Corruption in the Global Economy

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1.   Introduction

Recently in Canada three mayors in the cities of Montreal and neighbouring Laval
resigned amidst allegations and criminal charges of bribery, illegal fundraising, fraud,
and conspiracy; the Charbonneau Commission revealed widespread bribery, bid-rigging,
illicit enrichment, and other criminal practices in the management of public construction
contracts in Quebec; the RCMP raided several offices of the Canadian-based
multinational construction and engineering firm SNC-Lavalin, in investigations related to
alleged bribery and other illicit practices in several of the firm's projects in Bangladesh,
Lybia, and Algeria; and two Senators and the Prime Minister's Office have been
embroiled in scandal in relation to improper expense reimbursements. Following on the
heels of the "sponsorship scandal" of 2004 and other misuse-of-federal-funds scandals of
the 1990s, these events draw attention to something observers of Canadian politics
traditionally have not focused on: corruption.[1]

Corruption is a complex, age-old, and universal phenomenon. The payment of off-
the-books sums to get permits more quickly or to avoid safety inspections and other types
of government regulation, secret consultant expenses and special "commissions" to gain
business contracts, and the theft of a government's treasury by those in power are
common manifestations of corruption around the world. Corrupt acts include bribery,
extortion, nepotism, fraud, influence peddling, the use of 'speed money', and
embezzlement. Rent-seeking, black marketeering, money laundering and transnational
crime are also aspects of corruption. "Transactional corruption" involves exchanges
between two or more parties, whereas "auto-corruption" consists of the self-enrichment
of leaders in kleptocratic regimes. Corruption can be systematic and organized at high
levels or diffuse and decentralized at low levels. Virtually all forms of corruption are
proscribed by virtually all countries, yet corruption remains endemic in most parts of the
world.

Not too long ago scholars, business people, and policy makers in Canada and other
industrialized countries either ignored corruption or considered it to be a problem
relevant only to poor, developing countries. Culturally relativist ideas about corruption
held that, while unacceptable in the West, corruption in the global South was natural, to
be expected, and in several respects beneficial to economic and political development.
The political scientist Samuel Huntington, for example, argued that corruption in
developing states can enhance political stability. In Huntington's view,

> Like machine politics or clientelistic politics in general, corruption provides
> immediate, specific, and concrete benefits to groups which might otherwise be

thoroughly alienated from society. Corruption may thus be functional to the maintenance of a political system in the same way that reform is. Corruption itself may be a substitute for reform and both corruption and reforms may be substitutes for revolution. Corruption serves to reduce group pressures for policy changes, just as reform serves to reduce class pressures for structural changes.[2]

In international business the prevalent idea was that corrupt practices condemned in the West were necessary to do business in the developing world. Many prominent industrialized countries (such as Australia, France, Germany, and the Netherlands) accepted bribes paid to foreign officials in the pursuit of international business contracts as a legitimate – and tax-deductible – business expense. Within such international organizations as the World Bank, the International Monetary Fund (IMF), and the United Nations (UN) the very topic of corruption was taboo. World Bank officials, in fact, would not explicitly mention corruption in public statements nor in internal memoranda, referring instead to "the C word."[3]

Ideas and practices permissive of corruption began to change in the mid-1990s. The end of the Cold War removed strategic and geo-political incentives in the West for supporting corrupt regimes in the Philippines, Indonesia, Nigeria, and elsewhere. The spread of democracy emboldened popular movements against corrupt leaders and accentuated the threats to democratization posed by corruption. An "eruption" of major corruption scandals in democratic, industrialized states including Belgium, France, Germany, Spain, Italy, and Japan, as well as in newly capitalist Russia, exposed the vulnerability of even wealthy and "advanced" polities to problems of corruption and showed that this could no longer be considered a "third world" issue.[4] A new wave of corruption research by economists, legal scholars, and political scientists also presented mounting evidence about the costs of corruption: countries with high levels of corruption displayed lower levels of investment, lower economic growth rates, lower scores in social development, harmfully-skewed government expenditures, and other problems of serious concern to the international political and economic system.[5]

As a result, a diverse range of international, regional, and local political and economic institutions began to promote new anti-corruption policies. The World Bank identified corruption as "the single greatest obstacle to economic and social development" and committed to fight against it.[6] The Organization of American States (OAS), the Organization for Economic Cooperation and Development (OECD), the Council of Europe, the IMF and the UN, plus an array of private sector and non-governmental organizations produced legal conventions and recommendations, policy statements, codes of conduct, and new research all focused on curbing corruption in the global economy. Today, corruption is one of the principal issues of global governance. It is a core concern of the international political economy, as well as a paradigmatic issue for the academic discipline of IPE: the very notion of "corruption" invokes values and ideals about what is good and appropriate in the international political economy, while such practices as transnational bribery directly impact the distribution of money, legitimacy, power, and security in the world.

This chapter considers corruption in this global perspective, asking: What is corruption, and why does it matter? What are some analytic tools and approaches that might help us to think about, describe, and explain corruption, particularly in its comparative and international dimensions? What current policies are in place to combat

corruption in the global economy, and what is Canada's role in global anti-corruption efforts? The balance of the chapter addresses these important questions, before concluding with a discussion which places the global "corruption eruption" in a more critical perspective.

2. What is Corruption, and Why Does it Matter?

Definitions and Concepts

Simply put, **corruption is the abuse of entrusted power for private gain**.[7] Beyond this seemingly simple definition, corruption is a remarkably complex phenomenon and its definition is the subject of significant theoretical and empirical debate.

Consider the following "ripped from the headlines" examples of corruption:

- *Everyday Corruption in India.* Vishal is the owner of a small fried-chicken stand in Delhi, the bustling capital of India. Every other week he is stopped by a traffic officer demanding 100 rupees ($1.75) to avoid citation on a trumped-up offence. At lunch time most days the local beat cops stop by the stand to receive free meals. More senior police officers with authority over opening hours take 10,000 rupees ($175) each month so Vishal can stay open late. Vishal also makes regular monthly payments to local authorities to avoid problems with health, safety, and hygiene inspections. Of 40,000 rupees ($700) he earns each month from his restaurant, Vishal says he pays at least a third in bribes.[8]

- *Kleptocracy in Equatorial Guinea.* Equatorial Guinea is a small West African coastal country with a tiny population and huge oil reserves. Because of its oil exports, by some measures Equatorial Guinea's GDP rivals that of the UK, France, and Germany. Yet more than half its population lacks access to safe drinking water.[9] At the same time, the president Teodoro Obiang is one of the world's richest men, with a personal fortune estimated at around $600 million. His son Teodorin Obiang leads a well-publicized playboy lifestyle in Europe and the United States, including a $30 million mansion in Malibu, California, $10 million worth of luxury cars, and a $33 million private jet.[10]

- *Corruption in humanitarian relief.* In the 1990s, when Iraq was the subject of highly restrictive trade sanctions following its 1991 invasion of Kuwait, the UN established a program known as "oil-for-food" which permitted Iraq to sell its oil and use the revenues to buy food, medicine, and other humanitarian supplies for its people. Under the program, however, Saddam Hussein was able to decide to whom the oil would be sold and from whom humanitarian supplies would be bought. Subsequent UN and US sponsored investigations revealed that nearly half of the 4,500 participating companies paid kickbacks and illegal surcharges to win lucrative contracts, and that Saddam Hussein personally enriched himself through "oil-for-food", to the tune of $1.8 billion. Benon Sevan, the head of the UN program, was also found to have

"corruptly benefited" from kickbacks. Of the program's total official revenue of $64.2 billion, only $42.7 billion (67%) were spent on humanitarian relief.[11]

- *Corruption in an "emerging market".* Also in the 1990s, Wal-Mart, the largest retailer in the United States, began to expand its operations into Mexico at a rapid pace. Today Wal-Mart is the largest private employer in Mexico and one in five of its stores world-wide are located there. Wal-Mart's Mexico subsidiary achieved this rapid growth in large part by resorting to widespread bribery, covered up by fraudulent accounting. As it built new stores at a break-neck pace Wal-Mart de Mexico executives cultivated a vast bribery scheme involving government officials at various levels, including "mayors and city council members, obscure urban planners, low-level bureaucrats who issued permits — anyone with the power to thwart Wal-Mart's growth."[12] By paying bribes, Wal-Mart got zoning maps changed, made environmental objections disappear, received accelerated permits, and built hundreds of new stores – in some cases over the objection of powerless local communities.[13]

- *Transnational business bribery.* During the period 2001 to 2007 the giant German multinational Siemens made $1.4 billion in illegal payments to secure business and contracts around the world. Siemens' telecommunications unit alone maintained an annual budget of $40-50 million expressly for the purpose of paying bribes to win contracts, such as $12.7 million in payments to senior officials in Nigeria for government contracts and $5 million in bribes to the son of the prime minister and other senior officials, to win a mobile phone contract in Bangladesh. Other transnational bribes paid by Siemens included: in Argentina, at least $40 million to win a $1 billion contract to produce national identity cards; in Israel, $20 million to senior government officials to build power plants; in Venezuela, $16 million for urban rail lines; in China, $14 million for medical equipment; and in Iraq, $1.7 million to Saddam Hussein and his cronies.[14]

- *Transnational Crime and Corruption.* A UN report on human trafficking reveals the story of "M", a young girl from Moldova who was trafficked to the Balkans and sexually exploited in a brothel before being eventually rescued by an international human trafficking task force. Her traffickers employed corruption to obtain fraudulent passports, to ensure her passage through customs inspections at border crossings despite the obvious illegality of her documents (which were filled out incorrectly, contained the wrong official stamps and other "glaring mistakes"), and to evade police investigation at the brothel, which was in fact located across the street from the local police station and which regularly serviced police officers as clients.[15]

These examples do not reveal all of the important features of corruption as it is commonly practiced around the world. But together they shed some light on at least three notable aspects of corruption in the global economy. To begin with, **corruption ranges from the micro-level to the macro-level and involves many different types of actors**. Corruption involves powerless individuals and powerful groups; it occurs at the local and global levels and every level in between; it includes corporations in the private sector and governments and bureaucrats in the public sector; for-profit and non-profit organizations; and all levels of government and international institutions. Bribes paid in

corrupt transactions range from the tiniest amounts to the millions and billions of dollars. Importantly, the size of a bribe is a relative amount; a million dollar or even lesser bribe that is small potatoes to a multinational corruption can be a transformative sum and a huge incentive to its recipient. Conversely, even small amounts extorted from individuals can create a poverty trap.

Second, **transactional corruption involves a demand-side and a supply-side.** Extortion – when an official requests money to provide an official service – is the flip-side of bribery, and it can be difficult in practice to isolate one from the other. But not all corruption is explicitly transactional; it can also include ongoing relationships between criminals and corrupt public officials, as well as outright theft from the public purse. Finally, **corruption blurs the lines between the licit and the illicit global economies**. It is the key vulnerability for state authority and control vis à vis transnational crime and is a significant component of "illicit globalization".[16]

A few basic concepts can help us organize our analysis of the kinds of corruption illustrated in the examples above. These offer distinctions between **petty corruption** and **grand corruption**; **systemic corruption** and **sporadic corruption**; and **kleptocracy**. This chapter is chiefly concerned with grand and systemic corruption.

Petty corruption describes low-level administrative bureaucrats extracting personal benefits in transactions involving taxes, regulations, licensing requirements, and the discretionary allocation of government benefits such as subsidized housing, scholarships, and jobs.[17] Where it is rife this type of corruption often permeates the everyday lives of ordinary people in myriad and obvious ways.

Grand corruption occurs "at the highest levels of government, where political leaders, the bureaucracy, and the private sector all interact" and typically lies in government decisions that cannot be made without high-level political involvement. Examples include the procurement of large budget items such as military equipment, civilian aircraft, or infrastructure, or broad policy decisions about the allocation of credit or industrial subsidies.[18] Through grand corruption, political leaders and state agents use their authority to sustain their own power, status, and wealth.

Both petty and grand corruption can be systemic or sporadic. *Systemic corruption* describes a situation where corruption is endemic in society and "embedded in political and economic systems in ways that both reflect its impact and sustain its force."[19] It is a situation in which "the major institutions and processes of the state are routinely dominated and used by corrupt individuals and groups, and in which many people have few practical alternatives to dealing with corrupt officials."[20] Moreover, it is "embedded in a wider political and economic situation that helps sustain it."[21] Contemporary Zaire under the leadership of Mobutu Sese Seke is a prime example. Zaire, like Equatorial Guinea, also fits the description of *kleptocracy*, a political system "dominated by those who steal from the state coffers and practice extortion as their modus operandi."[22]

As opposed to both systemic and kleptocratic corruption, *sporadic corruption* occurs irregularly. While it can drain the economy of resources, it does not necessarily threaten the fundamental integrity of political, social, or economic institutions or their mechanisms of control.

The Costs of Corruption

Most contemporary research on corruption reveals that corruption is a harmful problem, causing damaging outcomes across a range of concerns in the international political economy -- which makes its control an important focus of international policy. Research shows that **corruption distorts markets, disrupts international flows of goods and capital, and reduces economic growth.** Some estimates show that the cost of corruption amounts to more than 5% of global GDP (US$ 2.6 trillion) with more than US$ 1 trillion paid in bribes each year.[23] In international business, bribery impedes fair market competition and obstructs liberal international trade. By paying bribes corrupt firms gain an unfair business advantage against more efficient firms and raise the cost of doing business for all. The cost of bribes can escalate, and the advantages gained become increasingly unreliable. Insofar as corruption includes the "capture" of public institutions and regulatory bodies by powerful private interests, it has been identified by some as the key underlying cause of the 2007/2008 global financial crisis.[24]

Corruption impedes sustainable development and perpetuates poverty. Resources intended to assist development and alleviate global poverty are often diverted through corruption and aid does not reach its intended recipients. Corruption can lead to indiscriminate lending for development projects which fill the pockets of bureaucrats rather than the stomachs of the hungry. In his book *The White Man's Burden* William Easterly notes how trillions of dollars of foreign aid spent on grandiose development projects since the 1960s have been wasted, and billions outright stolen due to corruption, causing costs to democracy, human rights, global health, and the environment.[25] Corruption also degrades the quality of goods and services provided, with sometimes catastrophic social costs – substandard housing and public health systems, substandard medicine and health care, dangerous industrial conditions, and vulnerability to natural disasters. As the anti-corruption NGO Transparency International emphasizes, the poor and disempowered suffer the most from corruption, which often goes hand in hand with violence and persistent poverty.[26]

Corruption undermines democracy, human rights, and human security. Corruption feeds political instability, sustains inequality, undermines public trust in society's institutions of governance, leads to social unrest, and supports the proliferation of transnational crime. In her work on the "New Authoritarianism" Louise Shelley describes how corrupt and criminal organizations can supplant government authority, creating a new type of violent and authoritarian social control that is destructive of communities and human rights. Though fictional, the television series *The Wire* realistically depicted how corruption at a maritime port of entry enabled the criminal importation into the United States of illicit goods, including trafficked women and drugs. Corruption is an underlying feature of ongoing drug wars in Mexico, the 2012 Arab Spring developments and continuing political instability in the Middle East, and international terrorism.

3. Thinking Theoretically about Corruption: Two Approaches

How can corruption be diminished? How can the taxing costs of corruption be mitigated and the human suffering that is its result alleviated? Different ways of conceptualizing the problem of corruption yield theoretical insights which can help explain the causes of corruption and suggest solutions for its control. Thinking

theoretically requires abstracting away from specific instances and examples of corruption in order to discover core features that may be common across many instances. Conceptual "models" or approaches which highlight the core features of corruption across cases can then be useful analytic tools for considering the conditions under which corruption is more or less likely to flourish in various contexts, and for identifying appropriate policy responses. Two alternative conceptual approaches that are particularly useful for thinking theoretically about and explaining corruption are **principal-agent theory** and **network models** of corruption.

Principal-Agent Theory

Principal-agent theory (PA) derives from the discipline of economics, particularly neo-institutional economics, and has been well-developed in studies of public bureaucracies in the United States. In the international realm, scholars have used PA to explain the politics and policies of international organizations. Explanations of behaviour derived from PA theory focus on how actors (principals) delegate authority and tasks to agents, who are thus entrusted and empowered to act on their behalf.[27]

The key concepts of a PA model are *principal, agent,* and *delegation*. In a democracy, for example, legislators are the agents of the voting public (the principal) who have granted these lawmakers authority to develop rules on their behalf. Within governments, legislators and executives can be understood to be principals who grant authority to bureaucrats (agents) to act on their behalf. In both cases, a hierarchy of authority is in place such that the principal is empowered to monitor the agent, impose administrative checks, and terminate employment if the agent fails to carry out the principal's interests.[28]

One of the key assumptions of PA theory is that, while agents are supposed to act only on the principal's interests, in fact agents and principals do not share the same interests and under certain conditions an agent will be motivated to assert autonomy from the principal, using its delegated authority to pursue its own interests rather than fulfilling the demands of the principal. PA theories therefore explain the behaviour of agents as dependent on the willingness and capability of principals to monitor and control what agents do, whether through reward, sanction, or other means within a hierarchical environment.

In the PA model, *corruption* enters the picture when a *third party* whose gains or losses depend on the principal or the agent interferes with the appropriate principal-agent relationship. Third parties can try to influence principals directly, or they may bypass the principal altogether and focus on altering the incentives of agents directly.[29] **In the P-A model, corruption is defined as any unauthorized transaction between an agent and a third party – usually *bribery*.**[30] Corruption is thus conceived as the result of an agent's individual action within an institutional context and it is an instance of institutional failure.

Robert Klitgaard offers a complementary, and oft-cited, definition of corruption which summarizes its basic ingredients in the following formula:

Corruption = Monopoly + Discretion – Accountability[31]

To elaborate on the formula's terms, we can read Klitgaard's definition as follows. Where an agent (or a principal) (1) is the sole provider of a desired good (*monopoly*, or

lack of competition for the good); (2) possesses the authority, delegated or otherwise, to provide or not provide that good (*discretion*); and (3) perceives little monitoring of his/her decision or responsibility for its result (*accountability*); (4) *corruption* will occur.

A traditional form of corruption that can be usefully examined through the lens of this model is the bribery of bureaucrats by companies in the pursuit of government-offered contracts or permits. Wal-Mart's bribery in Mexico and Siemens' transnational business bribery, described above, are prime examples. One of the advantages of this model of corruption is the clarity with which it suggests where anti-corruption measures may most usefully be employed to reduce opportunities for corruption. For instance, to resolve the institutional weaknesses which lead to corruption the model suggests that anti-corruption reforms should strive to increase oversight and accountability mechanisms, increase the salaries of public agents, decrease government monopolies (i.e. reduce the size of the public sector by privatizing the provision of goods), and thereby decrease both opportunities and incentives for corruption.[32]

In general, the PA model can be very useful for examining corrupt transactions and the individual choices that lead to them: the individual weighs the benefit of corruption against the cost of getting caught and behaves accordingly. It is a limited model, however, which leaves some important aspects of corruption unexamined. The PA model is not particularly good at explaining the *social-interaction* aspects of corruption. For instance, research has shown that when a leader is corrupt this affects subordinates' behaviour and may lead to systemic corruption. The question of how the actions of one individual can affect the actions of others is not addressed in typical PA models.[33] In addition the PA model is not particularly helpful at explaining why we can observe more widespread corruption in some societies than in others, nor the many varieties of corruption we can identify across societies.

Network models

In contrast to the focus on individual decision-making and institutional failure in the principal-agent model, *network models* of corruption are *social* models. They focus on how **informal institutions, such as culture, religion, social norms, and networks can influence the extent of systemic corruption in a society** in ways that are not captured by PA theory.[34] They reveal the manner in which informal and exclusive networks based on mutual trust and reciprocity can conceal illicit activity within legitimate organizations and networks, and they highlight how corruption can flourish even in advanced democracies – not just in developing societies with presumably weaker bureaucratic institutions.[35]

For example, in France the Elf Aquitaine scandal in the late 1990s embroiled a broad swath of the political and economic elite of the country in allegations of widespread fraud, embezzlement, irregular campaign finance, payoffs, and transnational bribery in connection with the Paris-based oil multinational Elf, which had for decades maintained secret slush funds for illicit purposes. The Elf affair resulted in the convictions on various corruption-related charges of former French foreign minister Roland Dumas, former Elf chairman Loik Le Floch-Prigent, and others. In this case, **elite social and political networks** linked members of the French political class, created patterns of both formal and informal relationships, and permitted both legitimate and

illegitimate pursuits within established institutions. In particular, a policy network of graduates of the elite French postgraduate schools including the prestigious *École National D' Administration* (ENA) overlapped with elite business and social networks. Illicit networks of associates across these spheres easily became nested within legitimate associations, enabling corruption in France to occur on a grand scale.[36] These illicit networks – informal institutions which acted both within and outside the boundaries of formal institutions – reduced the transparency and accountability of public institutions and allowed members systematically to conceal illicit activities for personal gain.

We can distinguish among at least three types of social network which may be conducive to widespread corruption in a society. Social networks based on **primary interpersonal relationships such as family, kinship, and ethnicity** can slant people's exchanges and communications and shape their norms to favour close relatives over the interests of the general public.[37] One specific kind of this type of social network is **patron-client networks**, which are defined by repeated, personalized exchange between patrons and clients, where the patron holds a superior status (social, economic, and/or political) to the client.[38] It is not unusual in many societies for locally powerful (usually male) elites to be responsible for the provisioning and well-being of subordinate (and otherwise vulnerable) clients in close-knit and exclusive ethnically-based networks, in exchange for political support and position.[39]

A second type consists of social networks based on **secondary relations such as professional and religious ties**, as in the case of the Elf Aquitaine scandal in France. Another example is that of *guanxi* networks in China. *Guanxi* describes the presence of direct, particularistic ties between individuals or organizations, which in China draw on underlying moral principles derived from the Confucian heritage – including hierarchy, interdependence, and reciprocity.[40] In reform-era China, *guanxi* has served to fill in governance gaps during periods of uncertain transition, relative disorder, and social inequality and it often overrides the norms and desired outcomes of formal institutions.[41]

Criminal networks are a third type of social network conducive to systemic corruption. In contrast to the transactional emphasis on bribery in PA models, studies of criminal networks reveal how these often substitute bribery with violence, coercion and terrorist-like activities to extract gains and exert influence in and from political institutions. Criminal behaviour and coercive methods, which have been especially important sources of corruption in the transition and post-transition Eastern European countries as well as in several African and Latin American countries, can have deep impacts on democratic institutions; their effects reach to the extent of systematically modifying the rules of public policy to favour illicit activity and personal gain, from *within* the regime.[42] In some cases, criminal organizations fully supplant the institutions of the state.[43]

In sum, corruption is not always as obvious as the payment of money in exchange for services rendered, the perversion of agency relationships by third parties, or "the abuse of entrusted power for private gain." It can be much more subtle (and also deeply, societally-entrenched), having to do with longstanding relationships of mutual benefit, exchanges of favours among people in advantageous positions, and expectations of reciprocity within ongoing relationships maintained by exclusive networks of trust – both licit and illicit. In such cases, anti-corruption policies which do not take into account the

informal institutions of society that may sustain 'corruption' – culture, religion, ethnic norms, or various types of social network – will fail.

4. Combating Corruption in the Global Economy: The Global Governance of Corruption

The "global governance of corruption" refers to the collection of governance-related activities, rules, and mechanisms in place at a variety of levels in world politics, aimed at cooperative anti-corruption problem-solving. Global governance, generally, is identified by what Margaret Karns and Karen Mingst have termed the "pieces of global governance": sets of **international rules** or laws; **norms** or 'soft law'; and **formal and informal structures** including intergovernmental organizations (IGOs), nongovernmental organizations (NGOs), transnational advocacy networks, and ad-hoc conferences and associations focused on particular problems.[44] In some instances, these "pieces" are linked together in what we can identify as an **international regime**: a set of explicit or implicit "principles, norms, rules, and decision making procedures around which actor expectations converge in a given issue-area".[45] The global governance of corruption includes each of the above pieces of governance as well as a **robust international regime of anti-corruption**. Three aspects of this regime are especially noteworthy: a proliferation of international anti-corruption treaties and IGO-driven anti-corruption programs; the prominence of transnational non-governmental advocacy in this area; and the growth of private governance initiatives.

International Law and IGOs

International law has been a main focus for international anti-corruption efforts by states and IGOs. In 1997, the states of the OECD – the IGO of rich, industrialized countries – agreed upon a new Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, the first binding international legal instrument to specifically target the **supply-side of transnational bribery**. Together with related recommendations, the Convention obligated its signatories to criminalize the bribery of foreign public officials, end the tax-deductibility of those bribes, and cooperate to monitor and enforce compliance. It is in many respects the legal centerpiece of the international regime of anti-corruption.

Transnational bribery – the practice of sending corrupt payments from one national jurisdiction into another to secure influence in the recipient jurisdiction – is a relatively new area in criminal law. While the bribery of domestic public officials had long been outlawed in the developed world, the payment of bribes across borders to foreign officials in the pursuit of international business had not. For decades previous to this Convention, most OECD states – including the wealthiest and most highly-industrialized countries in the world – permitted or even encouraged transnational business bribery as a strategic trade policy, particularly for industries with important impact on a state's foreign policy goals, global influence, or GDP – such as the arms industry, natural resource extraction, and construction.[46] The only country that did prohibit transnational bribery was the United States, with its **Foreign Corrupt Practices Act (FCPA)**, which criminalized foreign bribes in 1977. The FCPA originated in the aftermath of the Watergate scandal

and it faced significant opposition from American companies, who argued that it placed them at a competitive disadvantage against international competitors who were permitted to bribe abroad in the pursuit of foreign business contracts.[47] In response to these concerns about trade competitiveness, the United States became the principal promoter of international rules to control transnational bribery and corruption in the 1990s, spearheading a path-breaking **Inter-American Convention Against Corruption** in 1996 and then the process which led to the OECD's anti-bribery Convention.

Today, the United States vigorously enforces the FCPA, the OECD Convention's signatories have all adopted similar kinds of legislation, and the Convention parties have conducted three rounds of rigorous peer-review monitoring to evaluate members' compliance and enforcement of the rules. According to the OECD, since 1997 over 300 individuals and companies have been sanctioned for foreign bribery under national laws and hundreds more are under investigation.[48]

Another important international legal agreement is the **United Nations Convention Against Corruption (UNCAC)** which entered into force in 2005, the first universal such agreement. The UNCAC requires ratifying states to outlaw a wide range of corrupt activities, including bribery of national and foreign public officials and officials of public international organizations; embezzlement and misuse of funds in both the public and private sector; laundering the proceeds of crime; obstruction of justice; and others. Significantly, the UNCAC denotes *corruption* as a crime, which "is a notion broader than bribery and extortion."[49] The UNCAC initiated a review mechanism in July 2010 that is currently in its third year of a five-year round of reviews evaluating criminalization and enforcement among the Convention's signatories. The review mechanism is proceeding steadily, but with delays and a lack of transparency that has been disconcerting to anti-corruption advocates.[50] To date, the extent of compliance and enforcement with the UNCAC across the member states remains variable and uncertain.

In addition to these instruments of international law, the **World Bank** has been a leading purveyor of anti-corruption research and policy on governance and development in the global south. Anti-corruption efforts at the Bank focus on increasing transparency, integrity, and "good governance" both internally, in its own program delivery systems, and in the institutions and development projects of its loan recipient countries. The Bank's anti-corruption and governance agenda has been the source of considerable controversy, both within the organization and among international development experts.[51] At question, in part, is whether or not the Bank should continue to lend money to projects and countries identified as "corrupt". One the one hand, proponents argue that the Bank should cease lending money to poorly governed projects and countries, where funds routinely have been siphoned by corrupt officials and where past projects have failed to demonstrate development gains. On the other hand, critics argue that withdrawing aid from poorly governed countries while channeling aid to those who are already comparatively better-off is at odds with the Bank's mission to alleviate poverty and aid the world's most vulnerable people.

<center>Transnational Non-Governmental Advocacy</center>

Advocacy by non-state actors has been a leading driver of the international regime of anti-corruption, since the first years of its emergence. In particular, **Transparency**

International, a transnational NGO (TNGO) based in Berlin with close to 100 national chapters around the world has been the most prominent non-state advocate for anti-corruption efforts in the public and private spheres.[52] TI has been especially effective in raising awareness about corruption through its comprehensive anti-corruption web portal (at www.transparency.org) and its extensive research, publications, and rankings of countries in its widely-publicized Corruption Perceptions Index (CPI), Bribe Payers Index (BPI), and other reports. TI develops practical problem-solving tools for business and engages in direct policy advocacy specifically to pressure governments to adopt anti-corruption norms and comply with international anti-corruption commitments.

Transparency International is also one of the founders of the **UNCAC Civil Society Coalition**, which unites over 350 civil society organizations from over 100 countries in a global network aimed at promoting the ratification, implementation, and monitoring of the UNCAC. And TI is also one of the leading organizers of a longstanding series of **International Anti-Corruption Conferences (IACC)**, a bi-annual forum for debate and exchange "that brings together heads of state, civil society, the private sector and more to tackle the increasingly sophisticated challenges posed by corruption." The conferences attract up to 1500 participants from over 135 countries, serving as a leading global forum for anti-corruption advocacy and action, on a global and national level, among citizens and institutions around the world.

Other notable anti-corruption TNGOS include **Global Parliamentarians Against Corruption** (GOPAC), headquartered in Ottawa, and **Global Witness**.

Private Governance

Alongside increased enforcement of anti-bribery legislation in the United States, United Kingdom, Germany, and elsewhere, an industry of anti-corruption compliance professionals, consultants, and programs in the private sector has become an increasingly prominent component of the international regime of anti-corruption. In this area of private governance, firms voluntarily establish anti-corruption standards either individually to ensure compliance with government standards, or in concert to alleviate dilemmas of collective action in private sector competition. The **UN Global Compact**, whose 10th principle is that "businesses should work against corruption in all its forms, including extortion and bribery", and the **OECD Guidelines for Multinational Enterprises**, which include standards on combating bribery, bribe solicitation, and extortion, provide policy frameworks within which firms voluntarily promote anti-corruption as part of a broader agenda of corporate social responsibility.[53] Recognizing that corruption is a strategic business risk, the **World Economic Forum** has also established a **Partnering Against Corruption Initiative** to promote a "zero tolerance" approach to bribery and corruption in international business.[54]

In a less organized way, anti-corruption experts in law firms, accountancies, management firms, and consultants profitably sell their services to help businesses navigate new and emergent anti-corruption regulatory environments in various national and international jurisdictions. For example, the paid advertisers on the private sector **FCPA Blog** (self-identified as "the world's biggest anti-corruption compliance portal") include, for instance, various global risk advisories, professional training institutes and seminars, due diligence investigative services, and others in the anti-corruption

compliance industry. In the United States, especially, "anti-corruption" is a booming business.

<p style="text-align:center">Challenges in the Global Governance of Corruption</p>

As with global governance generally, the governance of corruption in the global economy faces a number of significant challenges, three of which have to do with questions concerning **compliance**, **effectiveness**, and **legitimacy**. To begin with, what is the impact of this regime on the behaviour of actors in the international political economy? To what extent do states, firms, and other actors comply with the norms, rules, and principles of the international regime of anti-corruption? And, when there is evidence of non-compliance, what kind of enforcement do we see? The answers are not necessarily re-assuring. When it comes to transnational business bribery, although OECD countries have implemented the OECD Convention's requirements in their domestic legislation and continue to participate in peer-review mechanisms to monitor compliance, the extent to which these countries enforce their national foreign bribery laws varies significantly. Even where there have been noteworthy prosecutions, such as in the U.S., Germany, and the U.K., it remains extremely difficult to know the extent to which businesses continue to bribe abroad. Put differently, the compliance of *states* with their anti-corruption commitments under international law does not necessarily indicate the compliance of *individuals and firms* with anti-corruption rules. With regard to the UNCAC, even assessing state compliance is a real challenge, considering the much more heterogeneous character of the states parties and the broader anti-corruption requirements of the treaty. When it comes to private governance, compliance is purely voluntary and few, if any, mechanisms for enforcement exist.

A second set of questions concerns the *effectiveness* of the rules that are in place to curb global corruption. Even assuming robust compliance and enforcement of these norms, rules and principles, would corruption be eradicated, or even significantly mitigated? Do the rules themselves offer an effective response? Take, for example, the ban in the OECD Convention on bribery of foreign public officials in international business transaction. This rule is intentionally specific and narrowly construed so that compliance and enforcement might be feasible, at least in principle. Yet insofar as this Convention is supposed to curtail corruption in the global economy generally, this narrow construal itself limits the effectiveness the Convention as an instrument of anti-corruption by treating bribe transactions as isolated instances that occur within specific countries. Ignored are the **transnational corruption networks** in which specific transactions are embedded. The transactional corruption of business bribery exists within an international context that includes multinational companies, elites in both bribe-sending and bribe-receiving countries, offshore financial vehicles and conduits, middlemen and brokers, and financial institutions – which are not addressed by the OECD Convention nor in the international norm of anti-corruption, generally.[55]

In addition, the rules in place include some surprising loopholes. For example, under both the OECD Convention and the US Foreign Corrupt Practices Act, bribes characterized as "facilitation payments" are permitted. As well, only bribes paid to "foreign public officials" are forbidden; bribes within the private sector, or bribery of political party members are not covered. The UN Convention does have a broader

application, however broader rules are also more difficult to enforce so there is a real trade-off in effectiveness.

The global governance of corruption is also challenged by questions of legitimacy. Are the norms, rules, and principles of international anti-corruption right, correct, and appropriate? Are the makers of these rules right and appropriate in doing so? Is it appropriate to rely on private governance to deliver results and expectations concerning the control of corruption? Questions of legitimacy raise complicated questions about power, democracy, ethics, and justice that are often glossed over in global governance, as the most powerful states – and the non-state actors of which powerful states approve - tend to be the ones to set the agenda and shape the rules.[56] Indeed, the emergence of the international regime of anti-corruption itself can be read as an exercise of American power, as the United States has sought to internationalize specifically American norms concerning the conduct of international business, which first took shape in the FCPA.[57]

5.   What is Canada's Role?

What is Canada's role in the international regime of anti-corruption? What is Canada's position on domestic and international anti-corruption policy, and how does Canada fare in global rankings of corruption? The record is mixed. On the one hand, Canada ranks highly on various corruption-related indices, including Transparency International's Corruption Perceptions Index and Bribe Payers Index, and on the World Bank's Control of Corruption index, which reflects perceptions of the extent to which public power is exercised for private gain. Canada also places highly on indicators of judicial independence, rule of law, and the Human Development Index.[58] Most Canadians undoubtedly would agree that encounters with public or private sector corruption are not a normal part of everyday life in Canada. On international anti-corruption, Canada was an early financial supporter of Transparency International, played a crucial role in bringing the OECD Convention into force in 1999 by enacting anti-foreign bribery legislation in time, is a signatory of the UNCAC and the Inter-American Anti-Corruption Treaty, and is involved in anti-corruption policy formulation in the variety of international fora to which it contributes (including the G7, G20, the Commonwealth, the Organization for Security and Co-operation in Europe (OSCE), and various development banks).

On the other hand, Transparency International's 2013 Global Corruption Barometer survey reveals that 53% of respondents in Canada felt that corruption has increased in recent years. 62% of respondents felt that political parties in Canada are corrupt/extremely corrupt, as well as Parliament (47%), public officials (38%) and business (48%).[59] Corruption and scandal are increasingly perceived by Canadians to be problems in Canada's domestic governance arrangements, at the federal and local levels. Internationally, Canada's reputation on anti-corruption has also not been good. Citing longstanding inaction on transnational bribery, in 2011 international activists branded Canada as an anti-corruption laggard.[60]

Compared to several of its OECD partners, Canada's efforts to control transnational bribery and corruption have indeed been poor. Both Transparency International and the OECD have identified Canada as failing to act against transnational bribery. Whereas the United States, Germany, the United Kingdom and others have

pursued high-profile cases against prominent multinationals accused of transnational bribery, yielding hundreds of millions of dollars in criminal fines, disgorgements of profit, damages, and other penalties for violations of anti-bribery laws – including prison sentences for individual executives in ten countries – in 2011 Canada had prosecuted just two cases, yielding relatively paltry fines.

Perhaps in response to this international criticism, Canada recently announced its intention to more vigorously enforce the Corruption of Foreign Public Officials Act (CFPOA), which implements the OECD Convention in Canadian law. In 2013 the government amended the CFPOA to close loopholes and increase sanctions.[61] Nonetheless, since its entry into force in 1999, there have been just four convictions under this Act, and three of them have been since international pressure increased in 2011: **Hydro-Kleen Group Inc**., ordered to pay a fine of $25,000 as a penalty for bribing a U.S. immigration official at the Calgary International Airport (2005); **Niko Resources Ltd**., fined $9.5 million for offenses related to business dealings in Bangladesh (2011); **Griffiths Energy International Inc**., required to pay a total penalty of $10.35 million for offenses related to an oil and gas contract in Chad (2013); and, most recently, in August 2013 Canada's first foreign bribery trial resulted in the first conviction of an individual in Canada for bribery abroad when the Ontario Superior Court of Justice convicted **Nazir Karigar** of offering bribes to Air India officials and the Indian Minister of Civil Aviation in relation to the sale of passenger screening equipment for airport security, on behalf of an Alberta-based technology company.

That three of these cases involve Alberta-based firms in the energy sector reflects Canada's particular commercial strength in the mining and extractive industries, where the risk of corrupt expectations is notoriously high. As Canadian companies have invested over $60 billion in mining and extraction in developing countries where corrupt payments are likely to be expected, it is clear that Canadian companies are not immune to pressure nor incentive to pay bribes. Although the RCMP claims 34 active and ongoing CFPOA investigations, it remains to be seen to what extent the government will continue to investigate and prosecute them for doing so.

6. Conclusion: Taking a Critical View

Corruption is a principal issue of global governance. Most of the current scholarship agrees that in its many forms and manifestations corruption is costly to states, firms, individuals, and the global economy as a whole. At the same time, there is little agreement on how to define the problem, how to assess the costs, and how to respond. Thus, in addition to the challenges of compliance, effectiveness, and legitimacy raised above, the governance of corruption in the global economy raises a number of further problems and questions.

One problem is the regime's intense focus on bribery, to the exclusion of other networked aspects of corruption and to the ways in which grand corruption in particular is integrally linked into the legitimate global economy. This selective focus can also be read as contributing to a "broadly neoliberal programme of government" that is imposed especially on developing countries (and which includes the privatization of public institutions and the expansion of market-based mechanisms into spheres of public

provision) and which suggests a singularly western/Weberian institutional structure for the state– in which the distinction between the public and private sphere is clear and unproblematic.[62] In practice, in many states and societies patrimonial systems blur these lines and such neoliberal anti-corruption programs make little sense. In addition, the focus on bribery, which is transactional and which is often modelled as a principal-agent problem, tends to single out specific actors for corrupt deeds and specific instances of corrupt transactions rather than tackling the embedded networks and practices in which opportunities for corruption are cultivated both locally and in the global economy writ large.

Another problem lies in the general practice of labelling actors as "corrupt", either in ranking systems such as TI's CPI and BPI or in development programs which focus on the priority of "good governance". The corruption label creates a powerful stigma for states and societies which do not conform to certain ideals set by outside powers, and some scholars question the value of this label in the context of anti-corruption struggles which cannot be won. Further, ranking and labelling itself is an exercise of power that serves to make "corrupt" actors responsible for their own governance challenges while obfuscating the contexts of both licit and illicit globalization, in which powerful actors are complicit, and in which those actors so labelled have very little control over the circumstances which lead them to be considered "corrupt."[63]

There are also problems with the basic research upon which anti-corruption efforts are based. Quantifying the extent of any activity in the illicit global economy is a perilous exercise and no truly reliable data actually exists.[64] When it comes to the costs of corruption in the realm of economic development and poverty alleviation, in particular, at least one scholar has identified anti-corruption as a "fetish" of development policy professionals.[65] Other scholars have shown that corruption in and of itself does not necessarily harm development; for example, corrupt countries such as Indonesia under the reign of Suharto experienced tremendous gains in development notwithstanding extensive grand corruption and kleptocratic practices.[66] Clearly, the impact of corruption on economic development depends on many factors.

In conclusion, when it comes to understanding the various and complex manifestations of corruption in the global economy – its main features, causes, effects, and solutions – explanations that overlook the role of networks, the socially- and politically-embedded nature of institutions, and expressions of global political and economic power are both theoretically and pragmatically inadequate.

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Key Terms

Grand Corruption
Petty Corruption
Transnational Bribery
Principal-Agent Theory
Network Model
Global Governance of Corruption

Questions for Review (4-5)

What is corruption, and how does it manifest (what are some features and what are its costs) in the global economy?

How do the principal-agent model and the network model differ in their approaches to corruption, and what are the strengths and weaknesses of each approach?

What is the global governance of corruption, and what are some of its key challenges?

What is Canada's record on international anti-corruption efforts?

What problems are identified by the critical view of international anti-corruption efforts?

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Glossary

Principal-Agent (PA) Model – A model derived from economics in which *agents* are
presumed to act on behalf of *principals* that have *delegated* authority to them and are
empowered to monitor and enforce the extent to which agents carry out the principal's
interests. Corruption enters the picture when a *third party* whose gains or losses depend
on the principal or the agent interferes with the appropriate principal-agent relationship.
In the P-A model, corruption is defined as any unauthorized transaction between an agent
and a third party – usually *bribery* – and is an instance of institutional failure.

Guanxi – A type of social network 'corruption' in China based on secondary relations
such as professional and religious ties and drawing on underlying moral principles
derived from the Confucian heritage – including hierarchy, interdependence, and
reciprocity – that is not captured by the PA model. In reform-era China, *guanxi* has
served to fill in governance gaps during periods of uncertain transition, relative disorder,
and social inequality and it often overrides the norms and desired outcomes of formal
institutions.

Kleptocracy - A political system dominated by elites who personally enrich themselves
by direct theft from state coffers and who practice extortion as their modus operandi.

Transnational Bribery - The practice of sending corrupt payments from one national
jurisdiction into another to secure influence in the recipient jurisdiction, which includes
both supply-side and demand-side incentives embedded within a global context of
transnational corruption networks involving multinational companies, elites in both bribe-

sending and bribe-receiving countries, offshore financial vehicles and conduits, middlemen and brokers, and financial institutions.