of thought. Some investigations seem to be carried out almost as a judicial process with witnesses similar to a main hearing in court. Often, a lot of documents are reviewed without any clear purpose of evidence production. Such a process is not at all suitable for solving most internal investigation cases. There are rarely new facts appearing during the main hearing in a criminal court case. It is the professionally qualified investigation that has brought forward facts and evidence that eventually may be presented to a court.

Evaluation is the systematic inquiry into a completed investigation involving data collection, analysis, and assessment of work carried out in completed investigation work. It is an objective assessment of activities. Evaluations are always carried out subsequently. It is all about to describe and assess activities that have taken place. The assessment involves that the evaluator appreciates findings resulting from data analysis based on specific criteria. The assessment can be done by comparing the findings with an ideal or goal, such as the mandate and the problem formulation, as well as with criteria for good investigative practice. It should be considered whether the investigation has been successful in finding the truth and clarifying the facts. It should also be considered whether the investigation has been going on in a professional manner. Furthermore, it should be considered whether the investigation has added value in terms of benefits exceeding costs.

An evaluation should meet certain quality requirements, such as openness about sources, triangulation of information (confirmed by several sources), documentation, and conclusion. The design (starting point), implementation (work process), conclusions (work result), workload (resource consumption), as well as investigation impact (consequences) should become subject to evaluation.

Evaluation is about judging the conducted investigation. An evaluator has to ask the critical question of whether or not the investigation was useless and worthless and whether the investigation was improper and unprofessional. An evaluator has to ask whether the investigation was biased as a commission.

An evaluator must make a clear distinction between evaluation criteria and evaluation, for which criteria apply. An evaluation starts by developing criteria for evaluation of the work performed, where both general criteria concerning private internal investigations and specific criteria concerning this particular situation are introduced.

Colloquially, the term evaluation is used to describe assessment and estimation of the value of something. In the literature, an evaluation is a systematic process, it is planned and purposeful, and the purpose is to develop knowledge for assessment. To evaluate is to describe and assess. The description occurs within a framework that specifies procedures for data collection, analysis, and drawing conclusions from the data. The assessment involves appreciating findings from data analysis based on predefined criteria.

An evaluation is both about goal and process. Measuring goal achievement is an inquiry into whether or not one or more objectives have been reached. Goals are defined in the investigation mandate and in expectations from stakeholders. Measuring process performance is a matter of assessing activities that have been

carried out from start to finish. The process involves, among others, honesty, openness, integrity, professionalism, responsibility, and accountability.

The typical overall purpose of evaluation of an investigation is to find out whether the project was successful.

Evaluation of an investigation is concerned with application of many of the same sources of information and methods that were used in the investigation itself. For example, informants for investigators may also be useful for evaluators.

Typically, evaluation of internal investigation reports will apply criteria such as:

- Empirical evidence due to forensic analysis that indeed points to a certain person/group within the company.
- Organization of investigative process with level of detailed description of every step.
- Extent of unbiased conclusions at every point of investigation.
- Extent of clearly stated goals.
- Extent of strong methodology that is stated in detail.
- Statement of conclusions: detail in explanation of how they came to that conclusion.
- Lack of ambiguity in contract and mandate.
- Results in line with mandate.
- Proof of findings.
- Thoroughness in documentation of actions taken during investigation.
- Identifying potential conflicts of interest (i.e., does mandate restrict investigation from pursuing leads?).
- Sources: how many different sources did investigators use to evaluate the same information? How many different types of sources were applied (letters, interviews, financial statements, etc.)?
- Evidence of preconception: does the report contain clues to the fact that the investigator had a specific theory or end result in mind when he/she started the investigation?
- Extent of independence between data gathering and data analysis or different groups doing both.
- Extent to which investigators were building up a solid case where previous history of that specific company is detailed.
- Ability to link all suspected individuals from the past with the current ones.

An evaluation of internal investigations will typically emphasize the starting point, the work process, the process result, the resource consumption, the investigation mandate, the investigative strategies, the work frame, the follow-up actions, and the social responsibility.

The Starting Point How well and suited was the starting point for the investigation? Was the mandate clearly articulated? Was the mandate focused rather than diffuse? Was the mandate appropriate to clarify the matter? Were activities in the investigation clearly defined in the mandate? Were targets of the investigation clearly defined in the mandate or elsewhere? How might the starting point have been improved?

Was there anyone who had a hidden agenda? Was the assignment rooted in a dynamic principal, who was willing and ready to take the consequences of the investigation?

The Work Process How well was the investigation conducted? How well did the chosen strategies work: information strategy, knowledge strategy, methodology strategy, configuration strategy, and system strategy? How well was contradiction safeguarded and self-incrimination avoided? How might the work process have been improved? Was impartiality considered and avoided? Was confidentiality handled in a proper manner? Have investigators received confidential information and handled it accordingly?

The Process Result What is the quality of results from the investigation? Is there any news in the investigation report? Did investigators discover what had actually happened? Who had done what and how and why? Did investigators answer all questions? Is everything in the mandate performed? Are all targets in the mandate reached? Is the investigation report understandable and useful to the principal? Are mentioned persons in agreement with presentations of themselves in the report? How might work results become even better? Are recommendations from the investigation possible to implement? Are recommendations followed up? Did the investigation have consequences for something or someone? What value can be assigned to this investigation? What effects did this investigation have? How successful was the investigation project? Does the investigation report contain errors and inaccuracies? Does the investigation report contain discussion of possible crime matters for which the suspect was never charged? To increase the credibility and transparency of an investigation report, it is important to describe explicitly the choice of methods and procedures; is it done? Credibility is created when a different investigator is able to arrive at the same result when following the same procedure with the same documentation – is this possible with the current investigation report?

The Resource Consumption How big was the consumption of resources by the investigation? Was the project kept within agreed cost limit and time frame? Were relevant skills used in the investigation? Resource is a term that implies making something possible. A resource is an enabler. What resources were applied in the form of knowledge? What resources should have been applied in the form of knowledge? How might the consumption of resources have been reduced?

The Investigation Mandate Does the mandate seem suitable for the situation without any traces of bias or blame game? Is the mandate formulation clear, understandable, focused, and verifiable? Does the client seem really interested in the investigation and eager to learn about results? Are tasks in the investigation carried out in line with the mandate? Have all questions and issues in the mandate been answered?

The Investigative Strategies Did investigators select appropriate information strategy, knowledge strategy, methodology strategy, configuration strategy, and systems strategy?

The work frame. Have investigators enjoyed a reasonable work frame in the client organization? Have issues such as the right of contradiction, the protection against self-incrimination, and written proceedings been addressed?

The Follow-up Actions Has the client followed up on conclusions presented in the investigation report? Why or why not? Did the investigation result in relevant consequences for activities and people?

The Social Responsibility Do investigators take on social responsibility? Social responsibility is to share information with authorities, to compensate for own adverse effects (e.g., accused someone of something which later turned out to be wrong), to compensate for the client's adverse effects (e.g., such as baseless suspicions), to show transparent operations (which others can gain insights into), and to demonstrate professionalism (accountability, objectivity, and integrity).

Discussion Questions

1. What are major challenges when investigating white-collar crime?
2. What are major challenges in private investigations by fraud examiners?
3. How would you describe a successful white-collar crime investigation?
4. Why do organizations hire fraud examiners for internal investigations?
5. What kinds of knowledge are needed to be a successful fraud examiner?
6. What are differences between police and private investigations?
7. What thinking style is most appropriate for white-collar crime investigations?
8. How would you evaluate a private internal investigation?
9. How would you define information strategy, knowledge strategy, methodology strategy, configuration strategy, and systems strategy?
10. What is meant by social responsibility?

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Combating Political Corruption: The Case of Armenia in the Context of the United Nations Convention Against Corruption

Syuzanna Galstyan

Introduction

The United Nations Convention against Corruption (UNCAC)[2] (2003: III) describes corruption as an insidious plague which hinders the economic development of countries, undermines democracy, cripples prosperity, and poses other threats to human security to flourish. Corruption has always existed in every society, and it has been characterized by different connotations in various historic periods. In the post-Cold War era, it has emerged as a core policy concern; therefore, the phenomenon has received wide academic attention. As Heywood (1997, p. 418) notes, in the mid-1990s, it became apparent that “no nation was immune to the corrosive impact of political corruption.”

Though there is a vast amount of literature on corruption, there is no universally accepted clear-cut definition. Instead, there are numerous definitions of corruption proposed by known institutions, which try to describe the essence of a corrupt act. The World Bank defines a corrupt act as offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party. Transparency International (TI) defines it as the abuse of entrusted power for private gain. As to classical definitions of corruption in literature, the one by Joseph S. Nye (1967, p. 966) is worth mentioning here: “behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private gaining influence.” This definition encompasses behaviors such as “bribery (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses) (Nye, 1967, p. 966).” The definition resembles

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the one by Dwivedi (1967) which besides abovementioned behaviors also covers other unfair means adopted by government employees and the public alike in order to extract some socially and legally prohibited favors. Most of the definitions indicate that there are two sides involved in a corrupt act, namely, the public and the private sectors. As the emphasis of this chapter is on political corruption, attention is therefore primarily devoted to the public sphere.

A considerable amount of literature on corruption highlights that in developing and post-Soviet countries it has destructive effects. Scholars, such as Tanzi (1998), Amundsen (1999), Stefes (2006, 2008), and Olken and Pande (2011), consider corruption as something endemic primarily in former communist states and in the developing world. As Tanzi (1998, p. 586) notes, "corruption tends to be more common in poorer countries and in economies in transition than in rich countries," and as Johnson (2005, p. 4) points out, "the post-Soviet states are heirs to the deeply entrenched political corruption that dominated the Soviet Union in its initial decades." Moreover, according to Amundsen (1999, p. 1) in several of the postcommunist countries, it is reaching alarming proportions. Given the scores of the Corruption Perception Index (CPI) 2016, these statements prove to be well grounded. Corruption still remains a challenging problem for many postcommunist countries undergoing sociopolitical transition processes. It can be considered as a carryover from the communist era; some are culturally indigenous, and others are a product of poverty and poor pay or lax rules and enforcement (Liebert et al., 2013). The following paragraph discloses why corruption is a widespread phenomenon in the post-Soviet space.

According to many scholars and experts in the field like Martirosyan (2009, p. 3), the post-Soviet transition process formed the initial setting for a rapid rise in corruption in most of the post-Soviet countries. Following the collapse of the SU, the sociopolitical vacuum and disorderliness allowed for lawlessness increase in crime and corruption in the post-Soviet space (ibid). According to the Bertelsmann Transformation Index's (BTI) reports, most of the post-Soviet countries in transition have fallen victim to corruption because of the breakdown of the rule of law and the pattern of "weak states." Besides, a historic legacy of illegal economic activity or black market in the post-Soviet states has also encouraged corrupt behaviors. As noted in the BTI report (2013:26), the lack of good governance is another shared trait among most of the post-Soviet states encouraging corruption. Despite all of these obstacles, some post-Soviet states have managed to significantly reduce corruption, whereas others are still among the worst performing countries in this regard. For instance, Lithuania, Estonia, and Latvia rank much better in corruption perception indexes rather than Armenia, Azerbaijan, Moldova, Ukraine, and Russia *where corruption still remains a major problem.*

Corruption is not a new phenomenon in Armenia and it is largely widespread. As reported in the United Nations Development Programme (UNDP) (Bailey, 2008, p. 6), extensive scale of corruption in Armenia is a serious challenge to its further development. Different manifestations of corruption pervading all levels of society make it difficult to achieve high development in the country (Wickberg, 2013).

In 2016 according to the CPI, Armenia was ranked 113rd out of 176 countries with a score of 33, which was down by two scores from the previous year.

Armenia acceded to the only legally binding universal anti-corruption instrument, namely, UNCAC in 2007, and a number of international schemes of cooperation, including the Istanbul Anti-Corruption Action Plan of the Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Network for Eastern Europe and Central Asia, the Group of States against Corruption (GRECO), and the Open Government Partnership (OGP), have joined. Armenia is also a member of Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). UNCAC became an integral part of the country's domestic law following ratification of the Convention Parliament on 8 March 2007 and entered into force on 7 April 2007 in accordance with Article 68 of the Convention. Although Armenia has taken the very first steps in aligning domestic legislation in compliance with the provisions of the UNCAC, the studies indicate that there are still gaps to overcome for successful implementation of the UNCAC.

The success of anti-corruption activities largely depends on legal and financial institutions—judiciary, police, and financial auditors—which are of crucial importance in order to enforce and strengthen accountability in the public sector (Svenssen 2005). The assumption by Svenssen is that more and better enforcement of rules and regulations will reduce corruption. One more important actor in the fight against corruption is civil society. Its role is recognized and emphasized by a number of international documents and institutions, e.g., in the UNCAC. In the Armenian context, civil society is characterized as a typical case of the so-called post-Soviet society, i.e., weak. However, recent studies (e.g., Iskandaryan, 2016) demonstrate that the Armenian civil society is getting stronger and there are a number of nongovernmental organizations (NGO) actively involved in anti-corruption activities.

The overall purpose of this research paper is to explore the extent and effect of corruption in Armenia with a primary focus on political corruption and the role of civil society in combating it. The chapter also reflects on the implementation of the UNCAC in Armenia, reveals existing gaps, and develops recommendations for Armenia's enforcement of some articles of the convention which are particularly important for crippling political corruption. Another reason why UNCAC is of special interest for this paper is that though it signifies the role of civil society in combating corruption, at the same time the guidelines for the participation of the NGO representatives at sessions of the Conference of the States Parties (COSP; it is the main policy-making body to the UNCAC) to the UNCAC put many restrictions on its active participation in the field. Eventually, the chapter suggests some recommendations on how to make the engagement of civil society in the frame of the UNCAC in the anti-corruption fight more effectively.

The choice of Armenia as the case study country has been preconditioned by several factors. First, as already mentioned above, corruption still remains one of the main problems impeding good governance in Armenia. Second, it has been assumed that recommendations developed in the Armenian context could be applicable with necessary amendments to some countries which are going through the same sociopolitical transition, especially in terms of post-Soviet region (excluding

the Baltic states)[3]. This professional interest has been merged with the personal ones since the author comes from Armenia, and it has given the project the privilege to gain empirical data through interviews conducted in Armenia.

Structurally, this chapter can be divided into two parts. First, it starts with discussions on the conceptual frame of corruption, investigating its origins and current state in Armenia. Further, it assesses the role of some key actors in tackling the problem of corruption with a primary focus on the role of civil society. The second part of the chapter starts with the introduction of the UNCAC which is followed by discussions on the restrictions hindering civil society's active participation in the anti-corruption activities within the frame of the UNCAC and offers recommendations. Further, the chapter introduces the analysis of the following articles of UNCAC, Article 6, Article 20, Article 26, and Article 33, and offers recommendations in the Armenian context.

Methodology

The methodological base of the paper is qualitative covering literature review and interviews. The research collected information from both primary and secondary sources. Regarding the method of interview, it is partly characterized by open-ended strategy of data collection which according to Robert Elliott and Ladislav Timulak (2005, p. 150) "means that inquiry is flexible and carefully adapted to the problem at hand and to the individual informant's particular experiences and abilities to communicate those experiences, making each interview unique." Semi-structured interviews are characterized by the flexibility and the primary advantage of allowing not only for the elaboration of detailed information but also for some discoveries which have not been thought about previously. For these reasons, the semi-structured type of interview has been considered as the most relevant one for the research project. This approach has also allowed adding or reformulating of some questions or even the dropping of questions in case the answer had already been provided by the interviewee. The questions have been framed in such a way as to encourage the explanation of the answers to the questions with as much information as it was possible. In general interviewing has been thought of as one of the most appropriate ways to get firsthand information on the issue from the experts actively involved in the field. The answers obtained during the interviews and findings elaborated from the literature research gradually contributed to a better understanding of the issues at the core of the project and to obtaining some practical hints for the solutions to identified problems. All this formed the basis for the recommendations developed at the end of the research project.

The paper follows Graneheim and Lundman (2004)[4] and takes the whole interviews as the most suitable unit of analysis for the research. In order to analyze the obtained answers to the open-ended questions, this research does not turn to any classical way of interview analyses but rather to the inductive content analyses developed by Elo and Kyngas which refers to "an approach based on inductive data

moves from the specific to the general, so that particular instances are observed and then combined into a larger whole or general statement" (Chinn & Kramer, 1999 cited In Elo and Kyngas, 2008, p. 109).

The choice of the NGOs was preconditioned first of all by their active involvement in the fight against corruption in Armenia, and secondly by their engagement in the preparation of the report on the implementation of selected articles of International Covenant on Civil and Political Rights (ICCPR) and UNCAC in Armenia between 2014 and 2015.[5] Altogether, five NGOs had been requested to give an interview. However, only two of them have been responsive to the request. These NGOs are the Transparency International Anti-corruption Center in Armenia and Open Society Foundations-Armenia. The interviewees were Khachik Harutyunyan, an anti-corruption expert at Transparency International Anti-Corruption Center in Armenia, and Gayane Mamikonyan, a program coordinator for anti-corruption programs at Open Society Foundations-Armenia[6]. One of the interviews conducted in Armenian was directly transcribed into English. The resulting data comprises around 14 pages of interview transcripts. Thus, these transcripts have served as the main primary sources of data for content analysis.

Corruption in Armenia

The chapter continues by laying the conceptual and theoretical foundation for understanding political corruption in general and the nature of the systemic corruption in the Armenian context in particular. Carl J. Friedrich (1972) considers the concept of political corruption as a specific pathology characterized by a set of behaviors constituting a part of the so-called pathology of politics. The political pathologies are described as acts which violate the laws, procedures, and ideological-cultural expectations of a political violence, betrayal or treason, corruption, secret and often arbitrary decision, and the distortion of reality for political purpose. The term "political corruption" includes the abovementioned pathologies whereby private gain is made at the public expense. The proponents of the functionalist approach, such as Jeanne Becquart-Leclercq (1984, p. 192), describe political corruption as a functional substitute for direct participation in power which constitutes the cement between elites and parties, and it influences the effectiveness with which power is exercised. The most prevailing definitions of political corruption describe corruption as any transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs (Heidenheimer et al. 1993, p. 6). For the purpose of this chapter, the definition of political corruption provided by the TI is used—the abuse of entrusted power by political leaders for private gain. This definition is both simple and sufficiently broad to cover the cases of political corruption that Armenia faces.

The research suggests that in Armenia corruption is of systemic nature which, as Amundsen (1999, p. 4) notes, is typical of authoritarian and non-democratic regimes. It serves as one of the mechanisms for the authoritarian power holders to

enrich themselves and is usually supported by petty corruption. With regard to newly democratic societies, corruption usually constitutes a part of the inherited practices from previous authoritarian regimes (Moreno, 2002, p. 496). Referring specifically to the post-Soviet space, Stefes (2008, p. 73) claims that systemic endemic corruption has been a destructive legacy of Soviet rule for most successor states of the SU. With regard to the political system of Armenia, the independent watchdog organization Freedom House defines it as a semi-consolidated authoritarian regime (for an overview, also see Simon Payaslian 2011), where the efforts to fight against widespread corruption remain superficial. The argument is also reflected in the statements by Croissant and Merkel (2004) who consider Armenia as an example of what can be described as semi-democratic, illiberal, or hybrid regimes. The interviewees also expressed their concerns about the systemic nature of corruption. “Corruption is systemic and includes all governance institutions, while the fight against corruption in the country is stagnating. It can be compared to person who has a cancer for ten years but s/he neither dies nor recovers,” shared Galstyan (2016a).

An analysis of the corruption level and its impact in weak and strong countries led Amundsen (1999, p. 20–21) to conclude that strong leaders usually exercise a strong control over different forms of corruption and corruption is integrated into the overall command over the state apparatus. It accounts for its predictable and acceptable nature perceived by businesses and the general public. Armenia’s political authority at the realm of the government can be described as strong. Upon the very beginning of its independence, the Armenian president held extensive powers that at that time could have been counterbalanced neither by the parliament nor by the judiciary (Payaslian, 2011, p. 115). Hence, the strong control of the leadership over the formal state structures has reinforced a centralized system of corruption in the country (Stefes, 2006, p. 64). However, there are more factors which have contributed to the centralization of the system of corruption. First of all, unlike in many of newly appeared post-Soviet republics, Armenia experienced smooth transition of power in the early 1990s which allowed Armenia’s political leaders to use corruption to consolidate firm authority over the state apparatus. Thus, Stefes (2008, p. 73) argues that the (re)emergence of a centralized system of corruption in Armenia has been facilitated by this smooth transition of power, named as “negotiated transition.” Another factor which reinforced the centralization of the power was the war with Azerbaijan over Nagorno-Karabakh. According to Stefes (2006, p. 113) “[…] the war […] helped the new government to put itself squarely in control of the corrupt structures and prevent a fractionalization within the state apparatus. First, the war had a disciplining effect on the state and society. It created an atmosphere of national unity in which disruptive behavior was not tolerated.” Second, as Aghumian notes (cited in Stefes, 2006, p. 113) “being at war with a neighboring country many politicians justified the centralization of power as a necessary premise for the country’s political stability.” In sum, based on the above-brought arguments, it can be assumed that Armenia serves as an example of centralized system of corruption inherited from the totalitarian nature of the communist regime which provided fer-

tile soil for corrupt behavior in the newly independent state after the collapse of the SU, and the system has been reinforced by the post-Soviet environment.

Under conditions of systemic corruption, corrupt activities are perceived as the norm rather than the exception, and engaging in corrupt activities constitutes a part of officials' routine behavior. The citizens are aware that offering bribes is crucial even for receiving something that they are legally entitled to. According to Transparency International 2013 Global Corruption Barometer, paying bribes is considered to be a norm among citizens in order to speed up the administrative procedures. Consequently, corruption is widely accepted as a status quo by the population. The Armenia Corruption Household Survey 2010 database implemented by the Caucasus Research Resource Centers (CRRC) reveals that 39% of those surveyed consider corruption as normal. At the same time, residents of Armenia report that corruption is one of the central problems in their country, with 57.8% citing corruption as one of five main issues in the country (State of the Nation Report 2013:14).

Interestingly, public perception of corruption also shows that the general public is accepting of engaging in corrupt behavior for the purpose of resolving a problem with a person in power. At the same time, individuals don't realize the connection between their own corrupt behavior and the overall national level of corruption. As the Policy Forum Armenia (PFA) (2013:19) reports, "[…] individuals contribute to corruption even though they consider corruption to have a negative impact on society." Ultimately, this also means that individuals don't feel a responsibility to cease engaging in corrupt behavior and remain passive, making the fight against corruption ever more difficult. Therefore, perception of corruption is an essential element of any analysis and should be reviewed in order to develop a coherent strategy for fighting corruption.

Stefes (2008, p. 75) shows how corruption in Armenia is entrenched in hierarchical patronage client networks that extend from top- to lower-level officials; myriads of networks are built within the state apparatus further to facilitate corrupt exchanges where money flows all the way up to the official hierarchy, and protection is granted top-down. "For instance, patron client networks connect lower to higher officials. Lower officials usually buy their positions and will later share illicit gains (bribes, embezzled funds, etc.) with their superiors. In return, superiors protect their subordinates from the occasional anti-corruption crackdown. An informal hierarchy of clientelism overlaps with the official state hierarchy" (Stefes, 2008, p. 75). As Keith Darden (2001, 2008) demonstrates, there are two ways higher officials can secure subordinates' loyalty, namely, by allowing them to augment their often poor salaries with illicit income and by collecting compromising material, which can always be used against lower officials in case they disobey. Furthermore, personal connections play a very important role and can make the difference in getting something done or not. Due to the minimal turnover staff in government institutions, having connections there can turn out to be very beneficial. Also, the phenomenon of roofs government officials (who might have indirect ownership in a business) who can formally or informally protect the rights (and wrongs) of companies that are required to interact with the agencies in which these officials work—is a common way oligopolists

maintain their market power (for more information on this phenomenon, see Holden and Sahakyan 2005).

One of the biggest challenges Armenia faces is that in most cases corrupt officials do not face any prosecution. There are different reasons why it happens. Corrupt lower officials go unpunished because higher officials often share in the proceeds and because public pressure to stop corruption in most countries is weak (Shleifer and Vishy, 1993, p. 601). As one of the interviewees, Galstyan (2016a) shared "though investigations of the corruption cases are conducted and revelations are published, the guilty ones are not punished and are not exposed to criminal liability." Consequently, a serious lack of accountability in governance, commonly stemming from a general lack of political penalties for public officials who abuse their positions, is an essential deterrent in the fight against corruption. Instead, the lack of prosecution for abuses of power has created a fertile soil for the permissive environment allowing for the spread of institutional corruption. In sum, corruption in Armenia is both of endemic and institutionalized nature. The tackling of this kind of corruption demands the involvement of different actors and a strong political will and commitment. To put it differently as Galstyan (2016b) noted, "it begs for systemic solutions." The following part elaborates on the role of specific actors crucial for addressing the problem of corruption.

Key Actors for Anti-corruption Activities

According to Svenssen (2005), the success of anti-corruption activities largely depends on legal and financial institutions, judiciary, police, and financial auditors, which are of crucial importance in order to enforce and strengthen accountability in the public sectors. The police and judiciary are of special importance as these agencies are plagued by corruption and partially account for the failures and challenges to implement anti-corruption reforms.

Given the lack of public trust in state institutions, weak democratic traditions, and uncertainty about armed groups' acceptance of civilian authority, the stability of the regime largely depends on the loyalty of the police, and this loyalty has to be bought rather than taken for granted. To put it differently, the security organs serve as a tool for the government's struggle with the state's opposition. In many cases, this price is a disregard of police corruption, the rationale often given for the disregard of police corruption is that the state cannot afford to pay the police reasonable salaries (Stefes, 2006). The recent years in Armenia have been marked by an intensification of street protests and the formation of new civic groups. Given the potential for internal unrest or political instability, the government of the country largely relies on the loyalty of the police to suppress the rising civic activism. In return for police's loyalty and obedience to the government, as Shahnazarian notes (2012, p. 3), corruption and nepotism highly spread in the police system is tolerated by the government. Furthermore, the Armenian police are described by brutality. There are a number of cases (e.g., Electric Yerevan; for an overview on this specific case, see Synovitz (2015)) when the police

deployed the "excessive" force to suppress peaceful demonstrations, to make arrests of opposition members, or to target media representatives investigating and reporting on those cases. The government's tolerance toward corruption in the police, the brutality applied by the police toward civilians "sponsored" by the government, and the lack of prosecution for the police's abuses of power create an atmosphere of public distrust and fear toward the law enforcement. All of these undermine the role of the police as one of the crucial actors in anti-corruption activities, letting alone dialogue and cooperation between the law enforcement agencies and civil society, which according to the country review report (2013:93) within the frame of **review mechanism**[7] (for a detailed overview, see Dell & Terracol, 2014) is one of the key preconditions for a successful fight against corruption.

As to the role of the judiciary in the fight against corruption, given the tight executive control of the Armenian government on this branch, the ability of this institution to function independently is highly questionable. One of the interviewees, Galstyan (2016a), has also highlighted this problem. The executive branch of the Armenian government is predominant over the state's apparatus, and despite formal separation of powers, the judiciary is largely subordinate to the executive (Bertelsmann Transformation Index 2017). As reported in the project by McDevitt (2015), 70% of citizens of Armenia consider that the government is having a strong influence on the justice system. Furthermore, International Crisis Group Europe Report N158 (2004:14) states that there is a tactic agreement between the executive and the judges: the judiciary institution should obey the political authority's orders; in return the government will turn a blind eye on bribes and corruption. Moreover, the dependence of the judicial branch is endorsed by the fact that the list of candidates of judges must be approved by the president.

In the answer to the question "which are the steps to climb up a corruption-free Armenia?" to one of the interviewees, a distinguished anti-corruption expert Khachik Harutyunyan also emphasized the role of a strong judiciary system. In terms of how to make the system strong and independent, Galstyan (2016b) shared "[…] as an anti-corruption expert I would like to point out two things here: selection of judges in local communities and joint trials. Now we have deficit of justice. We need to give people the right to make justice otherwise even if we change all the judges people still won't believe in the juridical system. We need to give this power to their hands. Local communities should be given the opportunity to select their regional judges." However, as the human rights activist Ishkhanian notes, the authorities resist judicial independence because it would endanger their hold on power. Furthermore, as stated by Ishkhanian, if the judiciary is the main mechanism for the authorities to hold on power, then the justice system will be of selective nature characterized by an atmosphere of impunity (Aslanian 2017).

The weakness of the judicial branch to combat corruption is also reflected in its inability or unwillingness to adequately investigate and prosecute high-ranking officials involved in corruption. Thus, given the weakness, inability, or even reluctance of the judicial branch to confront corruption, the legal framework of anti-corruption activities remains poor which is also reflected in the Global Integrity Scorecard for Armenia (2011). The scorecard shows a strong contrast between the legal framework

and its actual implementation. The legal framework score is 86, so it is described as "strong," whereas the actual implementation score is 39, classifying it as "very weak." Thus, these numbers render an overall combined score as "weak." The country review report also confirms that the legal system of Armenia is characterized by deficiencies and "there is a gap in the law" (2013:9). In terms of anti-corruption legal framework, judicial impartiality, and law enforcement professionalism, Global Integrity assesses it as weak, giving it a score of 53 out of 100 (Global Integrity Report 2011). Keeping in mind the above-brought arguments, an assumption drawn from here is that there is a strong distrust toward the judicial branch as an actor to fight corruption and civil society might be reluctant to cooperate with this sector and might also fear to report the cases of corruption. The assumption proves to be plausible taking into consideration the lack of protection for whistle-blowers. This problem will be elaborated in the second part of the paper.

Last but not least, one more key actor in the fight against corruption is civil society. The chapter will proceed with the assessment of civil society in Armenia and its role in combating political corruption.

Civil Society in Armenia

In general, civil society is understood as a sphere of social activities and organizations outside of the state, the market, and the private sphere that is based on principals of voluntarism, pluralism, and tolerance (Anheier, 2004; Diamond, 1999). As the World Bank acknowledges, there is no consensus regarding universal definition of what civil society is because of differing conceptual paradigms, historic origins, and country context. However, for the purpose of this chapter, it is important to introduce a specific understanding of the concept which guides the paper. The definition of civil society used in this chapter is that adopted by the World Bank, according to which civil society organizations (CSO) are considered as important actors for delivery of social services and implementation of other development programs. They have a complementary function to government actions, especially in regions where government presence is weak such as in post-conflict situations. In this context CSOs and NGOs are used interchangeably. Following the discussions of the definitions of civil society by Paturyan (2009), the definition of the term adopted for this paper can be developed further and considered as a sphere of social activity without the involvement of the state that has a normative character, seeks to involve citizens actively, and engages in advancing certain interests based on a set of legal standards.

Armenian civil society is considered to represent a typical case of postcommunist civil society. The disintegration of the communist block was accompanied by a rapid development of CSOs or as Voicu and Voicu (2003) refer to it by "mushrooming of NGOs." A number of studies characterize postcommunist civil societies as week (Howard, 2003). Initially, postindependence Armenian NGOs were created by the political elites, and their apparent influence was low. Therefore, as Paturyan and Gevorgyan (2014) state, the government's relationship with civil society was rather ambivalent. Today, research suggests that the perception of NGOs is positive, albeit

personal involvement is low (Paturyan, 2009). A contributing factor is the stalemate in development that Armenian NGOs have suffered since the 1990s. A lack of progress shows the fact that NGOs are often less connected to the general public than they should be in order to work effectively. As for the relationship with the government, Paturyan (2009, p. 29) sums it up as follows “the state prefers to ignore, rather than control or suppress, NGOs, thus providing them with a certain level of freedom but limiting their impact.” In terms of affecting government policies, the CSO sector usually lacks the required competence and skills (Minasyants, 2014). Additionally, as Asatryan (2015) notes, poor coordination of information exchange between state bodies undermines monitoring efforts by CSOs.

Despite these challenges, the research reveals that Armenian civil society is developing. As reported by the 2015 CSO (2015:22), USAID (2015:22) Sustainability Index for Central and Eastern Europe and Eurasia, there is a growing culture of civic activism in Armenia. Iskandaryan (2016, p. 2) states that a new type of civil society has emerged in Armenia: “activists (mostly young, urban, and educated) brought together by online networking to participate in protests that gather public support and have impact on policymaking.” In regard to anti-corruption measures, the engagement of CSOs in fighting corruption, increasing transparency, and accountability is increasing.

However, the influence of civil society on the Armenian government policies still remains quite limited (Paturyan, 2009, p. 11). Thus, as reported by the Policy Forum Armenia (2013:23), “civil society remains the most interested and legitimate actor in promoting transparency and adapting anti-corruption measures.” One of the ways to empower civil society participation in the fight against corruption is the establishment of independent civil society institutions or as Khachik Harutyunyan (2016) suggested institutionalization of civil society participation in the fight against corruption, such as granting a civil society a role in both selection and appointment of leadership of anti-corruption bodies. Another way for civil society empowerment in the field could be its inclusion in the UNCAC review process. For example, as part of a project on enhancing civil society’s role in monitoring corruption in Armenia, funded by the UN Democracy Fund (UNDEF), TI has offered small grants for CSOs engaged in monitoring and advocating around the UNCAC review process (Harutyunyan & Hoktanyan, 2013). Thus, CSOs have a key role to play in fighting corruption, starting from monitoring public services, denouncing bribery and fraud, and raising awareness to contributing to the implementation of international anti-corruption instruments such as the UNCAC.

Limitations Hindering Civil Society’s Participation in the Implementation of the UNCAC

UNCAC covers five main areas. They are:

- Preventive measures, criminalization, and law enforcement
- International cooperation

- Asset recovery
- Technical assistance
- Information exchange

UNCAC includes both mandatory and nonmandatory provisions. All states that have ratified UNCAC automatically become part of the Conference of the States Parties. The latter was established to improve the capacity of cooperation between States Parties to achieve the objectives set forth in the Convention and to promote and review its implementation.

The importance of civil society in the promotion and implementation of the UNCAC is recognized in the Convention itself. For example, Articles 13 and 63 (4) (c) explicitly acknowledge a role for civil society and nongovernmental organizations in fighting corruption within the convention's work. UNCAC Article 13 Art. (a, b, d) Participation of Society stipulates that parties signatory to the treaty should take appropriate measures to promote the participation of civil society, in particular "to promote the active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption" and to strengthen that participation by measures such as "a) enhancing the transparency of and promoting the contribution of the public in decision-making processes; b) ensuring that the public has effective access to information; c) undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula; d) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption" (UNCAC, 2003:15). Moreover, some articles call on each state party to develop anti-corruption policies that promote the Participation of Society (Article 5); Article 63 (4) (c) requires that the Conference of the States Parties should agree on procedures and methods of work, cooperating with relevant NGOs.

According to the UNCAC coalition, though the convention acknowledges the crucial role of civil society in successful anti-corruption efforts, civil society participation is limited by the UNCAC review mechanism guidelines. The examination of the documents, such as "Rules of Procedure for the Conference of the States Parties to the UNCAC (UNODC 2007)" and "Guidelines for the Participation of Representatives of NGOs at Sessions of the Conference of the States Parties to the UNCAC," reveals a number of restrictions which place limitations on the participation of civil society in fighting against corruption in the framework of the UNCAC. According to Rule N17 of Procedure for the COSPs to the UNCAC, only NGOs having consultative status with the Economic and Social Council (ECOSOC) may apply for observer status at COSP sessions. Thus, consultative status with the ECOSOC is a precondition for gaining a status of observer. Other NGOs that do not have ECOSOC consultative status may also apply for observer status; however, the procedure is a little more complicated. After gaining the status of an observer, NGOs can attend plenary sessions of the COSP, deliver statements, make written submissions, and receive the COSP documents. Nevertheless, observers cannot participate in the adoption of resolutions or decisions by the COSP.

TI, an NGO in consultative status with the ECOSOC, and the Transparency and Accountability Network, an NGO not in consultative status with the ECOSOC, submitted a written statement to the UNCAC Implementation Review Group (IRG) in which they expressed their concerns regarding restrictions on written submissions and oral statements, exclusion of NGOs as observers in the IRG, and exclusion of NGOs as observers in the working groups (UNODC 2013). Restrictions placed on written and oral statements limit CSOs' ability to report on their anti-corruption activities and assessments. For example, written statements are a subject to a word limit[8]. The length of the statement should be in accordance with ECOSOC Resolution 1996/31. Regarding oral statements "non-governmental observer speakers are called after the list of Member States and intergovernmental organization speakers has been exhausted and there is no guarantee that they will be called because of time constraints during the session" (Guidelines for the Participation of Representatives of NGOS at Sessions of the Conference of the States Parties to the UNCAC, p. 5).

Furthermore, the exclusion of NGOs from IRG sessions and from attending the working groups on Asset Recovery and Prevention as observers prevents them not only from following and contributing to the discussions but also from gaining a good understanding of their work. Though UNCAC emphasizes the role of civil society in fighting against corruption, at the same time there are restrictions (listed above) which are incompatible with some of UNCAC obligations. For example, restrictions on written submissions and oral statements are incompatible with UNCAC obligations listed in Article 13 Participation of Society.

On the basis of the evidence on civil society's involvement in combating corruption the following recommendation has been developed: UNCAC should establish a mechanism of shadow report to be provided by civil society which would illustrate understanding of civil society's evaluation of the fight against corruption. One of the alternatives could also be a recommendation made by the UNCAC Coalition: parallel review report produced by CSOs as a contribution to the review process.

Further, the chapter covers only few articles of the UNCAC mentioned in the country review report because of the scope constraints. Those articles are Preventive Anti-corruption Body or Bodies (Article 6), Public Procurement and Management of Public Finances (Article 9), Illicit Enrichment (Article 20), Liability of Legal Persons (Article 26), and Protection of Reporting Persons (Article 33). Another reason for the choice of these articles is that their enforcement is of significant importance for tackling political corruption not only specifically in Armenia but, in general, in other countries as well. Now, each of these articles and their current state in the Armenian context will be introduced one by one.

Article 6 of the UNCAC Anti-corruption Body or Bodies is a mandatory article. As to the institutional framework, in Armenia it includes two bodies: the Anti-corruption Council and the Anti-corruption Strategy Implementation Monitoring Commission. The Monitoring Commission is headed by a Presidential Assistant and monitors the implementation of the Anti-corruption Strategy and internal anti-corruption program. However, there is little information on its activities. According to the information collected through consultation with local experts within the

frame of another project (Wickberg, 2013, p. 9), the commission exists only on paper. As to the Anti-corruption Council, it is chaired by the Prime Minister and is tasked to coordinate the implementation of the anti-corruption strategy. The country review report does not mention anything about the conflict of interest connected with the membership of those high-ranking officials in the Council. Public perception of the council is further affected by reporting of online media outlets not controlled by the government, when they publish on the cases of alleged government corruption, embezzlement of state funds, corrupt practices in procurement, involvement in businesses of high-ranking officials, and others (Partnership for Open Society Report, p. 15). For example, according to the report provided by the Policy Forum Armenia (2013), Hovik Abrahamyan, the previous chairperson of the Council, has been described as one of the highly corrupted profiles with lucrative mining interests. He was also one of those high-ranking officials with an abnormally large difference between his declared income and properties revealed by HETQ Association of Investigative Journalists NGO.

Political will is essential in addressing the corruption problem, whereas Armenia is characterized by the lack of it (Gray & Kaufmann, 1998). It can be assumed that any kind of body established by the imitative of the government which is ruled by high-ranking political leaders cannot be sincere and effective in its attempts to fight against corruption. This assumption is further supported by the fact that "since independence, Armenia is characterized by a deep public mistrust in the government and political elite" (Wickberg, 2013, p. 2). The results of the Caucasus Research Resource Center's (CRRC) Corruption Survey of Households (2010) have revealed that around 50% of the respondents find corruption most common among high-ranking officials (Wickberg, 2013, p. 6). Galstyan (2016b) mentioned that "in such a country as Armenia, if there is a political will from the top in the country's government, then this model (Anti-Corruption Council) can work." The question which may rise here is how to generate this political will. Gray & Kaufmann (1998, p. 9) see a change in regime or in individual leadership as a window of opportunities. Speaking about Armenia, it is highly questionable whether there will be a change in the government's leadership since the current regime is doing everything to stay in power. One of the interviewees, Galstyan (2016a), highlighted this problem describing it as state capture. In the last years, Armenia has shifted from presidential to parliamentary system to make any political change harder to achieve. As the Freedom House (2017:18) states, the parliamentary system serves simply as a mechanism for the current ruling party—Republican Party, led by President Sargsyan—to remain in power. It should be mentioned that most of the Armenian oligarchs are affiliated with this party.

Galstyan (2016a) stated that neither CSOs nor opposition factions joined the Council because of its limited power. Indeed, neither civil society members nor opposition has joined the Council because of skepticism about its credibility. In Armenia anti-corruption bodies governed by high-ranking officials do not enjoy trust from the people, and they have restrictive power. According to the Policy Forum Armenia report (2013), the Armenian government cannot be considered as a

reliable partner in fighting corruption, since it is unwilling to implement an effective anti-corruption campaign. According to Galstyan (2016b), one of the first steps to overcome this trust deficit toward governmental anti-corruption institutions could be civil society's involvement in the selection and appointment of the leadership of anti-corruption bodies. It is also of crucial importance to investigate closely how to grant civil society an opportunity to influence the government decision-making processes regarding anti-corruption bodies and how the government could provide civil society with a space for an active involvement and engagement in the fight against corruption. The argument by PFA (2013:23) stating that "civil society remains the most interested and legitimate actor in promoting anti-corruption measures" demonstrates the relevance of the application of the aforementioned recommendation.

The recommendation which could be developed here is that Article 6 should also include a mandatory paragraph on ensuring civil society's participation in the establishment of anti-corruption bodies, including in selection and appointment processes of the leadership. The second paragraph of Article 6 states that "Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence […] and free from any undue influence" (UNCAC, 2003:41). One of the ways to secure this independence and avoid any undue influence and conflict of interest could be a development of such a membership policy/process in those institutions which will ensure members' apolitical stance, impartiality, neutrality, integrity, and competence.

Article 9 Public Procurement and Management of Public Finances

The first point of Article 9, Public Procurement and Management of Public Finances, states "Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia." (UNCAC, 2003:12). As argued by Galstyan (2016a) "procurement is considered as one of the biggest cradles of corruption. Public officials indirectly (such as through personal contacts) establish some companies and afterwards these companies get contracts in public procurement. Fifty percent of public procurement contracts are single sources and this type of deal contains major corruption risks." Indeed, the 2009 World Bank study of public procurement in Armenia revealed that the sectors with the largest budget utilized noncompetitive procurement methods (single source and/or quotations) for over 80% of their purchases. Armenia should ensure a transparent competitive public procurement system to avoid corruption in public procurement.

One of the most recent cases of conflict of interest has been revealed through the Panama Papers (for a detailed overview on the Panama Papers, see 'Süddeutsche Zeitung. The Panama Papers: The Secret of Dirty Money by Obermeier, et al. 2017). The data obtained by the German newspaper Süddeutsche Zeitung and analyzed in cooperation with the International Consortium of Investigative Journalists have lifted the lid on how the rich and powerful use tax havens to hide their wealth. The papers have also revealed the names of the three Armenians—Mihran Poghosyan who then held two impressive titles (Major General of Justice and Head of Armenia's Compulsory Enforcement Service) and his two uncles—who used shell companies set up in Panama to obtain Armenian government contracts (Aghalaryan & Baghdasaryan, 2016). Moreover, according to the disclosures, Poghosyan obtained shares in the first two offshore companies, when he was already serving as Armenia's justice system official which is a violation of an Armenian law that prohibits government officials from owning businesses on the side. Neither Poghosyan nor his uncles faced any prosecution in Armenia as they are considered under the "protection" of President Serzh Sargsyan. As Sahakyan (see Sahakyan, A. Panama Papers' Armenia Disclosures Could Help the Country Address Graft.) says, they are part of the system and that system is designed to protect them. Letting these officials go unpunished encourages further theft.

Article 20 Illicit Enrichment

The HETQ Association of Investigative Journalists of Armenia which received an award from the Armenian branch of TI for its outstanding contribution to the struggle against corruption has revealed cases of abnormally large differences between the reported declarations of income and property of high-ranking public officials who have not been subjected to any criminal prosecution. Concerns about poor legal framework for anti-corruption agenda of Armenia have been repeatedly expressed by many reports (e.g., by Policy Forum Armenia). In regard to illicit enrichment, the results produced in the frame of the "Parliament Monitoring" project deserve a special mention. In September of 2016, the project produced the first thematic summary presenting the results on monitoring property and income declarations of the members of parliament (MPs). The monitoring revealed that MPs did not comply with legislative requirement of filing declaration every year or even for several years (for a detailed overview, see Thematic Summary on Monitoring of MPs Property and Income Declarations by Open Society Foundations-Armenia, 2016).

One of the significant steps to tackle corruption has been the approval of the legislation by the Armenian government on making amendments to Armenia's Criminal Code. These amendments led to the criminalization of illicit enrichment, which is defined as a significant increase in the assets of a public official that the latter cannot reasonably explain in relation to income (UNCAC Article 20, p. 19). The HETQ traced a number of cases revealing a significant increase in the assets of a high-ranking official which exceeds his/her legitimate income and which the

official could not reasonably explain. Many officials usually attribute their wealth as generous financial "gifts" or "donations" (e.g., see Armenian Government Approves New Anti-Corruption Bill by Asbarez) received from other individuals, whereas Article 29 of the Law on Civil Service prohibits taking of gifts.

The problem of illicit enrichment had been regularly raised by CSOs. As Karen Zadoyan, Head of the Armenian Lawyers' Association, shares "when three years ago we started implementation of the EU-funded 'Multi-Faceted Anti-Corruption Promotion' Project we had two main tasks: to develop CSO Capacities to Improve Government's Implementation of Anti-Corruption Reforms; secondly, to achieve success. In this second task we had an objective to criminalize the illegal enrichment and create an independent anti-corruption body. When we entered the field with this agenda, many were skeptical" (see Armenian Lawyers' Association. Civil Society has influenced the Formation of Anti-Corruption Agenda in Armenia. Success Story).

It took Armenia around 9 years to criminalize the illicit enrichment (it was criminalized in December 2016 and came into force on 1 July 2017) after the ratification of the UNCAC. It serves as a unique example of the successful cooperation between civil society and government in the field of anti-corruption fight. The recommendation which could be made here is that UNCAC should make this article mandatory.

What is interesting to note here is that the interviewees expressed their concern that the criminalization of illicit enrichment can be used as a tool by politicians for political prosecution, especially for opposition leaders.

Another step toward eliminating illicit enrichment was the adoption of a set of amendments to the package of anti-corruption laws providing for the establishment of the Commission for the Prevention of Corruption. The Commission is expected to examine income and asset declarations of over 2000 senior state officials in order to investigate possible conflicts of interest or unethical behavior among them. Officials suspected of engaging in corrupt practices will be prosecuted.

Article 26 Liability of Legal Persons

Though this article is mandatory, according to the review report, Armenia has still not introduced liability of legal persons for corruption offenses. "Armenian legislation does not provide for criminal or administrative liability of legal persons, except for money-laundering." (Country Review Report of Armenia, 2016:10). As reported in UNCAC Civil Society Review by K. Harutyunyan and V. Hoktanyan (2013, p. 3), "the legal framework has some discrepancies around the definition of foreign officials and does not provide sufficiently strong grounds for the liability for legal persons, or for trading in influence. The high number of amnesties granted following convictions for corruption offenses is also remarkable." The recommendation developed in this context would be that Armenia should introduce criminal, civil, or administrative liability.

Article 33 Protection of Reporting People (Whistle-Blowers)

Article 33 Protection of Reporting Persons is a nonmandatory article. According to Global Integrity's 2011 Scorecard, the protection of whistle-blowers in Armenia is very weak. The country's legislature lacks a cohesive framework for the protection of reporting people. The Armenia Corruption Household Survey 2010 database implemented by the Caucasus Research Resource Center illustrates clearly why people may feel reluctant to report cases of corruption. According to the answers to the question "which of the following you personally consider as a reason for not reporting corruption to the relevant authorities?" around 55% of respondents believe that "those who report corruption would be subject to retribution/retaliation" (PFA, 2013: 21).

The country review report notes that protection outside criminal law is ensured by keeping the whistle-blower's identity secret. However, anonymous reports cannot be the basis for opening a criminal investigation according to Article 177 Criminal Procedure Code of the Republic of Armenia[9] (this issue was also indicated in the country review report). In Article 177, it is clearly stated "A letter, a statement or other anonymous messages about crime, unsigned or with false signature or written on behalf of fictitious person, cannot be a reason for initiation of criminal prosecution." Furthermore, as reported by the Partnership for Open Society (p. 17), protection within criminal law is possible "only if the reporting person (whistle-blower) will be granted status of witness or victim, then s/he will be entitled to protection mechanisms provided by the Code."

Both interviewees have raised the issue of protection of reporting people. According to them, it is one of the shortcomings to be improved. "With regard to nonmandatory provisions, the legislation does not provide a cohesive framework for the protection of reporting persons […]" (Harutyunyan & Hoktanyan, 2013, p. 3). The role of whistle-blowers in fighting against corruption has been repeatedly emphasized. For example, the Parliamentary Assembly of Council of Europe stresses the importance of whistle-blowing as a tool to increase accountability and strengthen the fight against corruption and mismanagement referring to its Resolution 1729 (2010) on the protection of "whistle-blowers." However, as it has already been illustrated, the Armenian legislature relating to the protection of whistle-blowers can be described as undeveloped.

The recommendation in this case would be that UNCAC should make the protection of whistle-blowers as a mandatory article to make the legal system of the States Parties take appropriate measures to provide security to the reporting people. In case of Armenia, taking into consideration the fact that the legislation does not offer a cohesive framework for the protection of reporting persons, the National Assembly of the Republic of Armenia within the scope of authority defined by the Constitution should pass a law which would ensure the same means of shelter for reporting people, which are prescribed for victims, witnesses, and experts by the criminal procedure legislation.

Conclusion

Corruption has a negative impact on the development of a country, allocation of public resources, and consolidation of democracy. Armenia is one of those developing countries, where the problem of corruption still remains prevalent and political corruption is widespread. Entrenched corruption, strong patronage networks, and a lack of clear separation between private enterprise and public office render the implementation of anti-corruption activities. Among the main obstacles hindering an effective fight against corruption are the lack of the political will and the weak judiciary system. Though some progress has been made after the ratification of the Convention, Armenia's enforcement of the UNCAC has several shortcomings. Furthermore, the weak judiciary undermines the effective enforcement of legislative measures in general, and it particularly impedes the successful fight against corruption. On the basis of the provided evidence, the following recommendations have been developed to contribute to the successful implementation of the UNCAC in the Armenian context and reduce (political) corruption in the country:

- Article 6: Establishment of independent anti-corruption bodies void of conflict of interest and with such a membership process which ensures members' apolitical stance, impartiality, neutrality, integrity, and competence.
- Article 26: Introduction of liability of legal persons for corruption with appropriate sanctions. Armenia should introduce criminal, civil, or administrative liability.
- Article 33: Adoption of a law that would ensure the same means of protection to reporting people which are prescribed for victims, witnesses, and experts by the criminal procedure legislation.

Taking into account the systemic nature of corruption and the lack of political will to fight it, civil society remains one of the most important actors in the anti-corruption field. One of the key preconditions for effective anti-corruption campaign is a close cooperation between the government and CSOs. The government should involve civil society in the development of anti-corruption policies. One of the ways to empower civil society's role in anti-corruption measures could be their inclusion in the procedure of the establishment of (governmental) anti-corruption institutions and also their involvement in the UNCAC review process.

One of the successes achieved by civil society is the criminalization of illicit enrichment. One of the concerns is whether it will be implied by all state officials without exceptions or if it will be based on the so-called "selective" approach. As it has been demonstrated in the research, those officials who are a part of the system often do not face any prosecution as their protection is provided from the top of the government. Another question which arises here is whether the government will imply criminal penalty for illicit enrichment of previous state officials. For instance, the HETQ previously revealed cases of abnormally large differences between the reported declarations of income and property of high-ranking public officials. Some of these officials are not currently holding state positions. Thus, the question is

whether their cases will be investigated further and if criminal charges are warranted or will these former officials be subjected to criminal prosecution?

This research reflects the tip of the iceberg and suggests that this paper might serve as a basis for further detailed research focusing on only one aspect of political corruption and how civil society can work toward the elimination of corruption in government.

Discussion Questions

1. What type of governments are more likely to be corrupt and why? What are the common characteristics of countries with high corruption?
2. What are the factors which encouraged corruption in the post-Soviet era?
3. Why have some post-Soviet countries achieved success in reducing corruption, whereas many post-Soviet states are still among the most corrupt nations?
4. Based on the fact that in many cases paying bribes is considered to be a norm among citizens in order to get things done, discuss how a cultural element may have an effect on the amount of corruption in a country.
5. How can the problem of political corruption be addressed if the actors crucial for the fight against corruption, such as police and judiciary, are corrupt themselves?
6. What are the conditions that encourage corruption among high-ranking officials?
7. Why do governments tolerate corruption in the security organs?
8. What is the role of civil society in fight against (political) corruption and which kind of institutions should cooperate with the civil society to achieve tangible results?
9. Taking into account the fact that many UNCAC articles are not mandatory provisions which means that their implementation is up to a state party, can UNCAC achieve success in eliminating corruption?
10. Relating specifically to Armenia, which further steps should civil society take to eliminate political corruption?

Notes and References

1. This chapter is an extended and modified version of a research paper conducted within the frame of the Regional Academy on the United Nations program in cooperation with the United Nations Office on Drugs and Crime which was presented at the Academic Council on the United Nations System Conference in Vienna (January 2017). This chapter was written in 2017.
2. In this paper UNCAC is also referred as merely convention.
3. Please note that due to time and scope constraints of the research project, this paper does not test this assumption; instead, it suggests that the recommendations developed for Armenia could be applicable to those developing countries which go through the same sociopolitical process and are characterized by the

same forms of corruption. This paper could be followed up by further research in order to test this assumption and name a country or counties which these recommendations could be applicable to.

4. Graneheim and Lundman (2004) and their interpretation of qualitative content analysis were introduced in the chapter by Elo, S. and Kyngäs, H. (2008) (see reference).
5. The report was provided on behalf of the Partnership for Open Society Initiative by the following organizations: Armenian Helsinki Committee, Helsinki Citizens' Assembly Vanadzor, Journalists' Club Asparez, Open Society Foundations-Armenia, and Transparency International Anti-corruption Center. This report is important for this project since it provides civil society assessment on the UNCAC. It reveals its shortcomings and offers recommendations to improve the situation.
6. The interview with Gayane Mamikonyan was conducted on the 14th of October 2016 and the one with Khachik Harutyunyan on the 15th of October in Yerevan.
7. The review mechanism is the first ever peer-review process to track implementation of the convention, adopted in 2009. This is an intergovernmental peer-review mechanism that produces country review reports, which examine progress in implementation and make recommendations. The review process comprises two 5-year cycles: The first cycle (2010–2015) covers Chap. 3 on criminalization and law enforcement and Chap. 4 on international cooperation. The second cycle (2015–2020) will cover Chap. 2 on preventive measures and Chap. 5 on asset recovery. Armenia was reviewed within the first review cycle by Lithuania and Kyrgyzstan in 2013.
8. Paragraph 37 (d) and (e) of the ECOSOC Resolution 1996/31 on consultative relationship between the UN and NGOs limits the written statements by CSOs in consultative status to 2000 (general consultative status) or 1500 (special consultative status) words per document including footnotes.
9. Article 65 of the Constitution of Armenia forbids members of parliament to own or run a business while in office.

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Systemic Corruption: Weapons of the Twenty-First Century, Organized Crime and the Mafia

Arije Antinori

Introduction

Corruptissima republic plurimae leges.

Publio Cornelio Tacito, Annales, Libro Ill, 27

The bribes system is habitual in the major infrastructure projects.

If you want to take part to it you must pay

(Enrico Maltauro [entrepreneur arrested for bribes a few months before Expo2015 in Milan} statement made during the interrogation.

Corruption is a "hidden and elusive practise as few others, commonly popular in many countries, not excluding those at a higher level of civilization, which adds to the heavy immorality of behaviour, the distortion of a good competitiveness: consequent effect and, at the same time, fertile ground and irreplaceable support instrument to the spread of organized crime, sometimes corruption contributes to seriously weaken and obstruct the same condition of modern democracies" Romano (2008).

First of all, it is necessary to adopt a relevant functional distinction between:

X. Simple corruption – it is aimed at buying administrative decisions and promoting/providing an agreement between two actors.
Y. Complex corruption – which corresponds to the political corruption, related to the "buying" of political decisions, and generally involves more than an actor from both sides (Romano, 2008).

From a criminological perspective, in a highly bureaucratized public administration system, the role of the bureaucrats is crucial. They can foster the embedding of units and/or groups of corrupted individuals, able to directly influence the slowdown

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and the acceleration of processes. Such processes can facilitate the mechanism of illicit offer – often considered "usual" – of money with the aim of supporting or, in some cases, even boycotting initiatives according to the benefits that the corrupter can obtain in in his favour (e.g. denials, rejections, interdictions, etc.).

Throughout the years, the growth of illicit incomes obtained from several illegal activities has reached a remarkable consistence, and this – once again – makes inevitable their reinvestment in the circuit of the illegal economy. There is some evidence that underlines the convergence between collusion and corruption (Savona & Mezzanotte, 1998, p.28). The most dangerous form of economic crime is the convergence between organized crime and corruption. The connection between organized crime and corruption represents one of the main threats to the rule of law and community integrity. As a complex phenomenon, it is necessary to understand its root causes first and the way it affects the institutions and produces economic costs but, above all, social costs.

Such distorted "micro-worlds" are regulated by influences of different sorts, either economic or political, which provoke social poverty and inequality within the territory: Here only the criminals can count on a secure covering. The phenomenon acquires a transnational connotation and, sometimes, even transcontinental. Therefore, it is possible to point out the application of a precise operative model mainly founded on the triangulation of three economic crimes:

A. Fraud
B. Money laundering
C. Corruption

In this sense, the "Clean Hand" (Antinori, 2012) (*Mani Pulite*) scandal has been the first concrete example of a "deluge" corruption of the Italian politic class – except for a few other rare cases – by means of private firms through the preliminary creation of *dark funds*. The money obtained in this way used to be recycled and reinvested. The interdependence among economic crimes is the tangible manifestations of the complex adaptive and systemic articulation of such crime: that we observe in contemporary entities always distinguish themselves more, thanks to the specialization and professionalization of their members.

Each corruption action, particularly if organized and systemic, influences the market's mechanism by twisting the competition dynamics which regard all the actors involved and, contextually, by creating closed circuits and exclusive economic ecosystems that impede the competition refurbishment, aimed at undermining the entry of new actors, perhaps more efficiently. The organizational structure of the new economic crime is flexible and fragmented, while the small organized crime groups establish and disintegrate themselves quickly.

The model of the twenty-first century organized crime is characterized by a remarkable speed of movement, indicative of its ability of forestalling the opportunities offered by the legal economy of reference, deeply integrating with it (Bini, 1992). In short, second-generation criminal enterprises "use" their organizational structure and systemic power as their strong point. They provide

goods production and illegal services. They often manage activities within legal sectors of the economy and infiltrate in the financial and commercial circuits at a local, national and international level.

Importantly, the corruption of the state apparatus members experienced a propulsive push due to the increase of the regulatory production and the intensification of formal controls. The "paradox of the control", as a pushing factor which generates the crystallization of the systemic corruption, fosters a particular dynamic which generates a perverse process: The more the State is engaged, by interfering and controlling, the more are the opportunities of corruption to intensify (Marotta, 2004, p. 181).

With respect to the social causes of corruption, it is worth considering the determiner factor of sociocultural sort, as well as the way intersubjective relationships might affect the levels of corruption (Karstedt, 2001). In particular, it is important to stress the existence of a negative correlation between the trust on our neighbour and the corruption – on one hand – and a positive correlation between the confidence tie among the entrepreneurial actors and the level of corruption perceived. Considering that, it is opportune to highlight the necessity of focusing on further independent variables of cultural sort, such as the relation between citizens and public authority (Di Nicola & Zanella, 2011).

From the economical point of view, a low level of competition between the firms would provoke resorting to corruption (Henderson, 1999), much better, and it is possible to affirm that such decreasing of competition corresponds with a general raise of corruption (Ades & Di Tella, 1995).

From the political and cultural point of view, the relation between the democratic level of a state and corruption has been largely examined, as well as the tie between such criminal conduct and freedom of expression Paldam (2002). The analysis demonstrated that the reforms of regulatory apparatus aimed at increasing the freedom of the press, combined with the compression of political and economical power influence on media and a containment of repressive actions, and cause a decrease of the perceived corruption (Brunetti & Weder, 2003).

The key sectors of the corruptive phenomenon are:

1. *Public tenders* – it is about big scandals that involve public tenders for the construction of highways, bridges, hospitals and schools. Such sector is considered one of the crucial indicators useful to understand how a political and economic system is affected by this criminal phenomenon.
2. *International cooperation* – this sector is largely contaminated by the virus of corruption. It is less subject to be controlled, since the activities are normally implemented out of the national territory.
3. *Privatization* – the process is related to the use of the territory and the issuing of state licences and concessions. It is the sector which manages controls in different areas, such as fiscal, customs, security, hygiene, public order and judiciary activity.

It seems clear how the traditional distinction between political corruption and administrative corruption is not sufficient to limit the multiform nature of the phenomenon, as both levels are often in close relationship. Among the environmental factors that foster organized corruption, we can point out the inefficient and unfair application of regulations, the flimsy action of the institution in charge of the supervision and control of economic sectors, the implementation of the prevention actions as well as the inadequate structuring of internal governance systems. It has not only negative consequences on the economic development of the poorest countries, but it also distorts the mechanism of the price establishment of financial assets, contaminating the financial markets.

Such economic necessity transformed the essence identity of the traditional organized crime in an affiliation form of entrepreneurial sort. The criminal ties between *mafia* groups and economic crime depend on several factors, first of all the growing of organized crime groups specialized in corruption that use legal entrepreneurial strategies to reach illicit purposes (Neri, (2014) Pp.17–19).

Organized crime often resorts to the white-collar criminals professionality to maximize its profit, through the progressive infiltration in licit entrepreneurial activities.

These activities, in fact, produce not only a high rate of low-risk profitability, but they also keep the control in the territory, to hide the incomes from criminal business and to build – by means of a corruptive net – a respectable social position in the community for the criminal high profile members (Adamoli, Di Nicola, Savona, & Zoffi, 1998).

In this way, they can establish a real "*pseudo-mafia* company" which, by exploiting the professionality of specialized technicians and white collars, adapts *mafia*'s methods to apparently licit activities, damaging the legal economy and the competitive market. Therefore, the business world and organized crime world are implementing strategies of entrepreneurial nature giving life to three different models of corruption. They are:

A. Organized corruption is a reticular structure composed of individuals that can cover different roles, from administrative to politic ones, that – by means of corruption – merge the decisional level with the administrative level, above all within local administration, achieving a systemic capacity to corrupt. A relevant modus operandi, largely utilized in this context, is the use of dossier as a "silent tool" which strengthens criminal ties. The false accounting is considered a "sentinel-crime" of the most large and hidden corruption.
B. Centralized corruption – The Italian Mani Pulite case brought to light how the hidden fundings destined to political parties were used to reinforce a sort of "umbrella" system of protection for the actors involved. We notice, thus, how a relational hierarchization system which involves politicians, administrators and companies emerges;
C. De-centralized corruption is a progressive contamination of several public administration sectors that highlights the important role of the individuals "hub". They have the capability to promote/transfer criminal interests to different fields, as they:

- Have direct contacts with politicians that can influence or directly lead the nominations, positions and funds allocation
- Are considered reliable on the basis of the previous known professional experience in the field of interest

Systemic Corruption

In the last few years, corruption – based on the traditional nexus corruptor/corrupt – has transformed itself in a triangular model because of the affirmation of the new role of the intermediary who actually fosters the intermediation between actors, with the aim of letting their own interests converge. The nature of the corruption deal evolved from a mere administrative service to a real system of influence. The most relevant level of corruption risk can be detected in local and regional institutions, where internal procedures/controls are definitely weaker. The most vulnerable sectors are (Com, 2014, p. 38):

- Urban development and construction
- Environment
- Public health
- Fiscal administration

Just in these sectors, it is possible to observe the triangulation "organized crime-company-politics", which is more popular in public tenders, constructions, management and maintenance of waste.

The development of systemic corruption produces negative macro-impacts:

A. Fostering the increase of public spending deriving from the raising of the services' costs and of the bought goods. This causes an increasing of the debt level.
B. Generating a decrease of the growth GDP rate, therefore, reducing fiscal revenues.
C. Determining a "real tax" that contributes to reduce the level of investments.
D. Highlighting single actors' skills and expressing their reticular capability in order to acquire resources from public administrations.
E. Undermining the entrepreneurial capability as economy thruster.
F. Drawing the illicit political interest by redirecting the investments towards big works, as source of profit, influencing and transforming public spending as well as negatively transforming the infrastructures' "geography".
G. Bureaucratizating of the administration processes importantly because of the necessity of a preventive control.

By virtue of these factors, it is evident how the fight against corruption provokes a decrease of public spending.

Considering the complex corruption business, three categories of actors can be identified:

(a) *Corrupted* – the individual is a passive corruption actor. This category includes either the actors of all levels of the political hierarchy and the public administration officers, able to carry out a decisional power with a minimum level of discretionality. Such a category also includes subjects that are not public officers properly but that are in the position of managing a public service.
(b) *Corruptor* – the individual is an active corruption actor. The corruptor role is based on the privileged access to certain markets – ruled by politics – through the so-called pork barrel politics and, in a capsized corruption form, the simple citizens that look for a way to illegally obtain (from appointed authorities) favours and privileges they are not entitled to receive. The reasons that motivate active corruption are always connected with the pursuit of a not proper privilege.
(c) *Intermediator* – the individual covers functions and roles quite precise in the corruption market. This actor operates in order to foster exchanges, either on the corrupted individuals' side or on the corruptor end. During the operation, the corrupter makes sure his/her identity is not visible and manages all the possible risks and acts in order to allow illicit exchanges by connecting politicians and entrepreneurs, elaborating proposal and communicating information which make them plausible and negotiating, collecting and delivering the bribe to the final consignees. The intermediators might be professionals in the following sectors: real estate, public relations, communication or sponsorship. They can also be "close men" like secretaries and administrative assistants, and they are the evidence that exemplify how the "corruption market" reached a systemic level.

The instruments of systemic corruption develop in a real market, though illegal. It needs, thus, a financial system mainly characterized by not recorded funds, out of the balance, the so-called dark funds. Furthermore, among such tools we find means of payment employed in corrupted exchanges, like cash money, largely used as it can be hand-delivered leaving no trace, and, at a superior level, bank accounts in the so-called tax havens. Bank accounts abroad can be of different kinds such as:

1. A numbered and covered bank account, a sort of account not assigned to a juridical or natural person, but it is identifiable only through a recognition element which just the bank can decode.
2. A bank account through which collecting and funnelling the bribes occurs. It is assigned to a natural person, a trusted person for the authority – the real owner – for instance, a political party.
3. A foreign bank account assigned to a certain and convenient firm.

The *modi operandi* useful to create a further availability extra-balance (Savona & Mezzanotte (1998), p. 55) are:

(a) "Operations totally or partially non-existent" which engender false invoicing or over-invoicing
(b) "Extremely onerous debentures" as contractual penalty for the simulated non-fulfilment

(c) Mechanisms – tools which allow corrupted exchanges when, along with a firm, the fraud directly involves the bribe receiver as well

Systemic corruption can be categorized into:

A. *Pseudo*-formalized – it develops within public administration, where the activities can be guaranteed by bribes. In this specific case, counteractions have to focus on:

   (a) Assurance of rights
   (b) Qualitative and quantitative assessment of officers' performance
   (c) Monitoring of external relations/interactions

B. Informal – public employees represent the characters of an informal network of relations known only by its members that establish the functions, roles, exchange regulations, acquisition and redistribution of illicit revenues. In such cases, counteractions have to focus on:

   (a) Promoting of transparency and involvement of the citizens in public affairs
   (b) Simplification of administrative procedures
   (c) Resorting to certified standards of services
   (d) Fostering competition in the offering of public services
   (e) Patrimonial and sample controls on the officers' properties

C. On demand – the actors that keep relations with public administration are aware of the existence of the *bribe market* that they support and spread in the territory, contaminating – above all from the ethic point of view – the sociocultural fabric.

Because of that, the weapons to fight corruption have to be very specific and efficient.

Countering Corruption

In order to deal with the widespread disseminated organized corruption, it is necessary to arrange strategic resources aimed at intervening by and invoking a response from the international community, through specific agreements and treaties of cooperation such as the UN Convention Against Corruption, which declares that goods not legally acquired by means of corruption must be given back to the States.

It is worth mentioning the essential complementarity between the regulations and actions on a preventive plan and the penal regulations that are specifically repressive.

The globalization and spread of corruption phenomenon is characterized by the pervasive and transnational capability to infiltrate the socio-economic and political fabric. In a middle and long term, it represents a real threat to democracy and rule of law.

Counter-corruption strategies adopted by the European Council act both at the national and intergovernmental levels, through three assets:

- Definition of juridical principles of soft law
- Monitoring of results/progresses of anti-corruption authorities of Member States
- Designing technical cooperation and assistance programmes

Several Member States have created a specific *central authority* aimed at preventing and countering corruption. The efficiency of such authority can be achieved with a:

- Guarantee of independence
- "Distance" from political interferences
- Availability of specific resources and skills
- Meritocratic recruitment/promotion of employees
- Multidisciplinary collaboration between the actors
- Rapid access to databases and info-sharing

The fight against corruption has to be based on systemic targets, not only those of an economical sort. The spread of a corruption culture within the society compromises the existence of a democratic system, particularly the harmonic development of the new generations and their future to live in a proper community that is one not controlled by organized criminal groups, corrupt business leaders and corrupt government officials.

From the political point of view, counteractions to prevent and control the phenomenon should be implemented through preliminary controls and guarantees of punishment to those involved in the corruption. It is opportune to say that when they operate exclusively to intensify the controls they generate, an increase of the administrative "deviousness" within the public administration and, as a result, the corruptive phenomenon grows, since such controls foster several critical factors such as:

(a) Raising of illicit demand
(b) Raising of the corruption costs
(c) Multiplication of corrupted individuals

Self-money laundering, especially by means of cryptocurrencies, represents the evolution of the corruption which can be fought through undercover police actions aimed to verify the correct behaviour of a public officer.

In this particular dimension, counteractions against corruption should be based on the following strategies:

(a) Reduction of the resources at disposition of the "guardians" that, acting as system guarantors, spread scepticism and distrust within the illicit circuit
(b) Introduction of the detective tool of the undercover agent
(c) Implementation of the controls/sanctions against the illegal political funding
(d) Countering of organized criminal infiltration
(e) Strengthening of control/sanctions against the false accounting
(f) Dismantling of the corruptors' reputations and their nets

(g) Fostering/encouraging the exfiltration important for protection of justice informers (justice collaborators)
(h) Turnover for the positions of those who are most subjected to corruption influences
(i) Protection of freedom of the press, aimed at guaranteeing its independence from the system

Counter-corruption instruments and actions can be categorized into four types:

- Definition and assessment of the system integrity
- Targeting specific aims and actions
- System monitoring
- Law enforcement instrument

As for countering of individual corruption in public administration, it is important to stress how necessary it is to break the trust link between corrupters and those they corrupt and acting to reinforce controls and sanctions. However, in the case of systemic corruption, the scenario is more complex and difficult.

Corruption in the European Union and Italy

The phenomenon of corruption affects all the European Union (EU) Member States and has effects on good governance, good management of public money and the market competiveness by implicitly altering the markets, affecting the perception and the trust links of the citizens with their democratic institutions.

In June 2011, a European Union Commission adopted a communication on the fight against corruption in the EU area, by issuing a document called *Report* aiming at monitoring and assessing the endeavours in preventing and countering the phenomenon.

In alignment with the international juridical instruments, it defines corruption, in a broader sense, as any form of "abuse of power aimed at obtaining a private profit". The *Report* focuses on specific acts of corruption and the measures adopted by Member States to prevent, counter and punish them with a greater efficacy. The result of such actions inevitably depends on the socio-economic pattern, the institutional architecture and the systemic criminal pervasiveness.

The first Report was published in February 2014. The Commission provided the Council and the European Parliament with an analysis of corruption and the preventing and countering measures.

In the last few years, the European citizens and their governments have suffered an important financial crisis that submitted them to further pressure. In order to face the current economic challenges in Europe and the rest of the world, it is necessary to ensure – to a greater extent – guarantees of integrity and transparency of the public spending. The citizens expect that EU performs an important task by helping

Member States to safeguard the legal economy from organized crime, financial and fiscal frauds, money laundering and corruption (Com, 2014, p. 38).

According to the estimates appraised by institutions and specialized organs, such as the International Chamber of Commerce, the United Nations Global Compact and the World Economic Forum, corruption seems to cost about 120 billion euros per year to the EU economy and nearly the same to the EU annual balance.

The 2020 EU strategy aims at fostering a smart, sustainable and inclusive economy in order to help States to achieve high levels of occupation, productivity and social cohesion. In an always more globalized economic dimension, it seems evident how the control of corruption represents the primary strategy to foster EU competitiveness.

The low trust of citizens in institutions negatively affects the economy and makes more expensive and less efficient commercial transactions. Therefore, we can affirm that corruption produces negative effects of a double nature:

A. *Economic corruption* produces negative effects on investments and represents a barrier for competition, causing inefficiency in the economic system and resource allocation, and undermines the efficacy of public spending.
B. Social and ethical corruption results in inurement and conditioning of the collective, familiar and individual dimension of illicit personal profit, with the resulting destruction of the vision of community in favour of an “atomized cannibalism”.

By analysing the system, we notice how the greater damages affect small enterprises not because they are more subjected to corruption but, instead, as they are not able to afford the costs (Monteduro et al. (2013), p.43). Furthermore, the small and medium enterprises seem to be more vulnerable to corruption (UNIDO-UNODC, 2012) due to the following key factors:

A. Structure and organization of the work – the greater internal formality makes the corruptive phenomenon mainly tolerable.
B. Tactical perspective – corruption, by conducting the individual to obtain an advantage in a short term, “diverts” him from the strategic vision, as well as from the perception of being an actor of the system instead of an atomized subject.
C. Lack of financial resources – in the case of a contaminated environment, this condition considerably undermines (in a certain way) the capability of “disengagement” of the entrepreneur from the bribe system.

Thus, it seems clear how the corruptive phenomenon represents a relevant cost for the medium/large enterprises, because of their need to face the inefficiency of the bureaucratic system, along with the costs resulting by the lack of trust and reputation related to the demand.

In 2010, the Centre for the Study of Democracy considered Italy (Centre for the Study of a Democracy, 2010) as one of the most relevant cases useful to understand the interconnection between organized crime and corruption. In fact, the spread of

corruption across the economy, society and politics can be considered as a magnet that attracts organized crime and *mafia* groups.

In 2011, the GRECO report described Italy as a scenario characterized by deeply rooted corruption in public administration and civil society, as well as the private sector.

The use of bribes seems to be a common practice employed to obtain licences, permissions, public contracts and grants and personal profits in academic contests and soccer. For this reason, corruption in Italy can be defined “pervasive and systemic”, due to its ability to negatively affect the whole social-economic fabric and politics (Grego, 2011).

In addition, corruption represents a serious threat to the trust tie between the State and citizens. Therefore, with respect to the perception of the phenomenon in question, Eurobarometer 2013 reports the 97% of Italians – compared to the European average equal to 76% – who participated in the survey considered corruption a rampant phenomenon.

Contextually, 42% of Italians – compared to the European average of 26% – affirmed to suffer corruption every day. Furthermore, 88% of Italian participants in the survey considered illegal recommendation and/or corruption the easier way to access public services.

For this reason, the *27 maggio 2015 n. 69* law was promoted. It indicates the dispositions related to crimes against public administration, *mafia* and false accounting.

Summary

The twenty-first century organized crime converts itself from a passive subject to an active subject, breaking the ethnic and cultural ties which characterized the traditional Mafia (Savona, 2016). Nowadays, the “mafioso” has to be recognized as a real “entrepreneur” that operates unlawfully, inserting itself in the market by using economic strategies. This new criminological approach is due to the change of internal conditions, as well as the dynamics of relationships which occur within organized crime that has generated, in turn, a change of the criminal systems initially closed and circumscribed and eventually articulated and interdependent.

For this reason, the evolution of the criminal complex phenomenon has to be considered an issue related not only to security and control – *stricto* sensu – but also to the economy and much better related to political and economic power. The criminal phenomena, based on corruption, can be considered a physiologic tie between power, criminal organizations and white-collar criminality, so that it is possible to identify a “culture of corruption” which, by now, characterizes the business management of all countries (Marotta, 2004, p. 181).

We recognize the infiltration of the *mafia* in political, administrative, economic and financial systems managed through direct and indirect engagement of

professionals, politicians, business men and white-collar individuals, though not necessarily affiliated with the organization. Therefore, we deduce that without using the violence of the traditional *mafia*, they share knowledges and favours with the aim of generating frauds, recycling activities (money laundering), corruption and environmental crimes (Neri (2014), pp. 20–21).

Discussion Questions

1. Define “systemic corruption”: How does organized crime go about infiltrating the economic system?
2. How does second-generation Mafia activity differ from the activities that characterized the traditional Mafia?
3. What is meant by the “triangular model” of corruption?
4. How does organized crime operate within “legal” sectors of the economy?
5. Why has money laundering in the political-administrative structure of civil society increased so much in recent years?
6. Discuss the role of the “intermediary” in the operation of corrupt activities.
7. What systematic conditions in the economy and politics have contributed to corruption in Italy?
8. Give examples of the types of criminal enterprises in which the Mafia engages at local, national and international levels.
9. Differentiate between “simple corruption” and “complex corruption”.
10. Based on the information presented in this chapter, do you think it is possible to control and reduce the amount of organized criminal activity in Italy?

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Perspectives on Fraud and Corruption in the Future

Peter C. Kratcoski and Maximilian Edelbacher

Introduction

A definition of corruption that considers corruption in its broadest context is the misuse of power to obtain an illegitimate gain. In this context, the one who has the power (ability to control, give commands and expects to be obeyed, and controls the decision-making process) performs an illegal act to determine the outcome of some financial, political, or personal matter or uses the power to obtain benefits not deserved.

As the various nations of the world became a part of the global society, and the amount of international crime increased, the identifying of those types of crimes that should be included as corruption became somewhat problematic. Hertzer (2012, pp. 218–219) acknowledges that a universally recognized definition of corruption does not exist in the European legal and judicial areas. He notes, "The term is used to describe several situations because the traditional designations and terms that differ from one language to another cannot always be reconciled. For example, in the European Union treaties and documents, the English corruption was translated into German as *Bestechung* although it means bribery in English and fails to cover all aspects of corruption (bribery, patronage, nepotism, misappropriation of common property, illegal financing of political parties and election campaigns)." Hertzer (2012, p. 218) maintains that the determination of corruption should be considered within the context of the nature of the interaction. He states, "In principle, corruption is a situation in which a person who is responsible for performing certain duties pursues improper or unfair advantages for actions or omissions in the duties, or

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pursues improper or unfair advantages for actions or omissions in the performance of those duties." The corrupter as well as the person or persons corrupted do not always engage in the activity that constitutes corruption for direct personal gain. For example, political leaders may engage in corruption out of a concern for the welfare of their nation. If the corruption leads to an increase in the country's security, the leaders probably will benefit indirectly in that the favorable opinion from the citizenry may improve. Corporate leaders may corrupt the heads of the governments through bribery solely for the purpose of enhancing the economic status of the corporate institutions they control and a person in a low-level bureaucratic position may engage in some form of corruption, such as patronage, solely out of friendship. Chambliss (1988, pp. 217–218) after completing in-depth research on the criminal network in Seattle and other areas within the country during the 1960s and 1970s, reflected on the motivations for those involved in corruption, fraud, and other criminal activities and concluded, "The people in the crime network in Seattle, like the government officials who sold arms to Iran and provided money to the Contras, acted with both the logic and values of America's political economy. They sought to accomplish goals contradicted by law but which they perceive as legitimate: to maximize profits, to protect America from communism, to expand markets, and to provide goods and services demanded by 'the people' or for people for whom they were working. One set of goals often necessitates a compromise with other goals or values. The members of the government, like the racketeers in crime networks, fight for the protection of values that are consistent with their worldview and sense of right and wrong. Not surprisingly, they are willing to violate the law to live up to the logic and values of their world."

Corruption is like a prism with many surfaces. However, Gilinskiy (2009, p. 143) maintains the many forms of corruption fall into three models. He states, "There are three main sociological models of corruption: '*nomenclative'* (infringement of official norms for the sake of private relations), '*market'* (business activities for maximization of income) and '*private interest'* (corrupt practices as a threat for public interest)."

The difficulty of selecting a definition of corruption that is acceptable to all users of the concept stems from the notion that the concept is a social construction. Gilinskiy (2009, p. 144) used the term, *social construction*, coined by Berger and Luckmann (1967) to explain that "society determines 'constructs': what, where, when, and under which conditions is considered as 'corruption', 'crime', 'prostitution' and so forth. How is corruption constructed? The process includes numerous bribes of different State employees; the consciousness of these facts as social phenomenon, as corruption, as social problem; the criminalization of some forms of corruption (for example, bribery, extortion, theft of treasury, etc., and so on."

The notion that the social and cultural norms of a society tends to define what behaviors are acceptable and what behaviors are deviant and even criminal partially explains why those acts that are considered deviant or criminal that are encompassed under the concept "corruption" are categorized in terms of their gravity or harmfulness to society. Thus, corruption has been categorized into *routine* (giving presents, bribery) and *aggravating* (extortion and organized crime relations).

Prenzler, Beckley, & Bronitt (2013) uses the term *gray corruption* when referring to borderline acts committed by public officials (accepting small gifts) and grand *corruption* to designate corruption involving large amounts of money and major distortions of political policies, such as extortion, bribery, and graft. According to Heidenheimer et al. (1989), the concept "corruption" as a *social construction is* illustrated by the severity of corruption, based on the public's opinion of the action. The term *white* corruption is used when the public does not regard that the corrupt activities are reprehensible, *gray* corruption when there is no public consensus regarding the action, and *black* corruption when there is general disapproval of the activities.

Political Corruption

The draft of the United Nations convention contained the following provisions in its Article 1: "Each Contracting State undertakes to make the following acts punishable by appropriate criminal penalties under its national law:

(a) The offering, promising or giving of any payment, or other advantage by any natural person, on his own behalf or on behalf of any enterprise or any person whether juridical or natural, to or for the benefit of a public official as undue consideration for performing or refraining from the performance of his duties in connection with an international commercial transaction.
(b) The soliciting, demanding, accepting or receiving, directly or indirectly, by a public official of any payment, gift or other advantage as undue consideration for performing or refraining from the performance of his duties in connection with an international commercial transaction."

Bribery, a form of corruption, can involve the direct or indirect offer or provision of any undue pecuniary or other advantage to or for a foreign public official, in violation of the official's legal duties, in order to obtain or retain business. The Council of the OECD in the Recommendation on Bribery in International Business Transactions on 27 May 1994 adopted the following definition for the purposes of the Recommendation: "bribery can involve the direct or indirect offer or provision of any undue pecuniary or other advantage to or for a foreign public official, in violation of the official's legal duties, in order to obtain or retain business."

Changes in the Perception of Corruption

Most scholars and researchers agree that the amount and gravity of corruption may vary, but corruption is a serious problem in all countries and is manifested in all sectors of the society. The methods used to corrupt and the opportunities available to engage in corruption have changed over the years.

If one goes back several centuries when kings, members of the aristocracy, and high-ranking religious figures had almost absolute power over their subjects to rule as they saw fit, most acts they engaged in were considered legitimate and not challenged by a legal or judicial body. Those who were in a position to engage in behavior that would generally be defined as corrupt by today's standards believed their actions were justified on the basis of the position they held. Monarchs who adhered to the notion of the *divine right of rulers* believed their powers came directly from God and thus their behavior could not be questioned. In the present time, the corruption of rulers and high-ranking officials must be disguised and presented as action that is beneficial to others, rather than being beneficial to the person engaging in the corruption.

Gilinskiy (2009), in his book on crime and deviance in Russia, traces the history of various forms of corruption that emerged in Russia during several centuries, as well as the changes that occurred in the way corruption was manifested during this time period. Gilinskiy, (2009, p. 145) notes that, "'Legal' corruption began in the IX-X centuries, when an institute called *kormlenie* (nourishment, feeding) was formed. The Russian head of state (prince, tsar) sent his representative to a province without salary, but with *kormlenie.* The people of the province were to provide for the representative, who had a lot of power. Local people started to bring 'presents' for favorable decisions. The institute was officially abolished in 1556, but the habit of bribing survived (and still does)." He states, "In the sixteenth century, '*Vymogatel'stvo'* (extortion) was acknowledged as a form of corruption. Corruption turned into an epidemic in Russia in the XVIII century. The Tsar (emperor) Peter I ('Peter the Great', 1672–1725) was very concerned with the mass corruption even to the extent of instituting the death penalty." Nevertheless corruption continued to flourish. A number of laws or edits were put in place in ensuing years, focusing on various acts related to corruption such as fraud, but they did not curtail the growth of corruption in the Russian state. Gilinskiy (2009, p. 146) notes, "The Soviet State fought corruption too (also by death penalty since 1922), but nothing worked. It is know that corruption existed even during Stalin's totalitarian regime, although in complete secrecy. In the 60's and 70's the leaders of the Communist Party and the Soviet State (so called 'nomenclature') and soviet bureaucrats were absolutely corrupt."

In a global context, many contend that corruption is a regular, repetitive, integral part of the operation of political systems and that corruption pervades every level of government and the economy. The belief that all politicians are basically self-serving and corrupt is held by the large majority of the public, and it is reinforced when the mass media, law enforcement agencies, researchers, or investigative reporters expose major scandals relating to fraud and corruption in the government. In Chap. 2, corruption and fraud in Austria and other European countries are illustrated by the author through case studies and experiences derived from his long career as a police detective in charge of investigating major crimes. In Chap. 4, the authors use reports from the mass media to illustrate the political corruption in Australia and the effect corruption has on the welfare of the country. In some societies, as noted above, the citizenry has become so conditioned to those in powerful

politician positions being involved in corruption and criminal activities of various sorts that the stereotype of the "crooked politician" is accepted as fact, even though the large majority of those holding political positions may be honest. The recent obituary of Brendan Byrne, a former governor of the state of New Jersey, USA, places great emphasis on the fact that he was known for being honest above all other of his accomplishments.

Box 1: N.J. Governor Known as Too Honest for Mob Shipkowski (2018)

"Byrne, 93, was seen as politician who couldn't be bought by crooks."

"Byrne built his reputation as a crusading prosecutor and held numerous governmental positions during his more than 30 years of public service. He also signed New Jersey's first income tax into law and authorized the law permitting gambling in Atlantic City during his two terms as the state's chief executive."

He won his first term as governor in 1973. His campaign was helped by an FBI surveillance tape that showed mobsters discussing how Byrne, the Essex County prosecutor in the 1960s, was too ethical to be bribed.

"In a New York Post headline, Byrne was proclaimed The Man the Mob Couldn't Buy. That slogan ended up on bumper stickers that reminded voters in the Watergate era that not all politicians were un-scrupulous."

In summary, political corruption cases are wrongful acts on the part of public office holders by misuse their office. Political corruption is a cooperative form of unsanctioned, usually condemned, policy influence for some type of significant personal gain, in which the gain could be economic, social, political, or ideological. The benefits received from political corruption mainly are:

- Influence on political parties
- Influence on elections and candidates
- Influence on entrepreneurs (e.g., construction industry, investors)
- Influence on members of the bureaucracy
- Influence on the media and journalists

Political Corruption During Times of Change and Crisis

In the late twentieth century, a number of countries experience a drastic change in their political and economic structures. In Eastern and Central Europe, the fall of communist governments and the instituting of democratic governments and the opening up of international trade markets resulted in questions such as "What rules should a democratic society obey? What are the rights of the people living in a democratic society and what are the powers of political parties and political leaders?"

Kratcoski (2000, p. 32), commenting on the gaining of independence of counties under colonial rule on the various continents and the changes in government after independence was gained, states, “During the past several decades, we have seen numerous countries gain their independence. Often the peoples of these countries had been controlled by administrations from foreign countries for hundreds of years. For countries moving from a totalitarian form of government to a democratic form, the transition is not always smooth and in fact, may never be completely accomplished. In some cases, the new governments may be as oppressive as the old ones, and the structure and functions of the police do not change appreciably.”

Cebula (1996, p. 77), in reference to the change in government in Poland and its relationship to crime, observed, “To the extent that crime is a product of socio-political change, crime rates are bound to increase much more during socialism-to-capitalism transition than during a capitalism-to-socialism transition.” This assertion was confirmed in Poland as well as other countries in which drastic changes in politics, government, and the economic sector were made. Kratcoski (2000, p. 37) noted, “The late 1900s have seen dramatic increases in all crime rates, not just violent crime. This rise has been accompanied by increased brutality by criminals, increased and new types of organized crime, and the internationalization of the crime problem.” Pywaczewski (2000, p. 154), writing on the relationship of crime and changes in government in Poland and other Eastern European countries that had transitions in government during the latter part of the twentieth century, stated, “In the 1990s Poland had reached an inglorious position among other countries with respect to crime figures. First of all, it had become a transit country for international drug trafficking along the so called Balkan and Asian routes. Poland is also the main smuggling route to the east for cars stolen in Western Europe. One can observe a recent escalation of criminal activity by international groups in the Baltic Sea countries. Drug production and trafficking, money laundering, trade in arms and radioactive materials, and the smuggling of stolen cars, cigarettes and alcohol are all problems which police forces in this part of Europe are faced with more and more often.”

In Chap. 10 of this book, the authors focus on the challenges of controlling and combatting fraud and corruption in developing societies. Noting that, as in the past, corruption has been cited as the main reason for the failures of the attempted reforms in government and a smooth transition from an economy based on socialism to one based on capitalism, the authors note that countries with high corruption rates generally have a lack of democratic traditions. They state that, because of a lack of democratic tradition, processes of transition also have a deep impact on corruption in developing countries. In practice, the transition represents the collapse of political, economic, and traditional systems and the creation of a new system, a new society, and new values. The authors give several examples of how such a dramatic transition, brought about by a change in government, war, or internal conflict, can open up the door for corruption and other types of crimes.

In Chaps. 5 and 8, the authors show how even in developed societies with long histories of having stable governments and economic systems and natural and man-made disasters can offer opportunities for government officials and those in the corporate and business sector, as well as those in public service occupations, to

engage in corruption and fraud. In Chap. 5, the author traces some of the most common types of fraud that emerged after a catastrophic earthquake and tsunami that struck Japan. These included fraud in the building/construction industries and insurance industries, fraud by charitable organizations, theft of identity, and falsification of documents. In Chap. 8, the author uses reports on corruption and fraud related to natural disasters (floods, earthquakes, tornadoes, fires, hurricanes) and man-made disasters, such as terrorist attacks, to demonstrate how these disasters relate to fraud and corruption.

Fraud and Corruption Relating to the Financial, Corporate Sector

Many of the theories developed to explain the causes of deviant and criminal acts of individuals can be traced back to previous centuries and other theories have emerged recently. These explanations often integrate information from biology. psychology, sociology, and many other disciplines. Unlike crimes committed by individuals, it is much more difficult to isolate and ascribe meaningful motives, qualities, and distinguishing characteristics to corporate entities or to those working within these organizations.

Edwin Sutherland introduced the concept of white-collar crime and provided the original definition in 1939. He refers to crimes by persons of high social status that are committed in the course of an occupation as types of white-collar crime (Sutherland, 1939). In this definition, the acts of individuals are included. The second part of the definition, however, appears to omit individual crimes, such as income tax evasion or credit card fraud, which are usually unconnected with one's occupation. Likewise, occupational thefts committed by working-class individuals, such as embezzlement or bribe taking, also seem to fall outside Sutherland's definition. Albanese (1995) contends that the complexity of the organizational behavior is a reason why corporate crime has not been researched more thoroughly until recent times. It is more difficult to determine and ascribe meaning, motivations, and distinguishing characteristics to corporate entities than it is to individuals. Although the meaning of the term *white-collar crime* is notoriously uncertain, nevertheless, the term has garnered worldwide recognition and has become part of both popular and scholarly literature everywhere. Hetzer (2012, p. 217) notes that despite the uncertainty of the exact meanings of the concepts white-collar crime, corporate crime, and occupational crime, the corruption, fraud, and various related crimes are intringently connected with the corporate and financial sectors of the economy in all societies. He contends, "However, more and more cases show that corruption has become a functional principle even in business conglomerates with traditions and worldwide operations. Some companies are high efficiency centers in which practices of organized crime have become routine in the conduct of business. Corruption in these businesses have assumed a systematic nature, and it is no more possible to deal with it by only sanctions of criminal law."

Definition of Fraud

Fraud is defined as a criminal act in most criminal codes. In Chap. 1 of this book, the author uses the Legal Dictionary definition of fraud (Legal Dictionary, 2017, p. 1) that defines fraud as, “A false representative of a matter of fact-whether by words or by conduct, by false or misleading allegations, by concealment or what should have been disclosed-that deceives and is intended to deceive another so that the individual will act upon it to her or his legal injury.” The Legal Dictionary (2017, p. 1) also states the elements that must be proven in the prosecution of fraud. They are a false statement of a material fact, knowledge on the part of the defendant that the statement is untrue, intent on the part of the defendant to deceive the alleged victim, justifiable reliance by the alleged victim on the statement, and injury to the alleged victim as a result. In Chap. 1, the author gives a number of examples to illustrate the connection between fraud and corruption. Fraud is one avenue that can be used in corruption. In Austria, the definition includes a bad will to cheat somebody and a material threat or damage that happened to someone. In practice, fraud and white-collar crime are based nearly on the same deviant behavior. Analyzing the phenomenon of fraud as one of the main domains of organized crime, it comes out that in many cases, as is the case of corruption, it is the starting point of other deviant activities. As is well known, corruption always goes hand in hand with greed and the tendency to get an unfair advantage or influence political or economic powers.

Fraud has been manifested in conjunction with a number of other types of crime or as a vehicle to assist a criminal action. Several examples of major forms of fraud are given below:

Falsification of Documents and Identity Cards
False identity cards and false documents have always been the basis for fraud. Many employees of finance institutions and banks do not check identity cards and documents to see if they are authentic, that is, they do not follow the basic rule “know your customer.” In the experience of the investigative police, it is international fraudsters who use false or altered identity cards and documents the most frequently. Since the opening of the Eastern European borders and with the greater mobility of people, many more individuals come into Europe with counterfeit identity papers. To hide their real origin, they procure false identity papers on the black market and use these documents for entry into a country of their choice. Presently, being aware of the increase in the fraudulent use of identity cards, the police are examining more identity cards, passports, driving licenses, and other identity papers for evidence of falsification.

Money Laundering, Electronic Banking *Drug trafficking was originally considered to be a matter for national concern, but its international nature quickly became apparent. Law-enforcement authorities first began to cooperate on an international basis* via *informal dialogue and through Interpol. In 1988, the Vienna Convention established a legal framework for fighting drug-related crime, and in 1990 the Council of Europe Convention sought to tackle money laundering related to all*

types of crime, drug-related or otherwise (including money laundering related to card and check fraud). Both the G-7 and European Union have adopted measures to combat financial crime – the former by endorsing in 1989 the 40 Recommendations of the Financial Action Task Force and the latter by adopting Directive 91/308/EEC on money laundering. Slowly but surely, governments have adopted concrete measures and started legal and judicial cooperation which, although insufficient, should have a deterrent effect upon money launderers. For money-laundering purposes, Austria has become a very interesting country: it has a stable currency, a safe economy, a liberal foreign exchange policy, and, moreover, the banking secrecy and the possibility for the foreign money launderer not to reveal his personal data as a bank customer – the customer may remain anonymous, a fact, which is also quite interesting to Austrian money launderers.

"The expression "money laundering" implies that filthy money is put into a "washing machine" and clean white money comes out after the laundering process." Money laundering is a process through which profits generated by criminal activities are transported, transformed, and converted to or mixed with legal funds, with the intention to conceal or hide the real origin, the kind, and the disposal of such profits (legal definition of money laundering in Austria": see Art. 165 StGB). There are three phases in a money-laundering process:

1. The placement – channeling cash money.
2. The adjustment – changing cash money into disposable financial assets.
3. The reintegration – the "black money" is now laundered, it becomes "normal money" again, and it cannot be recognized anymore as black money.

Austria, as a member of the European Community, introduced laws against money laundering in the penal code and in the new banking laws in 1993 and 1994. After these legal provisions were issued, a special bureau dealing with these forms of crime was installed in the Federal Ministry of Internal Affairs. Suspicious transactions have to be reported to these special bureaus by the banks. Since 1994, more than 2400 suspicious transactions were reported to the authorities. A new method of transferring of suspicious transactions is the method of electronic banking. Currently, there are no ways of controlling the fraudulent activities.

In Chap. 2 of this book, the author explores the various forms of fraud and corruption found in Austria and other countries throughout Europe. As mentioned earlier in this chapter, the collapse of the Soviet Union, the gaining of independence by nations that were formerly under the Soviet Union, and the opening of the European borders resulted in large-scale movements of people across the borders, and the instability of the governments of many of the new democracies resulted in increases in international crimes, particularly those relating to corruption and fraud. Austria, located in the center of middle Europe, serves as a pass-through country for those engaged in crime, including those engaged in money laundering.

Bassiouni and Gualtieri (1997, p. 149) contend, "The international legal community has responded to money laundering with actions at various levels- internationally regionally and domestically – though with differing commitments and

widely different means." Various nations have enacted legislation, created task forces on the national and international levels, and have committed to international agreements. Research has revealed that money laundering has opened up a major avenue to finance terrorist organizations and organized crime groups as well as legitimate businesses and financial institutions. Antinori (2012) explains how fraud and corruption are used by criminal organizations to infiltrate legitimate businesses and how, through money laundering, the criminal organizations are able to buy into legitimate businesses. It is expected that money laundering will play a major part in the expansion of all types of crime as the global society continues to develop.

Insurance Fraud Insurance fraud is not a new problem. Insurance fraud has been committed ever since insurance has been available in the market, in all classes of business, and all over the world. Insurance fraud is a crime against property. The specific nature of insurance fraud is due to the insurance contract, which makes the obligation of the insurance company to indemnify the insured contingent on an uncertain, future event. In the case of insurance fraud, such an event is:

- Brought about on purpose.
- Pretended to have occurred.
- An actual loss is exploited.
- A contract is made on an unlawful basis.

In Chap. 9 of this book, the authors note that insurance fraud is often connected to the criminal acts of homicide, bodily injury, traffic accidents, robbery, burglary, motor vehicle theft, embezzlement, check and credit card falsification, arson, worker compensation, industrial accidents, and drug-related crimes. Attempts to profile the typical insurance fraudster reveal that the large majority are nonprofessional criminals. They can be found in all classes and in all age groups and are represented by both men and women.

In Chap. 6, the author focuses on fraud and corruption in health care, social security, and employment disability. In regard to fraud relating to health-care insurance fraud, there are numerous examples of fraud committed by the health-care medical treatment providers, health-care service providers, bribery of politicians who have the power to sponsor legislation, and fraud in the pharmaceutical industry, as well as by those who receive health-care benefits. Kratcoski and Edelbacher (2015, p. 69) note, "Although the majority of insurance fraudulent claims are made by those holding insurance policies, legal providers of services and insurance companies also commit fraud by inflating billing, deliberately misrepresenting the facts of a policy, not paying appropriate worker's compensation deductions to the government, and even embezzling funds collected from policy holders."

The investigation of potential insurance fraudsters is typically a joint effort of private investigators employed by the insurance agencies and public law enforcement officials. The inquiry will be begun by private agents, and if it appears that the criminal code has been violated, police investigators become involved. According to the Austrian Criminal Code of 1975, the definition of insurance fraud is met if there is an intent to cause damage, a loss has occurred, and/or an attempt has been made to cause a loss.

In the course of the revision of the Austrian Criminal Code, Section 151 was introduced as a special provision covering insurance abuse. However, it turned out that in practice this provision is no more than a dead letter, as it is only applied to a very limited extent – mainly in the case of fictitious ski theft. The provision of Section 298 of the Criminal Code regarding the pretense of a punishable act is applied occasionally. As a matter of principle, the police and the law enforcement authorities apply the general provisions of the Criminal Code regarding fraud, i.e., Sections 146 and following, to combat insurance fraud.

Fraud and Corruption in the Construction and Building Trades

Meissnitzer (2016, p. 91) contends that a so-called construction mafia and organized social fraud exist as a part of the informal economy in any trade or industry in which there is a need for low-skill workers who are willing to work for minimum wages. The concept "construction mafia" usually refers to "undeclared work." The work is not illegal, but the fact that the employer does not list the employees on the payroll nor deduct taxes such as those required for unemployment and social security benefits is illegal. For example, in Austria as well as most industrial countries of the world, in general, the employer is legally required to immediately register a new employee at the social security institution, deliver the necessary contribution data, and eventually pay social security contributions and wage taxes.

Fraud is committed when employers hide the identity of the employer completely by creating a transient, so-called "letterbox" company and outsourcing the employees to the letterbox company. The concept of social security fraud is usually associated with defrauding the social security or welfare system by claiming various types of benefits without being legally entitled to them. Other fraudulent activities often found in the construction and building trades sector include subcontracting pyramids, kickback payments, money laundering, and payoffs to inspectors and other officials. In Chap. 6, the author provides an extensive examination of fraud in the health-care system in the United States, as well as fraud in other government entitlement programs.

Fraud and Corruption: Prospects for the Future

What we experience today in all continents, countries, and regions is the fact that greed and materialism will likely continue and increase in the future. As a consequence, fraud, especially white-collar crime, financial crime, and corporate crimes, will have an even greater effect on the welfare of countries throughout the world than the effect fraud and corruption has at the present time. As the world has become a global village, as a result of modern communication technologies and the high mobility of people, money, and business, criminals are enabled to act internationally.

Fraudsters can build and use their networks much more easily and have become very skillful in cheating states, companies, and individuals. Different frame conditions also effect these developments. The gap between the rich and the poor is widening in many countries, and the rich are looking for best practices to avoid paying taxes by using financial havens around the world. It is estimated that in so-called offshore centers billions and billions of dollars are placed in banks and dummy companies, and this money is protected from the scrutiny of inspectors and government officials. In Chap. 2, the author reveals the methods used by organized crime groups, such as money laundering, bribery, and other forms of crime to corrupt politicians and corporate the leaders and public officials, such as police and judges, to infiltrate the business sector of a country. States, governments, and international organizations are not able to get control over the rich becoming richer or over international companies avoiding taxes by choosing tax havens. These facts weaken democratic societies, especially the civil society, and diminish every possibility of the citizenry gaining some equality with the rich in income and standard of living. In the present society, an age of materialism, the directives come from the powerful, those who are rich and control large amounts of the resources, the rich people. When one looks back into history, and the major events of the past, we find that people appear to be content and do not disrupt the normal day-to-day life as long as they have food and can afford a nice quality of life, with vacations, free time for recreational activities, and education possibilities for their children. When people are in danger of losing their hopes, their homes, their jobs, their future, often they become so frustrated they believe the only answer is to drastically change the system, even through a revolution. They lose faith in their political leaders and consider all politicians to be self-serving and corrupt. This conception is reinforced when political leaders and other officials are found to be engaged in numerous corrupt activities.

If we listen to the forecasts of the future of international organizations, the perspectives are not very positive. Global warming, pollution of air and water, and the growing number of people facing shortage of resources, water, and fruitful areas to live will reduce the possibilities for a positive future. People fear wars will come because of these shortages. Such shortages may result in an end to the era of peace and freedom we now have and the level of insecurity of the people and the gap between the "haves and the have nots" may become a more serious problem in the future.

To illustrate these in Europe, where two World Wars occurred, the period of peace from 1945 to 2017 was extremely fruitful for the generations born after 1945. Those who are older remember the stories told by our fathers and grandfathers who experienced terrible fates by being sent to fight for their countries. They suffered enormous dangers, were wounded or incapacitated, and lost their health, their youth, and their work. Their wives and children had to start with nothing after the end of the wars. Without the help of the Marshall Plan of the United States, it would not have been possible for Europe to recover so quickly. Today, listening to the reports of media, it seems that people forget very quickly how important peace is for the global society. New powers, dictators especially, want to set the world on fire to get

more influence and recognition. This is the same game that Napoleon, Hitler, or Stalin played during the time they were in power. We are educated in schools and universities about these historical facts, but it seems that some of us are not able to learn from history.

Austria, for example, is a rather small country, but it has experienced a lot of fraud and corruption in the last 20 years. When there was a political change in 2000, a new, conservative government coalition took over and the number of corruption cases increased dramatically. After the outcome of the 2017–2018 elections in Austria with a conservative dominated government, there was a fear among some that the amount of corruption will increase. A large number of criminal court cases involving corruption and fraud originated when corruption occurred when the government changed in 2000 and when the conservative government lost its power in 2005. Some people of Austria predict that there will be a new influx of similar criminal cases in the future. There is a traditional saying, "The lambs choose their one butchers." Although the old corruption and fraud cases have not been finished, there seem to be new opportunities for corruption and fraud in the future.

Methods to Prevent and Control Fraud and Corruption

As previously mentioned in this chapter, innovations in communications systems such as the Internet as well as in other technologies have made it easier for criminals to commit crimes, to cover up their crimes, and to hide the fruits of their labor. However, these same technologies are used by those responsible for investigating criminal behavior and exposing it. Investigative reporters have identified this trend. Mills (2012, p. 205) states, "When we talk about the frontline in the fight against corruption, we usually think of law enforcement officials, government governments, and government agencies like the United Nations (UN), and non-government organizations (NGOs) such as Transparency International. However the media constitutes other crucial actors often overlooked in the anti-corruption battle." Mills provides many examples of countries throughout the world where journalists have exposed corruption in the government, organized crime, and the business sector, often at great risk to their personal safety. Often, rather than receiving cooperation from the law enforcement agencies and other justice agencies, such as the judiciary, these representatives of justice inhibit their efforts to expose the corruption. Mills (2012, pp. 211–12) contends that a holistic approach to fighting corruption is needed. He states, "The education and training of police officers, lawyers, and other critical components of the fight against corruption should include those in the law enforcement and legal professions and also those working in the communications areas and those who perform social research such as educators. Interaction and mutual trust are required if these separate organizations and individuals are to be successful." In Chap. 4 of this book, the authors demonstrate how the mass media helped to expose and publicize fraud and corruption among government officials in Australia.

Transparency International (TI) (2018, p. 1), created in 1993, now works with various governments and nongovernment organizations in 120 countries. It has a mission of fighting corruption in government, companies, and public service agencies. TI (2018, p. 3) states, “Transparency International gives voice to the victims and witnesses of corruption. We work together with governments, businesses and citizens to stop the abuse of power, bribery and secret deals.” International anti-corruption conventions have been created, corrupt leaders have been prosecuted and their assets illegally gained have been seized, companies have been held accountable for their behavior, and the exposure of corrupt officials has led to their defeat in elections.

In Chap. 12, the author reiterates and presents information on the role of the United Nations Convention Against Corruption (UNCAC) and the civil society in combating corruption in Armenia. Nongovernment organizations and community volunteer groups work with professional organizations, including the press, to expose corruption and lobby for the passage of legislation pertaining to the prevention of corruption.

Governments and justice agencies, on both national and international levels, have made considerable efforts to prevent and control corruption and fraud through the passage of legislation and the implementation of crime prevention programs. Kratcoski (2012, p. 386) states, “Interpol serves as a clearing house for the collection and distribution of intelligence about crime-related activities and locations of wanted criminals. With nearly 200 member countries, Interpol, in a sense, is the largest law enforcement agency in the world. It not only provides information but is also involved in the training of police investigators of crime, particularly crimes that are most prevalent on the international level, such as money laundering, drug and weapons trafficking, terrorism, and others.” Interpol works very closely with the United Nations. In Chap. 13, the author provides several information on laws and justice agencies used by the Italian government to combat corruption related to organized criminal groups and terrorist organizations. Other significant movements toward developing international cooperation are the Schengen Network, under which the Schengen Information System (SIS) is housed. It maintains and distributes information about criminal activities and individuals and facilitates communications between all of the member countries. Andreescu and Maime (2010), speaking of global crimes that must be combatted, particularly crimes related to the financing of terrorism and drug trafficking and crimes in which organized crime groups are involved, note, “Fraud represents a worldwide problem and is increasingly used by criminal organized groups to generate money to finance drug trafficking, trafficking in human beings, identity fraud, counterfeiting, and terrorism.” The rapid development of modern technology has had an impact on the efforts of law enforcement agencies throughout the world. An important international organization developed to combat crime among the European Union nations is the European Union Agency for Law Enforcement Cooperation (EUROPOL). Andreescu and Maime (2010, p. 201) state, “Its mission is to assist the law enforcement authorities of the EU member states in their fight against serious forms of organized crime and terrorism.” While not a law enforcement agency per se, Europol has the power to

collect and distribute information on crime and criminals and assist in criminal investigations.

Kratcoski and Kratcoski (2010, p. 11) note, "After the terrorist attacks of 9/11/2001, the (U.S.) justice agencies having the responsibility to protect the security of the nation expanded their international programs, changed the focus of many of their programs to combatting terrorism, and increased the number and type of international agreements." The leading agency in combatting international crimes, the Federal Bureau of Investigation (FBI), has established legal attaché offices throughout the world. Kratcoski and Kratcoski (2010, p .11) state, "The FBI agents assigned to these offices work with the police of the host countries in coordinating international investigations, linking U.S. and international resources in critical criminal areas, and providing training in speciality areas."

One aftereffect of the 9/11 terrorist attack on the US World Trade Center and the Pentagon was the enactment of legislation by numerous governments, including the United States, directed at strengthening national security through the prevention of criminal activity, particularly crimes such as money laundering, trafficking of weapons and drugs, fraud, and corruption that are frequently committed by organized criminal groups and terrorist organizations. For example, the US Congress enacted the USA Patriot Act in 2001. Several sections of the Act (Kratcoski & Kratcoski (2010, p. 376)) pertain to domestic security, the collection of electronic evidence, regulation of and restrictions on banks suspected of handling funds used to finance terrorist activities, increased security of US borders, and other measures relating to crime prevention. Title III, known as the International Money Laundering Abatement and Anti-Terrorism Financing Act of 2001, addresses the need to reduce opportunities for terrorists and other criminals to use illegally obtained funds to finance their activities. (Kratcoski & Kratcoski, 2010, p. 376). Among the provisions of Title III are developing means for the United States to prevent, detect, and prosecute money laundering, strengthening the provisions of the existing laws pertaining to money laundering, and instituting measures to prevent US financial institutions from receiving personal gain through the actions of corrupt foreign officials or the sale of stolen goods. In 2003, the US Congress authorized the creation of the Department of Homeland Security. As a result of this Act, more than 20 law enforcement, investigative, and security agencies concerned with the protection of the security of the United States were integrated into the Department of Homeland Security Structure (Edelbacher& Kratcoski, 2010, p. 108).

Summary

In this chapter, the concepts fraud and corruption were analyzed from their historical roots to their manifestation in present day society. It was noted by the authors of the various chapters that fraud and corruption can be found in all societies and at all levels of governments as well as in the corporate, business, finance, educational, medical, and other public service institutions.

Although fraud and corruption exist in all societies, the severity of the problems they create for the societies is not the same. As was noted by the authors of several of the chapters in this book, the amount of corruption and fraud, the types of corruption and fraud, and the ability of the government to prevent and control corruption and fraud are dependent on a number of factors, including the culture, traditions, and values of the society, the stability of the government and economic development, the effects of catastrophic natural and man-made events, and the will of the people to control fraud and corruption.

Several of the chapters in the book focused on methods used to prevent fraud and corruption. It was emphasized that the mass media and the citizenry will play a greater role in the prevention and control of fraud and corruption in the future than was the case in the past. The mass media, through investigative reporting, has been successful in unmasking corruption by high-level officials in government, as well as in the corporate sector and in public services institutions. The connections of legitimate organizations with organized crime has also been revealed through exposes by the mass media. The development of the Internet has helped to facilitate the goals of those criminals engaged in fraud and corruption, especially at the international level. However, the Internet and other developments in technology have helped in the prevention of fraud and corruption through educational programs and communication linkages with law enforcement agencies. These same technological innovations that have helped criminals also have helped investigative agencies and law enforcement agencies in the development of cooperative and communicative ventures with other agencies involved in the prevention and control of fraud and corruption.

Finally, the efforts of the civil society in the prevention of fraud and corruption, as well as the exposure of those high-level officials engaged in criminal acts relating to corruption and fraud have been effective Through the efforts of nongovernment organizations (NGOs), the crimes of government leaders and as corporate moguls have been exposed. It is expected that the civil society will continue to play a major role in the prevention and control of crime related to corruption and fraud in the future.

The efforts of governments and justice agencies, on both national levels and international levels, have made considerable efforts to prevent and control corruption and fraud through the passage of legislation and the implementation of crime prevention programs.

Discussion Questions

1. Discuss the meaning of the concept social construction as it applies to the public‘s perception of the amount and types of corruption in a particular society.
2. Discuss the ways the development of the Internet has affected fraud and corruption in the international realm.
3. Discuss the effect the mass media has had in the exposure of fraud and corruption. To what extent does the media help to prevent fraud and corruption?
4. Discuss the major factors that motivate people to engage in corruption.

5. Consider the statement “Those in powerful positions in all forms of government, business, education, trades, and public service occupations engage in corruption.” To what extent, if any, would you modify or qualify the statement?
6. Discuss the harmful effects to society that occur because of corruption and fraud found in any given country.
7. Discuss some of the methods used to combat fraud and corruption at the global level.
8. Look into the future, what would you predict to be the major forms of corruption that will threaten the welfare of societies?
9. Discuss the methods of corruption used by organized criminal groups to infiltrate the financial and corporate realms.
10. Distinguish between “gray” and “black” corruption. Which category is likely to have the larger number of corrupters? Which category is likely to cause the most harm to the welfare of society?

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