

Putting Corruption in Context

The philosophical underpinnings of the nature, drivers of and remedies to corruption

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Abstract: The concept of corruption is usually defined as: the abuse of public office for personal gain. Salient characteristics of corruption gleaned from the definition are stated and their significance explained, e.g., that the public/private distinction is presupposed in the definition. Why misconduct in the use of discretion can be rational, and why it should be called “corruption” are explained. Based on a better understanding of why the public/private distinction is necessary for governance based on public interest, further understanding of the situational rationality of corruption and measures necessary for combating corruption are discussed. Through this exercise, the philosophical underpinnings of the nature of corruption as well as the method for identifying drivers of and remedies to corruption are elucidated.

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The text is a revised version of his presentation on February 2, 2014, at the International Conference on Institutional Design for Conflict Resolution and Negotiation, held at Nagoya University.

1. The Concept of Corruption

The concept of corruption is not as clear as one might suppose. Corruption must be corruption of something. What is it corruption of? We speak of the “corrupt person” and also “corrupt society.” Transparency International and others have developed the standard definition of corruption: the abuse of public office for personal gain. Persons, societies, public offices. Which of these is the object of corruption? Or, are they all? Are there more?

A corrupt person is typically a public official who takes bribes. Is it the person who is corrupt, or is it his office that he holds that is corrupted? In a corrupt society, no one seriously expects others to refrain from giving or taking bribes, even if everyone knows there are norms that prohibit bribery, and knows full well that it is wrong to be engaged in such acts. Is it the society that is corrupt? Or, is it the public offices of such societies that is corrupted?

Let us note the ambiguity of the term “corruption.” It can be modified of the person or society, but the crux of corruption is in the violation of the norm addressed to those in whom the public power is entrusted. Whereas the norm dictates that the competence and discretion of the official be used for the sake of public interest, if used for the benefit of his personal interest at cost to that of the public, then there is corruption. Though persons who hold the office, or the society in which corruption is prevalent, may be called “corrupt,” it is the function of the public office that is compromised. The standard definition is thus quite accurate on this point. It is the *abuse of public office* that constitutes corruption in the precise sense.

What is “abuse” in this context? It is the use of discretion given to the official, based not on impersonal and universal, i.e., public reasons, but instead on personal and particular, i.e., private reasons. What is compromised is the public character of the office. Why is the compromise of the public nature of the office detrimental? What does it destroy? This is the important question.

The short answer to the question is: it destroys the expectation that justice will be done, and if exacerbated, the sense of justice of the members of this society. The basis of justice, i.e., the public trust in the powers that execute

justice, is destroyed. What is justice in this context? It is justice in the sense given in *Corpus Juris Civilis*, the summa of Roman law: *justitia est constans et perpetua voluntas ius suum cuique tribuendi*. Justice is the constant and perpetual will to distribute to each, one's own. Put into modern terms, justice is the sustainable effort to give each person his or her right. A longer response is in order.

2. Why Justice Is Good, Corruption Bad

On a field trip with my seminar students, I visited the Kyoto University Primate Research Institute during the summer holidays of 2013. We observed a colony of chimpanzees led by the alpha male, Akira. Akira was getting on in his years, and was no longer very confident of his authority to rule. Hence, he would cry out almost every twenty minutes, demanding a response from all the members of his clan. Failure to respond would mean defiance. The chimpanzees had no choice but to respond and cry out every twenty minutes all day. This costly behavior on the part of both Akira and his clan, I interpreted as Akira's compensation strategy to alleviate his uncertainty of power and to discover any sign of unrest at an early stage.

This was inspiring. It demonstrated to my students and myself the essence of spontaneous political power, where "might makes right," and the "law of the jungle" prevails. In order to survive, and if lucky, to do well, one must lead a life that would please and appease the alpha male. Akira had no obligation to protect you, much less to protect every individual equally. He would protect those he found in his interest to protect, i.e., those who would obey and serve him, and would give special favors and privileges to those whom he finds of good use to him or very pleasing. The same norms of governance, in principle, have ruled mankind in all quarters of life until just a few centuries ago. It is still the prevailing type of norm today, where the Rule of Law is not a reality.

In Western Europe of the eighteenth century, a new way of governance had arisen. It was what would develop into the liberal democratic polity, where the law of the jungle, and the evolutionary law of "the survival of the fittest," need

not apply. In this society, people have human rights: they are not subject to the whims of the ruler. The citizens are free to choose a life of their own, with one's own values and the freedom to live according to one's principles. It is the sovereign that must respect and protect the freedom of its citizens. The citizens of this state live under the "Rule of Law" and are treated as equals having the equal right to be free. The little guy can stand up to the big guy and claim his due. In the event the big guy does not comply, although the little guy himself cannot do much about it, the government should, and the little guy would get his way. Political power is used to enforce this system of equality, where everyone is equal under the law. It is the liberal democratic state that has the duty of "the sustainable effort to give each person his or her right." The state has the obligation to provide justice, though it may not always be able to live up to its promise.

The equal right to be free. This is what is attained in this universal, impersonal state. Of all the polities known to man so far, liberal democracy has been the best bet for safeguarding the equal right to be free. What is important here is to make sure that those in power rule for the sake of public interest, i.e., for the people. By "people," I mean the set of citizens who comprise the polity, individuals who are free and have the equal right to live a life of one's choice.

Those in power would become public servants, or the servants of the people rather than their masters. They serve the public interest, not their personal interest. Their personal interest is not unimportant. Civil servants are citizens, too. However, the personal interest of the civil servant should never get in the way of performing one's duty to seek and enhance the public interest. So that the legitimate personal interests of the civil servant do not get in the way, public institutions should be so designed that the public interest and the private interests of the civil servant coincide. E.g., higher salary for those who better serve the public interest.

This brings us to the question: what is the critical difference between the liberal democratic state and the types of governance prevalent before this system? To this, we should say, all the difference resides in the end: in whose interest the state is run. The liberal democratic state is run for the benefit of its

citizens, while the older type of rule is essentially the same as the colony of the chimpanzee; the primary beneficiary is the alpha male. In a liberal democracy, the citizen does not have to cater to the wishes of the alpha male in order to survive, he does not have to placate the alpha male in order to enjoy freedom to choose. Instead, it is the state that has the obligation to protect the equal right to be free of its citizens. No matter how much the public official may dislike you, she cannot touch you. She must honor your rights of citizenship, your equal right to be free. She is bound to enforce justice.

How do we bring about justice? Not just through moral reflection that it is good to have justice. Justice needs political power for implementation. But which justice, which conception of the concept of justice? It has to be the conception of justice that the political power deems to be correct through appropriate procedure; not just an act of will or decision-making. It must be a conception developed through public discussion of the issue in question: a product of public reason as well as a decision made by the representatives of the sovereign. What form does such an amalgam of reason and will take? It takes the form of law.

What is important to note is that the laws of the two types of governance, democracy and the alpha male's, are very different from each other. Whereas the laws of, say, the Mongol Empire are essentially the same as that of Akira's reign, the laws of a constitutional democracy constrains the power of the sovereign, not just rendering it legitimate. Such laws are geared to the public interest of the ruler, i.e., the people. They protect the rights of the citizen, not the personal interests of those entrusted with governance.

Justice is good because it provides equal freedom to all. Corruption is bad because it destroys the system that can provide equal freedom for all. It replaces it with the rule of the alpha male, where the law of the jungle prevails.

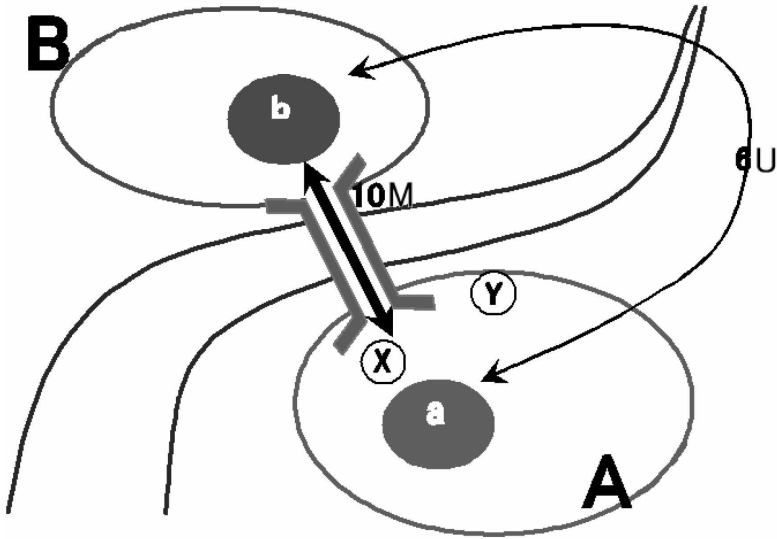
3. The Public/Private Distinction or the Parable of *Village A and the Big River*²⁾

So far, I have pointed out how political power can be good and bring about justice, if free from abuse. There is an even greater positive and extraordinary aspect of political power. It gives a unique and legitimate solution to problems in collective decision-making which are insoluble without public authority.

I shall illustrate this with the story of "*Village A and the Big River*." As in the illustration below, assume there is a *village A* next to a wide, deep and fast running river. *Village A* happens to be a very poor but peaceful and egalitarian village. There are no bullies and everyone is equal to each other. The villagers cooperate to overcome hardship, and just barely manage to survive the harsh winters. Assume also that *village A* produces a product "*a*", which when combined with "*b*", a product found only in *village B*, on the other side of the river, produces "*abba*," a commodity sought by everyone in the world, now more commonly called "*YOHIO*." Assume further that it takes six hours to go upstream from *village A* to cross the river and go down to *village B*, carrying "*a*". If a bridge is built between *villages A* and *B*, crossing the Big River to get to *village B* would take only ten minutes.

One day, the people of *village A* get together to discuss the future of the village. They easily come to the conclusion that building a bridge between *villages A and B* would not only make everyone's life easier but would also hold great potential for the future, a future imagined only in their wildest dreams. People of *village A* thereupon unanimously agree to build a bridge between *villages A and B*. For the very same reason, the people of *village B* also agree unanimously.

2) Sections 3 to 5 are liberal renderings in English of the following paper of mine: "Die philosophischen Grundlagen der Richterethik" *Schleswig=Holsteinische Anzeigen*, C6117E (2009) 110-115.



Villages A and B and the Big River

Life in *A* and *B* was like a musical until the big question came up: where to build the bridge? Every head of the household in *village A*, rational beings that they are, wanted the bridge to be built at a site that brought the highest utility to himself and his household. The upshot was obvious: there were as many proposals as there were households of *village A*. Note that their proposals were equal in value because everyone is equal and to the question of where gave essentially the same answer: wherever it is to my greatest benefit (typically, “not in my backyard, but close enough to my house,” though the ecologists in the village would want it far away from them).

There was no rational way of choosing one site over another. One might propose the democratic way out: take a vote. Sounds good, but vote on which proposal? Where the bully wants the bridge? That is a possibility, though hardly a fair and just choice. However, or, should we say in this case, unfortunately, there are no bullies in town. Since everyone has an equal say, the choice of a proposal would have been either unjust or haphazard and irrational: a democratic vote is useless in this context.

What should we do in a case like this? Be political. Choose someone who has the authority to force others to do things against their will, as long as this authority does not infringe the basic rights of each citizen. Tax her also with the obligation to justify the authoritative decision with reasons that any rational being cannot but admit as being fair and reasonable, i.e., reasons that are valid (hopefully) universally.

Say citizen x and citizen y of *village A* both want the bridge to connect directly to the road in front of their houses. The road before x 's house is not that before y 's. Before the age of political authority, there is no choosing between the two sites. This is an egalitarian village: they have equal say. However, once we have political authority, which has the obligation to choose in favor of public interest, something magical happens. New reasons called "public reasons" are entertained, which can make a difference. Here are some of the public reasons given.

Reason 1 (reasons from civil engineering): the bridge should be built on solid foundation. It happens that the site y wants has a sandy bank whereas the site x wants has solid footing.

Reason 2 (socioeconomic reasoning): The bridge should unite the locales where "a" and "b" are produced with the shortest distance. It happens that the site x proposes is closer to the locale where "a" is produced than the site y proposes.

Reason 3 (geopolitical reasons): The bridge should be close to areas most densely populated. It happens that more people live closer to the site x wants than to the site y wants.

Based on these public reasons, the location decided by the political authority should coincide with the point where x wants it: it is much more in the interest of the public than the site where y wants the bridge. Therefore, the political authority does decide to build the bridge very near x 's proposal and enforces the

decision, something that y does not like at all.

What do we have here? We have a unique solution to the problem of where to build the bridge. Compare this with the situation before political authority, where there were as many solutions as there were households, which meant that there was no unique solution, no correct answer.

We now have a correct answer, which, for sure, might have been reached by rational discussion among the citizens of the egalitarian *village A*. More likely than not, such a discussion of public reasons would not have taken place, as it would go against the personal interests of any villager not living near x 's property, which would be the majority of the villagers. Hence, the decision would have to be forced upon the villagers, or more accurately, enforced through legitimate means. Desperate for public support and sensing a unique answer to the bridge problem will bring about just that, the political authority would find it in its interest to force the citizens into such a discussion, whether they like it or not.

If the public does not cooperate, the authority can always call up the administrative arm of government to do the research and the discussion of public reasons, and the government can always commission the experts to do the discussions and the actual job, who have the knowledge and technology to get it right. Assume the political authority arrives on the conclusion above through one of the decision making processes sketched here.

How can the political authority then justify its decision to build the bridge near x 's house, when equal private claims compete with x 's? Answer: by coming up with public reasons justifying the decision, reasons private entities cannot reject without being selfish and have no right to complain about. The authority will justify its decision by means of the public reasons, proving that it is indeed in the public interest to build the bridge at the site chosen, thus rendering it into a public decision.

It is only natural that the public authority tries to come up with public reasons against which both x and y find it very hard to argue (though in this particular case, x has very little reason to disagree). Reasons given in terms of civil engineering, economics, and geopolitics, provide just such appropriate reasons.

The search for public reasons is essential for the survival of the public authorities. Their search for such reasons is not only ethically and politically correct, but also absolutely necessary for political survival.

We see here a happy coincidence or, to be exact, an orchestrated harmonization between the private interests of those who hold office and run the public system, and the interests of the public at large. We find a unique solution to an insurmountable problem, thanks to a rational and public political power to which one cannot say no, if the contention is based on private interests. Being a political power, by definition it deprives us of the freedom to say no (on matters on which they have mandate). However, because of this power to coerce, it provides the citizenry with new possibilities, an agreeable change of plans. It gives us, the citizenry, a new reality, where we might avail ourselves of the newly entitled freedom and benefits (derived from the public decision, via the economic boon brought about by the bridge), which without the political authority would have been virtually impossible.

To wrap up this section, there are two kinds of political power: those that do not distinguish the private and public reasons for action, and the more developed political power that does. The more primitive form may provide for the interest of the public if the political authority happens to be good-natured and benevolent, or if he decides playing the good guy would be to his benefit. However, he does not have to do so, and may turn into a tyrant if he so wishes. On the other hand, the advanced form of power has no choice but to serve the public interest: the only way it can validate its existence is to use its power for the benefit of the public, enforcing its public decisions (justified by public reasons). Only the latter form of political power may be called “public authority” in its proper sense. This is a political power which is not inimical to the people. Instead, its *raison d'être* is in protecting the rights of the people. Therefore, it is in the interest of the citizen (who comprise the people) to establish and maintain such form of power, just as it is in the interest of the political authority to serve such a public. Such democratic power came into being in modern Europe and has since been theoretically purified into the political model of liberal democracy.

4. *Öffentlichkeit*, or How the Modern State Organizes Free Society

What does such a political authority look like? It is the modern state: a liberal democratic polity under the Rule of Law, or a *constitutional democracy*. In order to better understand how the public/private distinction is essential for constitutional democracy, let us examine the modern state from the following four points of view, the economic, the political, the legal and the moral.

4.1 From *the economic point of view*, the modern state produces *public goods* private enterprises cannot produce, or may produce only in very inefficient fashion. Public goods are defined by the economist as goods that are (1) non-rival and (2) non-excludable. This means that if a good is a public good, (1) the good is so plentiful that there is no problem of scarcity; and (2) it is prohibitively expensive to monitor to keep out free riders. Obviously, goods without scarcity that are very difficult to monitor are not fit for production and sale in the market system. They meet sufficient conditions for non-profitability. Does it mean that public goods are worthless?

To the contrary, it makes all the difference. Typical public goods consist of social infrastructure, such as roads, sewage systems and running water on the one hand, and defense, public hygiene and justice on the other. Unlike sunlight, which is a typical public good provided by Mother Nature, these types of public good are artificial: they must be man-made. The examples of artificial public goods above demonstrate that a civilized society cannot exist without the existence of such public goods. So who is to provide these non-profitable but nevertheless precious goods?

It is the job of the state to do so, and the better a job the state does, the more it is supported by its citizenry. Therefore, it is in the interest of those in power to provide public goods in an efficient manner and to distribute it in a fair way, as this is an excellent way of gaining popular support. In the case of modern democratic states, this is not an option for the state; it is the *raison d'être* of the

state.³⁾ In particular, it is the job of the judiciary of a constitutional democracy to provide the public good of justice: positive, efficient justice.

4.2 From *the political perspective*, the power and authority of the state is vested in the hands of the representatives of the people for the sole purpose of managing the public good. If the modern state had an agenda independent of the will of the people, *Staatsgewalt* or state power can be dangerous; undermining public security and welfare. However, like all political power, the strength of the *Staatsgewalt* of a modern state depends on the support given by the people.

Hence, in the event those in power cannot provide public goods, especially security and justice to its people, the state would soon be quite powerless as it would have little reason for public support. Nevertheless, as we have repeatedly had to attest in history, it is possible for the state to infringe the rights and the livelihood of the people in the name of the people. Abuse of political power is always a possibility against which we can never be careful enough.

How should the people protect themselves from the abuse of state power? Answer: through the Rule of Law under a liberal constitution. In the constitution, a modern instrument of politics *par excellence*, the basic conditions under which the state may wield its power are spelled out. Any action by the state not authorized by the constitution and its laws can be unconstitutional, hence voidable⁴⁾. In many liberal democracies, the courts have the power to find unconstitutional legislation that infringes the fundamental rights of the people.

4.3 From *the legal point of view*, a fundamental question may be asked: Who

3) Those who support the political philosophy of libertarianism would contest this claim. They claim the smaller the government the better, and are bound to assert that many public goods, which the liberal would claim could only be provided by a legitimate government, can be provided through private enterprise. The most radical libertarians claim that all public goods can be provided privately, but most recognize the need for the minimal or night watchman state that provides defense, diplomacy, and police, and has the power to collect tax for financing the public organs.

4) Unless it is a development of a method and content of the rights of its citizens.

provides the law and the constitution? It is the people. The law is *vox populi*, the voice of the people. In a constitutional democracy, because sovereignty resides in the people, law expresses the will of the people. Therefore, it provides the guideline upon which public authorities must act. The representatives of the people also provide the goals which the public authority must strive to attain. Therefore, the issue here is whether the laws really represent the will of the people. If they diverge, then we have a division between public morality (justice) and positive law, such that it brings into being classical problems of philosophy of law: e.g., is an evil law still law?

4.4 Hence, from *the ethical point of view*, consideration of political morality such as *justice* gives reasons for lawmaking which may function as constraints on legislation and the execution of the law. At the same time, it offers ground for the exercise of legal power. Political morality thus provides through law, guidelines to the public authorities on how to use their power to supply and manage public goods.

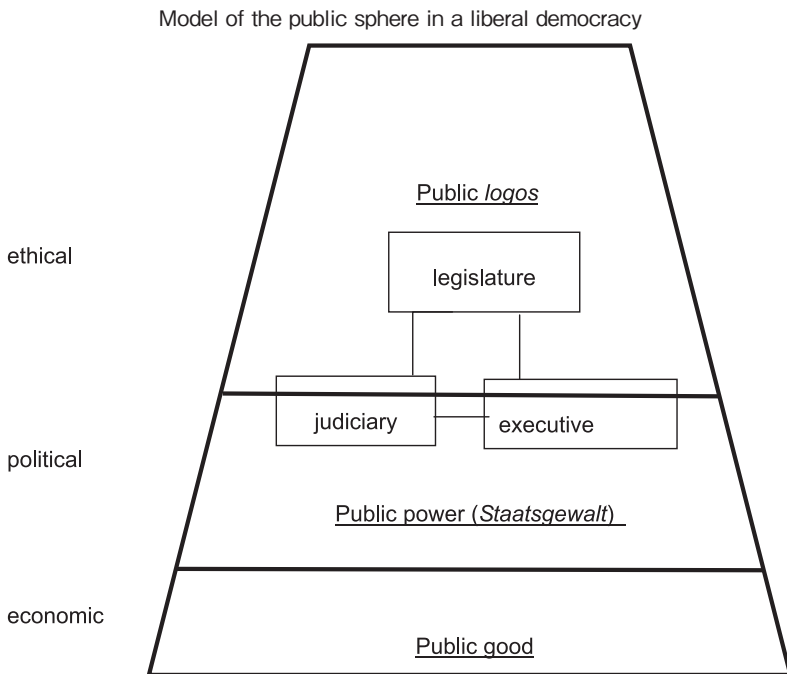
Morality, law, politics, and economics relate to each other in this manner in a constitutional democracy. All this happens in the public sector the governing precepts of which can be gleaned by developing a viable conception of *Öffentlichkeit*, or *that which is public and open*. Justice is the political value most important in understanding the precepts applicable. Justice involves the use and control of power. In the case of constitutional democracy, where the people as sovereign reign supreme, the use of sovereign power must always be explained and justified in terms of how it serves the people, or public interest. In order to avoid the problem of having always to give discursive argumentation of the justice of a particular public act or legislation, reference is usually made to the relevant legal norm justifying the act or statute. The canonical form of such linguistic activity is witnessed in the generation, execution and interpretation of the law. Such an institutional system of justification is called *the Rule of Law*.

The understanding of the concept of *Öffentlichkeit*, and the accompanying

public/private distinction, is therefore essential in understanding the reason why the modern state can be a beneficial power to the people, i.e., why democracy is possible. The keyword in understanding the system is “*the Rule of Law.*”

5. Liberal democracy and the structure of the republic.

The word “*republic*” comes from the Latin expression “*res publica*” or public matter. The structure of a republic according to liberal democratic philosophy may be conceptualized thus:



Notice the place and role of the judiciary and the executive in a liberal democracy. Both of the organs are a public good in itself. E.g., the judiciary provides the public good of justice and strengthens the political authority of the republic. However, through the interpretation of law, the courts also supply a

new avenue by which law is created. Through the law thus created, the judiciary guides all public authority including itself. The executive branch has a similar function, though the method of the creation of legal norms is different. These organs are expected to participate not only in the management of the public good, but also in the generation of the voice of the public. Both therefore have moral and legal responsibility as well as the political.

Note also that the public sphere consists of a tri-partite strata of social activity, with economic activity of producing public goods as its basis, political activity managing the production of the public goods as the second stratum, and discussion and argumentation on public morality as the top layer, guiding and controlling the managers on how to manage.

All these activities are coordinated through the use of law. The top stratum consists mainly of the legislative system, run by the lawmakers. Laws thus created control the managers, sandwiched in the middle stratum, who manage and run the system of producing public goods authorized and guided by the law. The actual producers of the public goods, who manage the basic, economic stratum, in turn, are controlled by the managers, through law as interpreted by the managers. Sometimes the same person plays the part of the producer and manager, which of course can be tricky. This is the system called the *Rule of Law*.

The nation state, a popular sovereignty whose *raison d'être* is to protect the rights of its citizens, must have the *Rule of Law*. This means that the political and military powers of a democratic state are strong enough to protect the rights of its citizens, and the judiciary and other branches of government wise enough to be able to protect the genuine claims to rights, while weeding out the false or illusionary ones.

6. The Rationality of Corruption

I have noted above: justice is good because it provides equal freedom to all. Corruption is bad because it destroys the system that can provide justice, i.e., equal freedom for all. It replaces it with the rule of the alpha male, where might

is right, and the law of the jungle prevails. What corruption erodes and destroys is the public system of a constitutional democracy, which through the dynamics described above enables justice, or equal freedom for all. It destroys it by replacing public action geared to enhance the public interest with public action for the benefit of the personal interest of the public official. It unbuttons all that the public/private distinction is designed to keep intact.

This is like burning the bridge in the parable of the Big River. From the macro, objective, collective view, it is irrational. However, sadly, there may be rationality in this type of action if one takes the micro, subjective, personal view, i.e., the viewpoint of the public official. It is what one might call *situational rationality*. One possible situation is where the public official is severely underpaid and has a family to support; if the amount of the bribe is such that it is worth taking the risk of getting detected, or even if the price is not quite right, if the risk were negligible, then it is possible to argue for situational rationality here. This is a situation where it is morally reprehensible but rationally understandable.

Drivers of corruption are listed in the above description. But an important element is missing. There is no hint here of whether there is a practice of corruption, or whether this is a unique act of corruption within a context of impeccable moral standard. The strength of the drivers are relative to what one mistakenly calls the culture or tradition of corruption. The degree of systemic or endemic corruption is the important context in which one must describe and understand the rationality of corruption.

In a colony of chimpanzees there can be no corruption. Not because there is no bribery or horse-trading, but because the public/private distinction does not make sense in this context. The alpha male is the state. The public interest of the state and the personal interest of the alpha male cannot be distinguished. It is the same coffer. Corruption exists only in the context of a polity that distinguishes the public from the private, and power is wielded in the public sphere, and only there, so that there may be self-government, or autonomy, in the private sphere.

Bo Rothstein, in his inspiring paper⁵⁾ quotes Mungiu-Pippidi:

Mungiu-Pippidi argues that the root of systemic corruption is a particularistic political culture, which is defined as a system in which the government's treatment of citizens 'depends on their status or position in society, and people do not even expect to be treated fairly by the state; what they expect is similar treatment to everybody with the same status' (Mungiu-Pippidi, 2006: 82). (237-8)

Both North *et al.* and Mungiu-Pippidi argue convincingly that corruption and similar practices are rooted in deeply held beliefs about the proper order of exchange in a society – personal-particularistic versus impersonal-universalistic. The implication is that to effectively curb corruption and establish 'good governance', the whole political culture has to move from the 'limited access' or 'particularistic' equilibrium to the very different equilibrium characterized by 'impersonal' and/or 'universal' forms of exchange. (238)

I hope it is clear that the “personal-particularistic” society mentioned is in essence the colony of the chimpanzee, and that the “impersonal-universalistic” society is what constitutional democracy has made possible.

7. Drivers of corruption and what to do about them

The institutional nature of the situational rationality of corruption, hence the measures necessary for combating corruption should be apparent. *In order to combat corruption, we must make corruption irrational.* In order to make corruption irrational, we must restructure the political institution so that situational rationality can no longer exist. This means the implementation of a system of the Rule of Law fit for the situation at hand. Only in the context of an impersonal-universalistic society can we have effective suppression of

5) Bo Rothstein, “Corruption and Risks. Anti-corruption: the indirect ‘big bang’ approach,” *Review of International Political Economy* 18:2 May 2011: 228-250

corruption.

Public institutions are run on the assumption that the officials are using their power or competence to enhance the public interest in question, not their personal interest. Thus, drivers of corruption can be identified as all those conditions that singly or together makes the official think: doesn't it make more sense to prioritize my personal, rather than the public, interest? When the rationality of making the enhancement of one's personal interest the main drive for official action becomes very real, then, corruption is inevitable.

The importance of the public/private distinction of reasons for action in this context is quite clear. Solutions to corruption have to do with methods that render irrational acting on reasons for corrupt behavior. Suppressing the rise of such reasons in priority through the threat of certain and severe sanction seems to be the straight forward remedy. However, experience has taught us that as long as the matrix that makes corruption rational is there, there will always be attempts from many quarters to bypass the sanction. When there is enough social cooperation to this effect, the sanction is no longer effective.

Hence, a wiser method should be sought after. We should not stop at irrationality. We should further strive to identify the reasons that make setting the public interest as the main target rational. This is sound strategy, going one step further than traditional methodology has countenanced. However, as long as we think in terms of the public and private interests as being in competition with each other in a zero-sum game, it is difficult to find a viable solution.

What we must do instead is to design and tweak the rules of the game so that, ideally, the public and personal interests become compatible, that they would be in a win-win relationship with each other. If, as is usually the case, such an arrangement is not attainable, we can then strive for the second best solution: design and run the system so that reasons that motivate action to increase one's utility *overlap* with the reasons for serving the public interest. E.g., certain and gratifying reward to the agent in case of cooperation to the development project. By concentrating on this method, perhaps we might develop terms of contract, law and regulations that would induce a change in the priorities of the reasons for action involved in development.

Let us remind ourselves that there are basically only three sustainable⁶⁾ ways rational persons will choose to cooperate in a public scheme.

1 certain and severe sanction in case of non-cooperation.

2 certain and gratifying reward in case of cooperation.

3 making sure the situation will be repeated, the actors' actions are recorded, disseminated to and remembered by all other players of the system.

Whereas the first two methods treat the players like the Pavlov's dog, the third method appeals to the longer-term interest and sophisticated rationality of the agent, though in all three methods, the self-interest of the players is in question.

All three methods can provide ways of designing systems and institutions so that rational behavior on the part of the players looking after their self-interest coincides with action conducive of the public interest. The designing of a general "method of choice" would need to make use of all three methods, with special attention to the third.⁷⁾

6) Acts of self-sacrifice, with complete disregard for one's personal interest (and the welfare of the family), are also possible, sometimes even laudable, but hardly sustainable.

7) Although I cannot discuss in detail at this time, I contend that the Rule of Law does have the properties to fulfill these functional specifications.

