

**PRAGMATICALLY FIGHTING CORRUPTION THROUGH COLLECTIVE ACTION:
CHALLENGES AND ASSOCIATED SOLUTIONS FOR COMPANIES**

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ABSTRACT

For a long time, corruption has been a hidden but sadly necessary part of doing business. In this essay I take cognizance of that and attempt to examine the possibility of companies collectively fighting corruption in competitive marketplaces such as today's. I therefore, consider the challenges and associated solutions thereto.

For clarity purposes, by way of introduction, I define what amounts to corruption. I adopt the view that corruption is that form of behaviour "which departs from ethics, morality, tradition, law and civic value. It is that behaviour of persons and their actions that is immoral, depraved or dishonest especially portrayed through the offering and taking of bribes."

My essay points out four main challenges for companies working together in collective action to fight corruption, namely; misperception of corruption, a negative business culture, lack of the will to fight corruption, and implementation.

However, all efforts are made to avoid pessimism. Significantly therefore, the essay emphasises that these challenges are not mind-boggling by suggesting solutions thereto. To my mind, again four major ideas can provide substantial solutions to the aforesaid challenges. These are, carrying out more research on corruption, prior and continued study and understanding of the business environment, exercising self restraint and discipline, and lastly but not least, fostering an environment of constant communication amongst the concerned companies.

The gist of the theme of this essay is "pragmatically fighting corruption." For illustration purposes, I narrate a personal experience in this field whose aim is to show that it is doable after all.

In conclusion, the essay recognises that this is not the entire or gospel truth but maintains that it is up to companies to shun corruption if it is to be eliminated in the business world.

1.0 Introduction

“Bribery and corruption of all kinds undermines trust: it inhibits social and economic development and undermines fair competition.” Lord Browne of Madingley; Group Chief Executive, BP plc

1.1 Corruption

The term corruption as conceived today lacks universal definition. Its definition therefore, differs from jurisdiction to jurisdiction and from one person or body of persons to another. This presents numerous ambiguities and is highly susceptible to gross misinterpretation. It originates from a Latin verb *corruptus* which means to break i.e a broken object. Suffice to say, however, that as a concept, it is a form of behaviour which departs from ethics, morality, tradition, law and civic value. It is that behaviour of persons and their actions that is immoral, depraved or dishonest especially portrayed through the offering and taking of bribes.

According to Transparency International¹, corruption is “the abuse of entrusted power for private gain” while Georgiy Satarov² and others define it as “...a type of opportunistic behavior by an agent in which the agent uses the resources of the principal not to accomplish the goals of the principal but for the agent’s own purposes...Corrupt behavior is the intentional betrayal of the principal’s interests by the agent for the agent’s own benefit.”

Corruption manifests itself in diverse and almost inexhaustible forms of various degrees. This adds to its ambiguity and misapprehension, for which reason, as World Bank’s Amina El-Sharkawy³ and her colleagues note, further research is needed. In Uganda for instance, corruption is legally understood to include though not limited to embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs⁴.

Corruption hampers development and the world now recognises it as a major challenge to all development programmes alongside other challenges like HIV/AIDS and bad governance. It is not just a local or national problem but also a regional and international problem. This has necessitated an international framework in the fight against corruption which is complementary to the municipal ones. Pursuant to this, world leaders on 24th June, 2004, during the UN Global Compact Leaders Summit announced that the UN Global Compact henceforth includes a tenth principle against corruption. The tenth principle reads thus:

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery⁵.

So, what is meant by the terms extortion and bribery? The Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises⁶ state that “The solicitation of bribes is the act of asking or enticing another to commit

1. Birgit Errath, Peter Brew, Jonas Moberg, Jermyn Brooks and Susan Cote-Freeman, BUSINESS AGAINST CORRUPTION: A FRAMEWORK FOR ACTION, p 7

2. Georgiy Satarov, Sergey Parkhomenko, Dina Krylova and Yuliya Rostovikova, BUSINESS WITHOUT CORRUPTION: AN ACTION GUIDE, p 2

3. Amina El-Sharkawy, Michael Javis and Djordjija Petkoski, TOWARDS A MORE SYSTEMATIC FIGHT AGAINST CORRUPTION: ROLE OF THE PRIVATE SECTOR, p 16

4. See THE PREVENTION OF CORRUPTION ACT, CAP. 121, THE INSPECTORATE OF GOVERNMENT ACT, 2002 and the PENAL CODE ACT, CAP. 120

5. Birgit Errath, loc. cit.

6. ibid

bribery. It becomes extortion when this demand is accompanied by threats that endanger the personal integrity or the life of the private actors involved.” Transparency International’s Business Principles for Countering Bribery⁷ also define “bribery” as being “An offer or receipt of any gift, loan, fee, reward or other advantage to or from any person as an inducement to do something which is dishonest, illegal or a breach of trust, in the conduct of the enterprise’s business.”

Raymond W. Baker⁸ refers to money obtained through corrupt means as ‘dirty money’. He says that bribery is only a narrow sense of corruption which accounts for just a small portion (only a third) of all the ‘dirty money’ flowing out of Africa alone.

1.2 Collective Action to Fight Corruption

Collective action to fight corruption means joining forces with colleagues in one’s industry and with other relevant stakeholders. After realizing that corruption negates fair play between companies (especially in tendering and procurement), it is believed and recommended that collective action against corruption amongst rival companies in an industry, will ensure a level playing field within which to compete fairly in doing business. According to World Bank⁹ estimates, corruption in the form of bribery has become a \$1 trillion industry thriving on fraudulent transactions by companies seeking an unfair edge over others, more so in bidding processes. Transnational corporations are said to be the chief culprits in this and it has shot up the cost of doing business by 10% in many countries with public procurement being the most affected. Corruption adds as much as 25% to procurement costs¹⁰. Collective action against corruption therefore, is deemed to be a panacea to this problem by emphasising the idea of “playing fair” amongst peer companies in the same or closely related industry working in association with other stakeholders like Government and Civil Society Organizations.

Experience and research findings show that businessmen’s and women’s efforts to counter corruption in today’s competitive marketplaces can be effective only if they are collective especially in as far as their dealings with corrupt government officials and agencies are concerned. The relevancy of collective action is highlighted by the fact that businessmen who try to implement anti-corruption strategies by themselves have to take all the pressure and dissatisfaction of corrupt officials upon themselves. This is something that is not easy unless done in cooperation with others, in which case there is some kind of ‘cost sharing’. But this is no cup of tea. There are several hindrances in so doing.

2.0 Challenges for Companies Working Together in Collective Action to Fight Corruption

“One obvious problem is that managers have to be able to cope with overall considerations of their organisation and its environment.” as per Gerry Johnson and Kevan Scholes; authors of the book, EXPLORING CORPORATE STRATEGY, 2nd Edition

No doubt, the challenges are there and are of far reaching impact on the struggle against corruption. But they aren’t mind-boggling and as former USA President

7. ibid

8. See Sunday Vision, February 18, 2007, p 24

9. Birgit Errath, loc. cit.

10. ibid, at p 5

Franklin D. Roosevelt said, “All we have to fear is fear itself,” We can’t let them become excuses anyway. Nevertheless, they include the following:-

2.1 Misperception of Corruption

This is a big challenge: the lack of an across-the-board understanding of what corruption is, its associated terminology and how it manifests itself. In short, there is no consensus on what amounts to corrupt practice and what does not.

First and foremost and as already pointed out, corruption is not universally defined. Participants in the World Bank Institute’s e-discussion on corruption in 2006 agreed that this causes confusion and frustration¹¹. It means that there is no common language or speech as far as fighting corruption is concerned. This presents a huge impediment to any efforts to fight it because what could be normal to one company may not be normal to another. The former will therefore, find no need of fighting what is normal to it and this marks the beginning of losing the battle. Religious history has it that the tower of Babylon was not completed because its architects were unable to communicate in one language¹². There is therefore, need to adopt a mutually accepted medium of communication amongst companies pursuing collective action.

Secondly, there are usually two sides on a coin. For corruption to exist there must be the supply side and the demand side with the result that there is a “corruptor” and a “corruptee”. In other words, there is someone who gives the money and another one who takes it, but this is often overlooked. Most anti-corruption strategies do not consider the giving (supply) side¹³. Due to this, for a long time anti-corruption strategies have targeted the receiver while neglecting the giver, an anomaly which has created an imbalance that militates against the total defeat of corruption. Corruption and its consequences will persist until companies and others engaged in the struggle against it appreciate that just like a coin, it has two sides that ensure its survival. This is evidence of misperception of corruption.

2.2 A Negative Business Culture

A negative business culture obtains in an economy where corruption is perceived as a normal thing. In such a society, corruption is glorified and rewarded either expressly or inadvertently. In fact it is the norm and way of doing things; this attitude transcends all the sectors of the economy. In essence, corruption itself is a culture. In today’s business world, there is what is known as facilitation payments. These are unofficial payments made to procure or speed up the provision of goods or services¹⁴. In Uganda, these may be equated to *kitu kidogo*, a Kiswahili phrase literally meaning *something small*. Kitu kidogo payments are part and parcel of doing business here. They are ‘normal’ and ‘legal’ so to speak and the perception is that they are so much part of local culture for which there is no foreseeable tangible remedy. At Makerere University, my fellow students refer to them as “logistics”. To me, this is a classic example of a negative business culture.

The gist of the challenge in this business culture lies with the large multinational companies in whose countries facilitation payments may be illegal. The dilemma therefore is whether they should pay them or not. Take an example of American

11. Amina El-Sharkawy, loc. cit.

12. Genesis 11:1-9, Good News Bible, at 15

13. Sunday Vision, loc. cit.

14. Amina El-Sharkawy, loc. cit.

companies: with the enactment of the US Foreign and Corrupt Practices Act in 1977, it became illegal for US companies to even bribe foreign officials in the name of facilitation. Doing so would attract liability back at home. So what should such a company do when its competitors are busy paying and getting lucrative business deals? Arguably the temptation to also pay is extremely high and most probably it would fall for it, after all no body will be there to report. So this again not only points to the bigger problem of lack of a global common language as noted above but also to lack of a mutual methodology in the fight against corruption. Whereas a country like USA has enacted enabling legislation criminalizing such behaviour prejudicial to business, not only within its territory but also overseas, many others are not bothered.

2.3 Lack of the Will to Fight Corruption

In the book of John 8:1-11, an alleged adulterous woman was brought before Jesus by the Law teachers and the Pharisees. According to Mosaic Law, this woman was supposed to be stoned to death. When they sought Jesus' opinion on the matter, he replied thus, "Whichever one of you has committed no sin may throw the first stone at her¹⁵." They were startled by His answer and soon they left one by one without stoning her clearly because they were sinners themselves. I am endeavouring to say that considering the existing business environment characterised by the negative culture explained above, it is highly probable that the companies seeking to collectively fight corruption have at one time been corrupt themselves or their employees have. Worse still, it could be that corruption has been the bedrock of their achievements! Such companies honestly lack the moral authority to coach others not to engage in corrupt tendencies. This lack of moral authority is enhanced by a high sense of guilt on their part the result of which is undermining the will to fight corruption. It indeed takes the bravest of hearts and strongest of souls to turn around and preach against corruption. But the question is; how many of these souls and hearts are there? Many a company will succumb to repeat demands.

Yet this is not just a challenge for the companies alone but for most of the recommended stakeholders as well especially Governments. Most governments around the world, lack the political will to tackle corruption head-on and this is not only true for developing countries (as usually portrayed) but also in many developed ones. In fact, researchers and analysts have concluded that governments and companies, especially MNCs, are bed fellows in committing the vice¹⁶. It is therefore not surprising that in Russia, where the growth of corruption is directly linked to the growth of a shadow economy, bribery amounts to \$316 billion yearly¹⁷. The shadow economy is estimated to be 80% as large as the legal economy on average¹⁸. In Uganda, a World Bank Report recently estimated that Shs.500 billion is swindled annually by government officials. The report stated that the corrupt transactions are partly done for purposes of enhancing private businesses interests with trade companies.

Without deliberate efforts and commitment to desist from corrupt transactions by individual companies, it will be very difficult (if not impossible) for them to fight corruption through collective action. Suffice to say that it is only after a frank recognition of the fact that corruption exists and that it is detrimental to business that

15. Good News Bible, at pp.128-129

16. Sunday Vision, loc. cit.

17. Amina El-Sharkawy, op.cit. at p.9

18. Georgiy Satarov, op. cit. at p.4

such efforts will come to bear. As a matter of fact it will be even harder where Government, which is an indispensable ally in this, is not ready to cooperate because companies on their own may not be able to effectively hold accountable those responsible for propagating the vice. It is well known and settled that governments, not companies, manage the legal and regulatory framework. If they do not play their role to the expected standards, everything done may easily come to naught.

2.4 Implementation Challenges

Even where companies fully appreciate corruption and are willing to fight it collectively, problems may lay in the implementation stage, which to me is the most important for this is where the rubber hits the road. So the problem may not necessarily be a lack of ideas or right strategy but how to translate the same into action. Challenges in implementation have always been thorny in many development programmes world wide. In my country, Uganda, for example, according to experts, 50% of small scale family businesses never make it from their infancy stage. What is the problem? Poor management issues are often singled out as the leading cause of closure. The problem therefore, lies in implementing the otherwise wonderful entrepreneurial programmes. Some analysts (like Mr. Jerry Okungu) also blame the persistent poverty problem in Africa on the African Union's wanting implementation ability. They allege that the AU has sound development proposals which it never succeeds in executing. They assert that more competent associations like the European Union borrow the A.U's ideas and use them successfully. If their word is anything to go by, then I think I wouldn't be mistaken to say that implementation is a serious challenge for many companies seeking to fight corruption by way of collective action. Experience shows that implementation problems usually arise when there isn't a clearly defined modus operandi dedicated towards the enforcement of strategies laid down by companies clamouring to fight corruption collectively. This is because individual companies usually have a unique way of doing things in their own setting. The challenge therefore has been how to move from individualism to collectivism under an agreed upon model that is able to work in different settings.

3.0 Solutions to the Foregoing Challenges

“When faced with a mountain, I will not quit! I will keep on striving until I climb over, find a pass through, tunnel underneath—or simply stay and turn the mountain into a gold mine, with God's help.” Possibility Thinkers' Creed

It is untenable that corruption wantonly devours our economies unabated. The ancient Romans believed that when there was no way, they would find one or build one. In the same spirit, we mustn't give up on the struggle against corruption: not even in the face of stiff opposition. In my opinion, the following would go a long way in solving the challenges above:-

3.1 Carrying Out More Research on Corruption

Research is of critical importance in the fight against corruption. There is need for more research on corruption geared towards establishing a harmonised perception of the same. It is my considered opinion that this is fundamental to fighting corruption as it will go a long way in solving the problem of a lack of what I earlier called a common language. With research, companies will be able to come to a common understanding as to what corruption is and what it entails. The beauty in this is that it will be easier to adopt a mutually understood model of fighting corruption based on an informed point of view. With research, it will be easier to determine which strategy

works, which one doesn't and why it doesn't. Companies pursuing collective action should set up a joint working committee whose mandate is to conduct studies in the field of corruption and make viable recommendations on how to fight it to the various managements of the individual companies. A discussion by the management committees, together with the research team, would then ensue and a common position agreed upon. This is vital because collective action thrives on trust for others. Research would therefore promote confidence building among partner companies and this would go a long way in easing implementation challenges.

3.2 Studying and Understanding the Business Environment

Companies must study and understand the nature of the environment in which they are doing business first so that they thoroughly appreciate the dynamics that impact on them. The aim is to identify possible problems and opportunities available in the marketplace. According to Gerry Johnson and Kevan Scholes¹⁹, "The importance of...problem recognition needs to be emphasised. There is evidence to suggest that successful business performance is associated with management's capability in sensing its environment." For instance companies need to investigate whether there are sufficient laws to fight corruption in their particular sector and country generally. And in case they are existent, whether they are strong enough to curb it once enforced. It also pays to investigate whether the governing authorities of the day have the political will to cooperate with them in exercise of their mandate as the overall custodians of the legal and regulatory framework. Thereafter it will be easy for companies to adopt pragmatic strategies to fight corruption. For example, depending on the results of the study, companies, either individually or collectively, may decide either to adopt a short or long term strategy of making money. In case of the latter, the companies must be ready to face difficulties and even losses for some time in order to enjoy stable and reliable revenues in the future if at all the business environment is of such a temperament that condones corruption. They should be able to immunize themselves against shock in their show of resistance. The choice of a short term strategy would depend on several other factors operating in unison with the quality of the business environment, for instance, the type of business and its history.

3.3 Exercising Self Restraint and Discipline

Several years ago, Mahatma Gandhi taught that we should be the change we desire in society. Therefore, companies pursuing collective action measures against corruption should ensure that they are beyond reproach themselves. Just like abstinence from sex is the only guaranteed way of fighting HIV/AIDS 100%, so is abstinence from giving and receiving bribes or extorting money from others the only guaranteed way of fighting corruption. Like any other person, when a company and/or its employees, gives or receives bribes, it ruins its character. In the first place, this requires that the companies in question should have flourishing internal mechanisms of fighting corruption before seeking a collective approach with others.

Nevertheless, as they say, better late than never: much as this is vital, it does not hinder companies from pursuing a collective approach as their starting point. Once self restraint and discipline is successfully exercised by companies as a tool against temptations to engage in corrupt practice, it will place the companies above suspicion, like Caesar's wife. Once they are above suspicion themselves, then it will definitely be easier, more meaningful and indeed profitable for them to collectively act against

19. Gerry Johnson and Kevan Scgoles, EXPLORING CORPORATE STRATEGY, 2nd Edition, Prentice Hall International (UK) Ltd, at p.33

corruption. Suffice to say that this is the cheapest and most practical way to enhance the will to fight corruption.

3.4 Fostering an Environment of Constant Communication

Constant and easy corporate communication is extremely important in order to maintain regular information exchange amongst companies. Like many other development programmes, the sustainability of a collective action approach to fight corruption thrives on awareness of the progress made through exchange of information with others as a matter of teamwork. Such communication keeps other companies abreast of the developments made. This can be done by organizing seminars and training sessions where relevant officials from government and civil society organisations can be invited to provide practical information and recommendations on various issues pertinent to fighting corruption. Healthy and constant communication between companies will make it possible for them to find out about subsisting and impeding changes in the working practices and generally the business environment and to better prepare for them.

Fostering a comfortable communication environment is part of attaining a common language that I earlier advocated. In my submission, I emphasise “constant communication” because we live in a dynamic world where changes occur every now and then. Because the world is constantly changing, it naturally follows that those changes have to be constantly communicated to others: including changes in the fight against corruption.

4.0 A personal experience

“In the face of impossible odds, people who love their country can change it.” Barack Obama; US President

My family is engaged in the construction industry. We have a company called 7M Construction Ltd, trading in high quality construction materials. We are wholesalers buying and selling things like cement, steel bars, paint, to mention but a few. We also do some welding and carpentry. We make both metallic and wooden doors and windows. We are largely middlemen buying from other manufacturing companies and selling to final retail consumers. Although I am a full time university student, during my free time and vacations I assist in the running of the business. I would like to share with the world our experience with corruption and how we have tried to address it.

Because no one can ever be self-sufficient, it is settled that no man is an island. For that matter therefore, in the course of doing business, there are several line services we need but for whose provision we have to rely on the services of others. For example, we need transportation services in order to move our commodities to and from our customers’ centres. Construction and transport are among the fastest growing industries in Uganda registering steady growth. Given the necessity of transport and the dire need for decent and affordable housing, the two industries, though different in nature, are complementary. The two are indispensable allies. As a company, we signed agreements with some transport companies which I shall not mention here because I have no authority to do so. In our contracts, the agreement is that we pay our partners ourselves after delivery of materials. For us we recover from our customers thereafter.

A few years ago, we had our own share of ugly scenarios and allegations of corruption and we were faced with the challenge of how to fight and eliminate it. There were

numerous complaints from our customers of corrupt drivers who demanded payment for delivering materials yet they either had paid transport fees already or were exempted from payment as the case may be. Whenever such comments came up, we reported the same to the companies in charge of the drivers who always promised to act. In 2006, the problem became so rampant that some of our long-time loyal and trusted customers threatened to stop buying from us if we couldn't do anything about our personnel. Now, this is extremely bad news for any businessman and definitely something had to be done urgently. Management had to meet and draw a way forward. It was proposed and unanimously adopted that there was need to establish a memorandum of understanding between us and our transport agencies on this matter. Information was passed on to our colleagues who had no objection to it.

Pursuant to that proposal, in 2007, a committee of six people was appointed to investigate and reduce the proposal to a written. I am privileged to have been part of the committee. We did our best to investigate this corruption. We considered issues like who is doing it and for what. Our findings (which I need not mention here), were shocking. I must hasten to add however, that it was good we found them out because if we hadn't, we probably wouldn't have been able to address the problem of corruption successfully. Anyway, the report was presented to a combined meeting of the various management committees and it was adopted with ease. The report inter alia provided that there should be established a Code of Ethics and Conduct governing our activities. This was to be our 'Constitution' spelling out dos and don'ts. Accordingly, a code to that effect was put in place by the same committee and adopted by the management committees. Our understanding of corruption under the code is the ethical one as provided in the introduction to this essay viz behaviour which is contrary to what we reasonably consider normal and appropriate. The code spells out penalties to be imposed in case of breach ranging from cautions, fines to revocation of the contract. The rationale for this is that law must be able to bite if its impact is to be felt. The management committees resolved to grant 'amnesty' to all those alleged to have been corrupt before introduction of the code. Perhaps the best provision in the code is the quarterly follow-up meetings held every four months. This provision facilitates a comfortable and constant communication environment between us, something I earlier said is essential for fighting corruption. These meetings are also vital for ensuring that the code is kept abreast with new developments in the marketplace because as the business environment keeps on changing so do corrupt practices.

I must say that ever since we came up with this code, we have been able to significantly reduce incidences of corruption. The code and memorandum of understanding enshrined in the report make it possible for us to interact easily and freely. After realizing that we had failed to tackle corruption individually, we thought of a unified and all inclusive strategy where we pooled efforts to solve a common problem. Brothers and sisters, we were never wrong and from this experience, I must say that fighting corruption is a matter of dialogue and understanding; a question of commitment and sacrifice to the cause coupled with ad hoc punitive action, as may be reasonable in the circumstances, in case of wanton derogation from the common goal.

5.0 Conclusion

In this essay, I have stated and indeed endeavoured to show that corruption is the leading impediment to development in the world today; that it is frustrating all development programmes, including businesses, both at the national and international

level. Its impact is so much so that both Multi-National Corporations (MNCs) and Small Medium Enterprises (SMEs) feel the pinch. But I have also stated that this is not mind-boggling. There is a ray of hope at the end of the tunnel: the world has taken note of the threat imposed by corruption and it is now being addressed even at the highest echelons of power in international circles.

I know for sure that this is not the entire or gospel truth, but I maintain that the main challenge lies with the companies themselves in the fight against corruption. As Satarov²⁰ and others noted, "...the only fundamental requirement is a consistent renunciation of corruption as a matter of principle. As a practical matter, it is impossible to battle corruption and, at the same time, use it to further one's own interests." Empirical research shows that collective action is the best and probably the most affordable way for companies to fight corruption as a matter of fact. I have no doubt that very soon we shall drive the final nail in the coffin once the concept of collective action is properly understood and applied by companies and that corruption will be gone once and for all: at least in the business world. That is what I call pragmatically fighting corruption.

20. Georgiy Satarov, *op. cit.* at p.32