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Corruption in International Business

The Obligations of Multinational Firms

Multinational firms are frequently implicated in corruption involving cross-border deals. Given the weakness of international anti-corruption institutions, this essay argues that multinational firms have an ethical obligation to refrain from making payoffs. This is especially true for those firms whose size and market power exceed those of many nation-states.

Keywords: Corruption, International Business, Corporate Ethics, Multinational Firms

Korruption im internationalen Wirtschaftsverkehr – Die Verantwortung Multinationaler Unternehmen

Multinationale Unternehmen sind häufig in Korruption im Zusammenhang mit grenzüberschreitenden Geschäften involviert. Angesichts der Schwäche von internationalen Anti-Korruptions-Institutionen argumentiert dieser Beitrag für eine ethische Verantwortung von multinationalen Unternehmen. Dies gilt in besonderer Weise für die Unternehmen, deren Größe und Marktmacht diejenige von vielen Nationalstaaten übersteigt.

Schlagwörter: Korruption, Internationaler Wirtschaftsverkehr, Unternehmensethik, multinationale Unternehmen

1. Introduction

Multinational firms are frequently implicated in corruption involving cross-border deals. Given the weakness of international anti-corruption institutions, this essay argues that multinational firms have an ethical obligation to refrain from making payoffs. This is especially true for those firms whose size and market power exceed those of many nation-states. Over and above their sheer size, a firm's leverage in relation to a nation-state also depends upon the nature of its dealings with government and upon the size of its deals relative to the size of the government and the economy. If a deal represents a large share of a country's national income or state budget, firms cannot responsibly claim that their own business interests are all that is at stake in signing and carrying out contracts. They may claim that they ought to be under no obligation to take a broader per-

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spective, but they cannot claim that their actions have little or no impact on conditions in developing or transitional countries.¹

Corruption involves a buyer and a seller. It cannot properly be described as ›imported‹ by multinational firms into innocent developing countries. Nevertheless, multinational firms are powerful participants. Some global business firms have altered their own behavior and tried to enlist additional firms in anti-corruption efforts.² These programs can complement other efforts to fuel growth, reduce poverty, and enhance government legitimacy, and most saliently, they can improve the overall international business climate.

Firms are legal creations and operate subject to legal constraints; they would not exist unless allowed by law. Hence, firms have an obligation to conform to the legal order that has permitted them to exist. However, firms' political and economic obligations are not always consistent. This essay highlights these tensions and discusses ways to mitigate them. Managers and directors who accept an obligation to refrain from ›grand‹ corruption to obtain contracts and to manage their businesses still face difficult decisions. I argue that these obligations ought to go beyond assuring that individual managers have high standards of personal morality. A focus on personal morality neglects the possible disjunction between personal morality and responsible business judgment. Because the obligation to refrain from corruption derives from the organizational and legal position of firms, appeals to personal morality are inadequate and often inappropriate. Anti-corruption efforts ought to stress the ethical obligations of firms with the aim of moving toward an equilibrium where most firms benefit from lower levels of grand corruption with corresponding gains to the citizens of host states.

2. The Corporation as a Moral Person

Modern corporations are a creation of law, and they operate in multiple political jurisdictions with the permission of governments. Their existence can be justified only insofar as they, on balance, further desirable social goals, both economic and political. The basic ›legal personality‹ of a business firm gives it an obligation at least equal to that of natural persons, both to the state that created it and to those jurisdictions that permit it to operate within its borders. In contemplating a corrupt action, the firm ought not just assess its own profit position but ask if its actions are, on balance, good for society (c.f. Thompson 1987: 15). Under this view a payoff would be unethical even if management believes that the firm is the least-cost provider that would win in an honest competition. The firm is part of a

1 This essay draws on and updates Rose-Ackerman/Palifka (2016: 492–505) and Rose-Ackerman (2002).

2 The most systematic recent effort is the Anti-Bribery Compliance (ABC) Model articulated in the chapters of Manacorda et al. (Eds.) (2014). The ABC model was developed to be consistent with the United Nations Convention against Corruption and with the support of a number of international organizations and civil society groups, especially the United Nations Office of Drugs and Crime.

political-economic system whose overall efficiency and legitimacy can be undermined by payoffs, even if there are efficient in a particular case.

Thomas Donaldson's (c.f. 1989: 44–64) notion of a hypothetical ›social contract‹ between business and society helps to frame the issue. He asks whether idealized citizens, in setting up a society under similarly idealized conditions, would agree to the creation of private productive organizations (e.g. corporations, partnerships). He hypothesizes that citizens would accept such organizations if the benefits in increased productivity outweighed the costs. Under this view, it is plausible to ask firms to accept obligations as a condition of their right to exist. »Productive organizations and society should act *as if* they had struck a deal (...) that would be acceptable to free, informed parties acting from positions of equal moral authority (one person, one vote)« (ibid. 61). As Dennis Thompson writes: »The legal rights of a corporation (as distinct from the rights of its members) should rest mainly on social utility« (1987: 78).³

Donaldson applies his analysis to multinational businesses by claiming that certain moral conditions are culturally neutral because a wide range of human societies accept them.⁴ I focus on two such obligations that are related to the concern with corruption: obligations to enhance the efficiency of the market system and obligations to refrain from undermining legitimate government institutions.⁵

I then consider two challenges to these claims. First, some argue that corruption is so entrenched in certain polities, that payoffs are morally acceptable because

3 Swanson (2014: 52) refers to social contract reasoning that »grants corporations legitimacy when they enhance the social good.« She argues that business education ought to convey to future business leaders that corporations exist to enhance societal well-being.

4 Donaldson (1989: 54) posits: »(1) that a productive organization should enhance the long-term welfare of employees and consumers in any society in which the organization operates, (2) that a productive organization should minimize the drawbacks associated with moving beyond the state of nature to a state containing productive organizations, (3) that a productive organization should refrain from violating minimum standards of justice and of human rights in any society in which it operates.«

His work with Thomas Dunfee (1999) presents an Integrated Social Contract Theory based on »hyper-norms« that are: procedural – e.g., the right of voice; structural – e.g. the right to property, and substantive – e.g. respect for human dignity and promise keeping. These norms are based not on human nature but rather on widespread consensus (c.f. Donaldson/Dunfee 1999: 43–82; Spinello 2014: 72f.). However, as Boda (2013: 184f.) argues, Donaldson and Dunfee do not discuss how consensus might be achieved or recognized.

5 Malan (2013) argues that the UN Global Compact, a voluntary initiative addressed to multinational business, represents a set of hyper-norms of the sort Donaldson espouses as a guide to business behavior. The Compact was launched in 1998 with nine principles; avoidance of corruption was added in 2004 with the statement: »Business should work against corruption in all its forms, including extortion and bribery« (United Nations 2004). The International Chamber of Commerce (ICC), in introducing their rules of conduct for corporations, states that: »The highest priority should be directed to ending large-scale extortion and bribery involving politicians and senior officials. These represent the greatest threat to democratic institutions and cause the gravest economic distortions« (Vincke et al. 1999: 103f.).

they are consistent with or even required by the underlying social/political situation (c.f. Velasquez 2010). This critique applies both to individual human beings and to organizations. A second critique argues that even if corruption is morally wrong, corporations, as such, do not have moral agency; hence, they ought not to be held to ethical standards beyond their obligation to obey the law (c.f. Rönnegard 2015).

2.1 *Furthering Market Efficiency*

Some behavior may not be individually rational or profitable for the firm but, nevertheless, may further the overall efficiency of the market economy, both domestically and globally. In the purely competitive model no such moral dilemmas exist because the rules of the game are fixed and the assumptions needed for a competitive market are met. The competitive market system operates to produce efficient results even though all the individual actors are only concerned with their own narrow self-interest. For-profit firms, constrained by the marketplace, cannot survive unless they are single-mindedly devoted to profit-maximization. The market would be a »morally free zone« (Demuijnck 2013: 744–748).

In the real world, of course, this is not true. As Norman Bowie (1988: 530) writes, »the market is not a morally neutral, well-oiled machine; rather it is embedded in morality and depends upon the acceptance of morality for its success.« Laws and regulations exist to constrain the worst sorts of behavior, such as fraud against customers or intimidation of one's competitors through threats of violence. The legal system in most countries seeks to limit monopoly power, requires certain types of information disclosure, and controls externalities, such as environmental pollution (c.f. Demuijnck 2013). If these laws created just the right financial incentives for firm compliance, that could be the end of the matter. Firms would organize their operations to avoid running afoul of these legal constraints.

Obviously, this assumption is also false on three counts. First, some countries impose few legal limits on the actions of those with political and economic power (c.f. Kulish/Kirkpatrick 2017). Second, firms, themselves lobby for favorable legal rules that may be socially harmful (c.f. Demuijnck 2013: 752). Third, even if laws exist to correct market failures, they express aspirations but are not perfectly enforced, and they seldom provide optimal deterrence. In the first case, ethical firms need to impose limits on their own behavior over and above outside constraints. In the second, the social costs and benefits of the regulations should inform their lobbying strategies. In the third case, firms and their managers need to consider their ethical obligations to follow the law on the books. The first and third of these considerations will be especially salient in the international arena with weak institutions and few binding legal constraints.

Even if an individual corrupt deal is efficient, actions that contribute to the acceptability of corruption in the marketplace undermine market efficiency. The firm is a beneficiary of the market system, and the normative justification of markets rests on their efficiency. Thus, the firm has an obligation to act in ways that

improve the functioning of the market. Otherwise, the entire market system leaves itself open to charges of immorality and illegitimacy. Of course, many firms will not, in practice, take on that responsibility, and people may differ over the strength of this obligation, but it is hard to argue that grand corruption is not on the prohibited side of it. Widespread unscrupulous behavior can erode public confidence in the market and seriously affect the ability of honest entrepreneurs to carry out their activities. A vicious cycle could develop in which corrupt businesspeople drive honest ones out of the market is a dynamic analogous to the iconic ›market for lemons‹ of George Akerlof (1970). Under this view, the firm has a duty not only to refuse corrupt demands but also to make them public.⁶

2.2 *Maintaining Political Legitimacy*

Firms are dependent for their success not only on the existence of a functioning market system but also on a state that protects private property, facilitates market activity, and maintains order and stability. There is a close connection between the effectiveness of the state, on the one hand, and economic growth and development, on the other. In particular, foreign direct investment and the success of industrial development policies are linked to the quality of governance and the relative lack of corruption (c.f. Wei 2000; Habib/ Zurawicki 2002; Egger/ Winner 2006). Thus, just as firms have an obligation to act consistently with the preservation of markets, they also have an obligation to act consistently with the preservation of a ›market friendly‹ state. Some speak of ›corporate citizenship‹ to focus on the firm as a legal person that has been created or permitted to operate by the state itself. The firm's very dependence on the state for its existence gives it an obligation to consider the consequences of its actions for the state and sometimes to act affirmatively to preserve political values (c.f. Donaldson 1989). ›Corporate citizenship‹ falls within the broader category of ›corporate social responsibility‹.

Democracy and the ›market-friendly‹ state are not always the same thing. Case studies of foreign direct investment indicate that businesses are not always supporters of democracy even if they are headquartered in countries where democracy is well-entrenched (c.f. Armijo 1999). Nevertheless, there are some easy cases. Given a firm's dependence on the state for its existence and its ability to operate, it has an obligation not to undermine the constitution of democratic states that are viewed as legitimate by their citizens. If firms invest in countries trying to establish democratic systems, they should ask if their actions are supporting the development of a viable and legitimate state.⁷ New corrupt opportunities are one of the growing pains of economic and political transformation and

6 Corporate codes of conduct for transnationals commonly include provisions designed to maintain the integrity of the market by restricting political payments and bribes. Such restrictions are part of the codes developed by the OECD (2008) and the United Nations Draft Code of Conduct on Transnational Corporations (1987), paragraph 20.

7 Thompson (1987: 3) writes that ›political ethics provides support for democratic politics in many ways.« I would say the same for corporate ethics. The restrictions on bribes and political payments in proposed codes of conduct for transnationals are sometimes

can undermine otherwise promising reforms by reducing their legitimacy and fairness. As Bowie (1988: 527) concludes, firms should support democracy because: »[o]therwise, multinationals would be in the position of benefitting from doing business with the society while at the same time engaging in activity that undermines the society.«

2.3 *Entrenched Autocracies without the Rule of Law*

The difficult cases are stable autocratic or ›patrimonial‹ systems that do not recognize the distinction between a ruler's role as head of state and his or her role as an individual interested in personal enrichment. In the extreme, corruption as the abuse of public power for personal gain cannot occur because public power and personal wealth accumulation are merged in the person of the ruler, his or her family, and the nation's elite. Manuel Velasquez (2010) argues that, under some conditions, business bribery is not morally wrong because it accords with domestically acceptable practices. Even he, however, limits his conclusion to cases where the »social costs« are not significant (ibid.: 490). Thus, if one accepts the claim the grand corruption has long term costs for development and distributive justice, then his argument has little purchase. The tension between short- to middle-run benefits and long-term harm is particularly acute in a business-friendly autocracy where democracy, if established, would pass through an unsettled period, as occurred in the countries of Eastern Europe after 1989 and in several countries of the Middle East. If firms look beyond their immediate benefit to the long run, they have an obligation not to undermine a transition to a state based on popular sovereignty. Even in a seemingly stable patrimonial state, firms should not help entrench the regime by engaging in corruption to obtain contracts, concessions, or privatized firms.

2.4 *Moral Agency and the Business Firm*

Rönnegard (2015) argues that organizations, such as business firms, cannot have moral agency because they lack the conditions necessary for moral actions. In his formulation, these conditions are: an ability to intend an action, an ability to perform an action, and an ability to autonomously choose an intentional action. In his assessment, only humans have all these necessary abilities. His argument is convincing in its own terms. If one accepts his characterization of moral agency, then corporations do not have it. However, he does recognize the important effects that corporations have on society for good or ill. That leads him to support government regulation of firms to improve social welfare, and he argues that firms should obey the law even if enforcement is weak. Organizations, although made of particular people at any point in time, exist over time with a shifting collection of people. The law, according to Rönnegard, should regulate firms, and those opposed to firms' actions should lobby government to pass regulatory laws.

justified as attempts to avoid behavior that interferes with national sovereignty and the internal politics of host countries (c.f. Frederick 1991).

The problem with this purist view of the limited scope for moral agency is that it ignores the absence of a functioning international government that can constrain multinationals beyond efforts to reach the sort of consensus that Donaldson envisages with his concept of hypernorms. There is no global government to set binding rules limiting corruption. The existing international treaties are weakly enforced and depend upon a mixture of nation state actions and global business consensus on acceptable behavior. Such consensus on acceptable norms and practices can easily breakdown without both outside pressure from civil society and business leaders willing to commit their firms to ethical practices that limit corruption risks, such as through the ABC Model (c.f. Manacorda et al. 2014). True, one could frame this behavior as the result of the moral commitments of management and boards, but it seems quite artificial to exclude the corporation itself from the description. One returns to the old debate over whether managers and boards ought only to maximize the value of corporate shares within the law or whether other values ought to be considered. Milton Friedman (1970) followed by Rönnegard argues for maximizing the values of shares. Moving one step away from Friedman, Hart and Zingales (2017) modify that standard to urge that firms should maximize shareholders' welfare in a way that takes account of their social preferences. However, in response to Friedman and Rönnegard, governments often do a poor job of responding to public demands, and truly global problems are unsuited to resolution by existing nation states and weak global institutions. Similarly, very few people own shares so the values of the owners of stock will not reflect broader society. These institutional gaps mean to me that the boards and managers of large, multinational corporations cannot avoid considering the social obligations of the firms they manage over and above their own personal moral concerns.

3. Responsibility and Anti-Corruption Measures

The previous section argued that multinational businesses ought to refrain from corruption, but that claim leaves open the question of what steps they should take. To a large extent, corporate anti-corruption measures parallel those of government. They should establish and disseminate a strong code of corporate ethics, hire honest personnel who identify with that code, remove incentives that induce employees to engage in corrupt behavior, and take steps to detect malfeasance with internal audits and whistleblower protection (c.f. Manacords et al. 2014).

One simple response is a personnel policy that favors applicants with strong norms of personal morality. But personal morals are sometimes insufficient when challenged by the logic of the marketplace or a corrupt internal culture. Actors often face direct conflicts between profit and principle. Furthermore, some personal traits that are admired in private life work against the achievement of organizational goals, including the control of corruption.

Consider, first, the easy case where employees' high ethical standards are good for the bottom line. Corrupt managers further their own financial self-interest at

the expense of the firm. Then, a strategy of hiring moral applicants is profit-maximizing. Norms of loyalty, corporate codes of conduct, and monitoring and incentive systems can also work to align the behavior of employees with those of shareholders (c.f. KPMG 2010).⁸ Managers and other employees generally perform better if they have a residual commitment both to moral actions and to firm profitability. For example, purchasing agents may be offered bribes to favor particular suppliers or to write contracts biased in favor of suppliers.⁹ Salespersons may be offered kickbacks in return for price discounts. In such cases, top management benefits from hiring purchasing agents and salespersons with a strong moral commitment to honest dealings.

Two difficult cases, however, demonstrate that simply hiring those with strong personal morals is insufficient. In both, agents' personal moral codes conflict with the firm's pursuit of profit. In one case, this conflict represents a normatively valid distinction between personal and institutional ethics. An employee who elevates personal norms of behavior above the firm's goals will be judged corrupt or unethical. In the other, personal morality and business ethics coincide to the detriment of the firm's profits.

The first case arises from a failure to separate ties of family and friendship from one's behavior as a public official or private firm manager (c.f. Rose-Ackerman/Palifka, 2016: 250–253, 264ff.; Thompson 1995: 12). Management theory argues that one's role as a manager should not be equivalent to one role as family member and friend (c.f. Smiley 1992: 188f.). Thus, parents have an obligation to help their children develop into successful adults but would violate their obligation as managers by giving their kin preference in hiring and by patronizing companies run by their children in making company purchases.

Furthermore, an honest employee may become corrupt under duress. KPMG is an international consulting firm that specializes in, among other things, corporate forensic investigation. Based on 348 cases in 69 countries, KPMG (2011) observed that in many cases, the offending employee had been a star for several years, until a distressful family situation led him (more often men) to cross the line in favor of higher income.¹⁰

Managers need to be aware of dysfunctional organizational cultures under which employees conspire to keep evidence of wrongdoing from their superiors. Rewarding whistleblowers may fail because of empathy between workers (c.f.

8 A survey of MBA students and graduates of a Dutch university, found overwhelming majorities in support of ethical business practices and claiming that such practices were good for business, especially in enhancing a firm's reputation (c.f. Adda et al. 2016). However, the survey did not ask the participants to reflex on any difficult real-world situations of conflict between profits and principles.

9 According to KPMG (2011), procurement and operations/sales account for 33 percent of corporate fraud and corruption cases in 69 countries studied. Greed was the first motivating factor, followed by internal pressure to meet quantitative targets such as sales or profits.

10 Ironically, KPMG itself became embroiled in a corruption scandal in South Africa that led eight executives to resign (c.f. Cohen et al. 2017).

Greenberger et al. 1987). In one survey, managers from Germany, France, Israel, and the United States did not condemn co-workers who failed to turn in those who violated the rules (c.f. Jackson/Artola 1997). To overcome this reluctance, top management may try to convince employees that peer reporting is part of their role. For example, in one study, students of business were more likely to report the cheating of other students after they were told that such behavior was their responsibility as members of an educational institution (c.f. Trevino/Victor 1992).

In the second case, behavior that violates personal morality and is unethical in the business context increases a firm's profits. Managers once again face a conflict between greed and moral behavior, but with purely profit-seeking bosses now on the side of immorality. According to one study, such firms see themselves as ›at war‹ so that the end justifies the means – that is, illegal payoffs (c.f. Campbell/Görizt 2014). A Brazilian business survey contrasted ›leaders‹ with ›followers‹ – that is, higher level managers versus the rank and file. Those in leadership positions were more likely than followers to put organizational goals ahead of conflicting ethical precepts (c.f. dos Santos et al. 2012). Corruption may be more acceptable to managers if they have social ties with government officials – bribes seem like gifts, albeit tied to a reciprocal benefit (c.f. Collins et al. 2009). If corrupt payoffs help a firm to obtain business, managers and owners may facilitate their subordinates' bribery while remaining ignorant of the details.¹¹ This can happen if management enables an organizational culture where employees believe that their co-workers and managers approve of and participate in corruption (c.f. Gorsira et al. 2016).

Hence, hiring ›good‹ people is not always sufficient because individual morality can be over-ridden by organizational culture. If the owners and top managers believe that their organization ought not to engage in unethical or illegal actions that enhance their firms' profitability, they must make their position clear rather than rely on their employees' moral scruples. Some lower-level managers, faced with a conflict between profitability and morality, will opt for profitability unless given strong signals to the contrary by owners and top managers. Others will fol-

11 See Braithwaite (1985: 49): »The mentality of ›Do what you have to do but don't tell me how you do it‹ is widespread in business.« The solution, according to Braithwaite, is to set goals that can be achieved without illegal behavior. Experimental work suggests that many individuals express strong norms of moral behavior but do not apply them as the employees of for-profit firms. The pursuit of firm profitability takes precedence over their moral scruples. Baumhart (1961) examined managers' views of ethics by asking them what they would do in response to fictitious cases in which ethical issues were involved. He found that, when faced with an ethical dilemma, executives tended to opt for the profitable course of action if doing so would further company interests. In contrast, managers did not choose the unethical course of action if doing so hurt company interests. In another experiment, over 70 percent of participants were willing to pay a bribe to get a sale for their firms. Those willing to make payoffs were not significantly less committed to honesty and fairness in their personal lives than other participants. Other studies have produced similar results (c.f. Brenner/Molander 1977; Vitell/Festervand 1987).

low personal affective ties at the expense of profitability and business ethics. Top management must lead by example (c.f. Badaracco/Webb 1995; Newstrom/Ruch 1975; Brenner/Molander 1977) and set clear and well-enforced guidelines and codes of conduct (c.f. Cooper/Frank 1992; Vincke et al. 1999: 14–26; Vincke 2014).

4. Can Anti-Corruption Policies Do Without Corporate Ethics?

I have argued that firms have an obligation to refrain from making illegal payoffs because they are legal persons operating at the suffrage of the state. But let us leave aside such obligations for a moment and ask when firms, especially large global corporations, might find it in their interest to limit corruption both inside their own organizations and internationally. There are two situations where this condition might hold.

First, a firm may gain leverage with its buyers or suppliers by taking a strong stand against corruption. For example, a firm's product may be obviously superior to those of its competitors so that it has bargaining power with a state purchasing agency. Those monitoring the contracting process, be they politicians or watchdog groups, would complain if a low-quality supplier were chosen. Then giving in to corrupt demands would simply cut into the firm's profits. Similarly, a firm with the best restructuring offer for a privatized firm will want to announce its honesty for the same reason. Consumer goods companies with strong international brand recognition may be such powerful symbols that they can successfully resist corrupt demands associated with overseas investments. Firms with an observable advantage over their competitors will not only seek to limit corruption within their own firm but will also support reforms in host countries that increase transparency and accountability. Such efforts will impress consumers who value honesty.

Second, managers and boards of directors of large corporations may support international anti-corruption efforts when the global situation can be described as a ›coordination game‹. Here individual bribe payments are profit-maximizing in the existing business context, but if corruption could be eliminated, all firms would benefit, and none would have an incentive to defect unilaterally. In contrast, the strategic situation among competitors may resemble a ›prisoners' dilemma‹. If a prisoners' dilemma operates, voluntary agreements to refrain from corruption will be unstable because each firm has an incentive to defect. Some claim, however, that a prisoners' dilemma can be converted into a coordination game through dialogue, public relations, and outside pressure (c.f. Pieth 2014). In both ›games‹, firms are better off if they all cooperate than if they do not. However, in a pure coordination game the cooperative solution is stable. Once everyone abjures bribery, there is no incentive for anyone to defect. The fundamental problem is inducing firms to coordinate because being the only honest firm in a

sea of corruption is costly.¹² Unfortunately for those who believe that corruption can be fought on the basis of business self-interest alone, moral commitments are required. It is not sufficient to observe that a low corruption world would lead to increased total profits. Seldom can a prisoners' dilemma be converted to a coordination game without some degree of moral commitment and outside pressure. There are two moral issues here – willingness to cooperate and attitudes toward corruption.

A coordination outcome will only prevail if managers and boards value not just integrity, but also the results of cooperation. Sugden (2015: 164) calls this »team reasoning« where the actors think of themselves as acting as »part of a practice that, if followed by all members of the group would benefit all of them.« Since each actor »has reason to believe that the others will participate (...), she expects to share in the benefits of the practice« (ibid.). Managers and boards must be willing to sacrifice short-term profits for long-term benefits once a low-corruption situation is established. They may have »intentions for mutually beneficial cooperation« (Sugden 2015: 147) under which firms refuse to pay bribes so long as most others are also cooperating in this effort. Those who have this intention will sometimes act in ways that are contrary to their individual firm's financial interest (for example, refusing to pay a bribe to get a contract) because this will enhance the overall benefits to the group of firms that are part of the market.¹³ In addition, incentives to work for a reduction of corruption will be weak if managers and boards suffer no consequences for inaction. Similarly, it will be difficult to maintain a general anti-corruption norm if reverting to payoffs has no negative effects on managers and boards. Outside pressure can help tip firms toward an

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- 12 Readers interested in the technical details of such games are referred to MacRae (1982). A parallel game is developed by Chang /Lai (2002). In their game, workers find it more (less) costly to be corrupt, the more of their peers are honest (corrupt). In another game that models organizational corruption, Jávör /Jancsics (2013: 27) support the argument in the text when they conclude: »We believe that the existence of three important conditions is necessary to launch successful anti-corruption programs in an organization. First, there must be some organizational actors who are interested in reducing corruption. These actors must believe that corruption represents a higher risk for the organization than the impacts that drastic corruption reduction efforts might trigger such as losing orders and tenders and the emergence of power struggles among elites. Second, such actors should have enough power to initiate an anti-corruption strategy. This means that anti-corruption is only possible if a significant fraction of the dominant coalition supports it. Finally, such reformers should be willing to come into fierce conflicts with their colleagues who are the main beneficiaries of organizational corruption. Briefly, the organization's power systems should be radically restructured by elite members who are supportive toward corruption reduction.«
- 13 Regan (1980: 11) labels this a norm of »co-operative utilitarianism (CU)«. Under his theory »each agent ought to co-operate, with whoever else is co-operating, in the production of the best consequences possible given the behavior of non-co-operators« (ibid.). CU »emphasizes that those agents who are prepared to behave morally are engaged in a common undertaking which requires a shared recognition of the need for co-ordination and a shared willingness to go beyond ideal rules and counterfactual assumptions« (ibid.: 145).

active anti-corruption stance, but if the motivations of key individuals inside the firm are purely instrumental, their commitments are likely to be fragile and contingent.

Company	Country	Sales 2015 (U.S. Dollar, Billions)	Approximate to the 2013 GDP of
Wal-Mart Stores	United States	485.7	Venezuela
Sinopec	China	427.6	Austria
Royal Dutch Shell	Netherlands	420.4	United Arab Emirates
Exxon Mobil	United States	376.2	Colombia
BP	United Kingdom	352.8	South Africa
PetroChina	China	333.4	Denmark
Volkswagen Group	Germany	268.5	Finland
Toyota Motor	Japan	252.2	Greece
Glencore International	Switzerland	220.9	Portugal
Total	France	211.4	Algeria
Apple	United States	199.4	Peru
Samsung Electronics	South Korea	195.9	Romania
Berkshire Hathaway	United States	194.7	Romania
Chevron	United States	191.8	Romania
McKesson	United States	174.0	Kuwait
Daimler	Germany	172.3	Vietnam
ICBC	China	166.8	Bangladesh
EXOR	Italy	158.3	Bangladesh
Gazprom	Russia	158.0	Bangladesh
General Motors	United States	155.9	Bangladesh

Table 1: The Twenty Wealthiest Corporations in the World (Sources: Forbes 2015; World Bank 2015)

If the strategic situation can be described as a coordination game, one needs to know whether firms exist with the capacity and the incentive to shift the equilibrium from a high corruption to a low corruption outcome. Some firms do indeed appear to have the capacity. In 2015 the sales figures for the twenty largest multinational corporations ranged from 155.9 billion dollars to 485.7 billion dollars; together they produce more than the Japanese economy. The smallest of these companies had sales that exceeded the 2013 GDP of 135 of the 192 countries

providing data to the World Bank (see Table 1).¹⁴ Such firms have leverage in many of the countries where they invest and trade that is likely to give them clout that local firms may lack.¹⁵

There may be interactions between the anti-corruption policies of host countries, global advocacy groups' attempts to embarrass business, and firm actions. If a country initiates an anti-corruption policy, this can present an opportunity for firms to announce their support, pledge not to pay bribes, and do so in a way that encourages others to follow suit. If a firm is sensitive about its international image because of worries about regulatory initiatives and the loss of consumer goodwill, it may be willing to support an anti-corruption agenda. Such actions will, however, be more likely if the firm's management and board are morally opposed to corruption or accept the obligations that accompany the corporate form.

Several international initiatives aim to fill this gap. First, Integrity Pacts are a type of ›club‹ in which the host country publishes a list of those who have pledged not to pay bribes. This exerts pressure on the remaining firms in a given industry to follow suit (c.f. Transparency International 2014). Second, industry-wide assessments of anti-corruption and pro-transparency measures, such as Transparency International's *Defence Companies Anti-Corruption Index* (2015) and the Extractive Industries Transparency Initiative (2018), provide incentives for firms to improve their practices to avoid public embarrassment. Third, the movement in favor of corporate social responsibility has led many firms to publish annual reports documenting their socially responsible activities, which may include ethics training and working with governments to reduce corruption.¹⁶ Spanning these initiatives, the Anti-Bribery Compliance (ABC) Model, mentioned above, is an effort to present a consolidated program for global firms (c.f. Manacorda et al. 2014).

In short, there are two broad reasons why profit-seeking firms may seek to root out corruption inside their organization and work for a less corrupt global business environment. In the first case, the costs of corruption are mostly absorbed by the firm in lost profits, and the firm has leverage over individual deals. The second requires a collective change in behavior by most firms in the market. Here, a narrow interest in firm profitability is unlikely to be sufficient to motivate action. Managers and boards need to accept ethical obligations that go beyond both private morality and their responsibility to stockholders. Acceptance of these obligations may indeed be good public relations, but the fundamental arguments for abiding by these principles are neither profit maximization nor individual scruples

14 Calculated by Bonnie J. Palifka from data in World Bank, World Development Indicators, table 4.2, and Forbes, »The World's Biggest Public Companies«.

15 As Demuijnck (2013: 750) states: We can blame big corporations »for not actively contributing to a better regulatory framework«, including, I would argue, opposing laws constraining corruption.

16 This can backfire, however, if firms only make donations to anti-corruption organizations in order to create the illusion of acting ethically.

but depend on an understanding of the role of the corporation in the modern world.

The current public interest in corruption means that companies suffer international embarrassment and financial penalties if a payoff is revealed, and this possibility can induce them not only to resist corrupt demands, but even to report them. Companies that claim to abhor corruption while accepting it as a necessary evil are not acting consistently. Revealing corrupt demands can have an impact if the pressure of international public opinion affects both corrupt public officials and bribe-paying business firms. Nevertheless, in practice, relying on corporate responsibility and moral suasion will likely be insufficient: of corruption cases that were concluded between 1999 and 2013, only 31 percent were self-reported (c.f. OECD 2014: 15, Table 3).

As fighting corruption in global business dealings has become more salient, the business community has supplemented legal and soft law approaches with its own efforts. The World Economic Forum's *Partnering against Corruption Initiative* (PACI) of business leaders has signed up over 80 global firms; one of its aims is to support corporate citizenship and the global Anti-corruption agenda.¹⁷ The International Chamber of Commerce (ICC) entered the debate earlier by promoting corporate self-regulation to fight corruption (c.f. Vincke et al. 1999: 4). However, the ICC failed in efforts to create an Expert Panel to review corruption complaints from firms and to have the ICC's Commercial Crime Services name and shame polities by compiling information on patterns of corrupt solicitations across the globe. Member firms did not participate in either effort (c.f. Vincke 2014: 299–302). The ICC continues to support self-regulation by issuing specific guidelines and recommendations and informing business about the OECD Convention (c.f. Vincke/Kassum 2013; Vincke 2014). The ICC is committed to »developing a broad international consensus on the need to fight extortion and bribery« as a way of overcoming the reluctance of individual companies to act (Vincke et al. 1999: 10).¹⁸ It urges its members to adopt rules of conduct designed to limit international bribery for any purpose, not just to obtain or retain business.¹⁹ Along with the United Nations Global Compact, the World Economic Forum's PACI, and Transparency International, it published a report on resisting extortion titled RESIST (c.f. Vincke 2014: 302).²⁰

17 Information on PACI is available at: <https://www.weforum.org/communities/partnering-against-corruption-initiative> (last accessed on March 7, 2018).

18 The authors ask: »Why bribery is no longer tolerable«, and they claim that a »significant change« in attitudes has occurred in the last five years so that »*bribery violates acceptable standards for international competition*. Companies that continue to bribe will do serious damage to their ability to continue as reputable participants in the global economy« (Vincke et al. 1999: 91f., emphasis in original).

19 The ICC documents anti-corruption contract clauses (International Chamber of Commerce 2012), and issued guidelines on whistleblowing and on agents and intermediaries.

20 RESIST (Resisting Extortion and Solicitation in International Transactions) is available in six languages (c.f. International Chamber of Commerce 2018).

The legal profession has taken up the issue. The American Bar Association has an International Anti-Corruption Committee which seeks to deter corruption and promote transparency through dialogue and debate (c.f. American Bar Association 2018). The International Bar Association follows a strategy similar to that of the ICC. In 1996 it adopted a resolution condemning international bribery, and its Anti-Corruption Committee has a program of education, consciousness-raising, and guidelines working in collaboration with the OECD and the UN Office on Drugs and Crime. It holds an annual conference on the topic (c.f. International Bar Association, Anti-Corruption Committee 2018).

Business anti-corruption efforts depend on a cooperative attitude in the business community; even the OECD Convention depends upon the willingness of firm managers and boards to police their own employees, agents, and subcontractors. The initiatives listed here are positive developments that can help turn the anti-corruption effort in the private sector into a coordination game, at least among the organizations' members. The moral argument has helped tip the scales in favor of anti-corruption initiatives. Corporate executives and government officials feel that they are doing the right thing as well as promoting the concerns of multinational businesses.

However, the impact of these initiatives remains, in practice, largely unproven. Because the British, by law, and U.S., in practice, take account of corporate anti-corruption efforts in making law enforcement decisions, the business community has an incentive to settle on a set of best practices. However, although many of these recommended practices seem plausible, little empirical work exists substantiating their value or their relative importance. Nevertheless, a commitment of management and boards of directors to counter corrupt demands, help further a coordinated approach to limiting corruption in international business dealings. Active law enforcement and reforms in public sector institutions are still needed to limit the underlying incentives for payoffs, but where formal law is weak within countries and across borders, the promotion of good corporate values and practices is a worthwhile effort.

5. Conclusions

Domestic and international efforts to combat corruption directly are necessary but insufficient in an increasingly globalized world. Given the weaknesses of international control efforts, multinational firms need to accept an obligation to fight corruption.

Many large multinational corporations have greater financial clout and global reach than some sovereign states. Such firms need to take seriously their role as global ›citizens‹ operating beyond the reach of many national laws. Their boards and managers need to recognize their obligations as key actors beyond the nation-state and seek to restrain the corrupt acts of their employees and to work toward a stronger business role in resisting corrupt demands.

Specific anti-corruption policies are likely to be necessary but not sufficient in many highly corrupt sectors, industries, and countries. Anti-corruption policies need to remove the background incentives for payoffs that arise from poorly designed and monitored public programs. They need to limit the opportunities for bureaucrats, judges, and elected officials to seek personal financial gain by exploiting institutional weaknesses. However, the award of large, specialized infrastructure or defense contracts cannot be converted into pure competitive bidding processes. Anti-corruption proponents need to confront the global nature of big business and its role in facilitating corruption. Multinational businesses need to examine their own operations to limit opportunities for corruption and to be sure that their organization and its subcontractors and consultants internalize corporate anti-corruption commitments. Ethical business practices interact with the underlying incentives and motivations facing profit-oriented firms. Their response needs to go beyond situations where ethical practices are, in practice, profit-maximizing over the long run. That may be true in some cases and for some global firms, but it is not the only reason why global firms ought to act responsibly in avoiding corrupt deals. Managers and boards of directors ought to look beyond their obligations to shareholders or even »stakeholders« to consider their obligations to the international system whose long-run survival depends upon avoiding vicious cycles of self-reinforcing corruption.

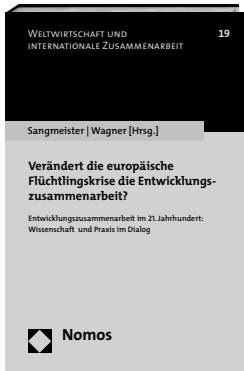
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