What is wrong with bribery? How, if at all, should the law deal with it?

Bribery is an issue that has plagued society since ancient times. It is universally agreed-upon to be wrong and thus illegal as it undermines fundamental societal principles. This essay will define bribery as the offence of taking, bestowing or promising a price, reward or favour with the intention of influencing the judgement or conduct of a public officer, and in its legal sense implies corruption. For the sake of this essay, the law shall be simply defined as a system of rules and regulations that state what an individual can or cannot do so. Its primary role in society is to protect the rights of those that comply with the law and “articulates pre-established social norms of a society”.

In society, there are certain fundamental principles without which it cannot function. The expectation of fairness is one such principle; transparency on the part of governments is another. Both are threatened by bribery, making the threat of bribery one that compromises society.

The sense of fairness is one that is innate in humans. Because it's such an inherent quality in humans, it is not hard to imagine its ubiquity and necessity to a functional society. Disparities in socioeconomic status are often derided as unfair due to the fact that those of higher socioeconomic status enjoy a higher standard of living that other less privileged individuals do not, causing social tensions. This issue is significant enough for the World Bank to discuss the importance of equality to social stability. Fairness is also a key tenet of democratic societies: citizens choose their leaders through “periodic and genuine elections which shall be by universal and equal suffrage”; the people consent to expressing their will through votes that they consider fair since everyone’s vote has equal value. During transactions, a trade will only go through if both parties agree that it is fair; that is, that the value of the goods being exchanged is equal. Indeed, the concept of fairness is a basic principle that guides our decisions: human societies thrive when principles of fairness are adopted. It is thus clear that fairness pervades virtually every aspect of society and is a fundamental principle upon which society has been constructed.

However, bribery threatens this essential principle: with bribery, a person is able to gain an unfair advantage over another and receive undue benefit. Cases of American college entry fraud that recently came to light, for example, had seen charges pressed against 50 people in 6 states as they had bribed top colleges such as Yale and Stanford for their children to be accepted into these colleges. Because positions were granted to undeserving children in exchange for bribes from their parents, deserving students were unfairly deprived of a place in college despite their talents.
While it would be impossible to measure the loss incurred by such students losing opportunities for a college education, it is still plain to see that fairness had been compromised; adults were able to spend money to ensure that their children had a disproportionate advantage over another person, creating the precedent for wealth to supersede all other criteria for judgement. Extrapolating from a previously mentioned article from the World Bank, this inequality sets the stage for social tensions, potentially posing a danger to social stability. Thus, what is wrong with bribery is the fact that it catalyses inequality in society and therefore threatens social stability.

At the heart of any successful society is competent leadership. Hierarchy and the presence of leaders and followers formed the early structure of society, and has continued to do so even today. Incompetent leaders, however, fail to fulfil their social role— which is to lead— and in doing so jeopardise social stability. In the case of most societies today, leaders are incompetent when they fail to adhere to principles of good governance. In the case of bribery, the principle of governance that is compromised is transparency. This is because bribes are expressly meant to entice public officers into abusing their authority for personal gain rather than making decisions and enforcing them “in a manner that follows rules and regulations” as mandated by the United Nations. The lack of judiciousness that demonstrates one’s incompetence as a leader was seen in a 2018 case where the former Chief of Singapore’s Civil Defense Force (SCDF) Peter Lim had approved SCDF tenders for certain firms in return for bribes in the form of sexual favours, making the decision to spend government funds based on bribes rather than objective criteria such as price or reputation: such an act had caused “embarrassment to the government”, impacting their credibility.

Yet, its impacts go beyond simply causing embarrassment to the government: history has taught us that in every society, corrupt governments that do not adhere to principles of transparency ultimately drive their people to rebellion: for example, the Soviet Communist Party had been deposed in 1991 after glasnost unveiled the full extent of the Soviet government’s corruption. More recently in 2011, Middle Easterners staged uprisings against the corrupt dictators of their countries in a series of rebellions now known as the Arab Springs, undermining social stability in the Middle East. In short, transparency is compromised when the government engages in bribery. At best, this causes an “embarrassment” to the government due to the scandal’s impact on their credibility; at worst, it results in rebellions that threaten social stability.

While by now the threat that bribery poses to society and the need for the law to deal with it is clear, therein lies another problem created by bribery: it inhibits the ability of the law to deal with
it as it undermines the rule of law. A further implication of this is that when the rule of law is undermined, public order is jeopardised.

For the law to protect individual rights, it must be “generally effectuated in accordance with what they prescribe”, meaning its execution must be congruous with what has been written in the books. Such laws should also be “applied to everybody, regardless of their position in society and in particular regardless of whether they’re friend or opponents of the people in political power”. This concept, known as the rule of law, is “indispensable for the preservation of public order and the securing of individuals’ liberties” as it ensures that authorities cannot abuse their power and individual rights are protected. Bribery, however, compromises the rule of law as it can allow a person to act outside of legal boundaries. Bribery was what allowed a prisoner in Philadelphia to act outside of the parameters set by the law, as he bribed a prison warden into helping him escape. Bribery had hindered the execution of the law — in this case the convict’s incarceration — and warped the idea that nobody can escape the judgement of the law. The problem with bribery thus lies in the fact that it sets the precedent for people to subvert legal processes and position themselves above the law. Legal standards are compromised as bribery compromises the rights of certain people and therefore prevents the law from fulfilling its duty of protecting the rights of the people who comply with it, threatening the public order and inhibiting the security of individual liberties.

To summarise, the main issue of bribery is that it undermines principles essential to society such as justice and fairness, and hinders legal efforts to control it as it compromises the rule of law. The impetus for the law to deal with it is clear: the question is whether or not it can deal with such a problem. By analysing examples of countries that have significantly curbed bribery, it is clear that it is entirely possible.

To properly counter bribery, we ought to deal with it at its roots: two main causes of corruption are “ample opportunities for corruption” and “low risk of detection and punishment”. Bribery is lucrative as it is considered a “low-risk, high-return” crime. On top of earning more money from bribes than they do from their salary, there is a low chance of getting caught and even if they are caught, the punishment is insignificant and thus an insufficient deterrent. The best way to address such causes and counter bribery in any given country is thus the establishment of an anti-corruption agency that would collaborate with the law. The “effectiveness of a single anti-corruption agency in implementing anti-corruption laws” has already been demonstrated by the
success of Singapore’s Corrupt Practices Investigation Bureau and Hong Kong’s Independent Commission Against Corruption.\textsuperscript{15} Such agencies exist for the express purpose of investigating corruption, and thus increase the risk of being caught for corruption. Once caught, the law can ascribe severe punishments such as incarceration and dismissal from civil service. The law can thus deal with bribery by attaching severe punishments for corrupt officials and cooperating with a single anti-corruption agency that would investigate corruption cases and reduce opportunities for officials to engage in corruption and bribery.

Bribery is a unique beast in that it is frowned upon due to its association with the unwelcome plague of corruption, yet has existed since ancient times. It threatens the survival of society as we know it as bribery undermines values vital to society and compromises individual liberties. The law, on the other hand, aims to protect individual rights while articulating the norms of a society: it is plain to see that the purpose of the law and the effects of bribery stand in direct opposition. It is thus imperative for the law to deal with bribery in some way or another; the best model for this, as positive examples such as Singapore and Hong Kong have demonstrated, is for the law to work in tandem with anti-corruption agencies to prevent future cases of bribery as well as punish any cases that do happen.

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References


