



Bribery

[Link to publication record in Manchester Research Explorer](#)

Citation for published version (APA):

Lord, N. (2017). Bribery. In *A companion to state power, liberties and rights* (pp. 19). Policy Press.

Published in:

A companion to state power, liberties and rights

Citing this paper

Please note that where the full-text provided on Manchester Research Explorer is the Author Accepted Manuscript or Proof version this may differ from the final Published version. If citing, it is advised that you check and use the publisher's definitive version.

General rights

Copyright and moral rights for the publications made accessible in the Research Explorer are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

Takedown policy

If you believe that this document breaches copyright please refer to the University of Manchester's Takedown Procedures [<http://man.ac.uk/04Y6Bo>] or contact uml.scholarlycommunications@manchester.ac.uk providing relevant details, so we can investigate your claim.



Citation - Lord, N. (2017) 'Bribery', in S. Morley, J. Turner, K. Corteen and P. Taylor (eds) *A companion to state power, liberties and rights*, Bristol: Policy Press. Available here: <https://policypress.co.uk/a-companion-to-state-power-liberties-and-rights#book-detail-tabs-stison-block-content-1-0-tab2>

BRIBERY

Bribery involves an illicit transaction and relation that comprises of at least two willing or consenting actors; one who 'actively' offers, promises to give, or gives, and one who 'passively' requests, agrees to receive, or accepts, a bribe or inducement. The bribe receiver may of course be more 'active' in demanding bribes but such distinctions are made in law and in the discourse of international organisations such as the United Nations (UN). A central feature of bribery is the intent to influence the receiver's behaviour for the benefit or advantage of the giver by inducing a desired service or a specified action or omission. In cases of extortion consent can be unwilling although the bribery is still likely to benefit both parties. Bribes can originate within licit and illicit markets, or at the intersections of these within 'grey' markets such as when those engaging in criminal enterprise seek to divert the proceeds of their crimes into the legitimate financial system.

The scale and scope of bribes can vary. They can take myriad forms, from monetary payments (potentially billions as in cases of corporate bribery or small-scale cash payments, 'kickbacks' or donations) or exchanges of value (e.g. including shopping trips, tickets for sporting events, attendance at conferences in exotic locations, and so on) through to non-monetary favours such as the provision of prostitutes or current/future employment for self, family or social network.

The purpose of bribery has been variously conceptualised and categorised. A common distinction is made between bribes that are 'according to rule' and bribes that are 'against the rule'. The distinction here refers to whether the intent is to ensure the commission or omission of an act or service that a public official would otherwise undertake as part of their routine, daily activities, or not. 'According to rule' may involve a border official expediting the movement of lorries through checkpoints on receipt of a 'pay-off' (i.e. allowing legitimate lorries through borders is part of the official's occupational role), or the accelerating of an application process for the granting of a permit or license. Such bribery often involves low-level payments and could be a singular transaction or series of transactions and are commonly referred to as 'facilitation payments'. In the aggregate, such bribes can become quite substantial, particularly when involving transnational corporations who may make such payments regularly and see them as the costs of doing business. 'Against the rule' requires the official to breach their occupational duties, such as notifying a particular company of the details of competitor bids during the tendering process for public procurement contracts, or awarding a contract to a company that is less suited to state/public needs than another in exchange for a bribe (i.e. the official is abusing the trust inherent of the occupational role). Such bribery often involves high-level, systematic payments to ensure anti-competitive and/or unlawful behaviour by politicians and public officials, such as inappropriately allocating public contracts, and creating conflicts of interest.

At its most basic level of organisation, bribery can be thought of as a transaction or a process. This process requires inputs (e.g. the creation of funds to finance the supply-side of

the bribery, whether a cash payment or some other tangible inducement) and generates outputs (e.g. a tangible advantage) and outcomes (e.g. the continuance of business in a particular sector or market or the facilitation of criminal enterprise). Bribery can also be organised at the trans-national and multi-jurisdictional level. This creates obstacles for law enforcement, particularly when seeking to obtain evidence from other jurisdictions or when attempting to 'follow the money' as complex economic mechanisms and structures (such as the use of corporate vehicles and shell firms, and secretive offshore financial centres) enable bribe givers and receivers to conceal illicit finances whilst also retaining control over them.

Bribery, like all crime, is an offence that has been so labelled. Like all human behaviour, bribery transactions and relations must be understood within particular contexts and (organisational) cultures. In some countries gift giving is a prelude to the trust needed to conduct business. In the West, international aid is rarely the charitable gesture it seems and often a prelude to developing business relationships. But both could be constructed as bribery. Differing cultural and normative frameworks throughout the globe shape the (il)legality of these actions in different countries. However, by framing the anti-corruption agenda in relation to the substantial social, political, economic and environmental harms that bribery can cause, international organisations such as the UN and the Organisation for Economic Co-operation and Development (OECD) have sought to ensure the creation and harmonisation of normative standards towards bribery through international legal frameworks such as the UN Convention Against Corruption 2003 and the OECD Anti-Bribery Convention 1997.

NICHOLAS LORD

See also:

Readings:

Lord, N. (2014) *Regulating corporate bribery in international business*. Routledge.