

*„Supervision of Lobbying to Prevent
Corruption in Governance“*

COMMITTEE GUIDE

GENERAL ASSEMBLY'S 4TH COMMITTEE



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Personal Introduction

Dear delegates of the Fourth Committee of the General Assembly,

My name is Matthias Ring and I am happy to welcome you to the GA 4th Committee of OLMUN 2013 as one of your chairs. I am a naval cadet and currently studying Medicine at the University of Hamburg. In my free time I enjoy the sport of rowing and living a typical student's life.

During my school years in Oldenburg, I got in touch with school politics as head boy and part of the school board. Out of this reason, my interest for politics in general arose and I took part as a delegate in OLMUN 2011 and chaired the Special Conference in 2012. My fellow chairs and I will be proud to make the GA 4th Committee a mesmerizing event!

I am thrilled about meeting you and hope for a great debate.

Yours sincerely,

Matthias Ring



Honorable delegates,

My name is Felix Heuer and I have the pleasure to be one of your chairs in this year's GA 4th committee. I am 18 years old and currently attending the 12th grade at the Cäcilienchule Oldenburg. After my graduation this summer I would like to study business administration. During leisure time I do a lot of sports, such as Jiu-Jitsu and fitness training.

This conference will be my fourth OLMUN. In 2010 I first participated in OLMUN as a member of the staff team. After that I attended as a delegate in the two previous years and now in 2013 I am honored to serve as a chair in this committee. OLMUN generates a great plenty of possibilities. The chance of representing a foreign country and its political opinion has several benefits, e.g. learning about political processes or international economical tensions, practicing to speak in front of a huge audience or getting in touch with people from different parts of the world.



In case of any concerns do not hesitate to contact me or one of my fellow chairs. I am excited about meeting all of you in June!

Sincerely yours,

Felix Heuer

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Fellow Delegates,

I am Daniela Louisa Schütte and I am really proud of chairing the GA 4th committee in 2013's OLMUN together with my honorable co-chairs. It will be my fifth MUN but the first time for me chairing. I graduate from the Gymnasium Eversten this year, so that I can hopefully start my trip around the world in summer. I am planning to stay abroad the next two years and then afterwards start studying. My main interests are languages and different cultures as result of my three different nationalities. Furthermore, global politics and getting in touch with new people draws my attention.

I am really looking forward to the OLMUN and especially to you as engaged participating delegates.

Yours,

Daniela Schütte



How to use this guide

This committee guide provides a basis for this years' topic that will be debated and discussed in the 4th committee. Though, it is only the foundation for the delegates' research on this topic and is not meant to be used as an all-inclusive analysis. Accordingly, this guide serves as a thought provoking impulse to introduce every delegate to the topic. Indeed, the delegates will acquaint themselves with further information to be well prepared for the discussions and for the debates. This can be done by consulting scholarly materials, international news and more detailed proved background knowledge.

The committee

The United Nations Fourth Committee, also known as the Special Political and Decolonization Committee, is one of the six main committees within the United Nations General Assembly, in which all UN member nations have equal representation. The 4th Committee deals with a variety of topics, including decolonization, self-determination, Palestinian refugees and human rights, mine action, peacekeeping, outer space, public information and atomic radiation. As you see the wide-ranging mandate of "special political" issues allows discussing a broad diversity of topics. The Security Council often refers discussions to the 4th committee, when help of the whole international community is required in a certain issue.



The topic

This year's topic of the OLMUN GA 4th is the "**Supervision of Lobbying to Prevent Corruption in Governance**". Corruption is a huge problem that unfortunately affects every single country in the world. There are corrupt practices existing in different kinds of institutions, e.g. political parties, the police, the business sector, the judiciary, the parliaments, the education system or media. In politics, corruption undermines the legitimacy of government and such democratic values as trust and tolerance. Economic effects are increasing costs of products and services for the end-consumer due to the invalidation of competition on the basis of price and performance. Furthermore, it leads to the depletion of national wealth in general. In social sphere, corruption has the effect that people are discouraged of working together for the common good because demanding and paying bribes becomes the habit. Inequality and a widened gap between rich and poor are the results.

This evil phenomenon is found in all countries - big and small, rich and poor - but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.

- Kofi A. Annan



Definitions/Differentiation

Definition of corruption

Corruption means the misuse of legitimized power in administration, justice, economy, politics, NGO's and also in foundations for the gain of private persons or companies without lawful legitimation. It is a "win-win" situation for the corrupting person and the corrupt one, because both profit from their relation. Maximizing their benefits, getting exclusive contracts and minimizing the taxes national and multinational concerns squeeze more profit. The corrupt person, in most cases a politician, also benefits from the alliance by monetary contribution or material benefit like discount on goods, such as property, cars and vacation-trips. The advantages of these alliances go at the expense of society. Missing taxes lead to budget deficits which need to be paid by the taxpayers. Furthermore the well-directed incorrect information gets through the media to the people and influences their opinion. So there is the danger of falsification of scientific facts and incorrect information at expense of the ordinary people.

Definition of lobbying

Lobbying describes the process where interests of third parties are represented in front of politics and society. To represent their interests private persons and companies search for lobbyists and create interest groups.

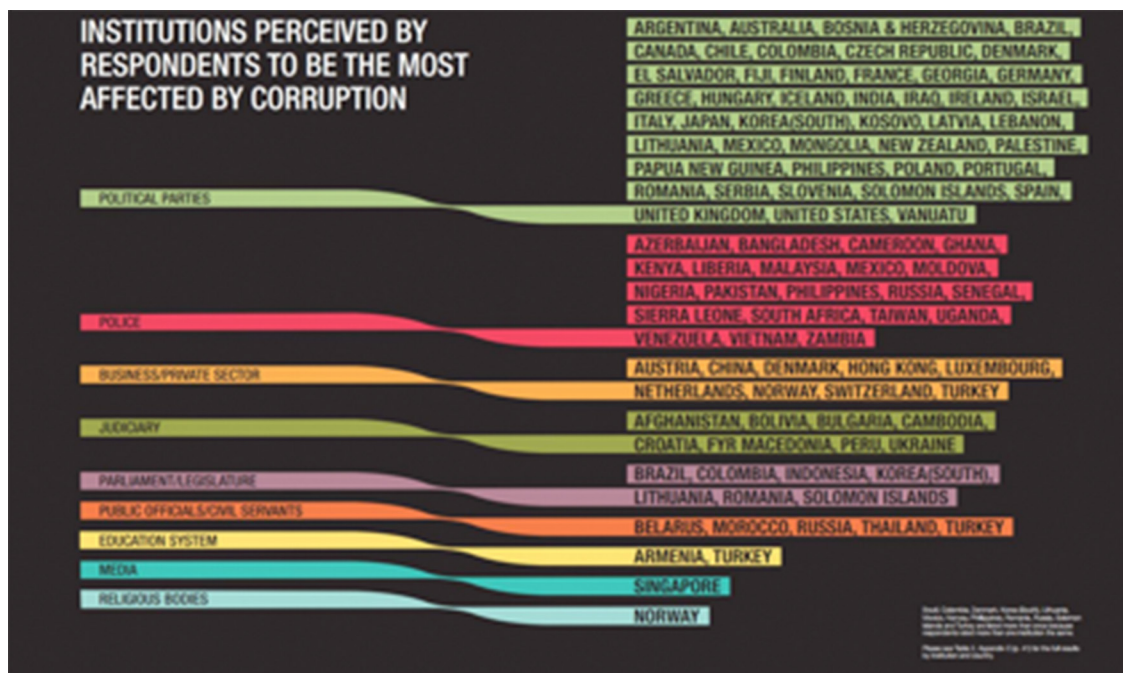
These lobbyists have to fulfil three important steps of lobbying: The first one is the necessity to constantly super



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wise the course of events, the so called monitoring. Secondly they have to evaluate and judge the gained information in order to come to step three, the close process of lobbying with an active exertion of influence on the executive and legislative power. The first two steps of lobbying usually take place in a formal setting such as think tanks and representative offices of certain companies. But the essential part, the close process of lobbying is fostered informally at private meetings between the lobbyists and politicians. The only formal way to take influence on the decision-making process in governance is the sending of amendments to the responsible commission. Thus there is a variety of informal lobbying happening in private it is not measurable how much influence lobbying really has. Lobbyists invite relevant politicians to special meetings mostly at reputable locations to influence they're opinion concerning the legislation, in advantage for the represented third party, e.g. companies.



Effects of corruption

Corruption has a huge influence on society, politics, administration, institutions and economy but the real extent of corruption is difficult to measure because it happens in seclusion.

The biggest effect of corruption is the change of the existing balance of power. Democratically and hierarchically structured processes in judicial, legislative and executive institutions are interrupted and evolve into arbitrary decision-making processes.

When the balance of power is endangered by corruption there is a high risk for a stable democracy to turn into an unstable one. Stable democratic systems work because of the political self-determination of their citizen. Every citizen's vote should be respected in current politics even though the political process is realized according to majority rule.

Corrupt delegates or delegates who are not averse of corruption do not represent the peoples' opinion but the opinion of the companies they are accompanying. Besides, there should be a moral conflict for the delegate in context with moral values of society, economy and his individual ones.

In addition, corruption abolishes the equality of opportunity by eliminating free competition on the world market. Multinational concerns come to agreements about market prices and split up the market between them. Fair competition cannot take place because especially smaller, less inter-connected enterprises do not have enough opportunities to establish themselves on the world market. They are not able to lobby or corrupt enough in order to get a reduction of taxes or governmental subsidy. So they suffer a limited competitiveness in comparison to well-established multinational enterprises.

Corruption can also lead to or encourage monopoly positions. Agreements made between enterprises reduce the citizens' choice related to e.g. their water and electricity provider but also towards every other good which is available on the world market. Furthermore the monopoly position of multinational concerns influences the cost-benefit-ratio which is disadvantageous for the consumer. As the competition is disturbed by agreements, products are not developed according to the consumers interests and the profit goes to the companies.

Corruption does not only affect the consumers and the society but it also affects the apparatus of state. The financial loss for the state is immense, e.g. in Germany in 2011 the damage was round about 276 Million Euros due to corruption.¹

The financial loss caused by corrupt politicians is bad but even worse is the loss of trust in the political system. Out of corrupt actions a miss trust in democracy arises and influences the electoral system. Non-voters distort the results of the elections and make it impossible to represent their political ideas and to put them into practice.

Every now and again some scandals related to lobbying and corruption come out in the media and make headlines, so no one can really estimate the true amount of corruption. Sure is just the fact that fighting corruption is necessary to maintain a stable political system and keep the interest of people at a maximum level.

Country examples

Corruption in China

There are several reasons for corruption in China, e.g. the political legacy of poor governance at the national and local levels, growing civil disobedience, unequal social welfare distribution and expanding social polarization. More than one third of the Chinese population thinks the government is ineffective in the fight against corruption. The private sector was considered to be the most corrupt sector, followed by police, political parties and parliament.



The majority of corruption cases in China are related to illegal land sales. This problem's origin can be found in the Chinese taxation system. There is conflict between the central and the local governments in the distribution of tax incomes because the revenues of the central government increase steadily, leaving shortened funds for the local administrations. As a compensation for the loss in some cases local officials use corrupt practices to sell land, which in theory belongs to the Chinese people. Also a reason for potential corruption is the fact that public servants in schools, universities and hospitals are paid poorly. This makes it

¹ BKA Lagebild 2011, Page 18

easier for the people in key positions of power to make these servants more accessible to bribery for the requested services. Furthermore, the access to information is very limited and there are no binding asset declarations as way of giving the people the chance to hold their government and party officials to account.²

Corruption in Russia

In the end of 2012 Russian news were dominated by several high-profile corruption scandals. These cases reached high into important institutions, including the defense and agriculture ministries or the Russian space program. Transparency International ranked Russia 133rd out of 183 nations on its recent Corruption Perceptions Index. Nearly nine in 10 Russians say corruption is the nation's biggest problem.³



Recent cases

In November 2012, the Russian Defense Minister Anatoly Serdyukov was fired because of a corruption scandal in which a group of his associates that supposedly embezzled \$200 million was involved. Also in November, the chief of the Russian Space Systems company was dismissed for the exposure of an in embezzlement in the amount of \$217 million, nearly a third of the funds allocated for the construction of the GLONASS system, a Russian analogue of GPS. The police in St. Petersburg alleged that about \$100 million was embezzled in a scam that involved the purchase of low-quality pipes for the city's heating system. The chief of the city's Energy Department was detained.

The spate of corruption cases has led to a cynical argument among politicians, analysts and people on the street: Has President Vladimir Putin, who has long talked about combating corruption, made his words come true? Or is the combating of corruption just a public relations move or a sign of behind-the-scenes warfare among powerful interests?⁴

² http://www.transparency.org/news/feature/fighting_corruption_in_china

³ <http://cpi.transparency.org/cpi2012/results/>

⁴ <http://articles.latimes.com/2012/dec/02/world/la-fg-russia-corruption-20121203>

Anti-Corruption Measurements

United Nations Convention Against Corruption – UNCAC

The UNCAC has been signed by 140 countries in 2003, coming into force in 2005. It is the first convention that tackles corruption on an international level and inhabits ground-breaking clauses. The Convention aims at both ends of corruption: how to prevent it and how to prosecute corrupt private and public officials. To this effect, the convention divides into several sections.

First of all, we take a look at preventive measures. Besides from establishing anti-corruption bodies and thereby promoting transparency and enabling publicity for anti-corruption bodies and their campaigns, the convention defines codes of conduct for public officials (s. Art. 8). It is obvious that executive authority, judiciary and legislative authority have to set a good example to encourage companies to establish codes themselves. In Art. 13, 1 the convention does not only focus on the public and private sector but states that the aim of the convention is to „promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations“. Examples for this could be the strongly to the convention related UNCAC Coalition or Transparency International.

Considered a major breakthrough of this convention is the definition of what is considered a crime. The second chapter deals with criminalization and law enforcements. In continuation of Art. 8 bribing national public officials, foreign public officials and officials of public international organizations (s. Art. 15 f.) as well as embezzlement, misappropriation or other diversion of property by a public official (s. Art. 17) is necessary and compulsory to be considered a crime.

Trying to find equal legislative measurements for the private sector is optional as declared in Art. 18-23.

The part of law enforcement works closely together with the legal status of objects and persons involved in corruption. Concerning the status of objects each State Party is told to „take such measures as may be necessary to enable the identification, tracing, freezing or seizure (...) for the purpose of eventual confiscation“(s. Art. 31, 2). Linked closely to that is Art. 40 that demands appropriate mechanisms to „overcome obstacles that may arise out of the application of bank secrecy laws.“ A question worth thinking about is the right implementation of these demands. There is definitely the need to standardize these measures, which links to the fourth chapter of the convention that demands optimized international cooperation. Looking at human beings, a vital key to fighting corruption is the work of a whistleblower and/or witness. The convention demands legislative measurements for their protection (s. Art. 32 f.).

A big problem that had to be faced before the convention was impossible asset recovery. Even though the prosecutors might have succeeded, the money and values were already gone out of the country. Due to globalization the money trail is very hard to follow. The UNCAC tried to find a remedy with Art. 52, 1 that states as following: financial institutions are required to „verify the identity of customers“ and „to determine the identity of beneficial owners of funds deposited into high-value accounts and (...) of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates“. This can also be seen as part of preventing corruption. It also leaves the responsibility to the bank, which cannot argue with lack of knowledge about their client's business.

Art. 53, b determines that those harming through corruption have to „pay compensation or damages to another State Party that has been harmed by such offences“.

The sixth chapter encourages all State Parties to work closely together in all fields (Art. 60, 1 (a)). Especially technical assistance and knowledge is something lacking in developing countries, where corruption does the most harm.

To improve the UNCAC and its implementation a Conference of State Parties is held regularly. There have been four conferences so far, leading to the founding of several subsidiary bodies, e. g. the Implementation Review Group, Working Group on Asset Recovery, Working Group on Prevention as well as expert groups on international cooperation. An achievement of the Implementation Review Group is the Implementation Review Mechanism (IRM) which monitors via a self-checklist.

As promoted in Art. 13, 1 the UNCAC Coalition was founded. The coalition is an alliance established in 2006 of more than 350 Civil Society Organizations (CSO) in 100 countries.

Achievements so far are a „transparent, inclusive and effective UNCAC review mechanism (...), advancing national level UNCAC implementation, with a special emphasis on enforcement (...) {and} improving government performance in anti-money laundering and asset recovery“ (UNCAC Coalition Briefing note). Transparency International – another NGO known for its anti-corruption campaigns - is one of the founding members.

Transparency International

Transparency International is probably the most known NGO to fight against corruption. Founded in 1993 by former World Bank official Peter Eigen inter alia, Transparency International has since launched several projects to fight corruption. Transparency International's headquarters are in Berlin but there are dozens of national Transparency organizations.

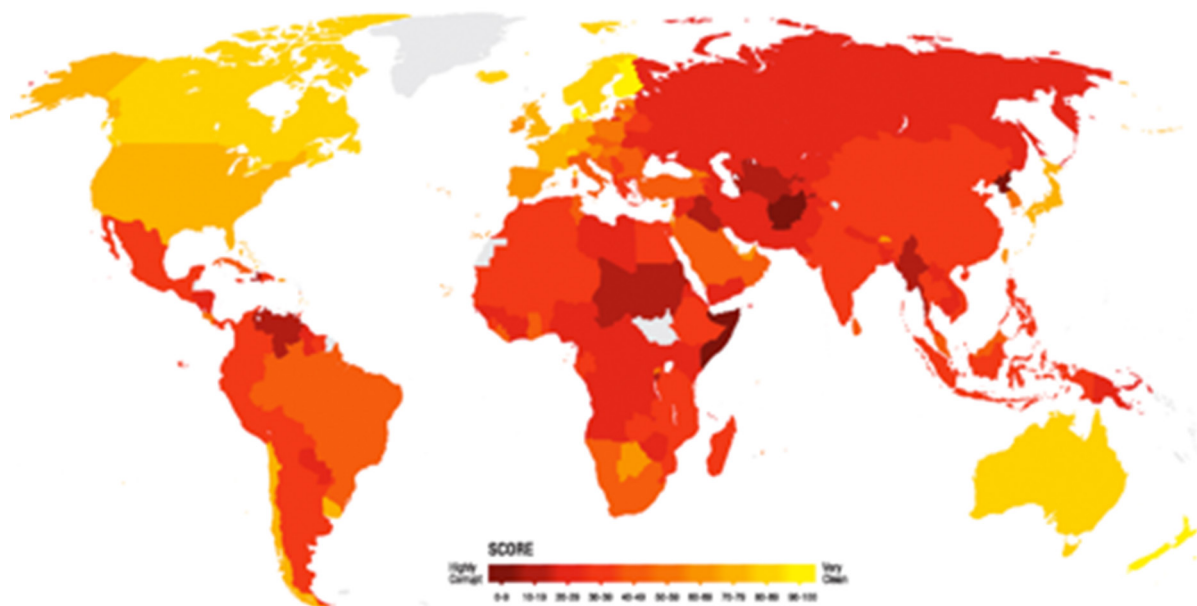
Commonly known is the Corruption Perception Index (CPI). It has been first published in 1995 and since then shows a rank of 176 countries in the 2012 report. Obviously, it is impossible to measure actual corruption, therefore the CPI only covers the perception of corruption based on expert essays and public surveys. Rated is not corruption in all sectors, but only in the public sector. In 2012, Denmark, Finland and New Zealand were rated the least corrupt countries, while Afghanistan, North Korea and Somalia were evaluated last place. The score ranks from 0 being the most corrupt to 100. It is shocking to see that only 53 countries out of 176 reached a score better than 50 percent (<http://cpi.transparency.org/cpi2012/results/>). Although you expect Western countries to be willing to fight corruption, even several European, especially southern and eastern European, countries rank below a 50 percent value.

Transparency International's work ranges from creating publicity by publishing reports like the CPI, the Bribe Payers Index or National Integrity assessments to actively taking part in politics by working together with public officials (see also UNCAC Coalition) or advising them on how to implement anti-corruption policies.

For further information please visit the homepage of Transparency International.

We advise you to read your countries' „National Integrity System“ assessment.

The Corruption Perception Index 2012



Useful other measurements

In the following, we will give a short list of measurements taken so far besides the ones stated above:

UN Global Compact – the UN Global Compact is a pact between the UN and companies encouraging to follow the ten principles. The tenth principle states: „Businesses should work against corruption in all its forms, including extortion and bribery.“

OECD Anti-Bribery Convention – Members of the Convention oblige to criminalize the act of bribing a foreign official. The OECD oversees the implementation of the Convention.

Lobbycontrol – Lobbycontrol is a German organization that fights lobbying on a national and European level. Founded in 2005, members of Lobbycontrol work on studies and campaign to achieve the greatest possible transparency.

Inter-American Convention against Corruption – The Organization of American States, consisting of 35 member countries in North and South America, accepted the convention in 1996. The ICAC is a forerunner of the UNCAC by stressing points such as “mutual legal assistance and technical cooperation, extradition and identification, tracing, freezing, seizure and forfeiture of property”.⁵

Similar to the ICAC the African Union also implemented a convention in 2003: the **African Union Convention on Preventing and Combating Corruption**.

⁵ http://www.oas.org/juridico/english/corr_bg.htm

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Some ideas for a solution approach

(These are only a few short approaches, you can use these ideas but of course you do not have to)

Government and companies need to engage accountability. Governments have the task to create and install an efficient regulatory system, which ensures preventing bribery in every kind. Cases of bribery need to be investigated and prosecuted. The national legislation and international instruments of each country should improve the prohibition of facilitation payments. Bribery between companies in the private sector needs to be prevented. Anti-bribery and anti-corruption standards, e.g. of suppliers and contractors in public procurement, are required. The safety of so called whistleblowers has to be guaranteed. But also companies have to participate in combating corrupt practices. Anti-bribery policies and procedures need to be implemented. Corporate structures should be transparent and the public should be informed about subsidiaries of the firms.

Preparation

What you should bring to the conference

You will be required to bring a policy statement and a draft resolution to OLMUN 2013. The policy statement should be a short and precise statement of your delegation or organization in order to clarify its opinion on the topic. The policy statement or sometimes also called position paper serves as a basis for your resolution. Please send us your statements by May 21st to ga4th@olmun.org. That gives us the opportunity to provide you with useful feedback, which can be used in the process of creating your draft resolution. The draft resolution is the key element of your work during the time in the committee. It functions as the expression of your ideas as a delegate of the country you represent and therefore it is an important device of communication between the delegates, especially while the lobbying process in committee is taking place.

Once all delegations have been distributed and we have received the final list of GA 4th delegates, we will send you an example of a resolution and a policy statement. For further information how to write the required papers check the OLMUN Handbook in the download section.

Furthermore please read the document "Rules of Procedure" (also available on the OLMUN homepage), in which the basic processes of the conference are described. Especially for those of you who participate the first time in a MUN-conference, this is very helpful to get a first impression of what is expecting you in June.

As you may have noticed, good preparation is necessary to make a productive debate possible. Please fulfill these tasks to make our common time comfortable and memorable.

If you have any questions or problems, whether it is regarding the topic, the research, the draft resolution, the policy statement, the course of events or any other issue, do not hesitate to contact us at ga4th@olmun.org.

We are really looking forward to see you in June!

Felix, Daniela and Matthias

For the research

Transparency International

www.transparency.org
<http://www.transparency.org/country>
<http://www.transparency.org/topic>

Corruption Perceptions Index

<http://cpi.transparency.org/cpi2012>

Global Corruption Barometer

<http://gcb.transparency.org/gcb201011>

Bribe Payers Index

<http://bpi.transparency.org/bpi2011/> (For solution recommendations: Page 23)

United Nations Convention Against Corruption (UNCAC)

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

Government Defence Anti-Corruption Index

<http://government.defenceindex.org/>

Companies Defence Anti-Corruption Index

<http://companies.defenceindex.org/>

Further useful links

<http://www.business-anti-corruption.com/?L=0>
http://en.wikipedia.org/wiki/Political_corruption

Glossary

Different kinds of corruption

Bribery: A bribe is a payment given personally to a government official in exchange of his use of official powers. Bribery requires two participants: one to give the bribe, and one to take it.

Trading in influence: Trading in influence refers a person selling his/her influence over the decision making process to benefit a third party. The difference with bribery is that this is a tri-lateral relation.

Patronage: Patronage refers to favoring supporters, for example with government employment. It can be seen as corruption if this means that incompetent persons, as a payment for supporting the regime, are selected before more able ones.

Electoral fraud: Electoral fraud is illegal interference with the process of an election. Acts of fraud affect vote counts to bring about an election result, whether by increasing the vote share of the favored candidate, depressing the vote share of the rival candidates, or both.

Embezzlement: Embezzlement is stealing of entrusted funds. It is political when it involves public money taken by a public official for use by anyone not specified by the public.

Kickbacks: A kickback is an official's share of misappropriated funds allocated from his or her organization to an organization involved in corrupt bidding. An example of a kickback would be if a judge receives a portion of the profits that a business makes in exchange for his judicial decisions.

Other

Think tank: A term often used by journalists to describe a policy institute which researches in order to advocacy of special topics such as social politics, political strategies, economics, military, technology, and culture. Think tanks are non-profit organizations often financed by huge companies or states.

Whistleblower: A whistleblower is a person who tells the public about illegal activities regarding a part of the government, a private company or an organization.