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Winners and Losers. Perpetrators and Victims of Corruption



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Overview



- Introduction: the penal concept of corruption
- The many facets of corruption
- Victimological perspectives of corruption
- Excursus: the victim-offender overlap
- Conclusions



Introduction



- Corruption is a multi-faceted criminal – and social – phenomenon
- In focus: penal aspects of corruption control, seen through the criminological and victimological lens
 - Focus of attention often on criminological aspects
 - Victimological issues less intensively discussed (disappearance of the victim, Gournev & Ruggiero 2012)
 - » focus mainly on victims of corruption
 - » victims *in* corruption only rarely addressed



- Significant expansion of criminalization
 - Corruptive practices in the private/business sector
 - Gradual alleviation, sometimes complete abolishment of the statutory requirement of an "unlawful agreement" as decisive element of the crime
 - Constant growth of additional soft law (compliance codes, etc.)
 - Utilitaristic concept: effectiveness of prosecution and prevention vs. complexity of the phenomenon



- Transaction crime: all parties criminally liable
- At first glance designed as a victimless crime
- Involvement not necessarily consensual or fully consensual
- Legal provisions as well as the definitorial framework are static, neglecting or failing to adequately consider the dynamics and further situational aspects of corruption in practice
 - » in particular: victimizing aspects often neglected
 - » lack of exceptions from punishability for small scale cases – unlike in other areas of transaction crime (e.g, drug crime)
 - » *more attention for socially accepted forms is crucial (macro, meso, micro level) – CRITCOR*



- What is criminally relevant?
- The deviation from established (formal) behavior rules is not per se sufficient to make it bad in a moral sense, or harmful in a victimological sense
 - » *imagine the situation of a fellow Jew deported to a concentration camp trying to bribe his or her way out of that place (Rose-Ackerman 1978)*
- Corruption can even be a substitute for individual or economic freedom
 - » levering of exuberant bureaucratic barriers
 - » reduction of transaction costs
- Overregulation can have adverse effects
 - » *look at the current EU's vaccine policies*



The Many Facets of Corruption

Facets of Corruption



- Corruptive practices occur on a continuum of various facets:
 - legal – illegal
 - good – bad
 - moral – immoral
 - just – unjust
 - socially accepted – discredited
 - grand – petty
 - active – passive
 - explicit – implicit
 - direct – indirect
 - routine/systemic – opportunistic (incidental/exceptional)
 - targeted – diffuse
 - open – secret

Facets of Corruption



- Corruptive practices occur on a continuum of various facets (cont'd):
 - voluntary – involuntary (coercion, extortion, etc.)
 - self-beneficial – for benefit of other(s)
 - rich – poor
 - power – powerlessness
 - etc.
 - **perpetration – victimization**

The Perpetration – Victimization Continuum



- Any of these facets may have victimological relevance, and impact
- Currently some of these aspects are sometimes considered by courts as aggravating or mitigating aspects in sentencing
- No systematic analysis
- The perpetration – victimization aspect can have a double function
 - As an additional (isolated) variable
 - As an intersectional category totalling all penally and victimologically relevant aspects of a case



Victimological Perspectives of Corruption

Definition and Typologies of Victimhood



- Penal victim definition: Any person who might have suffered harm – including physical, mental, emotional or economic harm – caused by a criminal offence
- Typologies of victimhood
 - Categories of victims
 - » direct, indirect
 - » individual (personal), collective
 - » natural, legal persons
 - Dimensions of victimization
 - » primary, secondary, tertiary
 - Volume of victimization
 - » singular, repeat, multiple, chronicle

Indirect Victims – Different Perspectives



- Example: Organized transborder transportation involving corrupt border police/customs staff:
 - » Transport of humans in the course of human trafficking: trafficked victims are in addition also (indirect) victims of the corruption chain which includes the corrupt border staff
 - But:
 - » Transport of (illegal) migrants in the course of human smuggling: migrants are co-perpetrators; they would be (indirect) victims of a *non-corrupt* customs officer
 - » Transport of smuggled rare medicine into Venezuela: population are potential victims (indirect and collective) of a *non-corrupt* customs officer

Voluntariness



- Within their general/overarching deviant nature corruptive relations can – and often do – include certain victimizing elements
- In particular, one or all of the offending parties involved in corruption or corrupt practices may perceive themselves as victims
 - Power gap
 - Offensive initiation
 - Situational dilemmas (polite/impolite)
 - Personal problems
 - Coercion (e.g., drug smuggling prison guard)
 - Situational dynamics (can escalate into extortion)
 - Etc.



- Giving vs. Receiving: situational approach of assessing potential victimizing aspects
 - Offer can be perceived an act of inducement or an offensive demand (to be treated favorably)
 - Demand can be perceived as an act of coercion or even extortion (denial of a service the giver wishes to get, or urgently needs)
- Facilitating payments by a citizen who has the right to receive the requested goods or service
 - Incentive for the public official to render the requested service faster, or more smoothly

Social Acceptance



- For example: presents for medical staff
 - » Quite popular in Germany in COVID times as *general donations* by local businesses
 - » Widely accepted as well as *individual inter-personal gratitude*: cookies, flowers, fruit basket, bottle of wine
 - » "Gratitude payments"?
 - » Where is the dividing line?
 - » Where does voluntariness end?
- Tipping
 - » Tipping in Europe: occasional and voluntary gratitude, bying of good service
 - » Tipping in US: coercive surplus, risk of blaming and exclusion in case of non-compliance

Social Acceptance



- Social acceptance is variable: cultural, sectoral, individual
- For example: sectoral differences
 - » public service: rigid rules, extremely low maximum (zero tolerance)
 - » business sector: expensive dinner invitation, etc.
 - » medical & pharmaceutical sectors: sponsored congress invitations in prime touristic hotspots
 - » politics: donations and other forms of "cultivation" of relations still widespread in many countries (Germany: "*Landschaftspflege*" [gardening])

Structure/Grade of Corruption



- Systemic/endemic – institutional – individual corruption
 - Distinct levels, corresponding with distinct criteria for victimological classification and impact
- The organized crime nexus of corruption
 - Specific perceptions and concepts of the victim
 - Violence involved
 - Intimidation
 - Racketeering



- Harm has different dimensions:
 - As a result or mid/long-term consequence of corruption
 - As a pre-condition or trigger for corruption
- Types of damage/harm:
 - Individual – institutional – social – or societal
 - Tangible – intangible/abstract
 - Direct – indirect
 - Pecuniary – non-pecuniary
 - Favour – favour in return
 - Threat
 - Etc.

Typification of Harm Connected to Corruption



Table 17.1 Relationship of corruption manifestation and level of victimization – for illustrative purposes

		<i>How corruption manifests itself</i>					
		<i>Systemic (Cultural)</i>		<i>Sporadic (Selective but consistent)</i>		<i>Incidental (Lower level participants)</i>	
		Tangible	Intangible	Tangible	Intangible	Tangible	Intangible
LEVELS OF VICTIMIZATION	Structural	Public resources are allocated inefficiently Foreign aid disappears Environmental safety may be compromised Creates great income disparity between rich and poor Lower GDP	Perpetuates a culture of corruption Undermines the fundamental goals of social and economic development Weakened State legitimization Political instability	Infrastructure (roads, bridges, buildings) of inferior quality	Undermines Rule of Law Loss in predictability in doing business Undermines the value of honesty; reduced confidence in the system	NOT APPLICABLE	
	Institutional	Poor education, health care and other services Public services on which the poor depend are starved of funds	Political and economic instability Good governance and good public financial mgt. lost Lost political credibility	Selective agency inefficiency – inefficient allocation of resources; lower productivity Opportunities for organized crime, drug/arms trafficking	Social trust, the trust and credibility of the institutions suffer Loss of State credibility Fundamental rights denied	Opportunities for select victimization by functionaries	Disrespect for the entire agency e.g. police
	Individual	Low standards of living, poverty, high infant mortality Poor health from unclean water or other compromised resources	General population's level of distrust rises Competent and honest citizens feel frustrated	Economic costs transferred to individual Financial cost in proportion to income is great	Competent and honest citizens feel frustrated	Cost greater Frustration, anger	Unpredictability

Source: Meng & Friday (2014)



The Victim-Offender Overlap

Popular Stereotypes as Role Models



- "Victim" and "offender" are attributions
 - » the ideal perpetrator: the bad and dangerous criminal
 - » the ideal victim: weak, innocent, etc.
- Empirical research has shown that in real life, a variety of overlaps of these two idealistic role models can be identified (see, e.g., Haverkamp & Kilchling 2017)

Victim-Offender Overlaps



- Occasional overlap of victim and offender roles
 - » Interchanging roles in an actual crime scenario
- Situational role changes
 - » Individuals acting alternately as offenders and victims
- Victim-offender sequence (non-recurring)
 - » Offending triggered by one-time or multiple prior victimization
- Victim-offender career
 - » Multiple offending triggered by one-time or multiple prior victimization
- Offender-victim sequence
 - » Offenders/ex-offenders victimized
- Collusive deviant interaction (blurred 'roles')
 - » Transaction crime (potential to escalate into victimization)

For Example: Situational Role Change



- Dynamics of corruption:
 - » Inspection by hygiene police in a highway rest station resulted in the offer of a free meal for the inspection officer by the owner in return for the promise to quash the complaint – what was accepted
 - » A few weeks later the officer returned in the evening in company of a colleague asking for free dinner
 - » Further "dinner visits" followed, with growing numbers of "customers"
 - » All were charged and convicted

"Bad" Victims?



- Victims involved in criminal activities as "bad" victims? ("*once perpetrator – always perpetrator*")
- Legislative concepts static and rigorous
 - Regularly based on the "good" victim stereotype
 - Any link to, or involvement in, crime (direct or indirect) can result in the denial of the legal victim status
- Significant consequences
 - Denial of the privileged status in criminal procedure
 - Exclusion from victim support
 - Exclusion from victim compensation
 - Reduction of credibility as a witness
 - Restrictions in crown witness laws
 - Etc.



Conclusions

Conclusions



- Corruption is a multi-faceted phenomenon
- All general types of victimization (including the various overlap scenarios) can be prevalent in the context of corruption
- Individualized approach: perpetrators and victims may be winners or losers, or both
- Existing corruption control regimes partly ignore victim interests
- CRITCOR findings on socially accepted variants of corruption can produce an important contribution for the development of criteria for an adequate attribution of victim and offender roles and responsibilities in corruption
- *Mid-/long-term vision: the victim-witness has become a common concept in criminal procedure law – why not developing and adopting a victimologically grounded legal concept of a "victim-offender"? The field of corruption crimes is a good example...*



Nagyon köszönöm – Thank you for your attention!

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