

Political Corruption in the United States: A Design Draft

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ABSTRACT To establish the scope and level of corruption in the contemporary United States, a collaborative project of political scientists is needed. Such a study should start with explicating the definition of corruption various scholars use. Three are noted here: using public goods for personal gains, deflecting public goods to private groups, and making such moves when these are legal although they are still illicit. To assess corruption on these levels, we must consider that various forms that “capture” takes beyond the corruption of the laws themselves. A study of the major differences in the level of corruption among the three branches of government may improve our understanding of the prevalence and causes of corruption. A study of “rent” may help predict that future course of corruption. Other topics whose study warrants collaborative investigation are listed.

This article provides a preliminary design to set the agenda for a major collaborative political science project to study the level and scope of political corruption in the United States. Reference is not to a formal collaboration, but to one in which different colleagues independently contribute to both the project’s overarching design and the building blocks that the design needs. This collaboration is necessary because of the magnitude of the subject, the limited (albeit growing) amount of available research on the subject, and the inherent difficulties in studying behavior that is concealed by those who engage in it. The social significance of the subject is self-evident, especially if one holds, as I do, that political corruption in the United States is much more prevalent, consequential, and resistant to correction than is often assumed.

COMPETING DEFINITIONS

Political scientists have devoted considerable attention to the ways political corruption is defined.¹ In 1978, two political scientists wrote that “the systematic study of corruption is hampered by the lack of an adequate definition. What may be “corrupt” to one citizen, scholars, or public official is “just politics” to another, or “indiscretion” to a third” (Peters and Welch 1978, 974). Since then, much deliberation has gone into how to best resolve this difficulty. Mark Philip’s “Defining Political Corruption” is an excellent starting point for a discussion of the numerous issues raised by definition (1997).

A focus on first pinning down this concept is justified because, as is the case with much research, measurements of the observed phenomenon depend on how the measured variable is defined.

Thus, if one defines “in poverty” as all those whose annual income is below \$15,000, one will find far fewer people living in poverty than if the threshold is set at \$30,000. This issue is particularly challenging in the study of political corruption because the subject is defined in rather different ways, and each definition reflects—as we shall see—distinct political theories. A definition can make corruption seem much less widespread than it is, for instance, if it excludes practices that some consider legalized bribery.

Although there is no practical way for the discipline to agree on a single definition of political corruption, this need not impede the proposed endeavor. One turns to the second-best option: editors of political science publications should urge authors to clearly state the definition they use. In the following discussion, three proposed definitions—along with their theoretical underpinnings—provide a first approximation of a research design. The concept is delineated according to whether political corruption is viewed as personal (e.g., accepting bribes) (discussed in Part I), the illegal deflection of public goods into coffers of private (special interest) groups (Part II), or are legal but illicit (or unethical) conduct (Part III). This is not an exhaustive list of definitions, but demonstrates the need to indicate up front which definition-cum-theory is used, and what this implies for subsequent evaluations of the level of political corruption.

Several scholars have voiced the concern that political scientists have neglected the study of political corruption in the United States—by any definition. Johnston (2006) offers several explanations for the dearth of studies on corruption by American political scientists, which he considers an unfortunate “blind spot.” Interest in the subject tends to spike after particularly egregious scandals such as Watergate, and in recent years, a great deal of academic research on corruption has focused on so-called developing world (Olken and Pande 2011). However, the analytical apparatus used in these studies cannot be automatically applied to the

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United States because of features that are unique to the American political system, especially those included in the US Constitution.

I. LESS CORRUPT POLITICIANS, MORE CORRUPT POLITICS?

According to one relatively narrow definition, political corruption entails the illegal use of public power and resources for *personal* gain. The obvious examples would be elected representatives or civil servants (“public officials” from here on) accepting bribes and handing out favors in return. Most empirical economic analyses follow this definition of corruption, measuring bribes or theft of government funds, but not the deflection of resources to interest groups. Political scientists have conducted no systematic study of the changes in congressional rules that seek to reign in the personal corruption of public officials. Over the years, Congress has introduced several regulations that limit the gifts members can legally accept. For instance, after the 2006 scandal surrounding lobbyist Jack Abramoff—which ended the careers of two congressmen—Congress passed the Honest Leadership and Open Government Act (2007), which essentially bans all gift-giving by registered lobbyists (previously Congress members and staff could accept gifts valued less than \$50) and prohibits lobbyists from paying members of Congress and their staff’s for private travel.

To what extent these rules are followed and enforced—as well as the loopholes that are hidden within them—needs to be studied. For instance, an exemption in the 2007 bill for “foreign-financed cultural-exchange trips” (Farnam 2013) exists, and lobbying activities classified as “campaign events” are not subject to the same strict guidelines. Congress is also reported to exempt its members from rules applying to others, for instance, bans on insider trading. A preliminary analysis by Thurber (2010, 26) suggests that “major lobbying and ethics reforms in 2007 and President Obama’s new regulations over lobbyists do not seem to have reduced public and media suspicion of lobbyists and campaign consultants or unethical behavior.” An investigation by *The Washington Post* revealed that members of Congress regularly benefit from stock trades and business deals based on nonpublic information, a practice that Peter Schweizer of the Hoover Institution calls “honest graft” (Kroft 2011). In response to the criticism generated by this and similar reports, Congress

The executive branch has had its share of corruption-related scandals (Genovese 2010). In 2009, Darleen Druyun, civilian chief of Air Force acquisition, was sentenced to nine months in prison for favoring Boeing while negotiating future employment with the company (Cahlink 2004). Bush administration officials in the departments of the Interior, Labor, and Justice pleaded guilty to accepting bribes from Jack Abramoff. Hence, it might seem that corruption in the executive branch is similar in scope to the level in Congress, although personal experience leads me to believe otherwise. Thirty-five years of observation in Washington, DC, including one year in the White House, have convinced me that the executive branch of the government is much less corrupt than the legislative branch. When I had lunch with civil servants, they insisted on paying for their own meals, and books I gave as gifts were returned. In contrast, I was asked to give talks at top-of-the-line resorts where members of Congress, their families, and staff have been wine and dined. True, in recent years this kind of spending has been reined in, however, new ways of rewarding members of Congress have been found.

I am not suggesting that there are no corrupt members of the executive branch, but I do raise the hypothesis that they are the outliers—as opposed to Congress where personal corruption remains significantly more widespread. The data on this point, however, are scant. Even if research reveals *personal* corruption in the federal legislative branch has declined since the ethics reforms of the mid and late 1970s, and there is considerable integrity in the executive, it does not follow that the American political system has grown less corrupt in recent decades—at least not if one draws on a more encompassing definition of corruption.

II. CAPTURED?

A broader definition of corruption views it as an illegal use of public power and resources for *private* gain, which includes not only or even primarily personal gain, but the deflection of public resources and use of public power to advance the causes of one or more private (special interest) groups. Note that this definition of corruption reflects a particular theoretical position that not all political scientists share. It assumes public officials should be concerned with the common good or the public interest. For instance, Carl Friedrich (1966,74) writes that corruption exists when a

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passed the Stop Trading On Congressional Knowledge Act (2012), which bans insider trading by members of Congress. However, such regulation still leaves open other avenues for members of Congress to profit from their position, for example, investing in the very industries that they regulate. Thus, Congress, it seems, has tightened the rules regulating personal conduct over the last decades, but opportunities for personal corruption remain or emerge in new forms. Neither the current scope nor the net effect of this kind of corruption in the national legislature has been established by political science research.

“power-holder” “is by monetary or other rewards not legally provided for, induced to take actions which favour whoever provides the rewards *and thereby does damage to the public and its interests.*” At the opposite end of the spectrum is the position that the very concept of the common good or public interest is illusory, that politics is, by nature, a vying of various private interests over resources distributed by the political system (Stigler 1971, 11). According to standard liberal democratic theory, laws and regulations are a major way the common good is advanced. However, according to a counter-theory advanced by many economists, the

regulators who implement laws are typically “captured” by the very same interest groups that are meant to be reined in—and are thereby prevented from serving the intended public end (Stigler 1971). Many acts, considered corrupt under the assumption that the government does and should promote the common good, are seen as acceptable under the interest group theory of governance. The following discussion assumes that a functional polity must operate under some basic shared understanding about the common good.

Many studies of this phenomenon are limited to capture of the regulation (or law) itself, that is, the way it was initially formulated. For instance, lobbyists representing the pharmaceutical industry literally composed parts of the 2003 bill that governs drug benefits for Medicare recipients (Hall and Van Houweling 2006). However, capture takes many other forms. In the following text, I list some of its most prominent variants and provide brief illustrative examples. As far as I can establish, no studies have examined how widespread this capture is, whether it is increasing or on the decline, or the scope of its societal consequences.

Diluting Regulation

In the wake of the 2001 Enron scandal, Congress passed the 2002 Sarbanes-Oxley Act. Hailed by *The Economist* (2003) as, “the most sweeping reform of corporate governance in America since the Great Depression,” the law left it to the Securities and Exchange Commission (SEC) to work out the details of its new regulations. Following intense lobbying by the accounting industry, the SEC used a definition of auditing that created a loophole so accountants could continue practices initially targeted for prohibition.

The 2003 and 2004 “Tiahrt amendments” require that records from the background checks of gun buyers be destroyed within 24 hours; bar the ATF from requiring gun dealers to conduct inventory checks to monitor gun thefts; and prevent crime-gun trace data from being used in court even when a dealer has broken the law.

Debilitating Restrictions

Under the influence of the National Rifle Association (NRA), Congress has repeatedly limited the ability of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to enforce gun laws. The 2003 and 2004 “Tiahrt amendments” require that records from the background checks of gun buyers be destroyed within 24 hours; bar the ATF from requiring gun dealers to conduct inventory checks to monitor gun thefts; and prevent crime-gun trace data from being used in court even when a dealer has broken the law. In addition, Congress prohibited the creation a computerized database by the ATF, which means that when a gun is recovered at a crime scene, agents must manually search through boxes of paper records to trace the firearm to its dealer or purchaser.

Weakened Penalties and Enforcement

The FEC’s ability to enforce campaign finance laws has eroded in recent years in large part because the three Republicans on the commission “take a hands-off attitude on campaign finance law” (Knott 2011). From 2006 to 2010 the average fine levied by the FEC fell from \$180,000 to \$42,000, and the number of conciliation agreements resulting in penalties for violators dropped from

91 in 2007 to only 29 in 2010. Critics of the “toothless” Commission contend that it is “exactly the weak and ineffective agency that members of Congress, whose campaign finance activities it oversees, intended it to be” (Wertheimer and Simon 2013).

In short, corruption by capture is rather common in the contemporary United States—if we consider the various forms it takes, above and beyond the manipulation of the processes by which laws and regulations are initially crafted. Whether these assessments are correct and whether such capture is accelerating or decelerating remains to be determined. However, one sees that even if there is little personal corruption there can be a rather high level of systematic corruption, whereby legislators do not enrich themselves but some private interests, which often are not those of their constituents.

III. LEGAL BUT ILLICIT

According to a third definition, political corruption encompasses the use of public power and resources for legal but *illicit* (some write “unethical”) purposes (Warren 2006, 804). If studies of corruption follow this definition, rather than the narrower definitions previously introduced, one would expect rather different findings. Since the 1970s many practices that were once illegal and considered corrupt have been legalized and/or normalized, but still involve, what some consider, the unethical use of public power and assets.² Reference is specifically to the 1976 case *Buckley versus Valeo*, in which the Court ruled that restrictions on independent and candidate expenditures amounted to “direct and substantial restraints on the quantity of political speech.” In 2008, the Supreme Court stepped much further, ruling in *Citizens United*

that corporations and labor unions can make unlimited contributions to political campaigns.

This is an area of possible political corruption to which political science has paid considerable attention, but the discipline’s findings have varied considerably. On the one hand, some researchers find that private donations to campaigns buy very little in the way of private favors and do not lead elected officials to deviate from their public duties. A meta-analysis of 40 studies by Ansolabehere, de Figueiredo, and Snyder (2002) concluded that there is little correlation between campaign contributions and legislator voting patterns; that people make donations, not as an investment (or payments) for outcomes, but as a mode of political participation or consumption, akin to giving to a favorite charity. The fact that there is a huge discrepancy between the amounts given (often in ten thousands of dollars) and the legislative “pay-offs” (often worth billions) suggests to these researchers that people are not motivated by making an economic return. In 2012, a record amount of independent money, largely from super PACs, poured into the presidential and congressional campaigns. However, according to at least one analyst, it “had no discernible effect on the outcome of most races,” and, in fact, two-thirds of the funds

spent by outside groups backed losing candidates (Eggen and Farnam 2012).

In contrast, other political scientists have concluded that contributions from PACs can influence voting behavior among members of Congress. One study found that contributions from labor PACs to lawmakers translated into support for labor issues among recipients (Wilhite and Theilmann 1987). Others found that more funds are donated to members of Congress who chair or serve in powerful committees, as well as to party leaders than to less-influential legislators, suggesting that donors seek to maximize the return on their investment by contributing to those who “control the purse strings” (Ansolabehere and Snyder 1999).

Finally, some scholars argue that correlations between donations and legislative outcomes are of little importance because, regardless of contributions, lawmakers vote in line with their political dispositions (i.e., a conservative senator may have received money from the NRA, but would have voted against gun control regardless).

Clearly, one cannot reach a consensus about the scope of corruption in the United States unless these conflicted findings are reconciled. Indeed, if one proceeds with the kind of collaborative project envisioned in this article, it may well start with assembling those scholars who are interested in PACs and working out a research design that will move us closer to agreement on this issue. Given that there are more studies in this area than most others, the possibility for secondary analysis and additional meta-reviews could bring the discipline closer to a consensus on whether aspects of campaign finance constitute illicit corruption even though they are legal.

VI. IS SOME CORRUPTION FUNCTIONAL?

In the 1960s, some political scientists suggested corruption (at least at a low level) is “functional” because bribery increase efficiency by reducing red tape and “greasing” the bureaucratic wheels, and may integrate otherwise-excluded constituencies into the political system (Anechiarico and Jacobs 1996). Curbing it, therefore, might harm rather than benefit the polity.

One notes, however that it remains to be established whether a “healthy” level of corruption can be contained or tends to increase, an issue similar to the question of whether a low level of inflation can be good for the economy (Elster 1989). Moreover, the studies do not examine the effects of corruption on variables other than economic growth, including extra-institutional expressions of alienation, cultural corrosion, and the trust that people put in their government. Hence, a side project of a comprehensive study of political corruption in the United States might test the proposition that corruption can be functional.

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NOTES

1. Peters and Welch (1978, 974) identify three categories of political corruption: “definitions based on legality, definitions based on the public interest, and definitions based on public opinion.” Michael Genovese (2010, 3) draws a distinction between “personal corruption” (i.e., a “bad apple” selling his vote) and

“systemic corruption” (i.e., illicit campaign financing that “is embedded in day-to-day operations of the system”).

2. Wilson (2010, 740–41) writes, “[t]he Court’s emphasis on quid pro quo corruption fails to account for the potential for other corruptive influences stemming from unlimited campaign spending. Specifically, the relationship between money and potentially manipulative communication strategies arguably supports a more expansive definition of “corruption.” See also, Thurber (2010).

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