

*Studies in  
Political Theory and Policy Analysis*

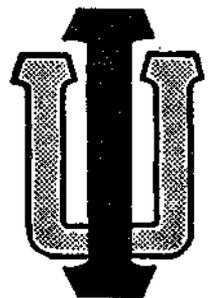
THE LOGIC OF POLITICAL CORRUPTION \*

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\*This essay has benefitted from the critical comments and suggestions of Professor Vincent Ostrom whose challenge to a colleague of mine on a Ph.D. qualifying exam—to develop a theory of political corruption—first turned my attention to the structure of political corruption, I would also like to thank Robert Bish, Richard Guarasci, Elinor Ostrom and Gordon Whitaker for their comments on an earlier draft of this paper,

Despite the ubiquity of corruption and bribery in all political systems, at all times, and under whatever historical conditions, political analysts inevitably see such activity as exceptional. Such a view of political corruption has reference implicitly to some condition of political health—an ideal condition in which no misdirection of public authority occurs in response to individual inducements. There is, however, no human society in which such ideal conditions are to be found. And notwithstanding American inclinations to equate political corruption with the politics of so-called underdeveloped nations, it is not clear that the grease which lubricates the political machinery of Chicago, New York, or Anytown, U.S.A. is less abundant than in Mexico or the Philippines, the supposed epitome of institutionalized corruption.

Perhaps it is time for students of politics to understand political corruption as a logically necessary risk and probable consequence of any effort to establish and maintain political associations--whether nation-states, townships or boys clubs. In the remainder of this paper I have tried to outline the structure of political corruption, its consequences, and potential strategies by which to reduce the costs imposed by corruption on individual persons.

#### Officialdoms and Corruption

Political organization is, in part, an effort to provide processes and institutions whereby conflict between human beings may be channeled,

limited and/or resolved. Through political organization constraints in the form of law and administrative regulations, is introduced into the large potential variety of human behavior, Some activities are forbidden. Other activities are made conditionally permissible. In the pursuit of still other activities individuals are guaranteed almost unconditional public support.

Those in any association assigned the duty (obligation) of formulating, interpreting, or administering this system of artificially imposed constraints are called officials. Officials may hold office by virtue of divine sanction, family lineage, election, appointment, etc. They have differential scope and domain of authority depending, respectively, upon the range of values with reference to which they are assigned legal prerogatives and the persons with respect to whom this authority is to be exercised. No matter how hierarchical or how "participatory" the structure of an association, no matter how responsive or representative of the "general will" or "public interest" these agents might be, the assignment of public responsibility and authority to individual persons as agents of an association creates an officialdom.

Insofar as authority is assigned exclusively or differentially (e.g. all persons are not assigned the total legal prerogatives of a police officer, though provisions are made for a citizen's arrest) the creation of an officialdom entails unequal assignment of legal prerogatives among persons within a political association. There has been in human history a wide range of experimentation with respect to the extent of hierarchy and specialization within polities. Based on

historical experience it seems that the organization and functioning of officialdoms may differ greatly. It also seems, however, that the assertion "there cannot exist a political association without an officialdom and, therefore, without some amount of unequal assignment of authority to persons within the association" is as close as we can come to making a true (certain) statement about the constraints on human social organization. With increasing economic and technological development political specialization also takes place. The assignment of legal prerogatives to members within polities becomes more functionally specialized. Officialdoms do not wither away; they become larger and more complex.

Some transformation of man into a "new man" with a "new politics" may disconfirm this assertion. For present purposes, however, it seems as solid a foundation for political theory as we have available. Our starting point, therefore, is the assertion that no political association can exist without some form of officialdom involving a differential and, therefore, unequal distribution of authority among the persons in the polity.

Officials, then, are those assigned the public responsibility for elaborating, interpreting and administering the set of rules that apply to members of a political association. This assignment of public tasks to individual persons takes a form which may be characterized on a continuum. At one pole of the continuum are found clear, detailed, unambiguous directives specifying the ends to be achieved and the procedures to be followed in achieving these ends. At the opposite pole we find entirely ambiguous objectives to be carried out through

unspecified procedures. As an example of the first polar type, an official may be required to "push button 3 on panel I every evening at 6:00 p.m. in order to turn on city street lights," On the whole very few tasks performed by officials are of this sort. In the case of legislators and judges the description is obviously absurd, the exercise of discretion in elaborating and interpreting law within a broad framework being the very task such officials are assigned. It is now generally recognized that administrative officials also exercise a wide range of discretion with respect to ends and means, the simplistic distinction between politics and administration having been, for the most part, rejected. Even those convinced that the quantity of discretion and its importance necessarily conform to positions in a formal hierarchy (i.e. those unwilling to concede that most large organizations are dominated by secretaries, maintenance personnel, and alliances between low-level officials and clientele) would not assert that lower level personnel exercise no discretion at all. Officials at all levels exercise discretion. The strictly routine, Weberian, conception of any position in an administrative organization does not conform to the realities of administrative life. The supposed instrument of policy, the low-level official, is more often than not an architect as well as carpenter.

Moving from the strictly routinized "no discretion" pole on the continuum, authority granted to public officials may range from a legislature's duty to regulate commerce to a postman's obligation to deliver mail to a specified number of households every day. The degree of ambiguity with respect to objectives and means may be much greater in

the first of these examples than in the second, but in each there does exist some discretion with respect to the objectives to be carried out and the manner in which these objectives shall be accomplished. The case of the legislature is obvious; regulation of commerce can mean almost anything as the American experience has demonstrated. The case of the postman is somewhat less obvious, but consider the following: the postman may deliver the mail in any sequence he desires, and with varying degrees of dispatch. If the order of delivery, the speed of delivery, or other values within the range of the postman's discretion are, for whatever reason, of importance to private persons, the postman's authority may become a focus for efforts at private manipulation.<sup>1</sup>

While perhaps an unlikely example,<sup>2</sup> the basic model for all bribe

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<sup>1</sup>Professor Vincent Ostrom has suggested that forwarding mail to ex-patrons with dispatch, and other such services which are beyond the call of administrative routine, are sometimes implicitly "negotiated" in advance between postal patrons and postmen through the exchange of Christmas gifts or, in some contexts, cash. In such cases private persons have induced public officials to give special attention selectively to postal patrons. Special attention, however, is a service which the postal service as a public enterprise sells, (e.g., "special handling," "special delivery") with proceeds accruing to the public treasury. Thus it seems that even postmen are in a position to convert ostensibly collective goods into goods which are further divisible and packageable with reference to a private pricing system--which in fact competes (favorably) with the terms upon which postal service (or lack thereof) is commonly available.

<sup>2</sup>Philip Sabetti, after reading a draft of this paper, suggested that the example of the postman was less unlikely than I had originally suggested. His experience in an Italian village indicates that postal service is generally available on quite different terms to village notables than to peasants. Perhaps the speed and frequency with which mail is delivered to persons in such villages would serve as a good indicator for those planning "community power" studies in Italian villages or in small towns which are service centers for a more general agricultural population.

bargains is contained herein: private persons seek through an exchange of valued resources to influence the decisions and operations of public officials, that is to influence the manner and quality of (non) production and/or (non) distribution of public goods and services.<sup>4</sup> Whether it is the quality of the public good, its-availability to other persons, the cost of its production, the manner of its distribution or its pricing which is the object of influence, the basic model of political corruption consists in 1) official discretion being exercised to favor private persons in exchange for extra-salarial benefits or 2) illegal action being taken under the same circumstances.

A bribe is any illegal compensation by private persons of public officials in order to influence the manner in which officials exercise the duties of their office. Like corruption more generally, bribes are resorted to by individuals in order to 1) avoid potential costs associated with application of laws in their particular case or 2) obtain selective benefits from public expenditures intended to provide collective or other public goods.

The bribe bargain, like any exchange relation, must be seen as providing benefits to all the parties directly involved. Pricing would vary according to the risk involved in providing the services sold, investment of officials in providing the service (e.g. was the office itself bought?) and the position of the official in the market, i.e. are there other sources of similar services? Insofar as such arrangements become "risky" for the officials involved we would expect the bribe price demanded to rise. As a limit officials cannot demand bribe prices higher than the benefits to be derived (or the costs to be incurred) by private persons if the bribe bargain is not negotiated.

<sup>4</sup>By public goods is meant goods and services produced and distributed by "government" agencies. For goods which have been called "pure public goods" (i.e. indivisible, non packageable) I will use the term "collective goods." As Professor Elinor Ostrom has pointed out there are a great variety of goods which may potentially be provided in the public sector, ranging from strictly collective (nondivisible) goods to goods which may and/or are entirely packageable and provided in the private sector. (See: Elinor Ostrom, "On the Variety of Potential Public Goods," mimeo, Indiana University.) What distinguishes public goods (in this sense) from private goods is 1) the type of organization producing and distributing them and 2) the legal expectations concerning the manner of production and consumption of governmental goods and services. Again, in the present context, "public goods" will refer to governmental goods and services while "collective goods" will refer to those goods which are relatively indivisible.

The first of these is what George Washington Plunkitt called "honest graft," the latter "dishonest graft."<sup>5</sup> While Plunkitt was disdainful of any politician silly enough to engage in the second of these activities, there being plenty of "honest graft" available, both are a part of what is normally called political corruption.

Insofar as laws create potential economic rents and confer discretion on officials to administer them, persons affected by these laws have an incentive to influence the decisions of these officials. In this respect the line between legitimate influence and corruption is quite ambiguous, being essentially a distinction between propriety and impropriety, or impropriety and illegality. A Christmas present for the postman or building inspector is different than a \$5-thanks-for-the-warning to the traffic cop, but each is related to influencing public officials in the exercise of their public discretion. Wherever official discretion exists, the manner of its exercise may be the subject of negotiation and sale. As long as officials have discretion, no human political association can avoid this risk. The possibility of corruption is an inevitable concomitant of political organization, that is, the creation of an officialdom.

#### Why be Concerned with Political Corruption?

In addition to objections to corruption because we find it morally offensive or untidy, there are quite pragmatic reasons for wanting to limit the extent of corruption in a polity. Depending upon particular circumstances, political corruption leads to 1) unequal availability

William L. Riordon. Plunkitt of Tammany Hall. New York: E. P. Button & Company, 1963, pp. 3-7.

and/or provision of theoretically pure collective goods, or 2) overpayment for, inequitable distribution of the costs for, or inappropriate pricing of, collective and other public goods. In cases of the first sort some persons are denied access to supposedly collective goods. Where the collective good in question is "justice" third parties are not compensated for civil or criminal injuries done them because officials are induced not to respond to their complaints. For example, in particular cases county prosecutors may have considerable discretion in deciding whether to prosecute and under which statutes to proceed. This discretion, not surprisingly, is a common focus for attempted bribe bargains and corruption more generally.<sup>6</sup> The integrity of legal guarantees to any citizen or any person depends upon such officials. Political corruption in this type of situation threatens the very substance of a democratic polity. Laws are effective only if demands for their enforcement are recognized by the appropriate officials. If corruption denies to any citizen that protection guaranteed by the law, it renders democratic government an illusion.

The second sort of corruption, in a sense nothing more than a broader interpretation of the first, involves a shift whereby third parties are forced to bear the costs imposed by corruption of public officials which benefit private parties. Corruption concentrates the

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<sup>6</sup>As Jerome Skolnick (Justice Without Trial, J. Wiley & Sons, New York, 1966) points out in dealing with the police informer: "Although one cannot measure the monetary equivalent of a year's imprisonment, it seems reasonable to suppose that its value is high . . . the coin of the informer's realm is primarily not money, but rather is to be found in the discretion residing in the office of policeman and in the office of district attorney. . . the main payment is legal authority. . ." (p. 125).

benefits of public policy in the hands of a select few while shifting the burden of costs to a common public treasury and/or to subsets of private individuals. It is generally impossible to distribute the costs of public policy strictly in proportion to benefits received (or even to precisely identify and measure these costs and benefits).

However, Plunkitt's story below demonstrates the opportunities provided by public position to use the public treasury as a source of private enrichment.

There's an honest graft, and I'm an example of how it works. I might sum up the whole thing by sayin': I seen my opportunities and I took 'em.

Just let me explain by examples. My party's in power in the city and it's going to undertake a lot of public improvements. Well, I'm tipped off, say, that they're going to lay out a new park at a certain place.

I see my opportunity and I take it. I go to that place and I buy up all the land I can in the neighborhood. Then the board of this or that makes its plan public, and there is a rush to get my land, which nobody cared particular for before.

Ain't it perfectly honest to charge a good price and make a profit on my investment and foresight? Of course it is. Well, that's honest graft.

. . . I'll tell you of one case. They were goin' to fix up a big park, no matter where. I got on to it, and went lookin' about for land in that neighborhood.

I could get nothin' at a bargain but a big piece of swamp, but I took it fast enough and held on to it. What turned out was just what I counted on. They couldn't make the park complete without Plunkitt's swamp, and they had to pay a good price for it. Anythin' dishonest in that?

I've told you how I got rich by honest graft. Now let me tell you that most politicians who are accused of robbin' the city get rich the same way. They didn't steal a dollar from the city treasury. They just seen their opportunities and they took them.

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"Riordon, op.cit., 3-5.

Honest or dishonest graft? Whichever it is, this is political corruption. Political corruption forces citizens to bear the costs, monetary and otherwise, of producing collective and other public goods in a manner that allows selected private persons to enrich themselves (legally or illegally) by bilking the public treasury.<sup>8</sup>

#### Machine Politics as a Special Case of Corruption

Many authors dealing with political corruption have concentrated their efforts on party/machine politics, patronage and electoral corruption.<sup>9</sup> That is, on "organized" corruption. The framework set out above, however, suggests that organized corruption is a special case in which the discretion inherent in public office itself becomes a commodity in a political market. Widespread office-filling through party patronage merely makes all officials tax farmers. As M. Ostrogorski points out, where access to office is controlled by a machine

. . . the Machine has succeeded in transforming the elections into an industry, exploited like other industrial concerns, on the method of concentration of capital and labour applied

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<sup>8</sup> James M. Buchanan in "Public Goods and Public Bads," a paper delivered at a meeting of the Public Choice Society held in Chicago February 19-21, 1970, suggests the notion of "erosion" of public goods through individual behavior which produces "public bads," e.g., air pollution. In the case of corruption public goods are also "eroded," but this takes place by 1) introducing informal divisibilities (as in the case of the postman discussed above). This may take the form of restructuring the production and/or distribution process such that the quantity, quality or price of the good is reduced (increased) selectively (e.g., selective non-enforcement of laws); 2) erosion of the good for all users where officials allow collective goods to be "polluted" in exchange for compensation by private persons.

<sup>9</sup> This has been true since the days of the muckrakers. See, for example, the Autobiography of Lincoln Steffens, Harcourt, Brace and Co., New York, 1931. A recent example is James C. Scott, "Corruption, Machine Politics, and Political Change" APSR LXIII (Dec. 1969) 1142-1158.

to the raw material. Being able to deliver its product on the most favorable terms, it takes orders, it contracts for elections: does any one wish to become municipal councillor or member of the legislature, he has but to come to terms with the Machine, to 'see' the boss and settle the price; the Machine undertakes the rest. As it enjoys a monopoly in its line of business, the Machine can refuse offers without giving any reason . . . . the Machine wants above all things—the subordinate offices in the public administrations with which it pays its henchmen and its workers.<sup>10</sup>

Since the discretion of public authority may be of profit to private persons, there is created an organization to control this "commodity" in the marketplace. The political machine becomes a monopoly supplier in a lucrative market. Like most "commodity markets" controlled by a monopolist, buyers in this market are disadvantaged. Those buying the offices must pass on their costs to the ultimate consumers of public goods and services—persons who bear the costs of, and are affected by, public policy.

Party reform, civil service and merit systems do not eliminate the possibility of corruption, but rather restructure "property" rights with reference to public office. If it becomes difficult for parties to guarantee public positions (concessions) to masses of supporters then large-scale machines are more difficult to maintain. Policies which serve to eliminate monopoly positions in commodity markets and thus bring about some degree of competition will tend to benefit consumers. The traditional reformist emphasis on a merit system can be seen as an attempt to replace a monopoly-controlled market situation with a situation in which office-seekers are in a more favorable

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<sup>10</sup>M Ostrogorski. Democracy and the Organization of Political Parties II: The United States, ed. S. M. Lipset, Anchor, New York, 1964, pp. 196-197.

position.<sup>11</sup> While it is entirely appropriate to associate political corruption with Machine politics, this type of corruption is merely a special case, a particular institutional arrangement, in which corruption has a strong organizational foundation in 1) an electoral system, 2) patronage-filled bureaucracy, 3) rebates on salaries and/or "fees" to party coffers on the part of officials to support the organization. The essential component is the conceptualization of public office as private property or a concession to be allotted to those who belong to winning electoral coalitions. This is simply a special case of converting public authority and, therefore, public goods into private goods and collective bads.<sup>12</sup>

#### The Control of Political Corruption

It is desirable to limit political corruption because corruption has costly and direct consequences for the individual persons forced to pay the price, in taxes and/or in basic personal rights, that corruption imposes upon them.

<sup>11</sup> Merit systems are not unmixed blessings. It may even be the case that machine politics discriminate less against the urban poor in staffing public offices than do merit systems. This is true especially if the costs of educating certain elites are borne by taxpayers whose own offspring are generally denied educational opportunity. A merit system is only "democratizing" if the training necessary to achieve "merit" is generally available to all strata within a polity.

<sup>12</sup> It may be the case that in totalitarian regimes political corruption actually provides collective goods by subverting or ameliorating the impact of decrees from the central authorities as they are applied locally. Corruption, in this sense, also consists in "official discretion being exercised to favor private persons in exchange for extra-salarial benefits" but may also extend to total non-enforcement of laws which produces collective goods (or bads) depending upon the value placed upon outcomes by those affected. See: Milton Mayer They Thought They Were Free: The Germans 1933-55, University of Chicago Press, 2nd. ed. 1966, for insight into the differential application of law in Nazi Germany.

There exist a variety of devices which have been employed to attempt to control political corruption. These range from paid informers/executioners to salaries "high enough" so that officials are not tempted by bribery, Internal audits, castration, religious oaths, and external audits have also been employed. Rather than dwell on particular devices or techniques, which have more or less impact given particular cultural and social contexts, it seems more useful in the present context to 1) point out and note the limitations of several types of control systems through which public officials are often held accountable, and 2) present an argument for focusing on mitigating the consequences of corruption rather than focusing exclusively on deterrence. As suggested below, this latter strategy seems to have the indirect consequence of itself providing added deterrence to political corruption.

Limiting the Discretion of Officials. All laws limit to some extent the range of official behavior that is considered acceptable. Beyond certain limits, however, officials are made relatively less useful to the publics they serve by detailed restrictions on and routinization of their tasks. In the case of many officials the very tasks they are assigned demand flexible response capability; police, firemen or chief executives are obligated to perform public duties that require a relatively wide range of discretion if the tasks are to be successfully performed. This does not mean that such officials should not be liable when they act in an illegal manner. But rigid limits on discretion cannot be the principal means of controlling officials whose public responsibilities generally include dealing with unanticipated events, life-death decisions (for themselves and others) and the need to act quickly in order to provide

public goods which would otherwise be foregone. Control of such officials by limiting their discretion, at least with respect to those tasks which do demand quick responses to unanticipated or crisis situations, may be so much more costly in opportunities foregone than in the consequences of corruption that the lesser of two evils seems to be post hoc, but certain, review of actions taken. In this sense corruption cannot be prevented, only rectified—and here only if the pre-emptive action of such an official does not preclude effective rectification. If this be the case, compensation, where possible, may have to take the place of rectification.

Where crisis situations are not normal, or extremely rapid response to changing circumstances are not of essence, limitations on the discretion of individual officials may prove to be of considerable importance in limiting political corruption. Insofar as an official must act illegally in order to satisfy the demands of would-be corrupters the stakes are raised—and like any deterrent system, will be as effective as it is credible to those who would play the game. It remains the case, nevertheless, that all officials will exercise some discretion and this discretion is a potential focus for political corruption. Thus although limitations on the discretion allowed public officials provide bases for legal remedies on the part of those injured by corruption, corruption cannot be eliminated by making officials into Weberian bureaucrats, i.e., by routinizing public tasks to the extreme. Efforts in this direction may only serve to reduce the capability of a political system to respond to changing conditions. Given that change is persistent, that we live in a contingent universe, such a course of action is entirely unrealistic.

The Threat of Sanctions and the Payment of Rewards. It is often

argued that the threat of severe penalties inhibits undesired behavior. While we do not know to what extent the threat of punishment prevents criminal practices, we do know that whatever penalty is threatened the occurrence of such common crimes as murder, theft, assault, etc., have never been reduced to zero in any human community. Likewise with corruption. Seemingly if the stakes are high enough and the threat of incurring punishment unlikely enough—as evaluated by individuals in their particular circumstances—no threat of punishment guarantees official circumspection. This is not to say that the threat of sanctions is futile, only that corruption continues despite them. And if deterrence is unsuccessful it provides no remedy for those affected by criminal action or even by "honest graft."

Likewise, the position that high salaries and other compensation inhibits corruption by making the risks of getting caught too costly cannot be refuted completely, but it remains true that officials in the most well paid positions do participate in political corruption. The large sums of money expended by even small local units of government make official salaries competitive with market equivalents seem small by comparison. Few public officials receive yearly salaries amounting to 10 percent of the cost of paving one mile of modern highway. Construction firms are often quite willing to share the profits of contracts awarded for such projects with those who make the awards. Even given the threat of criminal prosecution, provision of salaries high enough to preclude political corruption is an impossibility.

None of this argument should be interpreted as a rejection of deterrent systems or incentive systems as means of control over public officials.

The point is, however, that these mechanisms sometimes fail: When this occurs, citizens must bear the costs of corruption if they are not provided effective remedies.

Structured Dependence on Clientele as a Means to Control Corruption.

American political scientists have generally argued that political and administrative efficiency, honesty and integrity were to be attained by clearly fixing the responsibility for performance of public tasks and letting the electorate know who was at fault when performance was not adequate. This was the underlying philosophy of the programs of political reform formulated by the vast majority of analysts who sought to save our cities, states, and federal government from the evils of bossism and corruption.

Recently emphasis has shifted somewhat to proposals for administrative advisory boards, citizen participation, "pluralist planning" and civilian review boards (in the case of police services). In some public agencies clientele have been given at least partial control over salary levels and promotions of individual bureaucrats as well as control over agency program planning (e.g. the Cooperative Extension Service in Indiana). This shift from reliance on periodic review at election time to continual dependence in program formulation and administration is a logical response, if somewhat belated and still resisted, to the realization that the policies discussed in election years may, if acted upon at all, be translated into a wide variety of operational programs. The consequences of these programs for individual citizens may differ substantially depending upon details over which only close vigilance of or cooperation with particular administrative offices and officials can assure control. But these controls do

not preclude corruption. In some cases such controls may in fact promote corruption. Those clientele who manage to make bureaucrats and policy-makers dependent upon them are often able to capture disproportionate amounts of officials' time, efforts and output. Philip Selznick's description of the TVA experience<sup>13</sup> in which we see not corruption but cooptation (they sound alike, but are different?) is a good example of a shift in the nature, quality, and distribution of public goods provided by a public agency in response to clientele demands--which blurs the line between responsive public agencies and corruption. Certain persons, notably poor farmers and Blacks, are excluded from potential benefits; in exchange TVA secures local resources and support from other clientele. We are hesitant to call this political corruption but the effects are not dissimilar for those excluded from potential public goods. While dependency relations between clientele and officials do, to some extent, inhibit corruption, at the margin dependency becomes indistinguishable from vote-buying on the one hand and blackmail on the other. The impact for those citizens who are not parties to the accommodation is not much different than the costs imposed by straight-forward bribe-bargains.

This is not a case against citizen participation in policymaking or administration, nor a utopian desire that all citizens benefit equally from all public policy. It is only a reminder that some persons are excluded from the goods and services (potential or actual) provided in situations where heavy use is made of dependency relations to control official behavior. Likewise, dependency relations may themselves become clearly

<sup>13</sup>Philip Selznick. TVA and the Grass Roots. University of California Press. Berkeley, 1949.

corrupt relations if the quid pro quos involved become more explicit and take place between officials and fewer and fewer of the clientele who receive increasing benefits from the public treasury.

#### Limiting the Impact of Political Corruption on Individual Citizens

I have suggested above that political corruption is always possible where there exists official discretion and that the various methods used to control corruptions, including elections, penal codes, high salaries, dependency relations, etc., may inhibit corruption but do not preclude it. In this section I want to suggest that 1) we should be more concerned with providing remedies for the injuries that corruption imposes on individual citizens and 2) that by so doing we will concomitantly add deterrent capability in the effort to reduce the level of political corruption. If corruption is a permanent fact of political life, it is only by providing individual persons with means to avoid the costs imposed upon them by corruption that the consequences of corruption can be ameliorated. And if corruption imposes "social costs" in addition to individual costs, such social costs can be reduced only by providing incentives to individuals to expose corruption.

Simply put, the argument is as follows: where corruption imposes costs on individuals, the more potential remedies available to those individuals and the less costly it is for individuals to invoice these remedies, the greater will be the probability that a) individuals can avoid the costs of political corruption and b) corrupt officials will be exposed. Insofar as fear of exposure inhibits corruption and inability of officials to fulfill corrupt "contracts" inhibits private persons from seeking them, political corruption will be reduced.

A remedy is any means whereby an individual can legally prevent the fulfillment of, undo the consequences of, or receive compensation for injuries received through political corruption. Remedies may vary with the type of official involved, the type of public good at issue, the extent of injury (to be) incurred, etc. **Generally, a remedy exists if** 1) alternative sources of similar goods exist, 2) the costs of seeking alternative sources do not include a high probability of retribution by those officials who are exposed (i.e., revenge or persecution can be precluded), and 3) the costs associated with alternative sources do not preclude access (e.g. entry into courts is possible through publicly paid attorneys). The suitability of particular remedies in individual cases will depend upon whether prevention, rectification, compensation or some mix of these three is at stake, and what type of public good is at issue. But the existence of various remedies, all of which are out of the reach of any one citizen will generally mean that the costs of corruption cannot be avoided by that citizen.<sup>14</sup>

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<sup>14</sup>Where goods and services are rationed on a non-monetary basis, the "cost" of these becomes ambiguous- The "cost for one person is not strictly comparable to the price that other persons pay. We are here in the realm of individual evaluation and are limited to using foregone opportunities as a "measure" of the relative value of alternatives to individuals.

While the perceived costs of alternatives is not strictly comparable across individuals, we can infer from certain behavioral patterns the relative values individuals have placed on available alternatives. Creation by a group of persons or a "private" constabulary of "defense league" might indicate that the terms upon which police service is currently available to them are unsatisfactory and that current remedies are perceived as more costly than establishing their own source for the goods and services they require. Likewise, private school systems, volunteer fire departments, intra-urban postal firms are all indications that the quality of publicly supplied goods does not conform to the demands of certain consumers. Such enterprises may or may not be reactions to corruption. But where corruption does take place it is precisely the availability of remedies less costly than creation of a new political entity or paying the bribe price that induces individuals to "stay within the system."

For example, the existence of local police, a county sheriff, state police, FBI, prosecuting attorneys and grand juries provides a relatively wide range of complaint-hearing agencies in cases involving criminal injuries to persons. Can a person who would commit a criminal act against another person guarantee the non-performance of all these agencies, not to mention the possible intervention of judicial or elected officials? Contrarily, in cases involving condemnation proceedings between an urban renewal agency with exclusive jurisdiction in a particular city and private persons, it would seem that injury done to private citizens as taxpayers through overly generous payment by responsible officials to landowners is less susceptible to remedy. Even assuming that some citizens would be willing to underwrite the legal battle necessary to stop this action (the costs of which would probably exceed the amount of money in taxes any small number of taxpayers would lose through the settlement) the official at hand has acted legally. At least in most cases cashed checks are not available to prove this is not the case. As Plunkitt pointed out this is honest graft, and the value of property acquired through eminent domain is always subject to negotiation.<sup>15</sup> This kind of corruption is most difficult to control, but the lack of effective remedies available to individual persons at low cost on their part is not, I would argue, accidentally related to this problem. Where would Plunkitt, responding to a taxpayer suit initiated by the local ombudsman, sell his swamp if the city finds his price too high?

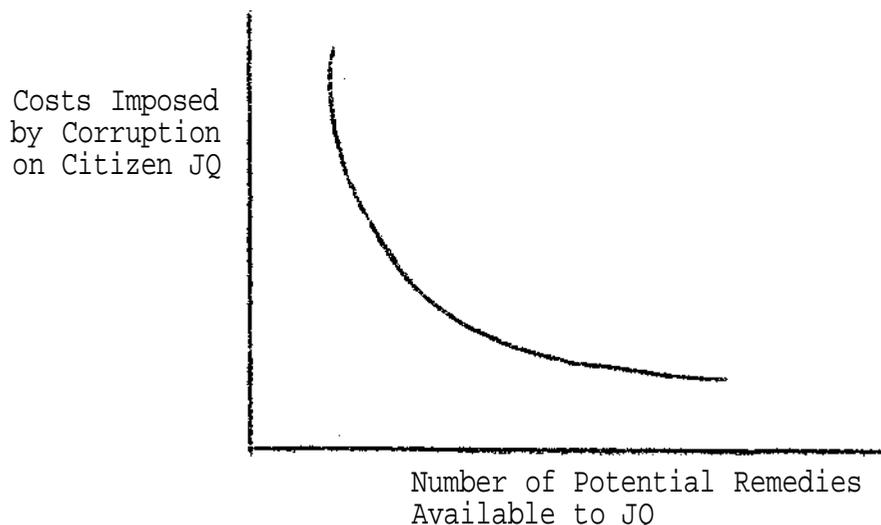
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<sup>15</sup>There is also the honest graft of dispossessing the urban poor at "market prices" in a slum environment (where market prices may not reflect the value to the slum dweller of his property and social circumstance) and making this property available to redevelopers under circumstances that allow not inconsiderable returns.

Potential remedies, depending upon the nature of the public goods to be provided, may include competitive arrangements between private and public producers, recourse to courts, ombudsmen or citizen advisory boards, legislation, constitutional amendment and formation of new public jurisdictions. The appropriateness of particular types of remedies to particular circumstances is always an open question, one that only experience can answer, and then only provisionally.

In any particular case of costs incurred, or to be incurred, by an individual due to corruption, three questions are pertinent: 1) How many potential remedies exist and on what terms are they available to him? 2} What types of remedies are available to him? 3} In what ways do the temporal requirements associated with available remedies impose further costs upon him?

The Availability of Remedies. In general, ignoring other factors for the moment, the costs imposed on any one person by political corruption will tend to decline with the number of remedies available to the individual. Schematically we might represent the argument as follows:



As the number of potential remedies available to JQ increases, the potential costs that corruption impose upon him tend to decline. Obviously the cost to a citizen of invoking some remedies will be higher than that of invoking others..(See footnote 14.) For some, lawsuits are less costly than encounters with police officials or bureaucrats. For others the reverse is true. Some remedies may be almost "costless" to most persons, e.g. an anonymous phone call to an ombudsman or an ambitious legislator. In order to accept the argument presented we need only remember that every potential remedy available to a citizen improves his position at the least by placing further legal obligations upon some officials to respond to his claims or increasing the number of officials who might potentially be required to consider his demands. Thus any official whose corrupt act might impose costs on JQ would be more liable to exposure from other officials in the pursuit of their duties. From the perspective of the citizen-consumer, the more alternatives available the better. If the citizen-consumer were not also concerned with the costs of providing these alternatives he would favor every increment in the number of potential remedies available to him.

But a vast number of remedies does not in itself guarantee that JQ will avoid the costs political corruption might impose upon him. If all the potential remedies available remain more costly to invoke, as perceived by JQ, than the costs of corruption, then the costs of corruption will be preferred to legal remedy. Thus, it is probably the case in American cities that the costs of financing a campaign to legalize prostitution are higher than paying police and other officials not to raid houses of prostitution. Legislative enactments that represent expressions

of polite public sentiment which few take seriously become literally inducements to political corruption. While we may not be able to legislate morality, we can certainly create through legislation circumstances that induce public immorality, in the form of increased political corruption.<sup>16</sup>

In evaluating potential remedies the basic question to ask becomes: which individuals will be provided low cost, or lower cost, relief through this remedy if political corruption tends to injure them in certain types of cases. If the costs of legal remedy are uniformly high the bribe-bargain will prevail, and be available only to those who can afford to pay la mordida. Where anyone, that is everyone, has low cost remedies available the cost of corruption will be reduced for individuals while the risk of exposure for officials will increase. At the same time, corrupt contracts between officials and private persons will become less reliable. In this way increasing the remedies available both deters corruption and reduces the costs imposed on citizens by its occurrence.

Types of Remedies. Remedies are of three kinds: prevention, rectifications and compensation. It is not only important that individuals have available a variety of remedies, but that the remedies be distributed among these three types if individuals are to avoid the costs of corruption. If prevention is not successful then rectification becomes crucial; where rectification is impossible or itself unsatisfactory then compensation,

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<sup>16</sup>As Hobbes put it: "For the use of laws, which are but rules authorized, is not to bind the people from all voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves by their own impetuous desires, rashness or indiscretion; as hedges are set, not to stop travellers, but to keep them on their way. And therefore a law that is not needful, having not the true end of a law is not good. . . . Unnecessary laws are not good laws; but traps for money. . . ." (emphasis added) Thomas Hobbes, Leviathan, M. Oakeshott ed., Basil Blackwell, Oxford, 1960, pp. 227-228.

insofar as possible, is the only recourse. As preventative remedies are provided for JQ that he perceives as reasonably "priced" the addition of further preventative remedies will, at the margin, tend to be less beneficial to JQ than the addition of remedies that provide less costly access to rectification and/or compensation. Since individuals have varying perceptions of the cost of particular remedies, it is essential that there exist a variety of potential remedies within each of the three categories. The extent of variety in any set of remedies should depend, among other considerations, upon the homogeneity/heterogeneity of preferences and perceptions among the persons affected by particular public policies. Some variety is always necessary. It may be possible, however, to identify some remedies (e.g. anonymous phone calls to the ombudsman) which are generally perceived as "low-cost" by most members of a polity. These "low cost" remedies may be a foundation for all mixes, but will not eliminate the need to maintain a set of alternatives. This is true for several reasons. First, the demand placed upon such "low-cost" remedies may tend to drive up the "price" substantially. Given an inability to meet current demand for services and constraints on expanded production (e.g. a lack of courtrooms and unwillingness of the taxpayer to support more judges) some system of determining priorities must develop to ration available resources. Any such system will make particular remedies less accessible to some persons than to others. In the case of the ombudsman cited above, only certain types of telephone calls will evoke responses. Only calls from particular neighborhoods will evoke speedy responses.

Secondly, any remedy which is the only remedy available in certain types of instances will tend to become more costly and less satisfactory.

Officials, like entrepreneurs in the market, appreciate the advantage they enjoy with respect to clientele who have no readily available substitute for their services. The paternalism and colonial administrator's mentality associated with the honest graft called "social work" in the United States is in part due to the lack of alternatives perceived by the American poor—Black, Brown, White and Red. The creation of welfare rights organizations is an effort to break the bonds of dependence between the poor and the welfare agency by 1) making explicit the dependence of social workers on the poor and 2) seeking to re-establish in the courts the legal prerogatives of citizenships regardless of economic status. If a remedy is the only one available in certain types of cases it will tend to be priced accordingly. Only by maintaining a system of remedies which includes a variety of alternatives and which are available on varying terms are individuals provided the opportunity to avoid the costs that corruption might otherwise impose upon them.

The Temporal Dimension of Remedies. If preventative remedies are not available or their invocation proves unsuccessful, then the time required to obtain rectification or compensation may be critical. The farmer who is denied credit or acreage allotments is not afforded an entirely adequate remedy if the decision is reversed after the planting season, has passed. In general, however, the only manner in which the costs imposed by time can be dealt with is by allowing compensation to include some sort of "punitive" assessment against those at fault. In the case of officials, the public treasury may be forced to bear the costs of such punitive assessments. It might even be useful to make explicit ex ante the damages that the public treasury should pay for each week or month of delay. Perhaps such a

schedule of "time costs" would induce citizens to assess the value of speedy trial, for example, against the charge to be made on the public treasury for delay. It may be that more judges and courtrooms would seem less costly, given this arrangements than the persistent delays associated currently with the American legal process.

The Costs of Reducing the Costs of Corruption. Every public agency must be staffed and financed. Alternative sources of comparable public goods, i.e. a multitude of remedies for all potential cases of costs imposed by corruption (even considering the non-governmental nature of some remedies) will necessarily entail expenditures. Even legislation which allows remedies to be provided by the operation of cooperative societies, guilds, or other "private" suppliers assumes some government regulation of the particular enterprise system in question. At what point should the mixture of deterrents (sanctions, rewards, dependency relations, etc.) and remedies to citizens with reference to any particular official or agency be judged "as good as we can do"—further remedies being judged not worth the added cost? The question is a difficult one. The price we are willing to pay to reduce the costs of corruption must, in the end, depend upon the type of corruption involved, the deprivation of which public goods are at stake and the manner in which the burden of costs is shifted to third parties as others benefit. Where basic personal rights and liberties are concerned it would seem that no logical limit on the number of potential remedies is justified by reference to the monetary costs of their provision. If the justification for the existence of a political association is itself the provision of certain basic guarantees to all citizens, depriving any citizen of these public goods invalidates the basic premises of the . . .

association's existence. At this level failure to provide remedies for the costs of corruption is a failure to justify the existence of the political community itself. The marginal individual, the individual who alone has no remedy where he is despoiled or exploited, is the measure of the quality of a polity. Where whole classes or groups of individuals are denied legal prerogatives as the result of political corruption (e.g. the experience of American Indians in relation to the American political system) only the extension of low cost remedies to those subject peoples can insure their treatment as legal persons.

The situation is different, however, where political corruption imposes monetary costs on citizens in their role as taxpayers. Provision of potential remedies beyond the point where such remedies entail greater costs to individual citizens than accepting that amount of corruption which will always occur, then these remedies become uneconomic. In most cases political arrangements in the United States seem to be a great distance from this point;<sup>17</sup> almost nowhere are citizens provided an adequate number and quality of remedies to avoid the cost of political corruption. Overstringent building codes are enforced in the exceptional case by building inspectors not "properly" compensated. Legal dockets are so overburdened that bribes to clerks serve to order the appearance of cases before magistrates. Few American cities receive revenue by licensing houses of prostitution though these businesses are "licensed" and do pay "fees" to public officials in

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<sup>17</sup> Robert M. Folgeson comments: ("From Resentment to Confrontation: The Police, the Negroes and the Outbreak of the Nineteen-Sixties Riots", ~~Political Science Quarterly~~, LXXXIII, No. 2, June 1968, pp. 217-247.) p. 339 "... none of the nation's municipal agencies—not housings education, traffic, and certainly not welfare—solicit or encourage complaints from civilians. Well insulated from political pressure, these bureaucracies are not very responsive to public opinion; indeed most bureaucrats consider demands from outside their organizations unwarranted interference. Hence, it is not easy for civilians (even white civilians) no matter how affluent, well informed, and persistent, to protest and remedy flagrant misconduct, not to mention simple incompetence."

order to operate. All these small examples in addition to those any reader can supply for himself indicate a system of law which creates over and over again situations favorable to corruption by 1) passing laws that will not be taken seriously and/or 2) giving officials wide discretion in enforcement of laws and/or most importantly 3) providing citizens with few remedies which they can afford to invoke when officials respond to extra-salarial compensation to forego enforcement or provide selective benefits (while shifting the burden to other citizens).

In sum, I would reiterate that corruption cannot be eliminated as a logical possibility and probable consequence of any form of political organization. Where corruption threatens the basic rights of all citizens by threatening the rights of any one citizen, only expansion of the number of available remedies and/or reducing the costs of invoking available remedies for that citizen who is threatened is an acceptable solution. Where corruption imposes material costs on citizens as taxpayers, I have suggested modification of the initial "more remedies less corruption costs" prescription to include a calculus that takes into account the costs of providing remedies.

Corruption cannot be eliminated. I have in this paper suggested where we should expect to find it and how to reduce its impact on the individuals that compose a political association. Political corruption can be reduced by 1) providing individual persons the legal wherewithal to avoid the costs that corrupt officials and their allies would impose upon them, and 2) providing this capability at a "price" which individuals find advantageous.