

## 6.21: Corruption in International Business



Source: Stockmonkeys.com, (CC-BY 2.0, 2012) Figure 10.1 A common practice worldwide is for government favors to be sought in exchange for surreptitious payments in cash. Corruption is not merely a problem in developing countries. In recent years, American, German and Italian companies have been implicated in corruption scandals, both domestic and international.

### The Problem of Corruption

When a large corporation decides to enter a foreign market, it must usually secure a number of licenses, permits, registrations, or other government approvals. Certain types of business may be even be impossible or illegal unless the corporation is first able to obtain a change or adjustment to the nation's laws or regulations. Since the power to authorize the foreign corporation's activities is vested in the hands of local politicians and officials, and since corporations have access to large financial resources, it should not be surprising that some corporate executives resort to financial incentives to influence foreign officials. While certain financial incentives, such as promises to invest in local infrastructure, may be legitimate, any form of direct payment to the foreign official that is intended to influence that official's public decisions will cross the line into illegal *subornation*, also commonly referred to as *bribery*.

Bribery is one of the archetypal examples of a corporation engaged in unethical behavior. A number of problems can be attributed to business bribery. First, it is obviously illegal—all countries have laws that prohibit the bribery of government officials—so the foreign company engaging in bribery exposes its directors, executives, and employees to grave legal risks. Second, the rules and regulations that are circumvented by bribery often have a legitimate public purpose, so the corporation may be subverting local social interests and/or harming local competitors. Third, the giving of bribes may foment a culture of corruption in the foreign country, which can prove difficult to eradicate. Fourth, in light of laws such as the US Foreign Corrupt Practices Act (FCPA) and the Organization of Economic Cooperation and Development (OECD) Convention on Anti-Bribery (discussed in greater detail below), bribery is illegal not only in the target country, but also in the corporation's home country. Fifth, a corporation that is formally accused or convicted of illicit behavior may suffer a serious public relations backlash.

Despite these considerable disincentives, experts report that worldwide business corruption shows little signs of abating. Transparency International (TI), a leading anticorruption organization based in Berlin, estimates that one in four people worldwide paid a bribe in 2009. It appears that the total number of bribes continues to increase annually. The World Economic Forum calculated the cost of corruption in 2011 at more than five percent of global GDP (US\$2.6 trillion) with over \$1 trillion paid in bribes each year.<sup>1</sup>

Governments and intergovernmental organizations have redoubled their efforts to combat the perceived increase in international business corruption. Globalization, which accelerated in the final decades of the twentieth century, is often cited by specialists as contributing to the spread of corruption. Corporations and businesses in every nation have become increasingly dependent on global networks of suppliers, partners, customers, and governments. The increased interaction between parties in different countries has multiplied the opportunities for parties to seek advantage from illicit incentives and payoffs. Although outright bribery is clearly unethical and illegal, there is great deal of behavior that falls into a gray zone that can be difficult to analyze according to a single global standard. When does a business gift become a bribe? What level of business entertainment is "right" or "wrong"? Over the past two decades, governments and regulators have sought to clearly define the types of behavior that are considered unethical and illegal.

Another factor that has heightened the sense of urgency among regulators is the magnitude of recent cases of corruption (several of which are described in greater detail below). The cost to shareholders as well as stakeholders and society has proven enormous. Governments and international organizations have ramped up their enforcement of anticorruption laws and sought increasingly severe penalties, sometimes imposing fines amounting to hundreds of millions of dollars. Largely as a result of these efforts, most multinational corporations have developed

internal policies to ensure compliance with anticorruption legislation. However, as we will see in the case study featured in this chapter, such compliance also raises complex ethical dilemmas for corporations. It remains difficult to regulate ethical behavior when social and cultural norms vary significantly from country to country. Acts that are considered unethical in one country may represent a traditional way of doing business in another. One legal scholar explains the difference as follows:

A common misconception, held in both Western and developing countries, and even among many researchers on corruption, is to confuse what is corrupt with what is legal. Laws are defined by values, as are ethical norms, but the two are not equivalent.<sup>2</sup>

In this chapter, we will explore the impact, reasonableness, and the effectiveness of anticorruption laws and corporate compliance rules. Finally, we will discuss a case in which the line between corruption and traditional business practices remains difficult to ascertain.

## The Scope of the Problem

Recent cases of corruption in international business have attracted considerable media attention. Paying a traffic officer to ignore a minor traffic violation is unremarkable; paying a senior government official a secret bribe of millions of dollars to get a large contract signed is a different matter.

While virtually all multinational companies have adopted anticorruption policies, it is not clear how often these policies are fully implemented and internalized as part of the corporate culture. The emphasis on anticorruption policies is relatively recent and, even in the most responsible organizations, such policies are still works in progress. However, there is some evidence that the implementation is not always as effective as might be hoped.

For example, a study by Control Risks and the *Economist* magazine's Intelligence Unit showed that while most companies acknowledge the need to combat bribery and corruption, many are complacent and unprepared to deal with scandals inside their own organizations.<sup>3</sup> The review of global attitudes on corruption surveyed more than 300 senior lawyers and compliance heads in April 2013. It painted a disturbing picture. The authors concluded that "too many companies still fall short of best practices in their anticorruption compliance programs." Despite ranking anticorruption high on most corporate agendas, the report noted a "danger of complacency" among companies, and as a result, "the risk of a company finding itself in the middle of a corruption-based investigation remains real."<sup>4</sup>

Transparency International's Corruption Perceptions Index (CPI) ranks countries and territories according to their perceived levels of public sector corruption. It is an aggregate indicator that combines different sources of information about corruption, making it possible to compare countries. Perceptions are used because corruption is generally a hidden activity that is difficult to measure. The CPI confirms that corruption remains a problem worldwide and takes place even in the wealthiest countries.<sup>5</sup> Research in 2012 by the Austrian economist Friedrich Schneider placed the annual loss to the German economy alone at €250 billion.<sup>6</sup>

The Dow Jones State of Anti-Corruption Survey in 2011, which surveyed more than 300 companies worldwide, found that more than 55 percent of companies have found cause to reconsider working with certain global business partners due to concerns about possible violation of anticorruption regulations. Additionally, the biannual survey indicated that more than 40 percent of companies believe they have lost business to competitors who won contracts unethically, an increase from only 10 percent in the 2009 study. "Strict liability provisions in legislation like the UK Bribery Act make businesses responsible for the activities of their agents and partners overseas, and this is having a direct impact on the occurrence of new business partnerships between firms," said Rupert de Ruig, managing director of Risk and Compliance, Dow Jones.<sup>7</sup>

Global social costs from corruption include the reluctance of investors to commit to projects in developing economies, inhibited growth of businesses due to syphoning off of revenues for bribes, and diversion of funds from food, medical, and educational aid programs. In addition, it seems likely that corruption hampers the development of executive talent in developing nations, given that frustrated local executives may seek to emigrate to countries where corruption is less prevalent. Consider for example, the long term impact of the necessity of paying a bribe to get running water in a household in rural India.<sup>8</sup> This type of corruption can effectively exclude the poor from access to vital public services. Economist Daniel Kaufmann of the Harvard Institute of International Development cites public sector corruption as the most severe obstacle to development in developing and post-communist countries.<sup>9</sup>

## Notable Examples of Corruption

The number and magnitude of recent corruption cases prosecuted by government authorities is disconcerting. Moreover, these widely-publicized cases may represent only the tip of the iceberg: Regulatory bodies focus principally on the bribery of public officials so that other forms of business corruption are under-reported. To date, the ten largest cases successfully tried pursuant to the FCPA are listed below (in order of magnitude of fines):

1. Siemens (Germany): \$800 million in 2008
2. KBR/Halliburton (USA): \$579 million in 2009
3. BAE (UK): \$400 million in 2010
4. Total SA (France): \$398 million in 2013
5. Snamprogetti Netherlands BV/ENI SpA (Holland/Italy): \$365 million in 2010
6. Technip SA (France): \$338 million in 2010
7. JGC Corporation (Japan) \$218.8 million in 2011
8. Daimler AG (Germany): \$185 million in 2010

9. Alcatel-Lucent (France): \$137 million in 2010
10. Magyar Telekom/Deutsche Telekom (Hungary/Germany): \$95 million in 2011

There are other recent examples of large-scale corruption in international business.

### Walmart in Mexico

According to a report issued by the Mexican Employers Association in 2011, companies operating in Mexico spend more than 10 percent of their revenue on corrupt acts. One of the most well-known cases was the Walmart scandal that was brought to light in September 2005 and resulted in the company's stock value dropping by as much as \$4.5 billion. Evidence unearthed by internal and external investigations revealed a widespread use of bribes, alleged to total over \$24 million. The bribes were paid to facilitate the construction of Walmart stores throughout Mexico. The country is a huge market for Walmart—one in every five Walmart stores is in Mexico. As of October 2014, the investigation continued, having implicated Walmart management at the most senior levels of complicity or awareness.

### GlaxoSmithKline in China

In September 2013, China's Xinhua news agency reported that a police investigation into bribes paid by drug manufacturer GlaxoSmithKline (GSK) indicated that the bribes were organized and paid by GSK China and not by individuals operating on their own prerogative as had been reported by the company initially. Police also alleged that the corporate parent merely went through the motions of an internal audit process, indicating a knowledge and acceptance of the bribery. This very recent case suggests that the Chinese government's widely publicized arrests and convictions for bribery have not yet served as a sufficient deterrent to corrupt practices by foreign corporations.

### Alcatel in Costa Rica

In January 2010 Alcatel agreed to pay Costa Rica US \$10 million in reparations for social damage caused by Alcatel's payment of US\$2.5 million in bribes to get a contract to provide mobile phone services in that country. This case is notable for its application of the concept of *social damage* and the resulting order of compensation to the citizens of Costa Rica.

## Anticorruption Laws and Regulations

The first major international anticorruption law was the United States' Foreign Corrupt Practices Act (FCPA), adopted in 1977.<sup>11</sup> The FCPA criminalized bribery of foreign public officials by American business enterprises. Initially, the FCPA was not well received. Few other countries followed suit and US companies complained that the FCPA shut them out of the competition for billions of dollars' worth of overseas business contracts. Slowly, however, the push for concerted anticorruption measures gathered momentum, and intergovernmental institutions such as the OECD, the African Union, and the United Nations eventually adopted anticorruption conventions. Further support for a global anticorruption agenda was provided by the lending institutions such as the World Bank, by NGOs such as Transparency International, and by the rapidly evolving CSR movement. Notable among these efforts was the Communist Party of China's promulgation of a code of ethics to fight the widespread [corruption](#) within the [Communist Party of China](#).<sup>12</sup>

The FCPA applies only to bribes paid (or offered) to foreign government officials to obtain or retain business or to develop an unfair competitive advantage. The concepts of *bribe* and *foreign government official* can be interpreted broadly. While companies and executives charged with FCPA violations have often sought to characterize their payments as business "gifts," this has not shielded them from liability when there was evidence that the payments were intended as a means of obtaining illicit objectives. However, where payments have been characterized as "facilitation" or "lubrication" payments, meaning that they merely created an incentive for an official to promptly execute legal actions, such as mandatory customs inspections, the payments have been allowed. In numerous countries, the state owns all or part of commercial enterprises so that a great number of business executives could be classified as foreign government officials.

In 1997, the OECD established legally binding standards for defining bribery in international business transactions. Similar to the FCPA, the OECD Anti-Bribery Convention focuses on the bribery of public officials. Like the FCPA, the OECD also potentially creates the opportunity for companies to circumvent the regulations by hiring consultants or agents (this topic will be the focus of this chapter's case study discussion). Notably excluded from the scope of the OECD Convention is a prohibition against bribing private parties. Despite such loopholes, the OECD Convention was an important step in the right direction. By 2012, forty-three countries had ratified the agreement and begun its implementation.

## Corruption and Culture

Prior to the expansion of international trade in the nineteenth and twentieth centuries, most commerce was local and followed traditional norms and ethical standards. With the expansion of international trade, however, businesses began to operate across cultural and linguistic boundaries. Misunderstandings and transgressions, both intended and unintended, became commonplace. To some extent, perceptions of corruption may derive from cultural differences, because behavior that is considered corrupt in one society may represent a normal business practice in another.

One example can be found in the Chinese concept of *guanxi*, which refers to the reciprocal obligations and benefits expected from a network of personal connections. A person with a powerful level of *guanxi* is considered a preferred business partner because such a person can utilize connections to obtain business or government approvals. *Guanxi* can derive from extended family, school friends and alumni, work colleagues, members of common clubs or organizations, and business associates. Chinese businesspeople seek to cultivate an intricate and extensive web of lifelong *guanxi* relationships. The key expectation in *guanxi* networks is reciprocity in the granting of favors; the failure to reciprocate is

considered a breach of trust. The greater the favor asked or granted, the greater the favor owed. *Guanxi* thus generates a cycle of favors over time. Among the questionable practices facilitated by *guanxi* are certain types of corrupt favoritism—such as nepotism (favoring family members) and cronyism (favoring friends). In fact, relatively high levels of nepotism or cronyism are accepted and tolerated in many non-Western cultures, not only in China. As applied to business transactions, *guanxi* opens doors and creates opportunities for business relationships and dealings. In itself, *guanxi* is not corrupt. However, strong *guanxi* connections and obligations can serve as an incentive to corruption.

Many traditional business practices around the world are rooted in concepts analogous to *guanxi*, as in the practice of using business gifts or personal connections to speed up transactions both large and small. Russians use the term *blat* to refer to the ability to get things done through personal networks or contacts with people of influence. The Japanese have adapted the English word *connections* to coin a term of their own, *konne*. In Pakistan, the use of personal *sifarish* (“recommendation”) refers to the ability to make contact with the right official on the most favorable terms. The French expression for bribe is *pot de vin* (“jug of wine”), which implies friendly relations. In Urdu and Hindi, petty bribes are known as *chai pani* (“tea water”). In West Africa the term is *dash*. The English colloquial term *grease* and the German *schmiergeld* (“grease money”) imply a lubrication or easing of resistance to the transaction. In Mozambique, one term for corruption is *cabritismo* or “goatism,” which is derived from the saying “a goat eats where it is tethered.”

The universality of such terms suggests that various forms of business bribery and graft are prevalent worldwide. However, specific business activities that are considered acceptable in some societies may be considered taboo in others. Thus, the American practice of lobbying legislators and governmental agencies would be considered an illegal form of buying influence in many other countries. In some societies, gift giving to chiefs, elders, or religious leaders is considered not only acceptable and appropriate, but even a mandatory traditional expression of respect and obligation.

A survey conducted by KPMG in the United Kingdom found that while 80 percent of respondents agreed that the UK Anti-Corruption Act was an admirable attempt to address the problem of corruption, 58 percent believed that the Act was impractical and ignored the reality that bribery is an accepted way of doing business in many countries. Other similar studies have revealed widespread international criticism of US anticorruption law as hypocritical in light of the American business practice of offering gifts to potential customers or clients (e.g., trips to conferences, golf outings, tickets to entertainment and sporting events, use of luxury facilities such as spas, condos, and country clubs, etc.).

### Case Study: The Chinese Agent

The fictional case subject for this chapter is based on the difficult issue of determining the ethics of employing a well-connected agent. In our case, an American for-profit educational institution, which we will call Cleveland College, is opening a Shanghai campus to offer United States–style college programs in China. There is a ready market in China for “prestigious” US baccalaureate degrees. However, Cleveland College needs to satisfy a lot of red tape to be accredited in China and obtain the necessary licenses for an educational institution in the Shanghai area.

On an exploratory trip to Shanghai, the President of Cleveland College, Mark Rollins, is approached by a prominent businessman, Wang Li, a former member of the Shanghai city government who is familiar with the educational bureaucracy. Wang offers to assist as a public relations agent, but his fee is so hefty (\$200,000 per year) that Rollins fears that Wang is going to use much of it to grease palms. Research with local authorities indicates that Wang is well respected and has a high level of *guanxi* with local educational officials. Wang promises to get Cleveland College all the necessary certifications in much faster time than it usually takes, and also promises to prevent bothersome audits and bureaucratic problems. Should Cleveland College sign him on? What FCPA danger would this entail?

### Corruption in China

Over the past decade, the Chinese government has joined the global community in decrying corruption and initiating regulations and laws, and publically stating a strong intent to clamp down on corruption. Thus, in a widely publicized 2011 statement by China’s Premier, Wen Jiabao, anticorruption actions were emphasized as a “primary task in 2011.”<sup>13</sup> This was interpreted as an indication that increased enforcement of anticorruption laws will be a top government priority and that these prohibitions must be taken seriously by foreign corporations operating in China.

A number of recent high-profile cases have illustrated the extent of the Chinese crackdown on corruption. One notorious case was that of the former anticorruption official Huang Songyou, who was sentenced to death for accepting 7.71 billion yuan in bribes. In another case, Wang Huayuan and eight other senior officials of the provincial governments in Guangdong and Zhejiang provinces were convicted of corrupt actions that took place between 1998 and 2009. The former president of the Supreme Court and the former vice president of the state-owned China Development Bank were charged with taking bribes and then convicted to life in prison. In 2011, China sought the repatriation of Lai Changxing from Canada after twelve years there. As former chairman of Yuanhua International Corporation, Changxing was accused of absconding with \$7.7 billion dollars. His defense against the repatriation was that he would face torture and execution.

Some observers have questioned the resolve of the Chinese government and have suggested that the small number of corruption prosecutions concluding with extreme punishments may have less to do with ending corruption than with sending a message to those who engage in corruption beyond an acceptable level. Others have suggested that anticorruption prosecutions may be an alternative means of conducting political purges. A more positive but still skeptical interpretation is to view the anticorruption cases as an expression of support for global anticorruption, an encouragement to foreign investors who fear corruption, and a way of appeasing the Chinese citizenry. According to Yan Sun,



Associate Professor of Political Science at the City University of New York, it was corruption, rather than democracy as such, that lay at the root of the social dissatisfaction that led to the Tiananmen protest movement of 1989.

### Foreign Educational Institutions in China

Accompanying China's meteoric economic development over the last three decades has been a corresponding growth in sophisticated higher education. The number of institutions of higher education in China has doubled in the last ten years. By 2020, China intends to have produced 195 million college graduates. The Chinese government has determined that it must not only increase the number of college graduates, but also make China an education destination for non-Chinese students. Accomplishing these goals will necessitate increased cooperation with Western institutions of higher education.

In an interview with University World News in 2013, Michael Gaebel, head of the higher education policy unit at the European University Association (EUA) reported that, just a few years ago, "it was very difficult to convince European vice-chancellors that Asia was not just a provider of fee-paying students. Now no one in Europe can ignore that China has become important globally for research and will continue growing in importance."<sup>14</sup> In 2013, China's vice minister for education announced that China would take efforts to attract more foreign students. By 2020, China hoped to attract some 500,000 international students, making the country the largest Asian destination for international students. Currently about 35,000 foreign students are studying in China.

With 37 million students studying in over 2,400 universities and colleges, China has the largest system of higher education in the world. The rapid growth of demand for colleges and universities in recent years has resulted in a number of problems, including rushed and poor quality construction, high student-lecturer ratio, shortages of qualified faculty, and questionable academic quality, not to mention allegations of corruption.

Corruption in higher education in China has been widely reported, including allegations of widespread plagiarism, selling of degrees, favoritism in admissions, and bribery for grades. A [study](#) by Wuhan University Professor Shen Yan showed that ghostwriting academic theses was a one billion-yuan business in 2009, and that 70 percent of the published theses were plagiarized. John Bray, author of "Facing up to Corruption, a Practical Guide,"<sup>15</sup> reports that parents in China often have to pay for a spot in a university for their child.

Compounding these problems is the growing level of unemployment among recent graduates. The *Epoch Times* reported a 7.7 percent employment rate among the seven million graduates in 2014.<sup>16</sup> The decline in the perceived value of Chinese higher education has created an opportunity for foreign universities. There is a perception that a degree from a Western university is more credible and that its graduates are more employable than graduates of Chinese institutions. Carl Fey, Dean of Nottingham University Business School China, discusses the growing number of foreign campuses opening in China. At his school, they spend the first year teaching students English, so they learn to work, study, and speak in English before diving into subject matter. "Your diploma looks exactly the same whether you graduated from Nottingham, UK, or Nottingham, China," Fey said. "That's because the education's actually the same."<sup>17</sup>

The number of foreign universities operating in China is changing rapidly as institutions from Europe, the United States, and other Western countries enter the fray. This course is not without operational hurdles, as was noted when Harvard University pulled out of a high profile and widely published joint venture with its Chinese counterpart, the prestigious Beijing University. Harvard cited several reasons for ending the relationship, including low enrollment, high operating expenses, and issues within the Chinese language program.

One of the problems faced by Western universities operating in China is that the potential for government censorship places severe limitations on academic freedom. While this is the most notable issue, there are many other challenges, mostly related to cultural differences. The red tape involved in getting the appropriate licenses, accreditations, and building permits from the various governmental agencies involved in local, regional, and centralized government is a daunting task for a foreigner. Most foreign institutions find it more expedient to partner with established Chinese universities than to attempt to open a new university, but even then, there are all the usual issues related to operation of a partnership or joint venture, all complicated by the cultural differences.

### Topic for Debate: To Hire, or Not to Hire a "Consultant" Who May Be Bribing Officials on Behalf of the University

Should Cleveland College hire the local Chinese agent, or "public relations" consultant, who requests a sizeable enough retainer that we may reasonably suspect he is making cash donations to obtain the goodwill of local educational institutions?

#### Affirmative Position

Cleveland College should hire the local Chinese agent/consultant.

#### Possible Arguments

- Secret cash payments may act as a morally-acceptable "lubricant" to facilitate commercial exchanges.
- Corruption is an inevitable part of the process of opening up new and developing markets.
- Companies that elect to comply with the letter of the law in the strictest sense may be at a severe competitive disadvantage.
- Payment of "fees" to officials can serve as an incentive to development, cutting through unnecessary bureaucracy.
- Corruption as defined in this context is a Western concept and may not be applicable in all countries.
- In many societies, the "gift culture" is a form of appropriate behavior based on long-standing traditions of exchanging favors.

## Negative Position

Cleveland College should not hire the local Chinese agent/consultant.

### Possible Arguments

- Paying an agent a fee, who then bribes a government official does not necessarily relieve the college of the risk of violating anticorruption laws.
- Paying an agent to bribe a government official sets a precedent that can lead to ongoing demands for bribes.
- If the organization pays a bribe, and they do not get what they paid for, they have no recourse. This is a high-risk form of investment.
- If the college goes down the path of bribing officials for any purpose, using the justification that it is a traditional and acceptable way of conducting business, it implicitly condones a lack of ethics to its employees—the next step would be to sell grades, diplomas or admissions.

## Readings

### 10.1 “Corruption from a Cross-Cultural Perspective”

Hooker, John. “Corruption from a Cross-Cultural Perspective.” Pittsburgh, PA: Carnegie Mellon University. October 2008. [ba.gsia.cmu.edu/jnh/corruption08s.pdf](http://ba.gsia.cmu.edu/jnh/corruption08s.pdf).

The world is shrinking, but its cultures remain worlds apart, as do its ethical norms. Bribery, kickbacks, cronyism, and nepotism seem to be more prevalent in some parts of the world, and one wants to know why. Is it because some peoples are less ethical than others? Or is it because they have different ethical systems and regard these behaviors as acceptable?

...The phenomenon of corruption provides a good illustration of these realities. Corruption is best understood as behavior that corrupts: it undermines the cultural system in which it occurs. Because cultures can operate in very different ways, very different kinds of behavior can corrupt. Practices that Westerners consider questionable, such as cronyism and nepotism, may be functional in other cultures. Practices that are routine and acceptable in the West, such as bringing a lawsuit for breach of contract, may be corrupting in a wide range of cultures, Western and non-Western, but for very different reasons.

The West tends to be universalist in its outlook: every society works, or should work, essentially the same way. Its business practices, for example, should be based on a market system that is characterized by transparency and regulated by laws that apply to everyone. A country that fails to conform to this model is seen as underdeveloped or dysfunctional. It follows from this view that that corruption is basically the same in Sweden as in Sudan.

The reality, however, is that different cultures use radically different systems to get things done. Whereas Western cultures are primarily rule-based, most of the world’s cultures are relationship-based. Westerners tend to trust the system, while people ...cemented by personal honor, filial duty, friendship, or long-term mutual obligation. Loyalty to cronies is suspect behavior in the West but represents high moral character in much of the world.

...What is corrupt in the West may be acceptable elsewhere. The classic example of the purchasing agent illustrates this point. The Western purchasing agent is expected to award contracts based on the quality of bids and transparently available financial information about the bidders. An agent who favors personal friends is viewed as corrupt, because cronyism subverts this transparency-based system. It creates a conflict of interest: A choice that is good for the agent and his or her cronies may not be good for the company.

In much of the world, however, cronyism is a foundation for trust. A purchasing agent does business with friends because friends can be trusted. He or she may not even ask to see the company financials, since this could insult the other’s honor. It is assumed that cronies will follow through on the deal, not because they fear a lawsuit, but because they do not wish to sacrifice a valuable relationship in an economy where relationships are the key to business. In such a system it is in the company’s interest for the agent to do business with friends, and cronyism may therefore present no conflict of interest.

What is acceptable in the West may be corrupt elsewhere ...Even so basic a practice as negotiation, which is routine in the West, can disrupt harmony in Confucian cultures. Westerners tend to organize their affairs around agreements, deals, or contracts, relying on a concept of covenant that traces back to the ancient Middle East. These agreements are hammered out in negotiation, as for example when labor and management sit across the table from each other. This practice is functional and constructive, so long as it proceeds according to rules of fair play and good faith.

Confucian cultures ...are based primarily on loyalty and obligation to friends, family or superiors rather than on a system of rules.

### 10.2 “Facing up to Corruption: A Practical Business Guide”

Bray, John. “Facing up to Corruption: A Practical Business Guide.” London: Control Risks. 2007. [www.giacentre.org/documents/CONTROLRISKS.CORRUPTIONGUIDE.pdf](http://www.giacentre.org/documents/CONTROLRISKS.CORRUPTIONGUIDE.pdf)

### Direct and Indirect Bribery

Indirect bribery is one of the most sensitive policy issues facing international companies. A typical example would be a case where a company employs a commercial agent to help it win a government contract. The agent is paid by commission based on a percentage of the contract fee; part of that commission is passed on to a government official. The agent’s employers do not know—and do not wish to know—what happened...

The OECD Anti-Bribery Convention explicitly covers payments made “directly or through intermediaries” to secure a business advantage. US and other international legal practice already includes several cases where companies have been prosecuted for paying bribes via agents. Ignorance—wilful or otherwise—is not a defence.

...A broad understanding of corruption includes certain kinds of influence, although the boundary between acceptable and unacceptable forms of influence is often hard to define. A series of cases in the US and other countries have drawn attention to the ethical issues surrounding political lobbying. In principle, political lobbying is legitimate. One of the main roles of industry associations is to lobby government on their members’ behalf. Individual companies, like ordinary citizens, are entitled to seek assistance from their political and diplomatic representatives. Problems arise when such contacts appear secretive, when there is a suspicion of favouritism or when a company’s influence appears to be both disproportionate and against the wider public interest.

In many societies it is common to speed up both larger and smaller transactions through personal connections... The use of personal contacts is both commonplace and useful. However, as with political lobbying, it becomes problematic when the connections lack transparency and when officials break rules on behalf of their business friends, or seek illicit favours in return.

In cases of doubt, the so-called “newspaper test” provides a useful indicator: would a proposed transaction cause you or your company embarrassment when reported in the press? If it would, do not do it.

### 10.3 “The Cost of Corruption: A Discussion Paper on Corruption, Development and the Poor”

Evans, Bryan R. “The Cost of Corruption: A Discussion Paper on Corruption, Development and the Poor,” (Middlesex, UK: Tearfund, 1999), accessed December 3, 2014, [www.tearfund.org/webdocs/Website/Campaigning/Policy%20and%20research/The%20cost%20of%20corruption.pdf](http://www.tearfund.org/webdocs/Website/Campaigning/Policy%20and%20research/The%20cost%20of%20corruption.pdf).

Far from being a “victimless crime,” corruption infringes the fundamental human right to fair treatment. All persons are entitled to be treated equally, and when one person bribes a public official he acquires a privileged status in relation to others. He becomes an ‘insider’ while others are made “outsiders” (and the more “outside” they are—the very poor, the landless, women, ethnic minorities—the more they will be hurt). Clare Short, the UK Secretary of State for International Development, notes a report in the Indian magazine Outlook to the effect that the bribe for a new water connection was R1,000. This effectively excluded the poor from access to running water, with all the health and time-loss implications that this entails. Corruption is thus profoundly inequalitarian in its effects—it has a “Robin Hood-in-reverse” character. Hugh Bayley MP, introducing a bill to create offences of international bribery and corruption, went so far as to say that “bribery is a direct transfer of money from the poor to the rich.”

...The ramifications spread yet further. Productive foreign investment may be lost. Before the Asian crisis of 1997/98 there were some who argued that corruption was not harmful, it merely greased the wheels of commerce. It was pointed out that some countries which ranked high in surveys of the level of corruption, also excelled in economic growth. The World Development Report notes that the question of predictability (the amount to be paid, the certainty of outcome) throws some light on this apparent paradox. “For a given level of corruption, countries with more predictable corruption have higher investment rates...”

However, the Report went on to state that even in these countries corruption had an adverse impact on economic performance, because the higher transaction costs and increased uncertainty put off potential investors. Time magazine quotes research by Professor Shang-Jin Wei of Harvard School of Government to the effect that the high level of corruption in Mexico compared with Singapore was the equivalent of a 24 per cent increase in the marginal rate of taxation.

A conservationist, Lansen Olsen, in a letter to the Transparency International Newsletter notes that “political corruption is a major feature of the political habitat in which wildlife conservation efforts sink or swim.” When corruption breaches regulations designed to protect the environment, everyone suffers in the long term, as the loss of primary forest leads to soil erosion, local climate change, etc., but it is the poor who have the smallest resources with which to weather environmental degradation.

Corruption can also have ugly and unpredictable consequences for the (Western) briber. As soon as he pays he begins to lose control. If he does not get what he paid for he is in no position to complain. Having broken the law he is vulnerable to blackmail. If he tries to break the corrupt relationship he may face a variety of threats, including the threat of violence.

### Synthesis Questions

1. Consider the following hypothetical example: An American college seeks to obtain a good image among Chinese educational regulators and accreditors by inviting a number of them, all expenses paid, to a week-long conference in Hawaii. Is this morally acceptable? Does it constitute a form of bribery? Why or why not?
2. In the past two decades, a number of very large corporations have paid large fines for corrupt behavior. Presumably, the executives who authorized the payments were highly-educated, experienced, professional people. Why do you think they failed to speak up against the corruption?
3. This chapter explores the concept of guanxi. Do you think guanxi is morally wrong, or rather, is an acceptable form of traditional practice that must be allowed to continue? What are the prospects for guanxi in the future?

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