Political Corruption as Duplicitous Exclusion

by
Mark E. Warren,
University of British Columbia

While not the worst of political pathologies, corruption is the one most likely to be found thriving in electoral democracies. Not as dangerous as war, nor as urgent as terrorism, some have even argued that the little bit of corruption that comes with democracies makes them work better—by lowering transaction costs, reducing the inefficiencies of cumbersome rules, and generally making things happen (Anechiarico and Jacobs 1996; see also Leys 1965; Huntington 1968).

But a strong consensus is emerging that political corruption is neither a benefit to democracy, nor an insignificant irritant: it corrodes the meanings and mechanisms of democracy itself (Della Porta and Vannucci 1999; deLeon 1993; Johnston 2005; Rose-Ackerman 1999; Rothstein 2005; Thompson 1995; Elster 1989, 263–72; Warren 2004; 2006). Corruption breaks the link between collective decision-making and peoples' power to influence collective decisions through speaking and voting, the very acts that define democracy. Corruption reduces the effective domain of public action, and thus the reach of democracy, by changing public agencies of collective action to instruments of private benefit. Corruption creates inefficiencies in deliveries of public services, not only in the form of a tax on public expenditures, but by shifting public activities toward those sectors in which it is possible for those engaged in corrupt exchanges to benefit. And when public officials put prices on routine government transactions, then the rights and protections citizens should be able to enjoy become favors, to be repaid in kind. Moreover, corruption undermines the culture of democracy. When people lose confidence that public decisions are taken for reasons that are publicly available and justifiable, they often become cynical about public speech and deliberation. People come to expect duplicity in public speech, and the expectation tarnishes all public officials, whether or not they are corrupt. And when people are mistrustful of government, they are also cynical about their own capacities to act on public goods and purposes, and will prefer to attend to narrow domains of self-interest they can control. Corruption in this way diminishes the horizons of collective actions, and in so doing shrinks the domain of democracy.

Corruption as the Abuse of Public Office for Private Gain

Despite these now widely recognized harms to democracy, we lack a conception of political corruption that encompasses them. Our received conception of political corruption—*the abuse of public office for private gain*—has been outgrown by contemporary democracies. This office-based conception of corruption is, of course, by no means irrelevant: it has solidified broad agreements about key kinds of political corruption. Importantly, it focuses on the norms and duties of public office, in this way defining standards to which public officials can be held to account. And the conception has helped us to think carefully and productively about how to design institutions so that public officials have incentives to live up to the norms that define their offices.

But the office-based conception does little to identify and clarify common intuitions into the corruption of democratic institutions and practices. The reason is that concept is not *political* enough. And not being political enough, it lacks sensitivity to the kinds of corruption that plague democracies—the most political of all regime types. We need, I shall argue here, a conception that identifies corruption as a set of specific harms to democratic processes and institutions. I offer such a conception, which I shall call *political corruption as duplicitous exclusion.*

Our received conception of political corruption—the abuse of public office for private gain—has two important but limiting features. First, the concept is essentially administrative—"political" means "state," and "state" tends to mean administrative agencies. This conceptual lens reflects the origins of the concept in projects of state-building—in particular, the professionalizing and rationalizing bureaucracies into civil services (Friedrich 1989). The concept places a high premium on precisely defined duties of office, since these provide norms of accountability. Second, the concept builds on the insight that institutions can be better than the individuals who constitute them. Madison, the first to fully appreciate this point, understood that the interests of public officials could be aligned with the public good by designing institutions that divide and share decision-making powers, thus providing officials with the motives and capacities to flush out conspiracies against the public interest. Robert Klitgaard's (1988) elegant formula,

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Corruption = Monopoly + Discretion − Accountability, captures these two insights perfectly, relating office-based accountability to distribution of powers.

Because of these insights, our received concept of political corruption has been of enormous practical importance in institutional design. But the concept very much reflects the problems of administrative institution builders. We are still administrative institution-builders—now, perhaps, more than ever. But now most of us are also democrats—and here the office-based conception of political corruption comes up short for at least four reasons.

First, the office-based concept of corruption provides little grip on the norm-creating processes which are at the heart of democratic politics. It is unique to democracy—in particular, its deliberative aspects—that political conflict is regulated by the norms of openness, publicity, and inclusion, and which issue in public purposes backed by public agencies. The office-based lens focuses on the institutional *results* of democratic processes—that is, administrative agencies with public purposes. But we do not have a good idea of what it would mean for the *processes* through which public purposes are created to be corrupted, in spite of the fact that common sense says that a good share of the corruption within democracies can be found here.

Second, and closely related, the administrative orientation of our received conception provides little guidance for the duties of *political* office. We remain confused about the duties of democratically-elected representations (Thompson 1995; Warren 2006). Administrative officials fulfill their offices by holding a public trust and acting impartially in the public interest, ideally insulated from political pressures. The role of democratic representative, however, is to *define* the public interest by *responding* to political pressures. Partiality, legislators remind us, is part of their job; so why should we think it corrupt if they provide access to their constituents and supporters? We need a concept of political corruption that is attuned to the kinds of public offices that require political creativity and responsiveness to citizens—since these offices are the heart of democratic institutions.

Third, one strength of our received conception is that it is rule-based. Because it focuses on defined public offices, it allows an even-handed application of norms and standards to the behavior of individuals. But this is also its weakness. There are limits to what rules can encompass, especially when officials' tasks require creativity, as do many bureaucratic and all political positions. Rule-based approaches to controlling corruption tend toward rigidity and—when combined with policing—tend to devalue integrity and professionalism. At the limit, rule-based approaches can undermine democracy by hamstringing the capacities of governments to act as responsive, efficient, and creative agents of the people (Anechiarico and Jacobs 1996).

Fourth, our received conception of corruption misses a particular kind of integrity central to democratic representation. Under our office-based conception, integrity means that an official's behavior reflects the norms of her office. While this approach makes perfect sense in bureaucratic arenas, it is less meaningful in the more political arenas, where expectations for representation are less settled and understood. It is clear, however, that the integrity of democratic representation is established, in large part, through promises: a representative has integrity when his decisions and actions reflect the speech that justifies them. Duplicitous speech corrupts the currency of promises and justifications that is the life-blood of democracy. But while we use this notion of corruption in public conversation, it is not encompassed by our received conception.

Political Corruption as Duplicitous Exclusion

In short, because of our rapid political development over the last half century or so, we need a conception of political corruption that draws it closer to the problems of democracy. I suggest that we start by asking a simple question: *What does it mean to corrupt a democratic process?* To answer, we will need to identify the basic good, or norm, that is subject to corruption. Democratic theorists increasingly converge on the norm that *every individual potentially affected by a collective decision should have an opportunity to affect the decision proportional to his or her stake in the outcome*. We can, of course, refine this norm for different institutions, issues, levels of aggregation, and the like. The point here, however, is a simple one: political corruption attacks democracy by *excluding* people from decisions that affect them. The very logic of corruption involves exclusion: the corrupt use their control over resources to achieve gains at the expense of those excluded from collective decision-making, or organization of collective actions.

Although every form of corruption of democracy involves exclusion, not every form of exclusion is corrupt. A regime may be exclusive, and the exclusions may produce the most despicable evils. But where an exclusive elite simply holds to different norms than the broader public, however odious, we would not usually say that they are "corrupt." They have not departed from, violated, or undermined public norms, for to speak in this way is to assume that they recognize these norms. Nor does corruption imply normative disagreement fought out in public, but rather a corrosion of public norms by those who profess them. Corruption involves hypocrisy. For an elite (or group or individual) to be corrupt in the democratic sense, he or she must both profess and violate the democratic norm of inclusion. Thus, *corrupt exclusion is distinguished by duplicity*, a characteristic that implies not just the possibility of condemnation, but also the possibility of immanent critique: the corrupt can be called to account by their own standards. Corruption of democracy is about actions being taken out of the public eye, as a means of excluding those who have rightful claims to be included. The very covertness of corruption pays tribute to the violated norms.

Finally, politically corruption normally benefits those included within a relationship and harms those who are excluded. While the gains of corruption are often easily identifiable, harms to specific goods are often more difficult to detect: environments are marginally degraded, governments are less efficient, officials less competent, buildings somewhat less safe, consumer products a bit more expensive, and opportunities less equal. But the harms to democratic processes are more straightforward: it is the fact of exclusion and the duplicity of justification that corrupts democracy, whether or not specific harms can be identified. What suffers corruption are the political processes and institutions that would, ideally, expose and limit potential harms by including those affected in the decisions that affect them.

In sum, corruption of democracy is a violation of the norm of empowered inclusion of all affected—that is, (a) corruption involves unjustifiable exclusion. In addition, two other conditions are necessary:

b. A duplicity condition with regard to the norm of inclusion: the excluded have a claim to inclusion that is both recognized and violated by the corrupt.
c. A benefit/harm condition with regard to the consequences of exclusion: the exclusion normally benefits those included within a relationship and harms at least some of those excluded.

Together, (a), (b), and (c) define a conception of corruption attuned to democracy: *political corruption as duplicitous exclusion.*

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Domain Differentiated Meanings of Political Corruption

While these normative features of corruption as duplicitous exclusion are relatively simple, a systematic application of this concept to today's democracies is more complex. "Democracies" today are not reducible to one institution or even a few. Elections, for example, can co-exist with patron-client relations to solidify soft forms of authoritarianism. Democracies are complex institutional and social ecologies, as it were, that include constitutional states differentiated into legislative, administrative, and judicial functions; robust public spheres of opinion formation from which state decisions, laws, and actions draw their legitimacy; civil societies which cultivate citizen capacities and form alternative venues of collective action; and market economies, which are correlated with, but ambivalently related to, democratic institutions. Each domain potentially contributes to democracy, and each has modes of corruption associated with its democratic functions. The familiar lists of various kinds of corruption—bribery, favoritism, nepotism, influence-peddling, deception, and so on—can be identified as "corrupt" according to the particular kinds of exclusion they effect, and the norms they contravene—that is, their harms to democracy.

To understand how corruption as duplicitous exclusion applies to different institutions, then, we need to ask: what is the mode of *inclusion*—that is, the democratic function—of the institution that might be harmed by corruption? We can then relate corruption to democracy through the modes of harm specific to each institution. By way of example, consider the standard, tri-partite division of constitutional states into executive, judicial, and legislative functions. Let us assume, for the sake of simplicity, that these institutions carry out their ideal functions: for example, legislatures make the law, executive agencies apply the law, and judicial institutions adjudicate. What would it mean to corrupt each function?

The office-based conception of corruption is most at home in executive agencies. From the perspective of democracy, the executive branch of the state is not the only location of collective agency, but it is often the ultimate location, owing to the state's monopoly over legitimate means of coercion. In a democracy, a people's confidence in its executive is a confidence that it can act in response to collective problems. Thus, ideally, the mode of inclusion in executive functions is based on a "public trust"—a trust that officials will abide by the goals and rules that have been legitimately decided within the more political of domains (Warren 2006).

The notion that corruption involves violating a "public trust"—a notion aligned with the office-based conception—is thus most applicable to executive offices and functions. What is corrupted is government as the trustee and executor of collective purposes. Democracy is harmed when people lack an ultimate collective agent they can trust to execute collective decisions. There are also indirect harms to democracy: corruption not only leads to inefficient and ineffective government (Della Porta and Vannucci 1999, 256–8; Rose-Ackerman 1999, 9–26), but also produces an atmosphere that is arbitrary, permeated by differential treatment. Under such circumstances, individuals lack the securities necessary for association, pressure, voice, and other modes of citizen participation that underwrite democracy. An atmosphere in which even everyday acts of democratic participation require heroism can induce or reinforce passivity and distrust among citizens.

With respect to the judiciary, democracy depends upon public procedures that have the force of law, combined with the rights and securities that enable individuals to use these procedures by voting, speaking, organizing, and pressuring. The democratic norm of inclusion thus depends upon a judicial system that provides actionable civil rights and liberties, equal standing, equal protection, access to counsel, even-handed prosecutors—and assumes, of course, that the police functions of the executive branch are subject to judicial control and oversight. The importance of this kind of judicial system to democracy is not just institutional, but also psychological: knowable securities, equally distributed, are necessary for a confident and active citizenry.

Less noticeable but equally important is that judiciaries are microcosms of talk-based political processes—precisely the feature of democratic institutions that makes them superior to other modes of conflict-resolution. As custodians of law, judicial institutions ideally function to ensure that it is applied with fairness and equity. But because cases are brought where there are conflicting interests and uncertainty about what constitutes fairness and equity, the norms of judicial institutions are procedural rather than substantive. Thus, the objects of corruption in judicial systems are not *first-order* norms of settled purposes as with executive functions, but rather *second-order procedural* norms of adjudication. The integrity of the process involves a confidence that, when the truth is unknown and the demands of fairness and equity ambiguous, argumentation and advocacy are the best ways of approximating true, fair, and equitable outcomes. Thus what are subject to corruption are not, in any immediate sense, the outcomes (truth, fairness, equity), but rather the processes through which they are achieved—that is, arguments. The process is corrupted—and exclusions effected—when motivations for gain other than those of winning the argument enter the process—as when jurors are bribed, lawyers have conflicts of interests, or judges seek political or ideological gains. The harm to democracy is that the rule of law becomes less certain, excluding citizens from the legal rights, protections, and securities to which they are entitled. There are also broader process exclusions: When arguments no longer carry the burden for determining truth, fairness, and equity, judicial decisions become illegitimate, which in turn corrodes not only the culture of law, but also the democratic idea that conflicts are best settled by talk structured by fair procedures, open to all affected.

This feature of judicial institutions—their reliance on argument in the face of conflict—defines the integrity of democratic legislatures as well. The legislative domain is highly political, of course, in the sense that it often works at the limits of consensus about collection actions. But much like the judiciary, its norms of inclusion are *second-order*—those of process. Citizens are included in this domain through their votes for representatives in competitive elections, as well as though communications and deliberations enabled by political associations, letter writing, demonstrations, and other ways of conveying opinions and interests to representatives. The objects of corruption are, therefore, these representative linkages which effect democratic inclusions.

The most familiar form of corruption of representation is the buying and selling of votes in elections as well as influence peddling in legislative voting. But these are not the only objects of corruption. The legitimacy of outcomes depends upon justifications resulting from the deliberative process. Thus, the deliberative dimension of representation should be more actively inclusive even than voting: even those who lose can try to persuade their representatives, or mobilize debates in the public domain through which they hope to influence their representative—if not directly through persuasion, then indirectly by changing the minds of those likely to vote in the next election.

The more elusive dimensions of legislative corruption, then, have to do with inclusion in deliberation—elusive because, in contrast to the bureaucrat's performance-based duties of office, a representative's key role is to create agreements in the face of

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conflicts over goals. So whatever trust constituents place in them cannot be based on outcomes: no representative can deliver, not least because even under the best of circumstances outcomes will reflect a mix of competing interests and voices. Rather, trust in a representative is well placed when the reasons he gives for a position are, in fact, the reasons that motivate his vote, bargain, or compromise. Citizens should be able to trust that representatives' decisions are not the result of the whispered voices of those who have bought access through their campaign contributions. In a democracy, policy-making ought to be a public process, and, under conditions of representation, can only be a *public* process if citizens can have confidence not just that the deliberative process is inclusive, but also that it provides the motivational force behind the decision (Thompson 1995, 126–9; Warren 2006; see also Stark 2000, 230–2). Legislative norms should therefore reflect not just the integrity of voting, but also the integrity of inclusive deliberation.

The office-based conception of corruption, however, biases solutions toward insulating representatives from political influence. Corruption as duplicitous exclusion causes us to ask different questions: How are the influences distributed? Are there any who have claims for inclusion but are cut out by secret deals? Is the representative responding to money rather than facts and arguments? Is the representative carrying out deliberations covertly or in public? These questions go to the nature of the influences to which a representative responds: are they inclusive or exclusive? The distinctive marks of corruption in the legislative domain are those that contravene inclusive public deliberation, namely, secrecy in decision-making, and duplicity in speech. Secrecy can have many motives—some quite proper—but in legislative matters it is often a sign that influences are improper and voices are excluded for reasons that could not be justified in public. Duplicity in speech, what many people call a "lack of sincerity" in politicians, is a sign that the deliberative process has been corrupted: the arguments made and displayed are not those motivating the decisions. The harms to democracy are direct and extensive: corruption of this sort severs representative linkages, breaks the relationship between deliberation and decision-making, and undermines the creative elements of democratic conflict resolution.

These examples are limited to corruption within democratic states. Contemporary diffusions of politics, however, are changing the very forms of democracy, challenging us to develop a conception of corruption that can keep pace. Understanding corruption as duplicitous exclusion provides a start, not least because the concept is generic, linked to norms of democratic inclusion rather than to specific institutions. The concept enables us to identify corruption outside the state in terms of its harm to democratic ecologies: a public service association may fail its stated duties to its members or clients as it enriches a few of them; a newspaper may censor its news under pressure from advertisers; a corporation may hide damages to the public to enrich its investors. Specifying the claims to inclusion and the mechanisms of exclusion in such cases, however, is beyond the scope of this article (see Warren 2004).

Conclusion

By drawing a conceptual connection between democratic theory and the concept of corruption, we may be able to make sense of the diffusion of meanings of corruption within today's democracies. It may be, however, that a democratic theory of corruption can shed light on other features of political corruption as well. First, a democratic concept of corruption reveals why charges of corruption can be so often misplaced. The concept of corruption carries with it a moral accusation. In the U.S., with its political culture heavily influenced by Protestantism, moral accusations are too often aimed at failings of individual character, thus distracting from institutional and structural patterns of corruption (Eisenstadt 1989; Thompson 1995). Causes, locations, and meanings of corruption are consistently misidentified, often with the help of opportunistic political elites, so that remedies often miss and sometimes aggravate the problems. A democratically-specified concept of corruption not only reveals the opportunities for domain slippage, but also the challenges for devising solutions that speak to each domain.

Second, a democratic approach to corruption raises a warning flag about the dominant metaphor for cures to corruption: transparency. If corruption in democracies has assumed multiple, complex patterns, then the metaphor may be limited in its usefulness to particular devices, such as public access to information and sunshine laws. There is an irony here: modern technologies promise the power to expose all. But two other powerful forces challenge the promise of universal visibility. First, owing to its complexity, contemporary social and political organization remains opaque as a whole, even if it can be unraveled at some points, at some times, and at some places. Second, with global market integration outpacing political integration, the possibilities for secret transactions are multiplying faster than the possibilities for oversight (Johnston 1996). Money is hard to see and trace. In addition, market-oriented reforms aimed at lowering transaction costs also make transparency ever harder to achieve. A democratic conception of corruption suggests that it may be time to complement transparency with a different approach, namely, empowering those harmed by corruption to expose and police the harms they suffer (Della Porta and Vannucci 1999, 270–2; Rose-Ackerman 1999; deLeon 1993; Pope 2000).

Finally, a democratic concept of corruption should help to sort out some of the current confusion as to whether democracy fosters corruption (Moran 2001; Philp 2001; Treisman 2000; Lederman et al. 2005). The confusion in almost every case stems from incomplete characterizations of democracy, enabling, for example, the common observation that countries adopting "democracy"—that is, competitive elections and market liberalization—also experience a rise in corruption. On a democratic conception of corruption, such correlations should not be surprising. Incomplete democratization often puts into place incentives for corruption, yet lacks those elements of democracy that would enable those harmed to fight back (Scott 1972). In particular, these effects suggest a deficit in the protective element of democracy, an old rationale based on the notion that citizens should have the political tools to resist predatory governments and officials (Macpherson 1977). If corruption involves harms caused by exclusion, a key means for fighting corruption will involve empowering those harmed to protect themselves by democratic means: with information, arguments, organization, and votes. In short, more democracy is likely to be a central part of any cure, as long as what counts as "more democracy" aligns with the norms of empowered inclusion embedded within each domain of democracy.

Note

*This article draws on Warren (2004).

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References

Anechiarico, Frank, and James B. Jacobs. 1996. *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective*. Chicago: University of Chicago Press.

deLeon, Peter. 1993. *Thinking About Political Corruption*. Armonk, NY: M. E. Sharpe.

Della Porta, Donatella, and Alberto Vannucci. 1999. *Corrupt Exchanges: Actors, Resources, and Mechanisms of Political Corruption*. New York: Walter de Gruyter.

Eisenstadt, Abraham. 1989. "Political Corruption in American History." In *Political Corruption: A Handbook*, eds. Arnold J. Heidenheimer, Michael Johnston, and Victor T. Levine. New Brunswick, NJ: Transaction Publishers, 537–56.

Elster, Jon. 1989. *The Cement of Society: A Study of Social Order*. Cambridge: Cambridge University Press.

Friedrich, Carl. 1989. "Corruption Concepts in Historical Perspective." In *Political Corruption: A Handbook*, eds. Arnold J. Heidenheimer, Michael Johnston, and Victor T. Levine. New Brunswick, NJ: Transaction Publishers, 15–24.

Huntington, Samuel. 1968. *Political Order in Changing Societies*. New Haven: Yale University Press.

Johnston, Michael. 1996. "The Definitions Debate: Old Conflicts in New Guises." In *The Political Economy of Corruption*, ed. Arvind K. Jain. London: Routledge, 11–31.

———. 2005. *Syndromes of Corruption: Wealth, Power, and Democracy*. Cambridge: Cambridge University Press.

Klitgaard, Robert. 1988. *Controlling Corruption*. Berkeley: University of California Press.

Lederman, Daniel, Norman Loayza, and Rodrigo Soares. 2005. "Accountability and Corruption: Political Institutions Matter." *Economics and Politics* 17(1): 1–35.

Leys, Colin. 1965. "What is the Problem about Corruption?" *Journal of Modern African Studies* 3 (2): 215–30.

Macpherson, C. B. 1977. *The Life and Times of Liberal Democracy*. Oxford: Oxford University Press.

Moran, J. 2001. "Democratic Transitions and Forms of Corruption." *Crime, Law, and Social Change* 36 (4): 379–93.

Philp, Mark. 2001. "Access, Accountability and Authority: Corruption and the Democratic Process." *Crime, Law and Social Change* 36 (4): 357–77.

Pope, Jeremy. 2000. *TI Sourcebook 2000: Confronting Corruption: Elements of a National Integrity System*. Washington, D.C.: Transparency International.

Rose-Ackerman, Susan. 1999. *Corruption and Government: Causes, Consequences, and Reform*. Cambridge: Cambridge University Press.

Rothstein, Bo. 2005. *Social Traps and the Problem of Trust*. Cambridge: Cambridge University Press.

Scott, James. 1972. *Comparative Political Corruption*. Englewood Cliffs, NJ: Prentice-Hall.

Stark, Andrew. 2000. *Conflict of Interest in American Public Life*. Cambridge: Harvard University Press.

Thompson, Dennis F. 1995. *Ethics in Congress: From Individual to Institutional Corruption*. Washington, D.C.: The Brookings Institution.

Treisman, Daniel. 2000. "The Causes of Corruption: A Cross-National Study." *Journal of Public Economics* 76: 399–457.

Warren, Mark. 2004. "What Does Corruption Mean in a Democracy?" *American Journal of Political Science* 48: 328–43.

———. 2006. "Democracy and Deceit: Regulating Appearances of Corruption." *American Journal of Political Science* 50: 160–74.

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