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ANTICORRUPTION IN HISTORY

From Antiquity to the Modern Era

edited by Ronald Kroeze, André Vitória & G. Geltner

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RONALD KROEZE, ANDRÉ VITÓRIA
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R.K. (Amsterdam)
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February 2017

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Introduction

Debating Corruption and Anticorruption in History

Ronald Kroeze, André Vitória and G. Geltner

The present volume is the first major comparative study of how societies and polities in and beyond European history defined legitimate power in terms of fighting corruption and designed specific mechanisms to pursue that agenda. Corruption is widely seen today as one of the most urgent problems we face as a global society, undermining trust in government and financial institutions, economic efficiency, the principle of equality before the law and human wellbeing in general. Corruption, in short, is a major hurdle on the "path to Denmark"—a feted blueprint for stable and successful state-building. The resonance of this view explains why efforts to promote anticorruption policies have proliferated in recent years. But while the subject of corruption and anticorruption (straddling the public/private divide) has captured the attention of politicians, scholars, NGOs and the global media, scant attention has been paid to the link between corruption and the creation, change and implementation of anticorruption policies over time and place, with the attendant diversity in how to define, identify and address corruption.

Economists, political scientists and policy makers in particular have been generally content with tracing the differences between low-corruption and high-corruption countries in the present and enshrining them in all manner of rankings and indices. Questions about these rankings have been raised many times and new lists, based on revised methodologies, continually emerge.[1] By comparison, the long-term trends—social, political, economic, cultural—potentially undergirding the position of the countries in those indices continue to play a very small role. Such a historical approach could help explain major moments of change in the past, which in turn may support or undermine the perceptions and unwarranted certainties we hold today about the reasons for the success and failure of specific anticorruption policies and their relation to a country's image (of itself or as construed from outside) as being more or less corrupt. It is precisely this scholarly lacuna that the present volume sets out to fill.

THE HISTORIOGRAPHY OF ANTICORRUPTION AND THE PRESENT VOLUME

Anticorruption has seldom been treated as a historical subject except as the occasional counterpart of corruption. The latter, to be sure, has generated a rich

and varied historiography. Historians, journalists and historically-minded political scientists and economists have tended to examine corruption from two perspectives. The first concerns the meaning and practice of corruption, its role in past societies and how discourses about it changed over time. Projects launched in recent years in Germany, France, England and the Netherlands, for instance, have focused on the historical use of the term corruption in (mostly early modern and modern) political and philosophical literature and in public debates, and analyzed practices that were deemed corrupt when they were exposed during scandals.[2]

These studies have also followed a contextual approach as they provided in-depth analyses of cases of corruption within local or (proto-)national political cultures. In fact, much of the historiography on public values and corruption builds on a contextual and constructivist understanding of corruption. In a way comparable to Michael Johnston's "neoclassical" definition of corruption as "the abuse, according to the legal *or* social standards constituting a society's system of public order, of a public role or resource for private benefit." Such an approach stresses that corruption should not be researched from a twenty-first-century, ahistorical and universalistic point of view, but with the help of an emic definition that provides clues about what corruption has meant—sometimes the overall decline of a society, sometimes particular abuses—and thus could mean in a specific time and place. Such a definition is also a helpful conceptual tool because it reminds us that corruption can be both legally and socially defined. It sensitizes us, moreover, to the fact that corruption has been linked since antiquity to the abuse of public power and public interest as well as that, in order to establish the meaning of such abuse, the broader political, cultural, intellectual and economic context has to be scrutinized thoroughly.[3] The contributors to this volume subscribe to such a flexible approach that holds that anticorruption, as with corruption, can mean a variety of things and is context-dependent, although patterns and recurrent features in the understanding, discourse and treatment of anticorruption are not neglected.

Debates about modernity and corruption are at the heart of the second historiographical approach that we consider here. In the first decades after the Second World War, "modernization studies" drew a distinction between the supposedly well-developed corruption-free modern societies of the West and the relatively corrupt traditional societies to be found in the non-Western world. Traditional societies were characterized by nepotism, bribery and clientelism because they lacked a well-functioning Weberian-style bureaucracy and a market economy. Or, as Samuel Huntington put it in a famous article in 1968, "[t]he differences in the level of corruption which may exist between modernized and the politically developed societies of the Atlantic World and those of Latin America, Africa and Asia in large part reflect their differences in political modernization and political development."[4] But there was hope: developmental projects funded by Western NGOs and governments, it was believed, would bring non-Western institutions up to speed including, in the long run, an elimination of corruption. The emphasis on economic liberalization as a means to curb corruption during the period of the "Washington consensus" (1980s and 1990s), belongs to the same branch of approaches. Although classic modernization theories as well as (neo)liberal policies

gradually lost much of their appeal, recent years have seen a rebirth in scholarly interest in the relationship between modernity and corruption. It is possible to distinguish between two types of studies here. The first is comparable to classic modernization theory, albeit in opposite form. Rather than mainly concentrating on the problems (i.e. corruption) in supposedly traditional and corrupt societies, researchers have instead turned to explaining how relatively non-corrupt countries (by modern Euro-American standards), such as Sweden and Denmark, ably limited corruption in the past—the underlying assumption being that the general principles of efficient anticorruption may be drawn from their success stories. The period of transition (usually equated with modernization) that these countries experienced between the end of the early modern era and the beginning of modernity, roughly the period 1700–1900, has attracted particular attention.

This "historical turn" in anticorruption research was, in effect, a very policy-orientated endeavor. It was influenced by the growing interest throughout the 1990s in the themes of good governance and democratization, which broadened the scope of what was considered to be part of an effective anticorruption culture, as well as by influential studies such as those written by the developmental economist Lant Pritchett and World Bank advisor Michael Woolcock, who explicitly sought to trace a "path to Denmark."[5] The topic was picked up by scholars who were broadly interested in global political development, such as Francis Fukuyama, Daron Acemoğlu and James Robinson, and by those dealing specifically with corruption, like Alina Mungiu-Pippidi, Bo Rothstein and Michael Johnston.[6] In their studies, anticorruption and good government tended to be equated with the historical development of democracy, accountability, transparency in public affairs, Weberian-style bureaucracy and the rule of law, all emblematic aspects of countries that are consistently ranked among the least corrupt in the world. While it is easy to see why it should appeal to policy makers, this hypothesis has struck most historians involved in this volume as either circular or at least overly teleological, resting as it does on a view of capitalist, democratic nation-states as the epitome of history, and thus engaged in a selective, frequently anachronistic interpretation of often complex and ambiguous data.[7]

The aforementioned scholarly contributions are of course far richer in scope and methodology than their popular application as regards fighting corruption might suggest. Yet collectively they promote a misleadingly simple recipe for bringing about the decline of corruption and strongly suggest that applying it, at least anywhere in Europe, is possible, despite an immense diversity of political cultures, economic circumstances, social organization, language, religion and so forth.

By contrast, the second way corruption and modernity have been re-debated in recent years comes closer to our contextual approach. Historians of early modern and modern Europe in particular have historicized and problematized the idea of a pre/modern divide. They continue to debate whether or not there was a decisive break by the late eighteenth century in the way corruption was understood and fought. Some see the "long nineteenth century" as a special moment when old privileges and practices, especially patronage, were deemed as corrupt and a demise took place of ancient and premodern interpretations of corruption, generally

understood as the moral degeneration of an individual's virtue or that of an entire society. These came to be replaced by a new limited notion of corruption that centered on the misuse of public power for private gain according to formal-legal rules—a form of political deviance that was itself premised on a sharper distinction between the private and public spheres. They have, however, also stressed that, although differences between early modern and modern societies can be established, concepts such as "traditional," "early modern" and "modern" when viewed in relation to corruption should be treated with care: more than historical reality, they reflect interpretations, ideals and perceptions of how contemporaries appreciated and legitimized their society and disapproved and delegitimized that of (non-Western) foreigners or their ancestors. Finally, and related to this, modernity and modernization, whether understood as the rise of an interpretative intellectual discourse or as a set of processes and practices, should not be treated as a linear development. In other words, many countries did not change from being thoroughly corrupt early modern societies into entirely corruption-free ones. In fact, corruption control existed in early modern society and the modern era saw the creation of new and serious forms of corruption.[8]

The authors of the present volume, both individually and collectively, are exponents of these differences in approach, but they are also in conscious dialogue with this historiography, as they pose the question of how we should frame processes of modernization and their impact on the history of anticorruption, especially in the absence of a developed historiography on premodern anticorruption. Some contributors concentrate on the watershed in the way corruption was defined and understood sometime from around 1800, as illustrated by Jens Ivo Engels' contribution to this volume. Others emphasize the presence of a much earlier awareness of corruption as well as programs to curb it (an approach that informs most of the contributions of Sections I–III). A third group of authors, represented in this volume by James Kennedy's and Ronald Kroeze's chapter, has emphasized change across early modernity and modernity, but has also pointed out that ostensibly ancient and premodern views of corruption survived well into modern times and even played an important role in contemporary debates.

Beyond promoting a contextual approach and engaging in the ongoing debate on modernity and (the supposed absence of) corruption, this volume adopts a longitudinal approach to the history of anticorruption, assembling contributions from different historiographical and geographical traditions; from Great Britain, France and Germany to the Low Countries, Scandinavia, Southern and Eastern Europe and the Middle East. It is decidedly not an exhaustive overview, but we do hope that it may help facilitate a new kind of conversation between historians working within their different fields and chronological boundaries and other scholars, especially in government studies, economics and the political sciences, who may—we as editors think—have a skewed understanding of their country's or region's history, which may set unrealistic or irrelevant normative benchmarks for achieving success or signaling failure. The latter often results in a misrepresentation of historical developments either by ignoring or by under- or over-emphasizing certain factors that shaped it.

That is why we want to underline some other insights that have inspired us during our historical research and that, now that the volume is finished, can also be read as an evaluation of some of the existing historiographical considerations. As mentioned, European debates about corruption and how to confront it consciously straddle and thereby challenge an imagined pre/modern divide. However obvious this observation may seem, it serves to underscore two points we want to stress here. First, historical societies with a corrupt reputation in modern Euro-American historiography—for instance, the "decadent" empires of the Romans and the Ottomans—are often neglected but may nonetheless provide insights about anticorruption strategies. Conversely, the history of countries such as Denmark, Sweden, Germany and the Netherlands, that supposedly got rid of serious corruption somewhere in the past, hardly presents itself as a linear and triumphant story of the progressive elimination of corruption. In other words, the various elements that make up the history of corruption are far more complex than some scholars tend to imagine. Hence, we suggest it would be wise to reconsider current ideas about supposedly corrupt as well as non-corrupt historical societies.

The second insight shared by the contributors, and in line with the budding historiography on this topic, is that corruption, regardless of what it meant in practical terms, was routinely presented as a political slur, a negative feature of a ruler, regime, organization or administrator and, as such, was considered a deviation undermining morality. Political leaders past and present usually do not present themselves, or the society, government or organization in which they live and work, *proudly* as corrupt. Corruption is, in other words, usually considered a bad thing, and this has informed the ongoing search for effective anticorruption by different people and societies throughout history.

Thirdly, the word corruption has its origins in Classical Latin and was a synonym for misuse of power, political perversion and loss of integrity. And although it was often used in that sense in later periods as well, it has, over time, also come to be employed in describing a great variety of practices, from sexual misbehavior to patronage, to private enrichment, to something as straightforward as an error in a text or translation. In different periods the emphasis on what constituted corruption varied, but there is no clear trajectory in this variation, whereby a certain understanding of corruption would dominate in one period and then disappear, only to rise again later on. Furthermore, sometimes practices that were regarded as immoral and contrary to the public good were labeled corrupt in one period but not in another, and their toleration varied according to different historical contexts. The absence, therefore, from the sources of the term "corruption" in association with specific practices does not preclude a historical investigation of those practices and of notions of good government, accountability and attempts to improve it. We can thus research corruption even when the word itself is not used in a particular historical reality (see for instance Maaike van Berkel's and Mark Knights' chapters).

A fourth insight that has informed our approach, and which can also be derived from the contributions, is that corruption is not only a type of malpractice, but also a basic thread of intellectual discussions about ideal forms of good government.

As the contributions show, we find much debate in ancient, medieval and early modern writings about when, how and why good forms of government (monarchy, aristocracy, democracy) degenerated into corrupt ones (tyranny, oligarchy, ochlocracy), in part as a way to promote new and existing anticorruption measures. In later times proponents of different modern ideologies such as socialism, liberalism and communism have argued that their own system was free of corruption and held their opponents' belief system accountable for individual misbehavior and overall decay (see for instance the chapters by James Moore and André Steiner).

In this sense too corruption comes across as a highly political concept. Although corruption has been used throughout history to describe very different phenomena, it was very often deployed as a rhetorical weapon in political conflicts over power, the rules by which it was exercised and the distribution of resources.[9] Much like accusations of crime in the social sphere and magic in the religion sphere, charges of corruption in the political sphere were frequently used as a cudgel by rival individuals and factions wishing to undermine the moral standing of their opponents and their claims to legitimate authority. Its political use should be understood in a broad way: corruption played (and plays) a role in legitimizing and in undermining the political legitimacy of those holding public authority. Hence, anticorruption strategies are never neutral and their implementation often involved conflict and negotiation behind the scenes. And it is also in this vein that the diverse sources pertaining to the historical study of such campaigns should be read (see the chapters in this volume by Valentina Arena and Sarah Bond).

In sum, the chapters in this volume address and discuss paradigms and counter-paradigms that are deeply embedded within their authors' respective fields. Taken together, they offer an alternative, contextual approach to the study of corruption and anticorruption, one that is sensitive to existing theories and explanatory models but is firmly grounded in rigorous historical research, based on an extensive knowledge of primary sources and academic literature and on a careful consideration of changing political, economic and cultural circumstances. In this qualitative way, historians can make a unique and valuable contribution to current debates about fighting corruption. The contribution of qualitative studies is amplified when properly placed in a broad comparative context. The basic premise of this book is that the concept of good government (or good rulership) and the efforts to limit those practices that were thought to undermine the moral and political legitimacy of its administrative and judicial structures are not exclusively Western-European—let alone modern—creations. Rather, anticorruption policies and measures, however different across time and geography, were common to numerous civilizations. As a point of departure this allows us to avoid anachronism and teleology and to see anticorruption less as a key element of modernization and more as a regular challenge to social and political order, dependent on historical circumstances and on the interplay between ideas and practical means. It does not privilege the search for watershed moments or seek the origins of certain historical developments, but rather approaches the topic through case-study analyses of the ways in which various stakeholders across the pre/modern divide sought to improve or simply protect the standards by which they were governed, whatever form that government took.

STRUCTURE OF THE VOLUME: THE CHAPTERS

The following chapters germinated in the run-up to a conference held in Amsterdam in September 2015 under the aegis of the ANTICORRP research project, funded by the European Commission.[10] Participants were invited to reflect on a common set of questions when writing their papers, each of which was pre-circulated. Specifically, they were asked to consider: how corruption and especially anticorruption were defined and employed in their primary sources and the historical context they were studying; whether they could inventory anticorruption practices and trace change over time in policy and/or practice; whether practices that we may describe as corruption today were perceived as offering a corrective to the shortcomings of earlier governments, such as unfairness and political disenfranchisement; and how severely agents of corruption were punished.

Differences in approach and the various historical sensibilities and historiographical backgrounds of this book's contributors are apparent. They are the inevitable, and in our view welcome, consequence of bringing together historians working on widely different periods and approaching the question of anticorruption from distinct historical subfields. One author's idea of a crucial development or a key concept may, therefore, differ greatly from another's, as they are both primarily dependent on the specific historical realities of the period under scrutiny. If we take the concept of modernity, for example, which most authors consider with some degree of suspicion, we can see that it is variously construed according to nationally and chronologically bound discourses and historiographical traditions.

On the other hand, contributors to this volume remain informed by the historiographical considerations discussed above and have routinely debated them before, during and after the conference. The chapters that follow are thus the product of intense and collective reflection and of the discussions our original gathering sparked. They also reflect the authors' reactions to two rounds of revisions, one following the conference itself, which included the comments of the participants and conveners, the other based on the very extensive and thoughtful remarks made by the original manuscript's anonymous reviewers. For our part as editors, we decided, and were supported in this decision by the reviewers, to arrange the chapters chronologically in order to simplify access and because that seemed to us the best way to emphasize the permanence of certain problems and the different ways in which they were dealt with under different historical circumstances. Additionally, the five chronological sections also are held together by some specific questions or theses that are of importance for that period. The volume consists, therefore, of twenty chapters chronologically arranged in five sections, each presenting a modicum of geographical, sub-chronological and historiographical diversity.

I Antiquity

Section one comprises three chapters, spanning the traditional length of antiquity, from its Classical Greek origins (fifth to fourth centuries BCE) to the later Roman era (fourth to sixth centuries CE). From a modern perspective, anticorruption in this

long period presents a paradox of sorts. On the one hand, the period fostered political ideas and practices that far outlived their original contexts. On the other hand, these are often seen as either underutilized or outright pretentious when it comes to state-building. Both views are challenged in the opening chapter by Claire Taylor, which examines a major corruption scandal that involved Athens' famous orator Demosthenes and an official of Alexander the Great, accused of bribe taking (and in so doing, of committing an act of treason). As the nexus suggests, fighting corruption was widely seen as a major plank of maintaining social and political order, and as such undergirded the creation and functioning of several procedures and institutions. Beyond the seriousness with which such allegations were levelled, their prosecution recognized rather than ignored tensions between individual and collective decision-making—or, in other words, the existence of potentially rival private and public spheres.

Corruption was also seen as a major factor in the collapse of republican Rome, as Valentina Arena's subsequent contribution argues. It was in reaction to this perception of the Republic's political fortunes that an array of offices, laws and procedures were established and continually reformed to prevent a relapse. As in Greece, a public sphere and public interest were certainly recognized, also in terms of their problematic relationship with the private sphere. Moreover, it is difficult to defend the existence of a major disjuncture between moralistic discourses and legal-political institutions designed to patrol the public/private divide: both were part of the same discourse and strategy to curb corruption and improve government.

A similarly complex view emerges from the last chapter in this section, by Sarah Bond. Focusing on a period that has often been described in terms of a moral and institutional decline, Bond interrogates both legal and literary sources pertaining to imperial Roman administration and asks to what extent do they offer evidence of increasing corruption or merely greater awareness of its debilitating effects. She argues, moreover, that the rhetoric of corruption itself can be seen as an anti-corruption tactic on the part of some elites, with the power to shape norms outside the formal remit of the law.

II The Middle Ages

Spanning five centuries and a broad geographical arc, the four chapters on medieval history offer a multilayered account of anticorruption efforts that engages with several of the transversal themes mentioned earlier. The Middle Ages (both in Europe and the Middle East) are widely recognized as the cradle of numerous modern institutions, from banks to hospitals to states, the long gestation of which can be also explained by a widespread leniency towards malpractice in the private and public spheres, or else by an incapacity to fight it. As the contributions in this section illustrate, however, both at the normative and practical levels the picture emerging from the sources is far more complex, with significant implications for the prevailing image of the pre/modern divide.

Working from a mass of historiographical and literary sources (survival of archival materials being extremely low), Maaike van Berkel argues that understandings of

corruption and anticorruption measures (petition and response procedures, administrative discharge procedures, audits of office) remained largely stable throughout Abbasid, Buyid and Seljuq rule, between the ninth and the eleventh centuries. There was a gap, however, between the anticorruption measures themselves and their enforcement—in other words, between prevention and punishment—and the perception of corruption as an urgent matter waxed and waned according to political circumstances.

How politics and private interest affected the anticorruption apparatus gradually put in place by French, English and Portuguese kings between 1250 and 1500 is a central theme in André Vitória's chapter. That apparatus was a combination of judicial prosecution and procedures for appointing and replacing officials, rules defining the duties and duration of office, improved record-keeping and accounting practices and mechanisms for administrative supervision. These measures notwithstanding, Vitória argues that these royal regimes were structurally incapable of punishing and restraining corruption effectively and in a sustained manner, essentially because they could not control political society directly and because political constraints, especially their dependence on informal service, often made a strict approach to corruption injudicious. These forms of late medieval government, therefore, were confronted with the dilemma of having to fight corruption with inadequate means and without unduly disturbing the social and political equilibrium on which their authority depended, a question that is further explored in George Bernard's contribution.

At the heart of this dilemma was the "problem of the personal," which is the object of John Watts' chapter on England between 1250 and 1500. Watts starts by linking corruption with what he calls the "grey areas of public life" (or the ambiguity between public and private resulting from power-sharing and the competition of personal interests) and by explaining why they were complicated by the growth of royal government and the rules it produced. He then describes the two main types of corruption in the period and examines the measures used to address them and how they changed over time. Watts argues that corruption crises and the anticorruption measures they engendered were a simplification, at once a reflection of the deep malfunction of the political system and an opportunity to relieve the tensions that threatened political order.

Auditing practices for public officials existed in all the regions being considered, but they had nowhere as prominent a place or better surviving records as in the Italian city-states studied in Guy Geltner's chapter. Geltner shows that the regulation of *sindacato*—an end-of-term audit for urban officials—is of a piece with normative and literary discourses about accountability, good government and the common good, but argues that these cannot be seen in isolation from documentary evidence. Based on a detailed analysis of the rich judicial and administrative records from fourteenth-century Perugia, he shows that the connection between accountability of office and political legitimacy implicit in the *sindacato* is less straightforward than commonly thought. Rather than a marker of transparent, participatory politics, the *sindacato* was a complex, inherently biased, often slow and ineffectual mechanism, which could conceal as much as it revealed about the administration of the city.

As such, this chapter echoes John Watts' question regarding our ability to evaluate the actual scale of corruption and the ability of existing mechanisms to detect and fight it.

III Early Modernity

Continuing the reflection initiated in the previous section, the main thread running through the three chapters in this section is the connection between anticorruption measures and politics. The structure and dynamics of political society—the weight and social function of patronage, the modes of access to wealth, the prevalence of informal service, the practical constraints of government—shaped attitudes to corruption as well as government's response to it. Both of these may seem to our modern eyes indulgent or half-hearted. But as the three chapters here show, anticorruption measures filled the space and purpose that politics allowed them, which explains their scope and intensity as well as their use for political ends: for instance, as the rationale for political purges and regeneration in times of crisis, or as a means of asserting the administrative and judicial authority of government.

Taking as its point of departure the career and legacy of the early Tudor courtier Sir William Compton (1482–1528), George Bernard's chapter reflects on royal favor, gift-giving and patronage in sixteenth- and early-seventeenth-century England, and on the appropriateness of studying a socio-political reality structured around those practices from the perspective of corruption and anticorruption. Bernard argues, in fact, that in the early Tudor period, when private and public interests were deeply enmeshed, corruption was not a primary concern and anticorruption measures were therefore scarce. Embezzlement and theft were certainly condemned, but informal fees and annuities, which were widespread and widely accepted, cannot be readily interpreted as corruption because they were not intended to secure special favor. They were rather a conventional element of sociability, which provided unsalaried or poorly salaried officials with an additional source of income, thereby saving royal government from having to support them directly. Moreover, the fact that royal officials and courtier-administrators sought to extract a personal benefit from their offices and from royal favor, did not necessarily detract from their competence as administrators, nor did the prevalence of patronage. Bernard points out that much of the momentum of patronage actually came from below and that patronage was seen more as an opportunity than as a problem. Seen in this light, the heightened but short-lived concern with corruption in James I's reign was less the result of a change in perception than the by-product of a political and economic crisis.

The connection between anticorruption measures and power politics is at the heart of the contribution by Francisco Andújar Castillo, Antonio Feros and Pilar Ponce Leiva, who see in the resistance of Spanish elites—the same elites whom the king relied on to keep kingdom and empire together—the main reason why anticorruption measures in sixteenth- and early-seventeenth-century Spain were ultimately ineffective. Spanish kings were reluctant to antagonize these elites, for fear of creating more serious and damaging political problems. However, the lively

debate about corruption that ensued could also be seen as an attempt to better understand and control it: corruption scandals could lead to the fall of officials and specific anticorruption measures were deployed. Of the various administrative mechanisms available to control royal ministers and administrators, the authors pay particular attention to the so-called *visitas* and *residencias*—audits of institutions or individuals conducted during or at the end of their terms of office. Anticorruption measures were occasionally adopted in response to moments of political crisis and public criticism of officials and ministers, but their effect was blunted by the relative mildness of penalties and fines and by the possibility of negotiating their reduction. Echoing the realities studied by Maaike van Berkel and Guy Geltner, corruption crises in early modern Spain appear to have been more about broader political challenges than about an intrinsic concern with corruption.

Finally, based on the analysis of several case studies from the southern French province of Languedoc between the mid-seventeenth and the end of the eighteenth century, Stéphane Durand shows that the way in which corruption was dealt with at the level of provincial administration depended on how it was uncovered and on the choice of individual plaintiffs between the ordinary courts of the kingdom (*justice déléguée*) and the king's *justice retenue*. Promising swiftness and harshness in tackling administrative misconduct, the latter, which was represented in the provinces by the *intendant*, gradually encroached on the business of the ordinary courts. Durand shows that royal government associated the effectiveness of royal prosecution of corruption with avoiding jurisdictional competition and concentrating judicial proceedings in the *intendant*'s hands. Although the latter's judicial duties thrust him into the thick of local politics and local rivalries, the investigations hardly ever tried to follow the political ramifications of corruption cases. The messiness on the ground contrasts vividly with the trust government placed in normative clarity. Royal and provincial government in Bourbon France legislated profusely on corruption and established a severe penal framework for it. Yet Durand argues that they were animated less by the devotion to public good typical of the political discourse of the Enlightenment than by a Cartesian fascination with formal, rational systems.

IV From Early Modern to Modern Times

The fourth section is dedicated to the debate, already mentioned above, about whether a transition from an early modern to a modern understanding of corruption and anticorruption actually took place. A crucial feature of this presumed transition is the implementation of uniquely modern reforms: the introduction of the rule of law and a clear formal-legal separation between public and private spheres as well as democratization and Weberian-style bureaucratization of society and politics. Considered today as inherently reducing corruption, these long-term historical developments supposedly typify the period stretching from the early-seventeenth to the late-nineteenth century.[11]

Introducing a detailed discussion of this modernization or transition thesis, this section starts with a provocative chapter by Jens Ivo Engels, in which he argues

that the understanding of anticorruption did indeed change dramatically around 1800. Revolutionaries declared war on corruption and deemed practices that had been common during the *Ancien Régime*, especially patronage and the use of public positions for private gain, as corrupt. The consequences of this for anticorruption were far-reaching: the public and the private were more sharply separated, and all "old" practices (or recent ones construed as such) were attacked with "new" anticorruption rules. The belief grew that corruption could be eliminated. However, Engels' contribution is also a pessimistic story: the essential ambivalence of modernization meant that all anticorruption efforts created new forms of corruption, a fate likely to befall present-day campaigns as well. The following chapters explicitly and implicitly refer to the modernization thesis.

Mark Knights also takes the pre/modern divide, which is framed in English historiography as the end of "Old Corruption," as the starting point for a long-term overview of anticorruption in Britain and its colonies. Focusing on anticorruption movements, he adds another dimension to the paradox of modernization by showing that although a transition took place in the period between the late-sixteenth century and the nineteenth century, it was by no means a linear one; in fact, anticorruption reforms carried out in the late-seventeenth century could quite easily be abandoned a few decades later only to be reintroduced when the same old practices resurfaced. While Knights' chapter dialogues with many of the contributions to this volume, it complements George Bernard's chapter on sixteenth- and seventeenth-century England particularly well in arguing that there is a relationship between late sixteenth-century Reformation and eighteenth-century reforms, both of which involved an attack on corruption.

Since the transition thesis is largely based on the history of Great Britain and France, this section also features countries that are less often mentioned in the historiography: Denmark, the Netherlands, Sweden, Romania and the Ottoman Empire. This group of "periphery-countries" is itself often divided into those countries that are perceived as having made a "successful" transition, and are therefore worth studying with a view to understanding "effective" anticorruption—Denmark, the Netherlands, Sweden—and those that have been comparatively less "successful"—Romania and the Ottoman Empire. What constitutes corruption and success in fighting it is often taken for granted in the existing literature, which is why the chapters in this section not only explore but also critique existing narratives.

Mette Frisk Jensen discusses Denmark's unique path of anticorruption, a case that has recently attracted much attention from social scientists and policy advisors. She provides a revised historical explanation of how Denmark came to be ranked at the top of the Corruption Perception Index, arguing that the roots of the process must be sought, strikingly, in the efforts of the absolutist monarchical regime to secure its power and legitimacy, for example by introducing the oath of office and by visibly responding to citizens' requests. Frisk Jensen's story, however, is also very much an illustration of how certain institutions that current political science literature sees as the key to the country's low levels of corruption developed outside the context of a conscious struggle against corruption (on this, see Michael Johnston's Afterword as well). The chapter therefore explicitly raises concerns about how far the Danish example can be stretched as a model for other countries.

James Kennedy and Ronald Kroeze take as starting point the contemporary idea that the Netherlands is one of the least corrupt countries in the world, an idea that they date back to the late-nineteenth and early-twentieth centuries. They explain how corruption was controlled in the Netherlands against the background of the rise and fall of the Dutch Republic, modern state-building and liberal politics. In a situation comparable to that described by George Bernard for seventeenth-century England, networks and patronage played an important role in the functioning of the republic in the same period. The Dutch revolutionaries very radically (at least rhetorically) attacked patronage networks during a series of struggles at the end of the eighteenth century, which seems to confirm Jens Ivo Engels's argument that 1800 marked a turning point. However, the Dutch case also presents a paradox: first, the decrease in some forms of corruption was not due to early democratization or bureaucratization, but was rather a side effect of elite patronage-politics; second, although some early modern forms of corruption disappeared around this period, new forms also emerged.

Andreas Bågenholm challenges common historiographical claims about the Swedish transition of circa 1800. He concludes, based on a novel reading of key primary sources, that there is only weak evidence that Sweden was a thoroughly corrupt state before 1800 or that corruption was the most important political problem at that time (and was therefore actively and effectively combated in the first decades of the nineteenth century). However, he does see evidence that many efforts were taken to reform the administration quite early on and argues (while being aware of the conceptual problems involved) that these reforms show many similarities with Weberian-style bureaucratization.

Ovidiu Olar evaluates the changes that have been held responsible for the emergence of a modern, historically informed interpretation of corruption, by analyzing three case studies that are exemplary of the practices of and debates about corruption and anticorruption in the Romanian Principalities from the seventeenth until the nineteenth centuries. In a way similar to the chapters by John Watts, George Bernard and James Kennedy and Ronald Kroeze, the term corruption is reinterpreted in terms of its relation to networks of patronage, solidarity and trust. He discusses whether a transition took place in this period, and concludes that no decisive break can be established based on the sources available, arguing instead that the change was slow and convoluted.

Finally, Iris Agmon employs the nexus of state and family as a lens for examining the question of anticorruption in the later Ottoman Empire. By exploring the methods used by the government for preventing corruption at the recently created state institution for handling property inherited by orphans, she discusses the involvement of the state in the private sphere of the family. While stressing the global nature of the modernization undergone by the Ottoman state in the nineteenth century, Agmon demonstrates the unique features of a political culture that shaped these processes as well. On the one hand, she emphasizes the fact that the reforms transformed the empire into a modern centralized state and that preventing corruption was a major issue on the reformers' agenda. But she claims, on the other hand, that anticorruption measures were also an important matter in earlier periods, albeit embedded in different historical circumstances. Her chapter

critically discusses the methodological problems concerning the historiography on anticorruption and the challenges Eurocentric depictions of the Ottoman Empire have posed to historians, and concludes that continuity was a major feature of the profound change the Ottoman state underwent in the nineteenth century.

V Modern and Contemporary History

The final section of this book deals with corruption and anticorruption in the history of modern European societies. Reflecting on the modernity thesis, the authors in this section look at societies that were considered to have reached a modern stage and to be therefore free of corruption. James Moore goes deeper into a period that is often seen as one in which early modern "Old Corruption" was finally eliminated in Britain: 1880–1914. He shows how various political measures and developments have been held to account for this change. He then changes perspective and makes clear, based on his own analysis of local politics, that at the local and municipal level corruption remained a problem in Britain, thereby strengthening the argument that the effectiveness of certain ambitious anticorruption laws and the "end of corruption" in modern British society depend on one's perspective.

Ronald Kroeze concentrates on two large political corruption scandals—Lockheed and Flick—in two countries that are commonly seen as relatively corruption-free: the Netherlands and Germany. He argues that these corruption scandals were each taken very seriously, but were handled in different ways from what current anticorruption policies would suggest. The existing law was regarded as inadequate and political elites tried to keep the scandals subdued by balancing refusal of formal prosecution with intense public debate, with the aim of maintaining the stability of the political system in the longer run. In illuminating the overlapping interests of political and financial elites, this chapter reinforces the observations made earlier in this volume by John Watts, Jens Ivo Engels and James Moore regarding the prevalence in some European countries of pragmatic as opposed to morally unbendable approaches to anticorruption.

Finally, André Steiner provides a striking account of corruption in a state that saw itself as free from corruption, the communist German Democratic Republic (GDR), a clear exponent of the modern belief in the end of corruption. He discusses the official ideology and the anticorruption laws that were in place, as well as three distinct types of corruption that were present in the GDR. Steiner shows how the image of anticorruption was maintained by, on the one hand, accommodating to certain privileges and overlooking the clear misconduct of a part of the communist elite and, on the other hand, by concealment of the actual evidence of corruption.

ANTICORRUPTION HISTORY AND POLICY

Before leaving readers to their own devices, we would like to conclude with a few words about the overall, if tentative, ramifications of these contributions to anticorruption strategies today. First of all, the chapters featured in this work demonstrate

the value of defining and approaching anticorruption in its own socio-political context, rather than assuming either that the concept is absent or that external (often modern, Euro-American) apparatuses are the only—or else superior—alternatives to corruption. Modern theories and definitions of corruption and anticorruption can certainly help identify corrupt practices and anticorruption measures in past times, but the very terms and the practices they denote have a history. Since the usage and the meaning of corruption change over time and across regions, a single definition is unnecessarily limiting. In fact, the history of anticorruption is often the history of how to deal with and restrain a variety of political problems—bribery of officials, nepotism, embezzlement, patronage and so on—and how to develop certain governmental (or para-governmental) structures intended to curb and punish those practices. What is considered the most urgent and severe form of corruption and how to fight and monitor it is context-dependent. The implication of this conclusion for policy makers is that in order to understand corruption it is necessary to hone an emic perspective before developing anticorruption measures that might, for various reasons, collide or lose their sting because of discrepant cultural or religious values or be seen simply as a new form of top-down or colonial intervention. A one-size-fits-all solution to a single problem is neither likely nor desirable, raising concerns about whether the Danish, Swedish or Dutch examples should or indeed could be directly applied to other circumstances, which can sometimes be very far removed from the original contexts in which these countries began what was evidently an important transition.

The second implication is that anticorruption is an inherently political issue, reflecting changing power relations and acute political crises about forms of behavior that are deemed corrupt and that, once discovered, cause public dismay, scandals or even revolution. It means that every accusation of corruption as well as every effort to fight it with anticorruption measures is politically contested: being convinced that a certain problem is an issue of serious corruption or trust in the effectiveness of an anticorruption measure depends on one's socio-economic successes, as well as one's place in society, membership of a faction or party and moral and ideological beliefs. The problem of corruption should therefore be looked at with an eye open for diversity of local perspectives; indeed, the contributions to this volume suggest that conflict between political factions can become the breeding ground for accusations of corruption as well as the beginning of promising agreements between ruling elites about how to stem corruption for pragmatic reasons, how to divide public resources equitably, and how to prevent conflict in the future. Therefore allegations of corruption may help define more clearly what is perceived as more or less acceptable in a given context, even if they provide a weak indicator in general for the prevalence or scarcity of corruption itself.

Third, fighting corruption is difficult to evaluate in terms of success or failure, even (or one could argue, especially) today. The chapters in this volume show that the history of anticorruption cannot be reduced to a positive, linear development, growing steadily stronger with political centralization, Weberian-style bureaucratization, the birth of the nation-state and, ultimately, democracy, a free press and universal suffrage. Nor can we make a clear distinction between a center of successful

countries and a periphery of failures, at least not from a long-term perspective. For all its elegant simplicity, the idea of inexorable progress is inadequate to make sense of the ebb and flow of politics. Weberianism glorifies the successes of the modern bureaucratic state, but is quite at a loss to account for its failures and the historical circumstances that determine them, since bureaucratization is itself a very paradoxical process, as is democratization. Public authorities should recognize that there is no end when it comes to fighting corruption and that anticorruption policies are provisional and in constant need of adjustment. As social, political and economic dynamics change, so new opportunities for corruption are created, and so must anticorruption policies—and indeed our understanding of corruption—adapt to the new realities.

It is also difficult to evaluate "anticorruption" because it was often the by-product of different processes. In some chapters it becomes clear that apparently contradictory responses to corruption may be quite effective, and therefore rational, in controlling corruption, although they may not be very appealing to us nowadays. The Dutch case, for example, demonstrates that it was not explicit anticorruption laws but the lack of formal-legal rules and the discretionary powers enjoyed by the ruling elite that created a political culture of bargaining among parties over public resources and functions that limited the misuse of public powers by only a few men. But few would probably argue that we should try to reconstitute the Dutch Republic.

The fourth point is that anticorruption mechanisms incorporate both ideas about legitimacy and specific political, economic and judicial practices. The existence of an intense debate about corruption, therefore, is a poor indicator of the real scale of corruption. It can certainly mean that anticorruption is lacking or that the existing system has failed to ensure good government practices. But it can also be a sign of a public discourse sensitive to good government, as well as highlighting growing overall distrust in political institutions and the set of legitimate political ideas on which they are built. And then again we face the very complex question of how, why and when countries or political systems rise and fall. In addition, the chapters of Section V in particular make it clear that the decline in the number of corruption scandals or convictions for corruption in a specific historical context may be merely a case of looking in the wrong place (national instead of local level, political instead of business relations; legal instead of moral discourses). Corruption can even be a perceived problem that has a major impact on definitions of official accountability and anticorruption policies in countries that historically were regarded as stable and prosperous. Thus, anticorruption is not only an effective law or rule that forbids certain malpractices, but also a matter of trust in a governance system and the ideas on which it is founded.

The chapters in this book also underscore the challenge of identifying a clear transition from classical to medieval, to early modern and modern practices of and ideas about anticorruption. A public/private divide, the idea of a public or general interest that could be misused and the merits of a professional bureaucracy have been identified by the authors of this volume not only in modern states but also in classical Greece, in medieval England, France and Portugal and in early Renaissance

Italy, for example. Collectively the chapters demonstrate that an allegedly modern interpretation of corruption, which centered on malfeasance as the misuse of public office that harms the general interest, can in fact be traced back to the various historical cultures under scrutiny. Conceived in this manner, the fight against corruption is not an exclusive attribute of modernity. Indeed, there are important similarities in the way the problem of corruption was understood in different periods and regions.

This explains why efforts to reduce corruption have systematically relied on a recurrent set of measures, from antiquity until our own time, including criminalization of certain corrupt practices, judicial prosecution, rules designed to open offices to the best and most suitable candidates and public campaigns demanding individual soul-searching and the moral regeneration of society. However, the impact of modernity on how societies in the nineteenth, twentieth and twenty-first centuries have dealt with corruption cannot be denied. Western European societies such as Britain and the Netherlands have been portrayed by contemporaries (including historians) as having reached the final, corruption-free stage of modernity thanks to the adoption of liberal constitutions, parliamentary democracy, rule of law, anti-bribery laws and so on.

More than being a truthful account of what was happening, these self-descriptions serve political and intellectual elites in their attempt to legitimize and emphasize the superiority of their ideas, nationally and internationally. Defining corruption and promoting anticorruption policies can thus be a form of identity-politics, used to strengthen and legitimate the power and hegemony of individuals, elites, minorities and nations, as well as ideas and ideologies. This hypothesis has important consequences, in our view. It means that current anticorruption strategies need to be reevaluated so as to determine the extent to which they have been affected by these or other paradoxes of modernity. In particular the dominant, but false, idea that corruption in Western societies disappeared after 1800—which itself has raised the unanswerable question of "How to become Denmark"—has also obscured how certain twenty-first-century privileges, such as arbitrary tax exemptions for the rich and the powerful, can encourage forms of political corruption.[12]

These are the main points that we, as editors and contributors, think are worth taking into consideration when drafting anticorruption policies and strategies. Whether or not any of these insights, much like those developed by our colleagues in other disciplines, may yield a helpful blueprint for ridding a massive range of present-day polities from what they themselves (let alone the World Bank or the IMF) consider to be corruption is however doubtful. As Michael Johnston, the eminent political scientist we invited to conclude this volume, points out, seeking a triumph of anticorruption smacks of rosy self-assessments that situate us at the end of history. The present volume is an attempt to steer away from such an imagined trajectory, seductive though it may be, without in any way detracting from the importance of studying and learning from anticorruption. As Johnston concludes in his Afterword: "We would be well-served if we were to look to the past, as well as to other parts of the world, with the more modest goal of learning how to ask, and seek answers for, better questions." We could not agree more.

PART I

ANTIQUITY

1

Corruption and Anticorruption in Democratic Athens

Claire Taylor

SCANDAL IN ATHENS: THE HARPALOS AFFAIR

In 323 BCE a corruption scandal erupted across Athens. Alexander the Great's treasurer, a nobleman named Harpalos, had defected the previous year from Alexander's court with a large amount of silver and a sizeable army.[1] He made his way to Athens and, after first being refused, was admitted to the city as a suppliant. Considerable debate had taken place in Athens over the previous decades about how best to respond to Macedonian power. The orator Demosthenes had made his name advising the Athenians in their dealings with the Macedonians and he stepped up to the task. Generally anti-Macedonian, he adopted a more cautious approach. In the Assembly, he proposed a decree to arrest Harpalos and hold the 700 talents he now had with him for safekeeping on the Acropolis (this amounted to over half of Athens' entire annual income),[2] whilst waiting to see how the geopolitical landscape would develop.[3] The following day Demosthenes left Athens on an embassy but, shortly after he returned, Harpalos curiously managed to escape from prison and fled the city. To make matters worse, there were only 350 talents of silver. Where did this money go? Bribery was suspected.

The Athenians commissioned an inquiry (*apophasis*) whereby the Areopagos council investigated the affair. Six months later it produced a brief report: Demosthenes and seven other men were found to have taken bribes from Harpalos, their names appeared on a list of the accused, and the cases went to trial. Ten prosecutors were chosen.[4] Three of the men—Demosthenes included—were found guilty, three more were acquitted; the fates of the other two are unknown.

The episode has political corruption at its heart. Harpalos had stolen a mind-numbingly large amount of money from Alexander's treasury and Demosthenes and the others were charged with receiving some of this as bribes. It is an episode which demonstrates not only Athenian attitudes to corruption and its prevention—after all, the "culprits" were tried and punished—but also raises questions about how corruption was conceptualized and how the Athenians responded to it. It forms, therefore, a useful case study not only for thinking about how corruption was perceived and prosecuted in Athenian society, but, more importantly for our purposes

here, for tracing how anticorruption measures both responded to and shaped democratic values. We know about this incident primarily from the prosecution speeches which were delivered against Demosthenes and his fellow defendants: these provide good evidence for seeing how corruption was defined, the measures taken to control it, and the political culture in which it developed and was debated.[5] They cannot, however, reveal whether Demosthenes and his collaborators actually did take bribes on this occasion or any other. These are highly partisan speeches designed to persuade a jury—in this case a jury of 1,500 citizens—of the guilt of the accused, and we do not have Demosthenes' (nor anyone else's) reply to the charges.

ACCUSATIONS OF CORRUPTION AND THE ATHENIAN POLITICAL SYSTEM

Before going any further, it is necessary to outline briefly the Athenian political system. At the time of the affair, and for the previous 175 years, Athens had been a direct democracy in which adult male citizens, regardless of wealth, shared political power and made decisions collectively and in public. The political institutions were designed to maximize participation from as wide a cross-section of the citizen body as possible: there were over 700 public officials, most of whom were selected by lot for one year only and served collectively on boards of officials with their peers. The primary political body was the Assembly—regularly attended by between 6,000 and 13,500 citizens—which debated and decided all domestic and foreign policy. It was here that the decision was taken to arrest Harpalos.[6] The law courts in which jurors sat—like the one which heard the cases arising from the affair—judged complaints and decided punishments. In a city-state with a citizen population of approximately 30,000, political participation, and political knowledge, was high. Many of these political activities were paid, thereby ensuring that the rich did not dominate. The Athenians took great pains to ensure their institutions and officials were held accountable for their decisions, that decision-making was collective and that power rotated among a large part of the citizen body.

These general principles notwithstanding, political elites did exist but they were fluid and changing and had to seriously take account of—that is, not merely pay lip service to—the wishes of the demos (the people). In the fifth century these elites tended to be the descendants of aristocratic families, men like Pericles who competed with (in their view) *nouveaux riche* up-starts for influence in the Assembly. Many of these men held prominent military offices, were successful generals and influential public speakers. By the mid-fourth century military leadership was less important for a successful political career, and a group of public speakers (*rhetores*)—men like Demosthenes—regularly contributed to Assembly debates, prosecuted their opponents in the law courts and involved themselves in highly visible political activity of one sort or another. Demosthenes, for example, frequently spoke in the Assembly, served as an ambassador, proposed decrees and wrote public speeches for himself and for others to deliver.[7]

Three important characteristics, therefore, of Athenian democracy were: (i) the demos had real and considerable power which they exercised in the Assembly, the law courts and in other political spaces; (ii) political elites were hyper-competitive with one another, regularly forming—and disbanding—informal alliances around specific political issues such as how to deal with Macedonian aggression (there were no political parties) so as to give the best advice or make the best proposal to the demos; and (iii) anyone who wished (*ho boulomenos*) could bring a prosecution against any other citizen, thereby demonstrating confidence in the capacity for judgment of ordinary citizens. Because Athens was a participatory democracy, the multiple and various anticorruption measures reveal a hostility to the hidden knowledge and power of elites, but also show a commitment to the diverse forms of expertise needed to ensure good decision-making practices. Maintaining political equality among the citizen body is the key factor here, as we shall see in the following discussion.

The issue of concern in the Harpalos affair was that Demosthenes and his fellow defendants had taken bribes.[8] The Greek term for bribery (*dorodokia*), however, also means gift-giving. It is essentially a neutral term given potency through its context and the social behavior of those doing the giving or receiving.[9] Since gift-giving was commonly practiced in Greek social and political relations, it is not the gift itself which was problematic, but how that gift skewed reciprocal relationships.[10] This means that standard modern definitions of corruption—for example, as the abuse of political activity for private profit—are problematic here because they do not allow for socially acceptable private profit. In the context of this trial, and in the discourse surrounding *dorodokia* more generally, the point at issue was not just that Demosthenes had received gifts, but that he received gifts *to the detriment of the city*. This is common language in cases of Athenian bribery and Hyperides, one of the prosecutors, makes this explicit:

> You willingly, men of the jury, give generals and speakers great scope for profit-making. It is not the laws that have allowed them to do this; your mildness and generosity have. There is just one proviso: what they take must be in, not against, your interests.[11]

The basic argument is that bribery was considered shameful when it was against the interest of the city, but essentially acceptable otherwise.[12] This is also explicit in the other surviving prosecution speech, written by Dinarchos:[13] Demosthenes "dared to accept money from Harpalos to the discredit and danger of the city."[14] He is depicted throughout as unpatriotic, unconcerned with the safety of the city, and out for himself. Of course, "in . . . your interests" is an exceptionally fluid phrase, entirely up for debate, especially within a political culture which was characterized by an ongoing negotiation of the relationship between private generosity and public gratitude.[15] But this was exactly the point: it allowed the demos to define bribery based on the outcome of the decision that had been made through these gifts and to maintain their authority to judge.[16] In the speeches, then, we see the prosecutors constructing the demos as a united body, correct in judgment, with the bribe-taker positioned outside these values.

Bribery is frequently constructed as anti-democratic and non-Greek, here and elsewhere, and although there are instances of bribery which take place between Athenians, they are considerably outnumbered by those involving a foreign power, a general on campaign outside of Athens or those that are concerned with foreigners trying to access Athenian citizenship. The bedrock of the Harpalos affair, of course, is the accusation that Demosthenes received money from a Macedonian, but during the course of the prosecution he is also accused of having received bribes from Alexander the Great himself, his father Philip II and the Persians.[17] Foreign influence threatened the democratic ideology of equality as well as undermining the sovereignty of the citizen body, perverting the institutions of democracy. But gift-giving was also a normal part of diplomatic relations, especially those which concerned monarchical Macedonia or Persia.[18] Accusing a politician of bribery was thus shorthand for saying he was a traitor, which was by nature difficult to prove and therefore became a pretty common way to slander opponents.[19]

BRIBERY AND OTHER FORMS OF CORRUPTION

Although the main issue in this affair is the influence of foreign money, Dinarchos also outlines other ways in which bribery could infiltrate Athenian politics, such as by serving to propose, drop or alter legislation, for erecting honorific statues, conferring citizenship or honoring foreign rulers.[20] Again, these reveal anxieties about political influence, especially when this was shaped by non-Athenians. Other forms of corruption mentioned elsewhere include embezzlement or theft of public funds, bribing of juries, paying off prosecutors and extortion.

Frequently coupled with accusations of bribery, though not in the accusations against Demosthenes, is the embezzlement of public funds.[21] In many places it is difficult to see where one ends and the other begins. Like bribery this is difficult to define precisely because a certain amount of self-enrichment whilst in office does appear to have been acceptable and expected—as shown by the Hyperides passage—at least for certain types of activities. Alarm-bells were set off, however, if office-holders amassed too great a fortune through political activity or when they were perceived to be poor to begin with.[22] When Hyperides distinguishes between the acceptable and unacceptable gifts that generals and orators receive, he very clearly places control in the hands of the demos—it is they who allow this situation, not vice versa. He also distinguishes between the political elites and those who are merely performing their duty to the state:

> Suppose that one of you, a private individual, makes a mistake during the tenure of some office, out of ignorance or inexperience: he will be overwhelmed in the jury court by their rhetoric, and will either lose his life or be exiled from his country.[23]

He goes on to list examples of men who suffered in this way: Athenians who were heavily punished for petty crimes because they were ordinary citizens and not well-known or influential like Demosthenes.[24]

Aside from these forms of corruption, the Athenians were also concerned with the bribery of juries: this even had its own vocabulary (*dekazein*: "to ten," or

syndekazein: "to ten together").[25] Juries were large, however: at least 201 citizens, drawn from a pool of 6,000, served on each case and many, like the one which tried Demosthenes, were much larger still. One tradition links the beginning of jury bribery with an alleged deterioration of the courts (brought about in this view by the introduction of jury pay), but even the most ardent contemporary critics of democracy praised these large juries because they were perceived to be more just and less easy to corrupt than smaller ones.[26] The causal link that is posited between ordinary people serving on juries and the beginning of judicial bribery is difficult to substantiate: the first case (or so our source tells us) concerned the general Anytos, who allegedly bribed a jury in order to be acquitted at his treason trial, which took place in 409. Yet large juries manned by ordinary citizens had by that point been a regular feature of the Athenian political landscape for a generation already. Rather, the connection reveals the distaste that some of the elite had for the power invested in the decision-making abilities of ordinary citizens.[27] Despite the fact that most allegations of bribery were levelled against the wealthy (and to be able to bribe a jury required very considerable resources), the poor were considered to be more susceptible to bribes.[28]

Poverty and greed are linked to other forms of corruption, such as extortion or giving false testimony (*sykophantia*).[29] *Sykophantia*, however, is a *topos* of elite discourse, a term of abuse whereby citizens were accused of prosecuting one another in court, not for the public good but for private gain as prosecutors received a proportion of the fine as recompense. These so-called malicious prosecutions, like the connection between jury pay and jury bribery, are very much rooted in debates about power: accusing others with allegations of this nature was a way of "controlling the narrative" in court, but they were arguably also a crucial check on the power of the wealthy.[30]

Electoral corruption, on the other hand, which seems to have played a significant role in Roman Republican politics (see Chapter 2 by Arena in this volume), appears to have been negligible in democratic Athens. Elections were not particularly common and power was rarely concentrated in the hands of individuals, which would have reduced both the opportunity and rewards. In addition, democratic Athens, through its use of political pay, appears to have bypassed the patron-client relationships of many ancient societies, thereby severing the link between socio-economic and political power. Having said this, most of the extant incidents of bribery of officials involve a small number of those who were elected, which might simply reflect the survival of the source material, but might also reveal attitudes towards the expertise of those in elected office (on which more presently).[31]

The Athenians therefore accused one another of corruption frequently. Demosthenes' trial is by no means an anomaly. During the Classical Period we know (with varying degrees of certainty) of over fifty trials in which bribery, embezzlement or other forms of corruption formed part of the charge with at least thirty-six convictions and literally hundreds of accusations.[32] This has given historians the impression that corruption was an intrinsic part of Athenian politics—a "problem" or a dysfunctional part of the political process.[33] But it is more complicated than this. As we have seen in the Harpalos affair, bribery was articulated in terms of the

city's interest rather than in terms of the act itself, and allegations could be easily tacked onto other crimes in law court speeches. If we focus our attention not on the presence of corruption—which we cannot judge to have actually occurred or not—but rather on the anticorruption measures taken by the Athenians, we shine a different light on democratic politics. The remainder of this chapter accordingly explores anticorruption practices in Athens. I will argue that through examining these within the context of epistemic decision-making, we can nuance our understanding of Athenian practices as well as provide a touchstone for revisiting present-day debates about transparency and expertise in governance. Rather than seeking to explore whether corruption existed, I will instead emphasize the mechanisms and methods through which anticorruption practices reveal principles of democratic decision-making in practice.

ANTICORRUPTION PRACTICES

The prosecution of Demosthenes might be thought of as a successful anticorruption case: bribery was detected quickly, brought before the judicial system and a successful prosecution occurred. Demosthenes was fined fifty talents and then fled into exile. However, it is striking when reading these speeches how little proof was offered of Demosthenes' guilt: the underlying logic is that Demosthenes appears on the Areopagus' list, the Areopagus is a democratic institution and therefore Demosthenes is guilty. To some extent this is to be expected: Athenian law courts focused less on establishing the facts of a case and more on persuading the jury that the defendant deserved to be punished. But it also reveals some important points about anticorruption measures in Athens. Here I single out three features: (i) legal responses to corruption; (ii) the intentional design of political institutions in order to make corruption difficult and unrewarding; and (iii) social pressures that promoted non-corrupt behavior.

ANTICORRUPTION LAWS

An astonishingly high number of legal procedures could be used against corruption. Aside from a law specifically against bribery, there were laws about the embezzlement of public funds, against bribery in the law courts, and the misconduct of ambassadors as well as routine scrutinies of officials after their term of office had ended in which accusations of corruption or negligence could be brought.[34] In addition, non-citizens suspected of having bribed their way into citizenship would be subject to a charge. Politicians could also be impeached (*eisangelia*), charged with treason (*prodosia*) or, like Demosthenes, subjected to a judicial inquiry (*apophasis*) before being brought to court under another charge.[35] This range of procedures covered a wide variety of scenarios: office-holders in the performance of their duties, ambassadors and envoys overseas, speakers in the Assembly advising the demos, generals on (or returned from) campaign and juries making decisions in the

law courts. In addition, speakers in court were free to imply, suggest or directly accuse their opponents of corrupt behavior as part of their case under any other law.

As was standard practice, charges could be brought by any concerned citizen (*ho boulomenos*) and it was their responsibility to choose the correct law or procedure. This highlights that monitoring and policing corruption was considered the responsibility of *all* citizens, rather than a specific class (lawyers, political elites, the educated, etc.). However, as far as we can tell from the evidence that survives, political opponents are commonly involved in prosecutions.[36] This is certainly true of Hyperides and Demosthenes and we will come back to this point presently.

Penalties were harsh, with fines of ten times the size of the bribe or the death penalty.[37] Demosthenes therefore appears to have got off rather lightly: his fine was "merely" two-and-a-half times what he was accused of taking, despite Dinarchos' repeated calls for his execution. In fact, he mentions the death penalty no less than twelve times during his prosecution speech. Demosthenes, like others before him, escaped into exile.[38] Yet for bribing a jury, there was seemingly no alternative to the death penalty.[39] Presumably the harshness of the penalties was meant to act as some kind of deterrent but it was also a symbolic measure to stress the seriousness of the offence. If fines were not repaid, defaulters became state debtors, lost their citizenship and had their property confiscated. Normally such debts were not forgiven on the death of a person so their children also were required to pay.[40] There was, therefore, a great deal of shame attached to a guilty verdict, and Hyperides plays up Demosthenes' disgraceful behavior as a motivation for the jurors to punish him.[41]

Given the frequent appearance of corruption in the legal sphere—principally with regards to the large number of laws which deal with different aspects of corruption, and the quantity of allegations which appear in law court speeches—it seems reasonable to suggest that democratic Athens was systemically corrupt. However, it is extremely difficult to disentangle accusations of corruption from incidences of it actually occurring because we cannot establish what went on in any particular case. I would argue that a better approach is to situate these laws and allegations within the context of other democratic accountability measures. Doing so illustrates how the Athenians developed institutions and promoted a civic culture that attempted to prevent corruption—or at least reduce its effects.[42] It is, then, the design of political institutions which de-incentivize bribery or otherwise make it difficult—and the social values which constructed bribery as being shameful—which shape Athenian attitudes towards controlling corruption.

INSTITUTIONAL DESIGN

Aside from the numerous laws and various legal procedures, the democratic institutions themselves made corruption expensive. The vast majority of public offices were not elected—an oligarchic measure which favored the wealthy and prominent—but were selected by lot. This randomized the selection process, making it difficult to guess who was to hold power at any one time (and removed that decision from the hands of men, placing it instead in the hands of the gods).[43]

Accountability measures required that officials submitted accounts (*euthyne*) and power-sharing in office ensured that a watchful eye was placed on all officials by their peers—almost all official duties were performed by boards of ten citizens rather than just one. This made it more difficult to target bribes and influence decisions, should someone wish to do so.

Selection of juries was complex and redesigned at least three times during the years of democracy in order to create additional layers of complexity and randomization to selection procedures.[44] New technologies were developed, including allotment machines (*kleroteria*) that could select prospective jurors each day and assign them to specific courtrooms (rather than allocating jurors to the same court each day, as had been the case in the fifth century). This was a highly complex process which some sources have connected, as discussed above, to anxieties about bribery.[45] However, it should also be seen as part of a process in which democratic values were actively fostered and solidified. Rather than simply responding to specific incidences of corruption or fears that this might occur, these reforms were proactive, neutering the most harmful forms of bribery, shifting opportunities from one sphere of political activity to another and keeping a firm rein on the political elite.[46]

As well as accountability measures and selection procedures, oaths were sworn before coming into office and curses evoked at the beginning of political meetings. These are religious proscriptions on behavior which were taken very seriously. If certain officials (archons), for example, were found taking bribes they were to dedicate a gold statue. This seems like a less stringent penalty than a tenfold fine or death, but we should not see this in terms of letting this board off lightly, nor does it reflect an expectation that archons were more or less likely to take bribes. Rather, it is probably a hangover from an earlier age, when archons were the premier board of magistrates in Athens.[47] It is noteworthy, then, that anti-bribery measures formed part of Athenian politics from an early, or possibly pre-, democratic period. It should also be noted that dedicating a gold statue would still have been expensive, costing just as much, if not more than a monetary fine, as well as advertising in a highly conspicuous way the misbehavior of the archon in a permanent fashion, shaming him and his descendants and acting as a constant reminder of their venality and was therefore hardly a soft option.

SOCIAL PRESSURE

Social values also shaped anticorruption practices outside the formal political institutions. On the one hand, we might conclude from the volume of surviving accusations that everyone was at it—that the political culture was one in which a blind eye was turned to all sorts of corrupt behavior and therefore view it as a collective-action problem.[48] But this ignores the level of outrage and anger that is directed towards bribe-takers: both Dinarchos and Hyperides forcefully drive home the point that the behavior of Demosthenes is outrageous. Indeed, the level of invective hurled towards the defendants is striking to the casual reader of these

speeches. To some extent this is a characteristic of Athenian forensic discourse—attacking opponents was par for the course—but the savagery of the attacks is self-evident and replicated in other bribery trials.[49] Demosthenes is portrayed as a traitor, a turncoat and a liar. He is untrustworthy, impious and greedy. This construction of character pointedly reveals the contours of socially acceptable behavior and Demosthenes is portrayed very distinctly as having fallen outside these. This is a discourse of contempt designed to present the defendants in the worst light possible. To be a bribe-taker was literally to be a hater of the demos.[50]

As already seen, Demosthenes and Hyperides were political opponents. That Hyperides ended up being partly responsible for Demosthenes' downfall is worthy of comment because it reveals the hyper-competitive nature of political opposition among elites in Athens. Allegations of corruption could be a political tool used by political opponents against one another: merely its mention placed one's opponent outside of the norms of social behavior perpetuating a discourse which was not at all tolerant of corruption, but which left accusers vulnerable to the same charges themselves. Demosthenes, for example, had liberally thrown about similar allegations throughout his career. We should see, therefore, the multiple accusations not as an indicator of a bribe culture, but as a constraining factor on the potentially disruptive behavior of political elites. If corruption is seen as a collective-action problem, there is reason to ask whether these anticorruption measures could have formed part of a collective-action solution.

ANTICORRUPTION AS COLLECTIVE ACTION: KNOWLEDGE, AUTHORITY AND POWER

Having sketched some of the main features of corruption and the anticorruption measures in Athens, one question that emerges is how did Athenians balance the collective interests of the demos with the private interests of individual citizens? Previous answers to this question have focused on the motivation of the bribe-takers,[51] the negotiation of power between the demos and elites[52] or the "inefficiency" of the legal system that failed to adequately police those in power.[53] But here I want to consider the answer from the viewpoint of collective action in general and with specific focus on individual and collective forms of political decision-making. Drawing on recent work on epistemic democracy allows us not only to investigate anticorruption from a different angle, but also to untangle the multiple accusations of corruption from the various anticorruption measures.

Tensions between individual and collective decision-making are at the heart of Athenian anticorruption practices. They manifest in a number of ways: in the fact that corruption accusations are constructed as a problem identified by political opponents, which places them outside of the norms of civic behavior; in the suspicion of individual expertise and the ways in which elites draw on this to develop political influence; and in terms of "privatizing" knowledge that should be placed in the public sphere. But we also see how these anticorruption measures sustain and foster democratic values, are both responsive to and resist elite misbehavior—thereby

promoting the interests of the citizens—and how they articulate a commitment to making the best use of diverse forms of expertise. It is these factors which shape attitudes to corruption and anticorruption measures in Athens.

The importance of collective as opposed to individual decision-making in ancient Greek politics is highlighted by Aristotle, who suggests that groups of ordinary people can judge complex political situations better than a few excellent individuals would. In a much-discussed passage, he considers how collective works by comparing it to two activities: the bringing of food to communal dinners and the appreciation of theatrical performances. In doing so, he argues that "the multitude becomes a single man with many feet and many hands and many senses."[54] Essentially Aristotle is developing here an argument for the wisdom of the many, and the reason, he states, for this wisdom is that the multitude (*plethos*) are more incorruptible (*adiaphthoroteron*) than the few.[55] This link between collective decision-making—the wisdom of crowds—and incorruptibility therefore deserves further scrutiny.

Aristotle argues that individuals who rule as individuals are more corruptible because they are more susceptible to emotion, in particular anger, than those who rule collectively.[56] In the context of the law court, this is precisely what Dinarchos and Hyperides were playing on: they aimed to rile up the jury against Demosthenes' behavior. Because juries were large we might expect them to conform to collective, rather than individual decision-making practices. However, Schwartzberg's recent exploration of political judgment provides a useful reconsideration of this assumption.[57] She distinguishes between decision-making which relied on the aggregation of individual votes cast (e.g. in the law courts) and that which relied on acclamation and/or estimation of voting preferences (e.g. in the Assembly). The former, she argues, prioritized the capacity for individual judgment (each juror votes in a secret ballot, without deliberation), whereas the latter conveyed and symbolized the unity of collective decisions rather than the decisions of a majority of citizens who might be wealthy, prominent or influential. Voting by raised hands (*cheirotonia*) in the Assembly—as was the case in the decision to arrest Harpalos—represented the decision as a collective one, a decision of the demos as a whole.

There are two conclusions about anticorruption to draw from this: first, when corruption accusations are framed as individuals acting in a personal capacity against the common interest, this can be seen as a divergence from the civic norm of collective responsibility and was therefore a violation of civic trust. Although we might not expect to find it, there is no sense in the prosecution speeches that Harpalos should not have been arrested. This decision is portrayed as a unified one. Demosthenes, by contrast, is cast by his opponents as embodying individual judgment: he was the one who proposed the decree to arrest Harpalos, he appears to have been appointed to the board which oversaw the removal of the money to the Acropolis, he was the one who suggested the *apophasis*, and he was the one who proposed the death penalty (not to mention all his other disastrous involvements with Philip II).[58] That is, it is his capacity for individual decision-making which is heightened in the rhetoric of the prosecution speeches and which is cast as suspicious; as we have seen this is because it opened the door for non-Athenian influences to be exerted on democratic politics and placed the city in danger.

Individual decision-making therefore risked shutting down these collective processes and could, in and of itself, be presented as corrupt.

Secondly, the difference in decision-making procedure provides an insight into why jury bribery appears to have been subject to greater institutional intervention than other forms of corruption. Recall that the penalty for jury-bribery could only be death (rather than a fine or death) and that jury selection was made increasingly complex during the Classical period. In contrast to voting procedures in the Assembly, jurors voted through a secret ballot, which aggregated their decisions and publicized how many votes for and against the defendant received. This placed confidence in their individual capacity to judge, but such a confidence had its origins in aristocratic decision-making procedures.[59] In this light, the link between jury bribery and jury pay discussed already is more explicable: jurors—ordinary citizens—were given the decision-making capacities that only elite citizens had had in the past. The masses were behaving as if they were elites and therefore, in the minds of some, required greater controls placed on them.

This is, however, only part of the story. The darker side of the trust placed in practices which rely on independent capacities to judge is that these are more subject to partiality. Aristotle says as much when describing the behavior of juries.[60] These stronger penalties may then have been a response to the potential problems of individual decision-making itself. Other cases in which boards of officials were executed for corruption appear to tap into these same anxieties.[61]

In addition, an over-reliance on individual decision-making risked placing experts on too-high a pedestal. Expertise was a positive trait in Athenian democracy, but epistemic decision-making is ideally based on a diversity of expertise (the wisdom of the crowd), whereby knowledge is drawn from people from different walks of life. This cognitive diversity promotes at least as good, if not better, decision-making than that made by small panels of experts because political decisions are complex and changing and no single individual can accrue the necessary knowledge to solve all problems. Collective intelligence (as opposed to individual expertise) not only enlarges the pool of information at hand with which to make complex decisions, but promotes good deliberation and better problem solving.[62] If we foreground the epistemic claims of Athenian democracy, we might see anticorruption measures acting as a tool to maintain equality of citizens; control the advice given by experts so as to prevent too much power accruing in their hands; and allow the demos to better judge the advice of those experts.

CONCLUSION

Previous historians have noted that accusations of corruption and prosecutions for bribery can be seen as a way to control political elites, thereby maintaining a social and political equilibrium.[63] Such events were thus a way for the demos as a whole to police those who set themselves up as experts.[64] In this sense, anticorruption measures allowed the demos to reclaim their authority over the decision-making process and place on a level playing field those experts who gained influence

through their own prominence. Deferring to narrow bodies of experts risked undermining collective political responsibility. Anticorruption measures might appear to be harsh, but they acted as a corrective by preventing the rich getting too rich and the powerful too powerful. Note how Dinarchos repeatedly frames Demosthenes' behavior as undermining the demos and how Hyperides presents him as haughty with expectations of special treatment against a backdrop of democratic egalitarianism.[65] Both prosecutors repeatedly stress the infallibility of the democratic institutions and the fact that Demosthenes is in this situation solely because of his own actions. Their aim here is to act as a break on the ability of elites to monopolize power; in doing so they restate the commitment of the Athenians to political equality.

One might object that the large volume of accusations of bribery were a political tool through which opponents could attack one another; that is, anticorruption measures were very much rooted within a competitive political culture which pitted different experts against one another in front of a benign or passive demos. Some explanations of the Harpalos affair indeed do place emphasis on political rivalries; for example those between Demosthenes and Hyperides, arguing that the episode represents shifting political control in Athens from one man to the other.[66] But such explanations misrepresent the nature of leadership in Athenian democracy and fail to give credit to the demos and their role in ameliorating the potentially destructive effects of corrupt behavior of such men. Conover's argument, that institutional design shifted corruption from the most harmful forms (involving generals acting overseas) to the most clear forms (orators in the Assembly) over the course of the fifth and fourth centuries, therefore takes on extra potency in this context.[67] Bribery was pushed from a hidden transaction to a transparent one. Rather than seeing corrupt behavior and anticorruption actions as belonging solely to the domain of high politics, it was the political competition between opponents which encouraged the reporting of corruption and brought the "insider information" that experts possessed (or were thought to possess) out into the open.[68] That is, it reduced the efficacy of political insiders by taking information from the realm of individual judgment and placed it in the realm of collective judgment. This hardly resembles a passive demos.

Collective judgment draws on common knowledge to identify better options and not only reflects, but also fosters democratic values. Knowledge of previous corruption trials and accusations shaped a social discourse through which the demos could express its preferences—the common interest was a system in which corruption was minimized and became as least harmful as possible. This might seem a surprising conclusion in the context of multiple accusations of corruption and frequent trials but, as Conover has demonstrated, the Athenians as a whole are likely to have had a pretty strong pool of common knowledge about who had been accused of corruption beforehand—and prosecutors did their best to remind them—and they used the law to enforce an anticorruption message.[69] In fact, Conover argues that the institutional innovations of the demos with regard to anticorruption measures in themselves fostered democratic values. They reinforced notions of political equality, encouraged participation and therefore promoted

the interests of the citizen body. In this sense then we might see institutional design as a form of collective judgment.

The best measure against corruption in Athens was the participatory democratic system, which trusted citizens to develop knowledge to make the decisions needed for running the state and elevated collective political responsibility against individual decision-making. This problematized the decisions of self-proclaimed experts, because such individuals implicitly aligned themselves with elite, rather than democratic, values. Corruption was a violation of civic trust, not because private interests were prioritized over public ones, but since it devalued a key democratic value: equality between citizens.[70] The bribery at the heart of the Harpalos affair, therefore, can be seen as a perversion of democratic ideology, which relied on collective decision-making that drew on the expertise of the many, not the few. It was this that Demosthenes was accused of circumscribing through his actions. It was the demos who collectively decided whether any of their members were corrupt and that judgment acted as a break on the power of those experts who attempted to develop too much influence. Anticorruption measures, after all, emphasized collegiality, rotation of political responsibilities and the accountability of those in power. It was not the case that the Athenians did not trust Greeks (or others) bearing gifts—they did not trust those accepting them. The anticorruption measures of the Athenians, therefore, highlight the importance of transparency, political accountability and cognitive diversity for decision-making within a democratic society.

2

Fighting Corruption

Political Thought and Practice in the Late Roman Republic

Valentina Arena

INTRODUCTION

According to ancient Roman authors, the Roman Republic fell because of its moral corruption.[1] Corruption, *corruptio* in Latin, indicated in its most general connotation the damage and consequent disruption of shared values and practices, which, amongst other facets, could take the form of crimes, such as *ambitus* (bribery), *peculatus* (theft of public funds) and *res repetundae* (maladministration of provinces). To counteract such a state of affairs, the Romans of the late Republic enacted three main categories of anticorruption measures: first, they attempted to reform the censorship instituted in the fifth century as the supervisory body of public morality (*cura morum*); secondly, they enacted a number of preventive as well as punitive measures;[2] and thirdly, they debated and, at times, implemented reforms concerning the senate, the jury courts and the popular assemblies, the proper functioning of which they thought might arrest and reverse the process of corruption and the moral and political decline of their commonwealth.

Modern studies concerned with Roman anticorruption measures have traditionally focused either on a specific set of laws, such as the *leges de ambitu*, or on the moralistic discourse in which they are embedded. Even studies that adopt a holistic approach to this subject are premised on a distinction between the actual measures the Romans put in place to address the problem of corruption and the moral discourse in which they are embedded.[3] What these works tend to share is a suspicious attitude towards Roman moralistic discourse on corruption which, they posit, obfuscates the issue at stake and has acted as a hindrance to the eradication of this phenomenon.[4]

Roman analysis of its moral decline was not only the song of the traditional *laudator temporis acti*, but rather, I claim, included, alongside traditional literary *topoi*, also themes of central preoccupation to classical political thought. According to some ancient authors, the ethical dimension of this discourse was intrinsically bound to the political: the process of corruption, initiated by greed for the availability of previously unknown wealth, could potentially lead to a change in the form of government and the destruction of those Republican values which

this institutional arrangement embodied and fostered: *libertas*, *concordia*, *virtus*, *dignitas* and *fides*.

My main claim is that by contextualizing the language of corruption and moral decay within the political thought of the late Republic, we are able to identify one of the engines of the anticorruption measures proposed at the time.

In what follows I shall focus on the first century BC, as in this period it is possible to identify the simultaneous working of all three main sets of Roman anticorruption measures. In the 50s, at a time of true crisis of the censorship, the ex-consul Cicero as well as his personal enemy, the tribune Clodius, conceived measures intended to renew the role of the censors as the magistrates in charge of overseeing corrupt behavior. This century also saw an increase in the number of anti-bribery legislation and a hardening of their penalties. Finally, 50 BC was also the year when the so-called *Second Letter to Caesar* was set, an enigmatic document in the form of an open letter to Caesar, advising the general on how to eradicate the widespread vices of *avaritia* and *studium pecuniae* and restore the traditional commonwealth.

THE COMMON GOOD AND THE CENSORS

To understand the nature of corruption in late Republican Rome, it may be worthwhile to turn briefly to its connotation in the Roman context as well as its structural composition. By looking at the attestations of the term it seems that in its most general sense corruption indicated a negative state of affairs characterized by a disruption and consequent decline from a previous condition of grace.[5] It follows that this term can be used to describe a wide variety of phenomena, which range from the loss of Roman traditional customs to any form of abuse of power for private gains such as bribery, theft of public property, fraud, extortion and maladministration.[6] A common trait of these descriptions, which may be considered as a defining element of the Roman Republican conception of corruption, is that the main criteria against which these phenomena are (at times implicitly) assessed is the notion of common good, or in modern parlance, the idea of public interest. Although accompanied by additional criteria, for late Republican Romans the most important element that should not be compromised in the running of the political life of the community was the shared pursuit of the *utilitas publica* or *communis*.

This notion of public interest (first attested in Cicero in its formulation as *utilitas publica*) is at the center of the seminal definition of the *res publica*, which Scipio offers in Cicero's *De re publica*. In this work, Cicero argues that a *res publica* is a legitimate form of commonwealth if, and only if, the people are the sovereign power and entrust their sovereignty into the capable hands of the elite.[7] At elections, after the introduction of the secret ballot in the second century BC, the people exercised their political right to choose, as they pleased, the person to whom they wished to entrust the administration of the *res publica*. With such an act the citizens conferred onto a magistrate a *beneficium*, a favor, which was based on the premises of the superiority of those who accord it over those who receive it.

The binding force of this conferral, in fact, did not reside in a legal requirement of reciprocity, but was rather bound with a moral obligation that placed the recipient of the *beneficium* in a position of gratitude towards his benefactor.[8]

Despite the fact that, according to this understanding of the *res publica*, private advantage should never be at odds with public interest,[9] a magistrate, once elected, was fully entitled to interpret the common good in any way he thought most appropriate.[10] It was the absence of a well-defined mandate, which did not go beyond the rather generic expectation of the magistrate's acting in the name of the common good, which conceptually lay at the foundation of the notion of corruption and the formulation of anticorruption measures. In the parlance of contemporary sociologists,[11] despite the varieties of the contract between the principal (the sovereign people) and the agent (the elected magistrate), a fundamental distinction of this conception of state is that "a public agent does not act on his or her own account, but is delegated to accomplish those tasks that are expressions of the interests of his or her principal."[12] This, in turn, may lead to a corrupt behavior as the magistrate might be led astray by—in Roman terms—a lack of self-restraint and find himself pursuing his own interests rather than the welfare of the community. Recognizing that "consideration of public interest [should always be] preferable to the convenience of private individuals,"[13] the Romans devised a variety of anticorruption measures, the ultimate aim of which was the eradication or, at least, the attenuation of the conflict between the personal interests of individual magistrates and those of the sovereign *populus Romanus*, as they might have been perceived in that particular context and circumstance.

In the fifth century, the Romans instituted two censors to be elected every five years for eighteen months and who had amongst their duties responsibility of preserving the customs of the whole community.[14] They could intervene to regulate a broad range of activities, as varied as punishing those who did not marry or disciplining the knights who looked after themselves more than they did their public horse. Crucially, the range of behaviors they were meant to control was not recorded in a prescribed list of precepts, but rather subsumed under the more general heading of behavior that endangered the common good. When elected, in fact, the censors were expected to take an oath whereby they swore to act according to "the advantage of the state" and the well-being of the whole community and rejected any personal enmity and favoritism.[15] The censors' judgment did not have the force of law and could be revoked by the next pair of magistrates, so, if it was to hold any value, the censors' interpretation of the *mos* had to be in line with the shared values of the whole community.[16] Given the number of citizens and the extent of Roman territory, in practice, the censors' *cura morum* provided the Roman elite with a mechanism of self-restraint by publicly excluding those deemed unfit to be in a position of power.

It is this understanding of the office that undergirds the reform proposed by Cicero in the theoretical treatise *De legibus*. According to this new law, modeled after the Greek *nomophulakes*, the censors should act as guardians of the law and of magistrates by monitoring their acts and, if necessary, recalling them to obedience to the laws. Thus, according to Cicero's law, "magistrates, after completing their

terms, are to report and explain their official acts to these same censors, who are to render a preliminary decision in regard to them . . . It seems preferable for official acts to be explained and defended before the censors, but for officials to remain liable to the law, and to prosecution before a regular court."[17] Just a few years earlier, Clodius had proposed the *lex Clodia de censoria notione*, according to which in order to punish any form of behavior they deemed corrupt, the censors had to institute something close to a judiciary procedure, which included the requirement of a formal accusation (or a preliminary sentence) on the part of both censors and the obligation for them to act in concert with one another.[18] Manifesting a sense of uneasiness towards the potentially enormous powers of these magistrates, Clodius' measure considerably curbed the censors' power by forcing them to sit through the defendant's arguments and the reactions of the public, which attended this new procedure. By the first century, the political culture of the Republic had changed, and with it also the Romans' system of controlling corruption. These changes are also detectable in the implementation of anti-bribery laws to which I shall now turn.

ANTI-BRIBERY LAWS

According to Bleicken, in the course of the second century BC, with the breakdown of political and social consensus, a series of procedures and regulations came to police the same behavior that used to be sustained by the harmonious sharing of the values of the *mos maiorum* and held in check by the exercise of the *cura morum* by the censors. This process, which Bleicken calls the "jurification of the *mos*," produced a series of legislative acts that progressively transformed the *mos* into law. Although it is informed by an overly static understanding of the notion of the *mos maiorum*, this interpretation nevertheless holds some truth.[19] Not only is there a considerable increase from the second century onwards in the number of laws affecting citizens' behavior, but also a number of permanent tribunals came to be established to try a variety of crimes, after the establishment of a permanent jury court for the crime of maladministration in the provinces by the *lex Calpurnia* in 149 BC.

Sustaining this process of legal centralization, the prevailing principle became that corrupt behavior was no longer exclusively subjected to the censors' arbitrary interpretation of the community's values, but rather judged on the basis of the rule of law. In line with this new principle, the Gracchan *lex repetundarum* of 122 BC (?) established that those who had been condemned in a *iudicium publicum* or *quaestio*, and thereby expelled from the senate, could not act as jury members in trials on provincial extortion. Along similar lines, the *lex Cassia* of 104 BC established that those who had been condemned in a *quaestio* or had had their *imperium* abrogated by popular decision, would lose their senatorial *dignitas*.[20]

The main preventive measures included the magistrates' obligation to provide guarantors and land guarantees, their duty to take an oath at the time of the election and to be held accountable at the end of their tenure as well as legal restrictions

on reassuming provincial offices.[21] From the second century BC onwards, moreover, punitive laws concerning the display and use of luxury, extortion from the provinces and political bribery came to be enacted with increasing frequency.[22]

According to the Romans, of all these offences the crime of *ambitus* (electoral bribery) took pride of place. In their opinion, it almost subsumed the other offences as they drew a clear connection between the need for money to run an electoral campaign and other crimes, such as provincial extortion, that would have helped procure the necessary cash to run for office.

Even ignoring the first two laws *de ambitu* of the fourth century BC, the historical accuracy of which is highly doubtful, from the second century onwards Rome implemented a considerable number of anti-bribery measures.[23] It was specifically after Sulla's constitutional changes that Roman anti-bribery legislation registered a clear increase in the frequency as well as the harshness of the penalties.[24] As Linderski has observed, in the post-Sullan period laws against *ambitus* show alterations in three main areas: an overall sharpening of penalties; an introduction of punishments for associates and helpers; and the criminalization of practices previously allowed (as, for example, those concerning the use of *nomenclatores*, *sectatores* and *divisores*).[25]

According to the Romans, one of the main factors, if not the main factor, which resulted in the increase in the frequency of anti-bribery legislation was the introduction of the secret ballot in the comitial voting proceedings in the second half of the second century BC.[26] These laws weakened the traditional relation between clients and patrons and liberated Roman citizens from not only the moral and social obligation of supporting their patron in the electoral race, but also, and rather crucially, from the pressure and intimidation to which they were clearly subjected.[27] As a result of these laws, and by virtue of an increase in available wealth, Roman citizens could sell their votes to the highest bidder and candidates were left with little choice but to funnel all their resources, monetary and otherwise (such as, for example, organizing feasts, banquets or games), into their electoral campaign. Such practices must have been so widespread that by the late Republic, the Romans, including those of the lowest classes of the census, came to regard bribery almost as a right.[28]

Following the general (if not systematic) structuring of the Roman justice system after 149 BC (but certainly no later than 116 BC), the first court for trying cases of electoral corruption was set up in Rome.[29] This introduction, alongside a growing centralization of administrative authority in the Roman state apparatus, led to a growing number of tried cases, which, however, did not correspond to an increase in the number of convictions.[30] This, in turn, might have put in sharper focus the issue of bribery and the inefficacy of the existing legislation, to which the Romans might have responded with further anti-bribery laws, wider in scope and harsher in terms of the penalties involved. However, at the beginning of the first century BC two important events of different nature took place that had a deep effect on the variation of anticorruption legislation: the Social War—the war of the Romans against their allies—and Sulla's constitutional reforms.

At the end of the Social War, the *lex Iulia* in 90 BC and the *lex Plautia Papiria* in 89 BC granted Roman citizenship to the vast majority of the Italian allies. As a

result, a considerable number of new citizens came to be registered in the census of 86 BC, a work, however, that was fully completed only in 70 BC.[31] It was then that a huge number of newly enrolled citizens came to be available as potential supporters in electoral campaigns. Amongst them, of particular interest, were the members of the Italian elites, who, registered on this occasion for the first time, not only were most likely enrolled in the first two classes of census of the *comitia centuriata*, but also must have possessed both the means and the interest to travel to Rome to cast their vote.[32] These newly enfranchised citizens, without predetermined ties of loyalty but with a great interest in becoming part of Roman political life, may have constituted a new resource for electoral candidates ready to resort to any means at their disposal.

However, the increase in the number of voters might have corresponded not only to an increase in the practice of bribery, but also to the introduction of a new, potentially disruptive, force in the already precarious balance of Roman political life. These affluent new citizens, members of the municipal elite, might have harbored political ambitions of their own, and their arrival on the political scene may have worried the traditional Roman elite, who, owning estates but strapped for cash, would have found itself confronted with a potential injection of "new money" into the Roman political arena.[33] In this context, the multiplication of anti-bribery laws could be read as an attempt by the traditional elite to curb the political opportunities of Italian newcomers, in an effort to keep political power in the hands of those who could claim to have held it in their families for centuries.[34]

Electoral competition in Rome, on the other hand, had also become harsher: Sulla had increased the number of quaestors, the officers holding the magistracy at the beginning of the *cursus honorum*, to twenty, and the number of praetors, the officers holding the magistracy just before the consulship, to eight, whilst keeping the number of consuls, the highest magistracy in Rome, at two. All these factors—to which the progressive impoverishment of Roman citizens registered in the rustic tribes but now living in Rome should be added—played a part in the expansion in the scope and severity of anti-bribery laws in the first century.[35]

However, the debate surrounding this problem and the implementation of this legislation was embedded in a moralistic discourse, which presented *avaritia*, *ambitio* and more generally the absence of *virtus* as the true cause of bribery, and, conversely, the reconstruction of Roman moral fiber as the ultimate aim of these laws. Rather than dismissing these arguments as a façade behind which hid a most cynical logic of Realpolitik, I suggest we try to make sense of it by turning to what could be described as a contemporary handbook of the elite's behavior, Cicero's *De officiis*.

In Book 2 of this work, as he discusses what is beneficial to men in advancing their public career, Cicero lists the various ways of incentivizing an affectionate cooperation with others. Dividing these into positive and negative approaches, Cicero claims that one may raise the standing of a fellow man out of good will (*benevolentia*), because they are genuinely fond of him, or out of personal esteem

(*honos*), because they think he is truly worthy (*virtus*) and superior to them, or—and this is important for our argument—because "they may have confidence in him and think that they are thus acting for their own interests" (*cui fidem habent et bene rebus suis consulere arbitrantur*).[36] The three negative reasons why one may support a fellow man are fear of his power, hope for his favor—as when, for example, "princes or demagogues bestow gifts of money"—and when they are "moved by the promise of payment or reward." "This last," he continues, "is, I admit, the meanest and most sordid motive of all, both for those who are swayed by it and for those who venture to resort to it. For things are in a bad way, when that which should be obtained by merit is attempted by money."[37]

It follows that Cicero, in this symmetric structure, sets the interaction between fellow men based on intimidation, promise of bribery or outright corruption as contrary to *benevolentia*, *honos*, *virtus* and *fides*. The latter is the essential virtue of a magistrate to whom the people entrust the administration of their property, the commonwealth. In line with the predominant Republican conception, Cicero claims that a magistrate, in fact, "represents the state and that it is his duty to uphold its honour and its dignity, to enforce the law, to dispense to all their constitutional rights, and to remember that all this has been committed to him as a sacred trust (*ea fidei suae commissa*)."[38]

When discussing the means to achieve true glory, alongside affection and admiration of the people, Cicero considers trustworthiness or confidence (*fides*). He explains that men have *fides* in those:

> [W]ho we think have more understanding than ourselves, who, we believe, have better insight into the future, and who, when an emergency arises and a crisis comes, can clear away the difficulties and reach a safe decision according to the exigencies of the occasion.

However, Cicero carries on arguing, *fides* is "reposed in men who are just and true—that is, good men—on the definite assumption that their characters admit of no suspicion of dishonesty or wrong-doing." *Fides*, accompanied by *iustitia*, is the essential quality on the basis of which people are prepared to entrust the management of *res publica* to individuals, who, they believe, will act in accordance with the common good: "and so we believe that it is perfectly safe to entrust our lives, our fortunes and our children to their care."[39]

Within the late Republican ethical and political discourse, here exemplified by Cicero's *De officiis*, the practice of bribery is framed within the conceptual structure of the magistrate's violation of the *fides* that Roman citizens have entrusted to him. It follows that, from the point of view of political values, the aim of these late Republican anti-bribery laws could be genuinely interpreted by contemporaries as the restoration of this value on the basis of which an unwritten contract between the magistrate and the citizens was stipulated. It was this relation of *fides* that the *leges tabellariae*, the aftermath of the Social War, the reforms of Sulla and all the other factors mentioned above had helped to dismantle.

Although they had many affinities, this notion of *fides* was not identical to the notion of this value as the foundation of the relation between patron and client.[40]

The latter was not based on the assumption that patron and client were bound together in such a way as to form a community, and thereby did not include the expectation that the patron should act for their mutual benefit. Although, as Dionysius of Halicarnassus attests, patron and client were bound by a number of moral, albeit not legal, mutual obligations (including material and political support in case of the patron's electoral candidacy),[41] the *fides* at the foundation of the magistrate's political mandate was essentially the moral and political value of trust, firmly anchored in the context of *liberalitas*.[42]

As Yakobson has observed, it is significant that the ties of personal dependence are not mentioned in the list of the reasons why an individual may support another in his public career. However, when the practice of *liberalitas* took the form of *largitio*, bribery severed the ties of *fides* that lay at the foundation of the relation between the citizen and his elected magistrate. When placed in this context, the oddity of a proposal promulgated in the year 61 BC appears under a different light. According to this law, proposed by the tribune Lurco, "any person promising money in a tribe shall not be punishable provided he does not pay it; but if he does, he shall be liable for HS 3,000 to every tribe for life."[43] The issue raised by the law was not only concerned with unfulfilled promises, but also—and very importantly—with the continuity of the action. To give money to voters of a tribe once was to be regarded as an act of corruption, but to give money in perpetuity was acceptable: paying only once was an act of bribery against the ties of trust between the electorate and the candidate, while paying consistently, on the other hand, could be construed as part of this relation.

POLITICAL REFORMS AS ANTICORRUPTION MEASURES

The third set of anticorruption measures devised in late Republican Rome consisted in the institutional and socio-economic reforms proposed by the author of the *Second Letter to Caesar*. In this open letter, set in the year 50 BC, the author, at times identified as Sallust,[44] provides Caesar with advice on how to restore the *res publica* from the corrupt state into which Pompey had dragged it and which measures should be implemented to stabilize and strengthen it.[45] The major evil currently affecting the commonwealth, the author claims, is *studium pecuniae*, the strong desire for riches, because of which neither the *res publica* (the commonwealth) nor the *res privata* (private property) could actually function:

> By far the greatest blessing which you can confer upon your country and fellow citizens, upon yourself and your children, in short, upon all mankind, will be either to do away with the pursuit of wealth or to reduce it so far as circumstances permit. Otherwise neither public nor private affairs can be regulated at home or abroad (2.7.3).

If Caesar does not succeed in eradicating the idea of a connection between honor and the actual possession of money, the author continues, the vice of *avaritia* will definitely prevail over good morals, *boni mores* (2.8.5). To address this issue, the author proposes a set of reforms that aim at reestablishing a mixed and balanced

constitution not too dissimilar in its wider structure from the binary institutional setting in Cicero's *De legibus*, based on the senate and the people. According to Pseudo Sallust, in the ideal institutional arrangements of old the *nobiles* (who the author at times describes as *patres*), acting according to *virtus* and gaining riches, respect and renown, held a higher position in society.[46] By virtue of this higher economic as well as ethical status, the author continues, they enjoyed a larger share of political power, as "a man who has in his own state a higher and more conspicuous position than his fellows . . . takes a greater interest in the welfare of his country."[47] The people (often inconsistently referred to as the *plebs* or *humillimi*) were content to work in the field and serve in the army, following the instructions of those of a higher socio-economic rank.[48] They were assured that their liberty and their interests were administered by those who were in power—who, being virtuous, could guarantee the supremacy of the rule of law. In the workings of the commonwealth, they obeyed the governing elite "as the body does to the soul" and, carrying out its decrees, happily obliged to it.[49] As a result, in those days "the commonwealth was united; all citizens had regard for its welfare; leagues were formed only against the enemy; each man exerted body and mind for his country, not for his own power."[50]

In the author's opinion, however, this ideal state of affairs was deeply undermined by a hiatus that had crept in slowly between the pursuit of the public good and that of personal interest. This dichotomy, he claims, had its roots in two main factors: first, the progressive impoverishment of the people and, second, the domination of a few *nobiles* over the rest of the elite. When the people had been driven away from their field and had become idle, impoverished and without a fixed abode, "they began to covet the riches of other men and to regard their liberty and their country as object of traffic." This state of corruption (*mali mores*), which bought them to sell their own vote to the highest bidder, found its origin in the people's inability to share the same goal, since they had strayed into various practices and modes of life (2.5.6).

To reverse this process and eradicate *cupido divitiarum*, the author argues that "neither training, nor good practices, nor any mental power could be enough" (2.7.4). The only way to defeat corruption, he claims, is "to deprive money of its influence" (*auctoritatem pecuniae demito*) (2.7.10), that is, to convince the people that riches in themselves are not an element of distinction. He proposes to achieve this aim by implementing a number of reforms that concern the people and the institutional body of the *comitia* and the jury courts: first, he proposes that new citizens, admitted to the Roman citizen body, are assigned to the colonies and added to the local population. Not only would this reform strengthen Roman military power, he claims, it would also guarantee that the people, "now engaged in useful occupation, will cease to work public mischief (*malum publicum*)" (2.5.8). In other words, in the author's opinion, this reform would turn the people to the pursuit of *bonum publicum*, the public good, and thereby lead to the reversal of this state of progressive corruption.[51]

The second reform he proposes in order to "deprive money of its importance" concerns the composition of the jury courts, which should no longer include only

the wealthiest members of the three *ordines* (the senators, the *equites* and the *tribunii aerarii*), but rather should be composed of citizens of the first census class chosen by lot.[52] This reform, preserving the liberty of the commonwealth, should act as one of the safeguards against the power of riches (2.83). The other, the author continues, concerns the election of the magistrate. Purporting to reintroduce an old Gracchan law, it establishes that in the *comitia centuriata* the first *centuria* to cast its vote, the so-called *centuria praerogativa*, should be chosen by lot amongst the *centuriae* of the five census classes, as opposed to those of *iuniores* of the first class.[53]

This reform, which some scholars claim was never enacted or, if passed, was abrogated in 121 BC,[54] was of great importance since the Romans themselves noticed that the result of the *centuria praerogativa* exerted a great influence on the final voting outcome. Indeed, Cicero claimed that the *centuria praerogativa* functioned as an omen since its choice seemed to signal the final decision of the *comitia*.[55] This reform, according to Pseudo Sallust, should fulfill the function of placing on the same level the idea of *dignitas* and the value of *pecunia*, the separation of which, no longer bound together in the timocratic structure of the *comitia centuriata*, will let *virtus* emerge as the defining factor of the citizens' behavior.[56] The true aim of this reform, the author argues, is the eradication of *avaritia* by depriving money of its lustre (2.8.4).

As far as the *nobiles* are concerned, the moral corruption of a small but influential group, now abandoned to "sloth and indolence, dullness and torpor" (2.8.7), may lead, the author fears, to complete decay. The strongest communities, he notices, flourished and enjoyed great power when sound *consilium* governed them. However, "whenever favoritism, fear and pleasure have undermined such counsels (*gratia, timor, voluptas ea corrupere*), shortly thereafter the strength of those nations waned; then their power was wrested from them, and finally slavery was imposed." (2.10.3).

In the incorrupt Republic of old, he claims, members of the elite, who thanks to their *virtus* had gained ample riches and a high rank in society, would immediately fly to defend the *res publica*, if they saw that it was in danger. The reason is because they recognized that their private interest, their *gloria*, *libertas* and *res familiaris*, coincided with the interest of the *res publica* as a whole. In those days they won against fierce enemies because they perceived that they were fighting to defend what they had won by valor. This was a united community where all citizens had regard for the welfare of the *res publica* and exerted their body and talent for their native land, not their own personal power. However, this state of affairs was no longer in place as *socordia* and *ignavia* had taken over the mind of certain *nobiles*, now organized in a faction (2.10.8–9). The rest of the senators were now at the mercy of the *libido* of this group, and determined "what is in the public interest and its opposite according to the direction dictated by the animosity or influence of those who exercise absolute control" (2.11.1).

To address this situation, the author proposes two main institutional reforms concerning the senate, the aims of which are to strengthen the *res publica* and reduce the power of this group. First, the author proposes the introduction of the secret vote during senate proceedings. In his opinion, this would allow the senators

to be free from fear and regard their own judgment more highly than the power of someone else (2.11.2–3). Secondly, the senate will be increased in number (deliberately not specified) to "provide greater protection and opportunity for larger usefulness" (2.11.5). According to the author, currently the senators scarcely deliberate about the public interest, not only because they are preoccupied with their private affairs, but also, and most prominently, because they have to follow the arrogant demands of this corrupt group: "The nobles, together with a few men of senatorial rank whom they treat as an appendage of their clique, do, according to their pleasure (*lubido*), whatever they feel like approving, censuring or decreeing" (2.11.7). However, were the number of senators to rise and the voting done by ballot, those corrupt men would be forced to obey the reformed senators, who would then be able truly to act in the name of the public interest.

In proposing his reforms concerning the senate, the author of this open letter, therefore, seems to take a different stance from that taken in regard to the people. Whilst the anticorruption reforms put forward to reinvigorate the people tackle directly the issue of riches, universally identified in Roman discourse as the cause of corruption, these proposals concerning the senate aim, in the first place, at liberating the senators from the domination of a corrupt faction, as this would allow this institution to act according to its wise *consilium* and thereby in the pursuit of the common good.

Ultimately, the proposed reforms aim at reestablishing an old (and perhaps idealized) mixed constitutional arrangement, where the people, renewed in their moral fiber, and the elite, freed from the domination of the corrupt few, were united in the sharing of their common interest and together collaborated in the preservation of their *libertas*, *dignitas* and *virtus*. In line with the interpretation of Roman decline in Cicero's *De re publica*, which, alongside Plato and Polybius, was one of the sources of the *Second Letter to Caesar*, the anticorruption measures of the Pseudo Sallust text aim at redressing the balance of the constitution so as to guarantee the pursuit of the common good.[57]

In this intellectual tradition Cicero recognized that transitioning from a good to a bad form of simple government may find its cause in the transformation of the character of those who rule, and ascribed the decay of the best form of *res publica* to the decline of the good morals and the virtuous men of old, understood as the members of the ruling elite.[58] His predecessor Polybius, by contrast, not only attributed the process of corruption to the moral deterioration of the ruler(s) who had surrendered to the attraction of luxury provided by their privileged position and thereby caused a constitutional change; but also, in conformity with his general rules of human behavior, identified in the people, as greedy recipients of bribery, one of the engines accelerating the growth of corruption of the Roman mixed and balanced commonwealth. This, he predicts, will degenerate into an ochlocracy:

> Stirred to fury and swayed by passion in all their counsels, they will no longer consent to obey or even to be the equals of the ruling caste, but will demand the lion's share for themselves. When this happens, the state will change its name to the finest sounding of all, freedom and democracy, but will change its nature to the worst thing of all, mob rule (6.57.5–7).[59]

Put in the context of its intellectual tradition, it is possible to identify the innovation of Pseudo Sallust: this consists in identifying the origins of Roman corruption in the socio-economic developments of the Republic. In his opinion, it is because of the progressive state of impoverishment that people had abandoned *virtus* and sold their vote to the highest bidder. This factor, accompanied by a more traditional reading of the corruption of the elite, is responsible in his opinion for the prevalence of private interests as opposed to the common good and is at the foundation of the anticorruption measures he proposes.

CONCLUSION

It is only when these anticorruption measures are set within the context of their ethical and political discourse that it is possible to address some of the issues often erroneously attributed to Roman corrupt behavior. It is in fact inaccurate to say, as is often repeated, that the Romans were unfamiliar with that distinction between a public and private sphere which is usually considered a distinguishing trait of modernity. It will be enough to observe in this respect the clear distinction enshrined in Roman law between *utilitas publica* (public interest) and *utilitas privatoroum* (the interest of private persons). To a certain extent, it is possible to read the history of anticorruption in Republican Rome as a continuous effort to strike a balance between these two notions. "Consideration of public interest is preferable to the convenience of private individuals," Paul stated in the third century AD, and as Diocletian echoed: "public welfare is to be preferred to private agreements,"[60]—both encapsulating in juridical formulas the principle informing the late Republican *lex Ursonensis*, which forbade a magistrate from receiving any gift or recompense at the expense of the commonwealth (*de loco publico*) and by virtue of his public office (*pro loco publico*).[61]

Attesting to a progressive development of a definition of corrupt behavior, these laws show a clear understanding of what is often described as an eighteenth-century invention, that is, the idea of corruption as misuse of the powers of a public magistracy for private gains. However, as I hope to have shown, these studies do point in the right direction: although the Romans made a distinction between the public and private spheres, it was not based on the principle of protection of the rights of the individual and thereby on the idea of the state as a distinct entity from its constitutive members. It follows that, in terms of principles, anticorruption measures were meant to re-establish the notion of trust that was at the foundation of the commonwealth: that *fides*, by virtue of which all Roman citizens entrusted the administration and management of their property (*res publica*) to elected magistrates, who were then expected to act in the people's interest and on their behalf.

By placing the discussion of anticorruption measures within the context of its ethical and political discourse, it is also possible to re-focus the issue of the definition of corruption in Rome. Romans certainly lacked a legal classification of the charges of corruption: what at times might have appeared and could genuinely

qualify as a gift, could be perceived under different circumstances as an outright act of corruption. As Riggsby has shown in his excellent work on crime in Rome,[62] defining deviancy ultimately depended on social circumstances and was construed by rhetoric. This lack of a clear definition can be related, in my opinion, to the absence of a precisely worded mandate given by the people to the magistrates at the time of their election: as already pointed out, the unwritten expectation was that the magistrates would behave in the interest of the common good and of its owners, in other words in the interest of the *res publica* and its people. However, the modalities and the criteria of the enactment of this expectation were open to interpretation and could be conceptualized in different ways—as could transgression of or deviation from them.

Ultimately, however, I hope to have shown that what, at first sight, might appear to be a moralistic discourse of little or no importance in the historical investigation of Republican anticorruption measures,[63] provides in fact, under closer scrutiny, an important framework for understanding those measures.

Only if we put these measures in the context of the ethical and political discourse of their time, fully appreciating their connection with the contemporary political thought, can we make sense, for example, of the proposal of 61 BC according to which to give money to a tribe once was an act of bribery, whilst to give money repeatedly over the years was considered acceptable. Although of dubious efficacy, this law was not, as some modern historians describe it, bordering on the ridiculous: it was meant to punish the breaking up by politicians of the traditional relation of *fides* between citizens and members of the elite. Beyond the historical specificity of each measure, it is possible to see that the ultimate aim of these measures was to re-establish a potentially idealized form of government which enacted and enforced the Republican values of *libertas*, *concordia*, *virtus* and *fides*. These notions are not simply juxtapositions adopted to justify a preferred course of action, but rather one of the guiding criteria for the selection of these reforms. Regardless of the intentions of the individual proponents, only those measures that could plausibly be described as upholding these values could hope to enter the public political arena and be put into practice and perhaps even achieve some degree of efficacy. By disregarding the rhetoric of morality in which they are embedded, we lose sight of one of the reasons behind their proposal and enactment.

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3

The Corrupting Sea

Law, Violence and Compulsory Professions in Late Antiquity

Sarah E. Bond

INTRODUCTION

The period between the murder of Severus Alexander and Julia Mamaea in 235 CE and Diocletian's ascension in 284 CE is often referred to as the "Crisis of the Third Century" due to the social, political and economic disorder experienced within certain Roman provinces and the relative breakdown in imperial succession during this time.[1] To counter this turmoil, many of the policies espoused by Diocletian and then the Tetrarchy in the late third century CE established efforts at reorganizing, restructuring or creating more enduring institutions. During his reign, Diocletian attempted to improve imperial record keeping, to modify the succession of rule to pass from two *Augusti* to two Caesars, to enlarge the army, to reform provincial governance and to halt rampant inflation via monetary reforms with an autocratic attitude. Due to the new regime's domineering approach to rule, it is often referred to by modern scholars as the Dominate.[2] Diocletian was a seasoned soldier who fashioned himself as a *dominus et deus* ("master and god"), as his predecessors Aurelian and Carus had. He would distance himself from the populace and use systematic governance, bureaucracy and law as aggressive tools to address corruption. While contemporary critics viewed these tactics as a result of "insatiable avarice," Diocletian and the Tetrarchs cast them as a means of establishing efficient governance.[3]

Any attempt to understand Diocletian's and his successor's reforms from the vantage point of anticorruption tactics must first recognize that the definition of "corruption" and, consequently, "anticorruption" are, as this volume has established, terms both open to broad interpretation and ones that do not make for an altogether feasible analytic category.[4] Within the context of this brief survey of late antique anticorruption strategies, corruption is defined as any attempt to abuse, circumvent, undermine or debase the laws, systems or institutions that underpinned the intended functioning of the *res publica* (the state). Anticorruption tactics are likewise attempts to address these impairments. Anticorruption methods in Late Antiquity often emphasized the use of law to address corrupting practices such as *peculatus* (embezzlement of state money), venality, *repetundae* (extortion), *vis* (violence) and

the maladministration of the *annona* (interference with the grain supply). They could also encompass efforts to guarantee funding or supplies to the state and military through the requisitioning of resources or people and the restriction of movement (geographically, professionally and even in respect to social class). The ideology was one of efficiency through the creation of a quasi-static fiscal model. To be effective, this articulated model relied upon the capabilities of the state and the military to prescribe, enforce and maintain such a system with the Roman Empire; however, there was always a degree of disconnect between the word of law and its reification within the Empire.

It is important to consider the limitations of the sources when evaluating the disconnect between intent and praxis in Roman law. The majority of our evidence for corruption and anticorruption in the later Roman Empire is derived from normative sources, particularly those within the *Codex Theodosianus* (438 CE) compiled during the reign of Theodosius II and the *Corpus Iuris Civilis* compiled under the emperor Justinian. The latter included the *Digesta* (or *Pandecta* in Greek), which consisted of fragments from classical jurists (533 CE), the *Institutiones,* predominantly for law students (promulgated in 533 CE), the revised *Codex Justinianus* (534 CE) and the *Novellae* of Justinian, a compilation of new laws published after 535. Much of this legal evidence, prima facie, points to pervasive corruption through bribery and venality, but looks are not always what they seem. As legal historian Jill Harries warned, "[e]mperors in their laws resorted to a language of power designed to hold their officials to account; this has been, wrongly in my view, interpreted as evidence of extensive wrongdoing on the part of officials, and especially of judges."[5] The cultivated language of anticorruption tactics employed in law, literature and in oratory was itself part of a broader "rhetoric of execration" that was intricate and understood in the moment—but often difficult to penetrate today.[6] We should attempt to understand them as laws often addressing a specific instance while simultaneously expressing consistent efforts at transparency and accountability through law.[7]

Did corruption cause the decline of Rome? (See also Chapter 2 by Arena in this volume.) Did the anticorruption tactics outlined in late Roman legislation inspire a sense of accountability or was their vocabulary of violence only serving to offset the limited scope of law enforcement at the command of late antique emperors? Did Roman emperors deploy legislation as a rhetorical tool to promote an image of oversight of state affairs that functioned to legitimize their role? By examining the Diocletianic changes to tax assessment and collection, the fourth century legislative shifts in ideas of administrative, judicial and gubernatorial accountability, the establishment of imperial agents for the oversight of certain essential state organizations such as the *cursus publicus,* and the state's increased emphasis on the creation of compulsory trade unions in the later Empire, this chapter proposes that major Roman statesmen did view corruption as a pervasive problem, even if there was often little they could do to enforce sweeping anticorruption legislation outside of a few city centers. It is admittedly difficult to assess the efficacy of these measures from legal and literary sources alone. The constraints of the evidence

mean that Roman anticorruption tactics must be explored largely as through the "top-down" language employed in legal rescripts, decrees and edicts. These texts transmit threats of personal violence, attempts at using law to order society, and the creation of a late antique system of compulsory professions that made some occupations and civic positions both hereditary and inescapable. Nonetheless, by investigating issues of tax reform, the expanded use of intelligence officers and administrators, the promulgation of anticorruption legislation, and the establishment of compulsory trade associations, the broad scope of anticorruption strategies instituted during the period of Late Antiquity from the reign of Diocletian to the death of Justinian (284–565 CE) is more fully understood.[8]

TAX REVENUE, TAX EVASION AND ALLEGATIONS OF VIOLENCE

A pivotal area of Diocletian's reorganization addressed taxes, which were essential to securing the income to fund the state and his expansion of the military. Diocletian and the Tetrarchy implemented an alteration to the administration of tax assessment and collection, a move rooted in an effort to increase tax revenue and decrease evasion. In order to notify the public of the new system, Diocletian sent out written indictions that announced regionally variant tax revenues to be collected for a certain period through both the *iugatio* (a land tax) and the *capitatio* (a poll tax).[9] A census was then supposed to have begun progressively, moving methodically through the provinces in order to assess each area according to its own abilities and reoccurring every five years. In part, Diocletian's policies addressed issues of tax evasion and administrative corruption (e.g. through extortion) in tax collection by instituting a culture of documentation, routine and law. This meant a massive increase in the use of ink, papyri, maps and cadastral archives within a complex recording keeping system. These records were supposed to transmit the worth of land, livestock and people as collected by town councilors called *decuriones,* local officials, imperial bureaucrats and even land surveyors. The notably biased early Christian author Lactantius would lament the heavy tax and the number of tax collectors under Diocletian; however, the mid-fourth century historian Aurelius Victor would view that same tax plan as one of *modestia tolerabilis* ("tolerable moderation") compared to Constantius II's later tax reforms.[10] Conflicting literary sources reveal how difficult it is to assess from these sources alone whether the late Roman tax system from Diocletian onward was in fact as oppressive and violent as it was sometimes accused of being.[11]

As Diocletian soon discovered, the assessment of a fluctuating labor force within an economy dependent on a debased monetary supply was akin to attempting to step in the same river twice. Attempts at stabilization meant greater restrictions on movement were also imposed, particularly as related to tenant farmers called *coloni.*[12] Despite his efforts, petitions committed to papyri and other contemporary sources indicate that corruption—particularly in terms of illegal exactions by tax

collectors—continued well after the reign of Diocletian.[13] At this time, the language of law certainly became more recognizably caustic. An example of the severe penalties that often accompanied the conclusions of imperial edicts in order to deter deviation can be seen in the prefect of Egypt's announcement of Diocletian's aforementioned tax reforms for the province of Egypt. Dated to 16 March 297 CE, the document is known as the Edict of the Egyptian prefect Aristius Optatus:

> Aristius Optatus, most eminent prefect of Egypt, proclaims:
>
> Our most provident Emperors Diocletian and Maximian, *Augusti*, and Constantius and Maximian, most noble Caesars, have learned how . . . it has come about that the levies of the public taxes take place in such a way that some persons are being relieved, while other persons are being overburdened, and they have determined to eradicate this most evil and pernicious practice in their provincials' interest and to give a salutary standard to which the taxes shall conform . . . The collectors of every kind of tax also shall be reminded to be on their guard to the best of their ability, for, if anyone is detected in transgression, he will risk capital punishment . . .[14]

Whereas the legal sources emphasize the fairness and objectivity of Diocletian's revamping of Rome's tax assessments, the literary sources were not as kind. Lactantius notes the proliferation of aggressive land surveyors throughout the provinces at this time, men who often treated locals more like enemy hostages than fellow Romans.[15] Later writers like the Antiochene rhetorician Libanius in the fourth century CE and then the Gallic writer Salvian in the fifth century CE suggest there may have been an amplified use of fear and threats of violence as imperial approaches to policy enforcement and tax collection from the late third century CE onward, although these writers may not be illustrative of practices throughout the Empire. Literary citations of aggressive imperial agents recall a question asked by the satirist Juvenal in the early Empire: *sed quis custodiet ipsos custodes*? (But who will guard the watchmen?).[16] The aside addressed the men assigned to police women's sexual morality, but it was also a fair question to ask of many late antique administrators and judges as well.

The severity of the emerging culture of state and religious violence in the later Empire is still hotly debated by scholars; however, it is possible to identify an increasing ethos of documentation that is easier to prove. It is likely that the state-decreed focus on the compiling, archiving, organization and addition of records under the direction of the Tetrarchic era's rulers helped to develop a broader ethos of encyclopedism within the state and among individuals.[17] The effects can be seen publicly in the increased emphasis on systematic assessment, the use of law, and the procedure for records, but it can also be seen in private initiatives. The collection and then codification of imperial rescripts and constitutions of the privately compiled *Codex Gregorianus* and *Codex Hermogenianus* assembled during the reign of Diocletian were, quite tellingly, the first efforts at systematic law since the reign of the emperor Hadrian and are dated to around 291 CE and 295 CE, respectively.[18] The state and hence legislation was shifting, and thus the practitioners of law tried to catch up. These codes are part of a broader movement toward knowledge organization and heightened legal rhetoric that developed from the late third century to the death of Justinian in 565 CE.[19]

ADDRESSING GUBERNATORIAL AND JUDICIAL CORRUPTION THROUGH LAW

The mismanagement of provinces by governors and the corrupt actions of judges had been a subject of legislation since the Republic. During his first consulship in 59 BCE, Julius Caesar had passed the extensive *lex Julia de repetundis*, which was regularly employed during the late Republic and Empire.[20] It was revived to regulate magisterial behavior in the provinces during the later Empire as well.[21] The term *repetundae* or *repetundae pecuniae* referred to money recovered from governors, judges or certain public servants who had unfairly taken funds from the provinces or the city of Rome while serving in their public capacity. In the late fourth century CE, a number of public officials were notably prosecuted for the "crime of maladministration" (*male usae administrationis crimen*) under this law, referred to in a title of the *Theodosian Code* as *Ad legem Iuliam repetundarum*.[22] Late Roman emperors frequently legitimized their anticorruption efforts through citation of earlier, well-known legal efforts to hold judges, governors and accompanying gubernatorial staffs called *apparitores* accountable. Often, not only were these officials answerable for their misdeeds, their heirs could be as well. Moreover, the penalties levied against them upon conviction became even more severe in the later Empire. Consider the crime of *vis* (criminal violence) that had been legislated on with the Augustan *lex Julia de vi publica,* which could serve to protect citizens from magistrates abusing power (e.g. torturing a citizen or perhaps compelling them to pay illegal taxes).[23] In 317 CE, the emperor Constantine wrote to Catullinus, the proconsul of Africa, that it was no longer to be responded to with the penalty of deportation to an island, but rather should be met with capital punishment without the chance to suspend the sentence on appeal to a judge.[24] Similarly, the charge of embezzlement, called *peculatus,* went back at least to the first century BCE. It was also legislated on by an earlier *lex Julia*.[25] The charge usually came with a penalty of banishment and a fine that was three or four times the amount stolen; however, by the reign of Theodosius II, it was a capital offense both for the judges and for those who abetted them.[26] The theme of citing earlier corruption laws—particularly Julian legislation—and then intensifying their original penalties was characteristic of much anticorruption legislation in the later Empire.

Of particular interest in the late antique law codes are the attitudes towards the staffs that governors and other magistrates used to act as their guards, record documents or dictations, make oral announcements, deliver letters and perform any number of things they needed to help them govern.[27] These staffs were called *apparitores* or *officiales,* men organized into a recognized *ordo* attached to various bureaucratic magistracies. A number of laws from the fourth and early fifth centuries CE address rapacious *officiales* and *apparitores* who—at least according to the legal evidence and some literary citations in historians such as Ammianus Marcellinus—needed to be checked. In 331 CE, Constantine even noted that the rapacious hands of these men would themselves be cut off if they did not desist.[28] Bodily mutilation of citizens was uncommon, even frowned upon under earlier Roman law, and thus Constantine's law is remarkable in that it is introduced here

in the context of abuse of power.[29] A law from the early fifth century CE, attributed to Honorius and Theodosius, attempted to halt the fleecing of provincials, *curiales* (town councilors) and *corpora* (trade associations):

> We wish to protect the *curiales*, *navicularii* (contracted ship-owners), and all *corpora*, so that no *apparitores* of any governor shall be permitted to do anything, which helps loot the provinces.[30]

These laws may suggest an endemic problem in the Empire. Or the problem may have only been pervasive in certain provincial areas, such as Africa. Regardless, such pronouncements were one way for emperors to express concern over the welfare of their people and underscore that the proverbial watchman should be watched. The laws also helped encourage citizens to trust in the court system, while also calling on magistrates and judges to protect their people. An articulated culture of accountability is certainly evident in these laws, but beyond civilians bringing prosecution and going to court to gain conviction, it remains to be seen how the state was able to find out about such practices. As we will now discuss, one way was the use of intelligence-gathering agents in the provinces charged with reporting back to the center.

BUREAUCRATIC AGENTS FOR INFORMATION GATHERING AND OVERSIGHT

In addition to the use of law to discourage corruption and cast the emperor as a *dominus*, there was also the approach of creating or expanding on a bureaucracy that could address it directly. In the late Roman world, imperial officials and soldiers were often employed as agents of surveillance and a check against corruptive practices. There were already reviled men mocked as *curiosi* ("snoopers") in the third century CE, who are cited by Tertullian as agents for collecting the vectigal tax from disreputable professionals operating in Africa.[31] Similarly, men beholden to the praetorian prefect named *frumentarii* had been used as couriers and envoys during the Principate along with military *speculatores* attached to the legions in order to snoop and report information back while they performed courier services.[32] It appears that the infamous *frumentarii* were disbanded under the Tetrarchy so as to improve the imperial approach to gathering information from the provinces. The fourth-century historian and imperial bureaucrat Aurelius Victor reported on this development in 361 CE in his treatise on the virtues of the Caesars. In it, he remarks on Diocletian's use of law and discloses Tetrarchic attempts at reform and then reorganization: "And with no less zeal for peace, and the bureaucracy regulated by the fairest laws and the group of *frumentarii* disbanded, to whom our current *agentes rerum* are very similar."[33] By the early fourth century CE, these intelligence agents formed a more standard corps within an official *schola.* Under Constantine and Licinius, these men were called the *agentes in rebus* ("persons active in affairs") since at least the year 319 CE and exemplify the aspiration of using imperial agents

to root out and report on tax evasion, corruption, treason or any number of further offenses.

The *agentes* themselves may have originally had their antecedents in the Tetrarchic era; however, they were under the oversight of Constantine's newly formed *magister officiorum* formalized after 312 CE.[34] In part, these men were connected to the oversight of the *cursus publicus,* the network of horses, mules and wagons used to transport imperial letters, tax money (though not taxes paid in kind) and—as will be discussed later—the products produced by state-owned factories called *fabricae*.[35] By law, much of the cost of this imperial network was subsidized on a local level; locals provided wagons, animals and even housing as part of imposed duties called *munera* or liturgies. However, book eight of the *Theodosian Code* does reveal that while there were abuses of the *cursus publicus* system, emperors such as Constantine tried to safeguard locals from the overuse of commandeered animals and to protect the system from abuse for private rather than state-sanctioned travel. Items that needed to be sent securely and at a high speed could be sent with the *cursus velox,* the quick post, with special agents charged to protect them (e.g., gold or silver) as an added security against bandits or corrupt officials. In addition to the highly regulated *cursus publicus*, the *agentes in rebus* were also connected to oversight of ports, another key hub for information and income that funded the Empire. In a crucial and centralizing move, the *agentes* were connected to the imperial court rather than under the supervision or judicial jurisdiction of the provincial governor or the praetorian prefect, creating more direct information lines to the central executive through the *magister officiorum*.[36] By the time of Theodosius I in 386 CE, these men could stand for election into the senate following completion of their service as *principes* within the corps.[37] Although this imperfect system was itself vulnerable to abuse, the corps of *agentes in rebus* ideally provided a secure route for information.[38]

The legal evidence once again hints at corruption problems with the *agentes in rebus,* particularly during the reign of Constantius II in the mid-fourth century CE. Constantius warns the *curiosi* that they are to report crimes to judges and not to devise false accusations that might land people in prison unfairly.[39] In his *Funeral Oration over Julian,* the Antiochene rhetorician Libanius launched an invective attack against these men, whom he calls "the King's eyes" (Gr. *οἱ βασιλέως ὀφθαλμοὶ*). To Libanius, these were unwatched watchmen:

> Thus the very people there to prevent crime were the protectors of the criminal, like sheepdogs hunting with the wolf pack, and it was like coming across hidden treasure to have a share in this goldmine—rags to riches in no time![40]

The oration notes Emperor Julian's attempt to suppress the corps, but while the emperor soon died, the *curiosi* lived on. Nevertheless, for all the ire directed at them in law and by provincials such as Libanius, the *curiosi*'s size was relatively small compared to the vast population of the Empire, which was likely around 50 million at the time.[41] Their numbers fluctuated in the later Empire, but a law of 430 CE fixed their maximum at 1,174 with a precise *cursus honorum* (a set path for rank and

promotion) for advancement.[42] Many curials may have used the post to escape their own civic *munera* at home and many passed the position on down the line in their families. Keeping this in mind, we see in the *agentes in rebus* and in the infrastructure of the *cursus publicus* two legal ideals that—while clearly themselves vulnerable to corruption—were tactics ideally meant to protect the income of the imperial fiscus, allow for secure transport and provide a reliable network for the passing of information. It was this same aspiration of financial security through knowledge organization and administrative protection that would also influence the system of trade corporations that grew in the later Empire.

STATE CORPORATIONS, COMPULSORY MEMBERSHIP AND THE IMPERIAL CONTROL OF TRADE

The tumultuous events of the mid-third century CE in particular demonstrated to aspiring rulers that the secure outfitting and payment of the army was of the utmost import to the success (and even the continued survival) of any Roman emperor.[43] As has already been established, Diocletian's reform of the tax system was one means of attempting to increase state income, protect against tax evasion and secure a tax base for reliable funding of the imperial fisc that could in turn fund his plans to expand the army. A second technique for securing funding and preventing misuse was to organize, oversee and regulate both coinage and commerce. Threatening this goal was the fact that the Empire had long struggled with hyper-inflation, coin devaluation and counterfeit coinage that ultimately decreased trust in the monetary supply, stymied the economy, encouraged hoarding and decreased the buying power of the populace. Moreover, these coinage problems were often blamed on private businesspeople. Diocletian addressed the rampant inflation and problems in the monetary supply through coinage reforms that re-standardized the weight of gold coins and reintroduced the minting of a pure silver coin.[44] In addition to these coinage reforms, he again turned to legislation as a device for capping the maximum amounts that could be charged for goods and services. This produced the famous—though largely ineffective—Edict of Maximum Prices.

Dating to November or December of 301 CE, the edict provided over 1,000 prices for goods and standard wages for several occupations. Even if it was well beyond the bounds of feasible enforcement, the dozens of pieces of the inscription found predominantly in cities of the eastern Empire do at least provide an insight into the Roman labor market in the early fourth century CE and once again exposes a regime attempting to assess, archive and impose organization on an Empire that did not fall into line.[45] Although Diocletian's monetary reforms and his use of legislation to address extortionate prices has long been noted by modern scholarship, his formation of state associations of tradesman (e.g., *collegia, corpora*) can also be seen as an imperial attempt to secure goods and services essential to the functioning of the state. By circumventing the contracting of private suppliers for certain goods and increasing the bureaucracy of oversight through highly regulated state trade associations, price gouging could be addressed and mitigated in regard

to certain goods.[46] As such, we should perhaps begin to look at the creation of these *corpora,* which were often similar to involuntary trade guilds, as a tactic of anticorruption in Late Antiquity.

It is likely that still within Diocletian's time in the late third century CE, state factories called *fabricae* began to operate in order to supply the army directly with clothing and armor.[47] Although private craftsmen continued to operate and to be of use to the military, the creation of these factories secured a necessary supply to the army and circumvented concerns such as extortionate prices. Legions could more easily rely on supply chains and budget accordingly. The workers within these state-owned factories were called *fabricenses* (Gr. *Φαβρικήσιοι*) and were organized into an association called the *corpus fabricensium* overseen by the *magister officiorum* ("master of offices") who also oversaw various other components of the palace administration, the *agentes in rebus,* the *cursus publicus* and certain state clerks. Close to 40 *fabricae* were spread about the provinces of the eastern Mediterranean and in the west were housed within Gaul, Illyria and Italy. In addition to his establishment of state-owned *fabricae,* Diocletian also sought to control the workers within the *monetae* (mints) that created the gold, silver and bronze coinage that circulated within the Empire. A mobile *moneta comitatensis* still followed the emperor in order to provide on-the-spot coinage and could thus be more closely overseen, and a limited number of static imperial mints were allowed within the Empire. Diocletian's reforms of local minting and control over the minters that worked within them were partially inspired by his predecessor Aurelian.[48] The increasing focus on the organization, oversight and control of both the *fabricenses* who worked in the *fabricae* and the *monetarii* who labored within the mint perhaps demonstrate a valid paranoia over securing supply chains at the lowest possible cost.

Corporations of armorers and mint workers employed by the state were part of the larger movement towards compulsory trades in the later Empire, a movement that came to include weavers, purple dye makers and muleteers, to name a few professions organized within this *corporati* system.[49] Additionally, we can see this trend among the tradesmen who contributed to the food supply that fed the army and contributed to the imperial grain dole known as the *annona.* Several trades that contributed to the food supply became compulsory or state-controlled in the later Empire, including the *suarii* (pork suppliers), *pistores* (bakers), *piscatores* (fishermen) *and navicularii* (shippers). As regards the pork suppliers, this change is chiefly due to modifications to the pork ration. Much like the *fabricae,* the state had previously purchased its pork from private dealers, but it developed closer ties with corporations of pork dealers during the later second to early third century CE under the Severans. Pork was already a regular part of the *annona* by the reign of Aurelian in the late third century CE, and by the reign of Constantine in 324 or 326 CE, service within the *corpus* was a *munus*—a compulsory service.[50] Many pork farmers and bakers were, like many of the individuals tied to the *annona* system of compulsory service, also large landowners. These landowners were compelled to serve and fulfill their various quotas, as set by the state.[51] Many of the laws within the codes of Theodosius II and then Justinian emphasize that individuals subordinated within the *corporati* system were not allowed to escape service by attaining higher honors, joining

the clergy or engaging in trickery in order to elude their obligation to the state. Such laws even allowed for individuals to be dragged back to their positions by force if need be—although it is difficult to say how often this threat of violence was exercised.[52]

Some modern scholars have termed the system of compulsory and often hereditary trades in the late Roman Empire a "caste-system"; however, we must still consider the disconnect between legal ideal and enforceable reality.[53] There simply was not a large enough urban police force or sufficient soldiers dedicated to the purpose in order to oversee each tradesman who had fled from his *corpus* or *collegium* into the folds of a Mediterranean world without drivers' licenses or identity databases with which to positively I.D. people. The lack of success in attempting to tie various occupations to service is perhaps seen in a law from Arcadius and Honorius in July of 398 CE. In it, the emperors direct the praetorian prefect Eutychianus about what to do if certain groups of people attempt to take refuge in a church: slaves, maidservants, decurions, public debtors, procurators, collectors of purple dye fish or those involved in public or private accounts who attempted to take refuge in a church would be subject to forcible seizure and returned.[54] It seems that many within the state corporations lived up to their obligations—whether it be the creation of arms, dye or clothing, the growing of grain or perhaps the provision of pork. However, there were assuredly still those that fled from their assigned *munera,* despite the violent legal prohibitions. Compulsory *collegia* were one way that the late Roman state sought to avoid price gouging and to secure crucial goods and services to support the state, the recipients of the *annona* and the military, but much like the *cursus publicus,* the system was still susceptible to fraud, extortion or the evasion of service.

LAW AND THE VOCABULARIES OF PATERNALISM, POWER AND FEAR

> The same Augustuses Gratian, Valentinian and Theodosius to Matronianus, *dux* and governor of Sardinia: In order that the punishment of one man may cause fear in many, we command that Natalis, the former *dux,* go under the guardianship of the imperial bodyguard, even unwilling, to the province which he plundered . . . in order that he may repay four-fold . . . [55]

In the same section on the Julian law on extortion, wherein judges who were convicted of corruption were ordered to be stripped of their honors, the *Theodosian Code* records the fact that in 382 CE, a former *dux* named Natalis became a visible example to all current and future governors. He was compelled by a guard of imperial escorts to return to the province that he had extorted money from and repay the money fourfold. As Natalis' case suggests, the creation of fear through law was recognized. Such fear was intended to deter people from committing an offense, but this was not an idea novel to the late Empire; the use of law to intimidate those engaged in corruption was simply building upon past precedents. As previously noted, penalties often intensified and the threat of violence became more pronounced within late antique legislation. The corporal protections that had

previously served as a kind of legal armor for many higher status individuals began to erode in Late Antiquity, leaving more people vulnerable to physical punishment than ever before. Yet, it should be stated that while the vocabulary of law became more ferocious, there often remained a message of paternal concern in much of the legislation aimed at quashing corruptive practices.

If we return back to the Edict of Maximum Prices in 301CE, we see in the preamble that the Tetrarchs carefully outlined the reasoning behind their decision to fix prices on certain goods and services throughout the Empire:

> For who has so unfeeling a heart or has removed himself so far from human feeling that he is ignorant that he has not indeed felt in commercial affairs, whether done in merchandise or dealt with in the daily hustle and bustle of the cities—to such an extent that it has been allowed for shameless prices to rise? Neither abundance of goods nor the fruitfulness over the years mitigates this unbridled lust for plundering.[56]

In the document, the rulers of both the east and the west—Diocletian, Maximian, Constantius Chlorus and Galerius—collectively cast themselves as the protectors of all the human race. They cast themselves as men who had to ultimately break their long silence in order to protect the people against avaricious merchants. In addition to this, it was also, no doubt, an attempt at securing Diocletian's recent currency reforms from collapsing under inflation. Although the edict would prove unenforceable, its justifications did communicate a concern for the common people through a law sent out to the provinces, translated into Latin and Greek, inscribed in stone, and then erected for the individuals in various cities to read publicly.

As all inscriptions were and are, the Edict of Maximum Prices was a rhetorical performance of monumentality. In 301 CE, the Edict could communicate both the power and concern of the emperors for the exasperated residents of the Empire. To be sure, the expressed concern for the good of the populace found in this edict or perhaps in the later *Novellae* of Justinian was perhaps merely a veneer that hid attempts at rooting out specific practices that disrupted the funding or administration of the Empire. As ancient historians well know, the reconstruction of intent often requires much conjecture. What should be recognized is that the vocabulary of Roman law can be confusing to modern readers and perhaps does not altogether communicate the same message to us as it did to citizens in the later Empire. For instance, any modern reader limited to skimming through the late antique laws found in the *Theodosian Code* or the *Justinianic Code* would likely surmise that judges were a corrupt, venal and fully suspect lot.[57] However, it is difficult to gauge the prosecution levels, conviction rate or even the popular response to these laws.

CONCLUSION

Corruptive practices and anticorruption tactics were not a development unique to the later Empire. The abuse of power for personal profit had long been an acknowledged and systemic part of Roman government and a topic of legislation in the Republic and the Empire. As historians have noted, power had always been

for sale.[58] However, direct accusations of corruptive judicial, administrative, decurial and collegial practices became more frequent themes in the legal texts from Late Antiquity than they had been in the earlier legislation that survives.[59] Late antique attempts to halt and to punish corruption within the judiciary, tax collection, the imperial administration, the curial orders, and among associations of tradesmen tied to the *corporati* system were undertaken by the emperor through legislation and through modifications to the structure of the trade systems that supplied and fed the Empire. The textual shift in Roman law to underscoring oversight and protections against corruption has led many to decry the rampant increase in corruptive practices from the third century CE on. Such legislation influenced Edward Gibbon, who proposed that it was a collective mix of luxury, Christianity, bureaucrats and internal corruption that ultimately brought about the decline and then fall of Rome. Since 1776, Gibbon's enlightenment-era views have continued to have an impact on modern assessments of the late Empire and have severed the period prior to Diocletian from that of the later Empire with an unjustified cleaver. The perception of an inefficient and characteristically different late antique administration was later furthered by Ramsay MacMullen's influential work on late Roman corruption, in which he argued that corruptive practices were endemic.[60] However, recent legal scholars have begun to temper allegations of widespread and deleterious corruption by looking at how the rhetoric of law may have contributed to a rather more fictive "fall" than actually occurred (see also Chapter 2 by Arena in this volume).[61]

As has been argued, the language and rhetoric of anticorruption tactics in Late Antiquity is largely revealed through the laws pertaining to tax collection, the judicial sphere, imperial administration and trade associations. However, there is a disconnect between such texts and the reality experienced within the Empire, just as there is today. The leading expert on judicial malpractice in Late Antiquity, Jill Harries, perhaps put it best: "The rhetoric of imperial laws about *iudices* . . . expresses a concern about accountability, present from Augustus onwards, but now more emphatically expressed, in accordance with the linguistic conventions of the time, and stringently enforced."[62] This emphatic vocabulary was woven into the legislation that governed the later Roman Empire and was even mixed into the literary prose of writers like Lactantius, Libanius and Salvian. These texts contain numerous allegations of bureaucrats stealing money, provincial governors that absconded from their duties on town councils, or mint workers who took off with gold from the imperial mint, but it is altogether unclear whether corruption truly increased in the late Empire—or whether emperors were simply more likely to address it. Whatever the case, late Roman emperors frequently used legal constitutions to disseminate threats of land confiscation, corporal violence and fines in an attempt to curb such behaviors, but it is notable that they also turned to less sensational methods: improved record-keeping, bureaucratic agents, land surveying, information gathering and the creation of compulsory trade associations in order to address corruption. If Michael Johnston's aforementioned definition (see the Introduction to this volume) of corruption as "the abuse, according to the legal or social standards constituting a society's system of public order, of a public role or

resource for private benefit" is here applied, then we can accordingly avoid the danger of applying a twenty-first century, ahistorical template and instead establish indicators of what corruption meant in the later Empire. Even if we do not have sufficient data to determine whether corruption increased in the later Roman Empire, the methods for countering perceived abuses or mismanagements of power—including embezzlement of state money, venality, extortion, excessive violence and maladministration—help us to understand the shifting definition of corruption for late antique emperors and collectively reveal that anticorruption tactics became more varied, violent and documented than ever before.

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PART II

THE MIDDLE AGES

4

Fighting Corruption between Theory and Practice

The Land of the Euphrates and Tigris in Transition, Ninth to Eleventh Centuries

Maaike van Berkel

Abuse of power and embezzlement were perhaps ubiquitous, but not generally accepted phenomena in premodern Middle Eastern societies. Chronicles, histories, mirrors for princes, administrative manuals and legal works all fulminate against officials abusing their power and position to enrich themselves, neglecting their duties, taking gifts for private gain and embezzling funds against the public's or the government's interest. These same sources emphasize the ruler's duty to redress these wrongs: the just ruler was supposed to protect his subjects from unjust officials, a duty often necessitating anticorruption measures.

So far hardly any research exists on the practice of anticorruption in the Middle East prior to 1500. The theory of good governance as described in administrative manuals and mirrors for princes has received more attention.[1] To begin moving beyond existing research, the first part of this article will deal with the question of what contemporaries in the region now called Iraq defined and perceived as corrupt between the ninth and eleventh centuries. It argues that there is a gap between the former and the latter, that is, between theory and practice. What was described as corrupt in theoretical and legal works is sometimes far removed from what seems to have been perceived as unacceptable behavior in day-to-day practices as described in chronicles and collections of historical anecdotes.

At the same time we should be aware that a distinction between normative sources and those describing daily practices is far from clear-cut. Sources at our disposal include histories, administrative manuals, mirrors for princes, collections of historical anecdotes and legal works. Although the central administration of the Abbasids and their successors likely produced thousands and thousands of (mainly paper) documents, the archives of Baghdad did not stand the ravages of time and, with the exception of Egypt and Afghanistan, only a handful of original documents survived from the heartlands of those empires.[2] In the absence of documents of practice the day-to-day procedures and administrative practices must be inferred from histories. These are very rich in detail, but often describe historical situations

in a moralizing manner and thus provide examples of good and bad governance which are very similar to what we find in administrative and legal manuals. Nevertheless, in their descriptions they purport to present realistic examples of corrupt behavior and anticorruption measures that probably rang true with contemporaries as they were taken from or reflected on daily life.

What all these sources share is the perspective from which they were written. Unlike the modern anthropologist or political scientist in possession of numerous surveys, in which citizens provide subjective perspectives on their views of corruption, all sources used in this article were written by and for an elite who were themselves part of the administrative system they describe. The authors are the bureaucrats of their time. The unadulterated voice of the "ordinary" subject is only very sporadically heard, if at all.

The second part of this article will deal with anticorruption measures taken by the Abbasid authorities and their successors. I will focus on an era of transitions, from the heyday of the Abbasid administration in the ninth century, through the breakup of the empire and the rise of the Shi'ite Buyids in Iraq in the tenth century, to the eleventh century and the emergence of the Sunnite Seljuq Turks on the scene. This period of profound political, economic, social, administrative and religious developments will allow us to trace change and continuity in the anticorruption policy and practice of succeeding authorities. To contextualize these factors, the article starts with an introduction to the more general developments in the administrative apparatuses of these successive regimes.

THE ABBASIDS, THE BUYIDS AND THE RISE OF THE SELJUQS

Already at an early phase Arab conquerors made use of written records and had some sort of administrative apparatus staffed by scribes.[3] After they subjected parts of the Byzantine and Sassanian Empires, Arab rulers built on the administrative systems of their predecessors. Initially, they kept most of the scribes in these apparatuses. Similarly, they adopted many of the latter's administrative and scribal practices, including their languages (Greek, Coptic and Persian). However, they also introduced administrative innovations and began using Arabic and bilingual Greek-Arabic documents. The available sources do not give decisive answers regarding the precise organization of the administration in the decades after the conquests. Most probably, an administrative bureau (*dīwān*), which registered those entitled to a pension or stipend from the state treasury, was established within ten years after the death of Muḥammad.[4] More specialized institutions were established from the reign of the first Umayyad caliph, Mu'āwiya (r. 661–80 CE) onwards.

Under the Umayyad and Abbasid dynasties, the administrative system expanded. By the end of the ninth and the beginning of the tenth century the Abbasid apparatus was an extensive organization with numerous specialized bureaus, subdivided into separate offices (generally referred to as *majlis*) and staffed by hundreds

of civil servants. These divisions into administrative units were liable to many changes and developments in the course of Abbasid history, but, in general, there were several bureaus for land taxes, one for state landholdings, one for military affairs (dealing with the appointment and payment of the army), one for expenses of the court, one for the treasury, a chancery from which the official documents were issued, an office for the post (also charged with the gathering of intelligence) and several miscellaneous units.[5] To each *dīwān* were assigned various specialized tasks, inconsistently referred to in the sources as being carried out by separate offices or employees. The chancery, for example, carried out tasks such as recording the names of senders and addressees, the preparation of draft versions of a document, the turning of a draft into a fair copy and the opening and distribution of incoming mail.[6]

Professional staff received monthly salaries, which varied according to their position within the hierarchy.[7] For their recruitment officials were dependent upon informal and personal networks. Offices were generally distributed through family relations and systems of patronage. Since the ninth century, officials were often recruited from Baghdad's hinterland. These new secretarial families replaced some of the old families that had risen under the Abbasids' predecessors, the Umayyads. The earliest generations of scribes generally had non-Islamic and non-Arab backgrounds, but this changed under the Abbasids, even though religious minorities remained well represented in the administrations of Baghdad and the provinces throughout this period.

The early tenth century is a key moment in the history of the Abbasid dynasty. The political power of the caliphs began to crumble and Baghdad started losing its grip on the more remote provinces. Revenues from the provinces decreased drastically and even Baghdad's hinterland, the fertile land between the Euphrates and the Tigris, produced only a small fraction of what it did before. Iraq was exhausted by many years of campaigns against rebellious groups and the lack of investments. In need of immediate cash, most of the taxes were no longer raised through a system of direct taxation, but given away to financers in tax farming contracts. The Caliphate was on the verge of a financial crisis. Viziers, also unable to raise cash for the army, succeeded one another in bewildering speed and military leaders were the ones pulling the strings. The army rebelled; nonetheless, the institutions and routine of the sophisticated bureaucratic apparatus continued to exist and function.

The loss of control over the provinces coincided with the rise of new dynasties. Daylamites from the southern Caspian shores took over in parts of Iran; Kurds from the Zagros mountains mutinied: Zaydis in Yemen and Fatimids in North-Africa became independent. The most threatening force in the early-tenth century were the Qarāmiṭa, a Shi'ite movement from Baḥrayn, who overran southern Iraq. But it was the Daylamites from Northern Iran who would bring forth the next ruling dynasty of Iraq, the Shi'ite Buyids. The Buyid rulers officially became *amīr al-umarā'* (commander of commanders) for the Abbasid caliphs, but in practice they became the actual rulers of the land of the Euphrates and Tigris in the middle of the tenth century.[8]

With the arrival of these new rulers the financial problems of the administration of Iraq did not disappear, but the character and the extent of the administrative apparatus did change. Like his predecessors, the new ruler, Muʿizz al-Dawla (r. 945–67 CE), was unable to raise enough money for the military, consisting of his own Daylamite followers and the Turkish troops who had settled in Baghdad under his predecessors. To solve this he started distributing grants (*iqṭāʿ*)—an administrative arrangement assigning the taxes from a certain area to soldiers as an equivalent of their pay—thus breaking up the old, and by now rusty, financial system of direct tax collection or tax farming and payment of salaries.[9] According to the contemporary Buyid secretary Miskawayh (d. 1030 CE), the greater part of Iraq became "immune to land-tax and out of the control of tax-collectors."[10]

As a consequence the size of the old Abbasid bureaus shrank drastically, while their structure remained more or less as it had been in the ninth and early tenth centuries: bureaus for land tax and fiefs and tax farming, army, expenditure, treasury, official correspondence and so on. According to the same Buyid secretary, Miskawayh, who seems to have exaggerated in despair of the loss of the great Abbasid bureaucracy, "most of the bureaus became superfluous and idle."[11] The background of the staff of the administrative apparatus likewise changed. The new viziers and high officials were generally from Persian background. Those lower on the hierarchy most probably still hailed from Baghdad's hinterland, mainly because they were the ones most familiar with the ways in which the revenues of Iraq could be extracted.[12]

In 1055 the Turkish Seljuqs led by Ṭughril Beg conquered Baghdad and the Buyids were expelled from the city. The arrival of the Sunni Seljuqs turned the tide for Shiʿi Islam and altered the ethnic composition of Iraq. The Seljuqs did not settle in a permanent capital but moved between several cities and strongholds. Their court consisted mostly of military commanders, and the vizier who also travelled with the court. So too did the best-known vizier of the Seljuqs, Niẓām al-Mulk, who served the successive rulers Alp Arslan (r. 1063–73 CE) and his son Malik Shāh (r. 1073–92 CE), during the heyday of the Great Seljuq Sultanate of Iraq and Persia. Like many of his predecessors under the Buyids, Niẓām al-Mulk was of Persian descent. Most members of the bureaucracy frequented the court, but did not travel with it. They were also mainly of Persian descent. Non-Muslims (Jews and Christians) continued to work in the administration.

Like the Buyids, the Seljuqs made extensive use of the grant (*iqṭāʿ*) system, and their administrative apparatus remained therefore similarly rudimentary. Its structure underwent some changes. There was still a chancery, a financial bureau administering taxes and grants and a bureau for the treasury, but much to the vizier Niẓām al-Mulk's regret, the Seljuq sultans were not interested in maintaining the classical postal and espionage network which, according to him, functioned so well in preventing "negligence, laziness and tyranny" among the officials.[13] In sum, the background and religion of the rulers and their administrative elite changed during the tenth and eleventh centuries, and although the administrative apparatus shrank considerably after the collapse of the Abbasid Empire, its structure reveals striking continuities.

DEFINING CORRUPTION

The ninth and tenth centuries saw a proliferation in advice literature for rulers and members of the political elite. The spread of advice texts coincided with the extension of the administrative apparatus and the expansion of the production of texts in general. Numerous specialized administrative manuals laid down the codes and standards for proper secretarial writing. Book-length works of counsel for rulers guided them towards righteousness. In addition, the chronicles of that period contain many moralizing examples of good and bad governance, while legal works discuss ideals of just rule. There is no doubt that ideas about accepted and unaccepted behavior in politics and expectations about fighting unjust behavior were ubiquitous in ninth-, tenth- and eleventh-century Iraq. Although a generic term for corruption in contemporary Arabic sources is lacking, the closest definition of corruption seems to be the opposite of good governance.

The extant sources corroborate the idea that there is an agreement on the moral evil of bad governance including abuse of power and pecuniary actions for private gain. However, these moral codes do not necessarily correspond to modern ideals and corruption is not understood the way the World Bank and Transparency International interpret it nowadays. Nepotism as such does not seem to have worried the scribes of the bureaucratic apparatuses. However, authors of chronicles and advice texts do refer every now and then to specific individuals, often sons of senior scribes, whom they characterize either as incapable or absent.

What then was considered a moral evil? The closest term in Arabic that is often used in the moral sphere is *ẓulm*, that is "acting in such a way as to transgress the proper limit and encroach upon the right of some other person."[14] It is generally used to denote wrongdoing and injustice, especially by official authorities. Rulers were expected to redress *ẓulm*, and they could do this through the institution of *maẓālim* (from the same root in Arabic). In addition, terms for specific types of official abuse and embezzlement exist.

The legal texts are quite precise about (aspects of) blameworthy behavior. They define in detail, for example, the borderline between allowable gifts (*hiba*) and illegal bribes (*rashwa*).[15] The general view is that an allowable gift is something to which no condition is attached, while a bribe is a gift offered to a political authority with the aim of obtaining his help or support. The condemnation of bribery in these texts is very clear. According to an often-cited statement by the Prophet Muḥammad, God's curse is to rest upon the giver of bribes, the taker of bribes and the go-between.[16]

But here a differentiation in types of sources, between the ideals of the legal works and everyday practice as it is described in the historiography, becomes helpful. While legal and *ḥadīth* texts clearly disapprove of bribery, especially in the context of court procedure, histories mention many examples of officials offering gifts to courtiers with the aim of gaining their political support. They describe these practices as facts that were part and parcel of political reality, often without negative comments. Probably because the exchange of favors was such a central element of relationships within these circles, the political judgment on bribery seems to have been milder than the legal view.

In their turn, advice literature and histories are mainly concerned with another type of bad governance: embezzlement of state resources and extortion of the taxpayer. These practices are defined in the sources in many ways including, for example, "the appropriation of state revenues" (*iqtiṭāʿ al-amwāl al-sulṭāniyya*),[17] "negligence of the interest of provincial administration" (*taqṣīr fī shay' min umūr al-ʿamal*)[18] and "putting unfair burdens (*mu'an*) on subjects."[19] The just administrator or ruler, then, is expected to fight extortion and embezzlement for its disruptive effects on subjects and state finances. The quintessential bureaucrat of the Abbasid period, ʿAlī b. ʿĪsā (d. 946 CE), for example, is said to have often admonished his officials to send the full amount of taxes they had collected. In a letter to the provincial governors in the year 913 he is supposed to have written, for example:

> This is the beginning of the year, the beginning of a new season and the time of the gathering of the land-tax. I know of nothing which I need demand of you or remind you of; I will only bid you to send a considerable portion of the money . . . Realize that I will have no laxity nor tampering with any of the rights of the Commander of the Faithful [caliph], nor will I leave a single dirham of his money unaccounted.[20]

Similarly, but much later, the Seljuq vizier Niẓām al-Mulk warns grant holders not to exploit the peasants from whom they collect their income:

> Officers who hold assignments (*iqṭāʿ*) must know that they have no authority over the peasants except to take from them—and that with courtesy—the due amount of revenue which has been assigned to them to collect; and when they have taken that, the peasants are to have security for their persons, property, wives and children, and their goods and farms are to be inviolable; the assignees (holders of the *iqṭāʿ*) are to have no further claim upon them.[21]

The chronicles of this period are similarly interspersed with anecdotes about embezzling officials, generally with similar disapproval. Sometimes embezzlement took place through ingenious mechanisms, but more often officials simply filled their pockets whenever possible. Ibn al-Furāt, for example, who is portrayed by Miskawayh as the powerful but cunning counterpart of his contemporary "good administrator" ʿAlī b. ʿĪsā, is said to have ordered as vizier the transfer of 70,000 *dīnār* directly from the state treasury to his private purse, falsely registering it as a payment for the military.[22] In total he was said to have amassed in illegal income during his second vizierate (917–18 CE) 1.2 million *dīnār*, an enormous amount when compared to the entire state budget of approximately fourteen to fifteen million.[23]

How do the public and private spheres, so prominent in most modern definitions of corruption, fit into this? The sources for the medieval Middle East do not offer a clear distinction between these realms. On the one hand, embezzlement was consistently condemned for its negative effects. An official who had a monthly salary or a soldier who received his income from an *iqṭāʿ* was not supposed to gain extra money intended for the state treasury. On the other hand, nepotism or favoritism in the recruitment of officials—another clear transgression of the separation between the private and public spheres, according to modern interpretations—was hardly ever condemned in principle and seems to have belonged to the daily routine of the administrative system.

Similar ambiguity is found in the distinction between public and private treasuries. Under the Abbasids the central treasury in Baghdad (*bayt al-māl*) was the depot for the collection and distribution of state revenues in both money and kind. The *bayt al-māl* was divided into the private purse of the caliph and a public, or general, treasury. The most important sources of income for the private purse were the revenues of the caliph's own estates and moneys that came in by way of confiscations and inheritance. The caliph inherited, for example, the property of his childless unfree servants and freedmen. Since the caliph had control of both the private and the public treasury, the distinction between the two was not a very rigid one. Public revenues, such as fines and certain taxes, generally passed into the private treasury. On the other hand, the caliph's private treasury occasionally served as a reserve for public deficits. Thus, for example, caliph al-Muqtadir (r. 908–32 CE) was once forced to pay 300,000 *dīnār* out of his private treasury to appease mutinous troops.[24] Yet, these transgressions were considered politically dangerous—some viziers had to resign after requesting advance payments from the private treasury—and described as bad governance in the sources.[25]

The boundaries between the general state treasury and the private purse of the ruler become increasingly blurred under the Buyids and the Seljuqs. Although there still existed a formal division between the two and distinct officials were responsible for one or the other, the Seljuq rulers, for example, kept stores of money and weapons in strongholds throughout the empire and financed their military campaigns from these ostensibly private facilities.[26] Slippage between concepts of private and public possessions was also visible when officials were called to account for their spoils of office. During these discharge procedures (discussed shortly), outgoing officials were not only forced to repay the revenues they had illegally obtained, but, if the state was in need of cash, they could also lose their legally required revenues and family assets. In this way anticorruption policy became a kind of cover for confiscating the assets of prosperous officials.

Despite changes in political, religious and, to a lesser extent, administrative practices in the course of the ninth, tenth and eleventh centuries, the ideas and political theory of just rule and its encroachments seems to have remained quite stable. The emphasis on the negative effects of unjust behavior, especially embezzlement and extortion, lasted from the Abbasid era until the time of the Seljuq vizier Niẓām al-Mulk. The novelty of a text such as Niẓām al-Mulk's was that his admonitions against morally unacceptable behavior were extended to the new administrative reality of the grant (*iqṭāʿ*), but its implications remained more or less the same. Can similar things be said about the actual anticorruption measures that were taken by succeeding rulers and administrations?

FIGHTING CORRUPTION

Contemporary sources mention a series of measures and institutions that were deployed to define and fight unjust behavior among government officials. Three of these, which figure most prominently in the debates about abuse of office, will

be discussed in this section: petition and response procedures, administrative procedures against dismissed officials and audit offices attached to the financial bureaus of the administration.

The first institution that figures prominently in the sources as a means to deal with corrupt officials is the petition and response procedure—generally, but inconsistently, referred to as *maẓālim*. One of the topoi of the advice literature is the ideal ruler who sits down and listens to the grievances of his subjects and redresses wrongs. Among these grievances, those concerning abuses by government officials seem to have been the most prominent. The actual functioning of petition and response procedures in Abbasid times requires further exploration. It does not seem to have been a separate and recognizable judicial institution with a clearly defined jurisdiction. We may surmise, however, that provincial and central authorities were handling petitions from their subjects and that petitions complaining about abuse of office were prominent among these. Numerous narratives describe how viziers, governors and caliphs handled these cases and restored justice. These texts often have a normative character, presenting historical situations as examples of bad administration redressed by just rule and concluded with happy endings. They appear to present an ideal situation. However, the existence of numerous actual petitions on paper and papyrus from Egypt demonstrates that we are not just dealing with an idealized scenario and that petitioning against unjust officials was an actual practice.[27]

For the central administration in Baghdad, chronicles relate that in the early days of the Abbasids the caliph himself sat down to listen to petitioners. Soon, however, he had his vizier or members of his administration represent him. Moreover, a team of scribes seems to have answered the more routine petitions and prepared the more complicated ones for his consideration. Petitioners are topically said to have come walking from "distant regions and remote districts to explain their complaints."[28] Grievances include overly zealous tax collectors, maltreatment and violence by all sorts of officials and illegal taxes levied by governors.

Maẓālim continued to function under the Buyids. Indeed one of the first theoretical exposés on this institution was composed by al-Māwardī (d. 1058 CE), a jurist, judge and diplomat working for the Abbasid caliphs under the Buyids. In his political treatise *al-Aḥkām al-sulṭaniyya* ("The Ordinances of Government") al-Māwardī laid down the rules of this institution, again emphasizing its importance for tracking down injustices in taxation and oppression by officials.[29] However, unlike the better-studied practices of their contemporaries—the Fatimids—the everyday practice of Buyid petitioning remains uncharted territory. There are a few references to the existence of a separate *dīwān* for *maẓālim* such as had functioned under the Abbasids.[30]

When the Seljuqs expelled the Buyids, they also immediately presented themselves as just rulers, in part by presiding over the *maẓālim* and redressing wrongs.[31] Their vizier Niẓām al-Mulk wrote in his *Book of Government*:

> It is absolutely necessary that two days a week the king should sit for the redress of wrongs, to extract recompense from the oppressor, to give justice and to listen to the words of his subjects with his own ears, without any intermediary. It is fitting that

> some written petitions should also be submitted if they are relatively important, and he should give a ruling on each one. For when word spreads throughout the kingdom that, two days a week, The Master of the World summons complainants and petitioners before him and listens to their words, all oppressors will be afraid and curb their activities, and no one will dare to practise injustice or extortion for fear of punishment.[32]

It is doubtful whether this detailed description of two weekly sessions represents actual practices, although in Abbasid times a similar schedule appears in the sources. Moreover, there are strong indications that the Seljuq rulers too delegated the handling of grievances and petitions to their viziers and governors, and, even more likely, to the lower clerks of the administrative apparatus.[33] However, these allusions to the everyday practice of petitioning under the Seljuqs, while in need of further explanation, nonetheless suggest it contributed to their legitimation.[34]

A second institution that dealt with corruption in this period consisted in the procedures against dismissed officials, generally referred to in Arabic as *muṣādara* and *munāẓara*. Already in the eighth century discharged state officials were called to account for their spoils of office and had to sign for a reimbursement sum.[35] We are best informed about procedures against the top layers of the administration. Their fate was bound to the vizier's, both in gaining and in losing their jobs. Dismissed viziers and high officials were often arrested and placed in confinement before they were interrogated. These interrogations could take place in semi-public sessions where courtiers, high military leaders and the caliph were present. Either through peaceful negotiations or through harsh and violent questioning by the new administrative top, they reached an agreement on repayment to the state treasury.[36]

As mentioned above, the relation between the fine and the actual amount that had been embezzled was tenuous. Especially in times of financial crisis, new officials often tried to grab as much as they could from their dismissed colleagues. At other times they gained greater political advantage by concluding deals with the outgoing administrators and subjecting them to gentle interrogations and moderate reimbursement arrangements than by humiliating them.

The amounts that entered the state treasury by means of confiscations from officials were sometimes enormous. This is typically true in times of financial crisis. For instance, the aforementioned vizier Ibn al-Furāt and his high officials and allies paid the sum total of 4.4 million *dīnār* in the trials set up after Ibn al-Furāt's third downfall from the vizierate in the early-tenth century.[37] The scale of this sum becomes clear when we compare it with the state's tax revenues on the budget for the year 918, which amounted to 14,501,904 *dīnār*.[38] In other words, reimbursement sums from dismissed officials played an important role in the panicky financial situation of a period such as the early tenth century. Although *muṣādara* was common throughout the Abbasid period, contemporary authors write with dismay about the huge sums and harsh interrogations in the early tenth century, suggesting a much more modest system in other times. Of course they might have had an interest in exaggerating the situation by presenting these practices as quite distinct from how it should have been and how it was in the heyday of the Abbasid rule.

Similar differentiations emerge from studying descriptions of *muṣādara* practices under the Buyids and Seljuqs. The fining of officials seems to have been common throughout the period,[39] but is described by contemporaries as harsher and more frequent in times of financial crisis and political instability.[40] This was all the more striking when viziers succeeded one another rapidly and factions fought to promote their case with the emirs by claiming the enormous sums they could extract from their predecessors. For the Seljuqs, for example, it was argued by contemporaries that there were no confiscations under Alp Arslan, a few under his son Malik Shāh, and an enormous increase of cases after the latter's death and that of their long-reigning vizier Niẓām al-Mulk, again indicating a condemnation of the system in its harshest form.[41]

A third institution that could be used to fight bad governance was the audit office (*dīwān* or *majlis al-zimām*). Audit offices were known already under the early Umayyads and might therefore be based on Byzantine models.[42] (For further examples of premodern auditing see Chapter 5 by Vitória and Chapter 7 by Geltner.) In the Abbasid era audit offices were attached to all the main financial bureaus: expenses, military affairs, state landholdings and the various sections of the land-tax bureau, such as the *dīwān al-mashriq* (for the eastern provinces), the *dīwān al-maghrib* (for the western provinces) and the *dīwān al-Sawād* (for Iraq). The various auditing offices were sometimes centralized in one bureau, called *al-azimma*. The tasks of these audit offices were to check the accounts of the main divisions of the financial bureaus and to make sure their books were correct and the accounts balanced. Moreover, they kept a second copy of each outgoing document in order to prevent fraud and embezzlement.[43]

The Buyid secretary and head of the chancery, Hilāl al-Ṣābi' illustrates the functioning and influence of the auditing office under his predecessors in an amusing anecdote describing its ambiguous role in fighting bad governance. When the sixteenth Abbasid caliph al-Muʿtaḍid (r. 891–902 CE) granted a piece of land to one of his concubines, his vizier immediately signed for it. Thereupon the director of the bureau of the palace issued a document approving it within two hours. The director of the relevant audit office, however, dragged his feet, arguing that the legality of the grant should be investigated thoroughly in the records of his office before he could approve it. When the concubine complained about this delay to the caliph, he advised her to do what all people do, which is to shower the official with gifts and presents. Thus the matter was settled and the director of the audit office accepted a bribe on the caliph's order.[44]

Under the Buyids the generally shrinking administration seems to have led to the merging of all audit offices into one secretariat. According to Miskawayh, it was sometimes even completely abolished by viziers who were discomfited by having officials check their accounts. Miskawayh leaves no doubt about his opinion of the process, claiming that the audit office served "as a control over the viziers" and that its elimination "would lead to ruin of both income and expenditure."[45]

The auditing office still functioned under the Seljuqs, but taking a different name, *dīwān al-ishrāf*, headed by an official referred to as *mushrif*. The *mushrif* in Abbasid times had a slightly different yet also controlling function, as he was sent,

generally on ad-hoc expeditions, to a certain province to check its financial administration.[46] Under the Seljuqs, a *mushrif* was attached to most financial bureaus, both at the central and provincial levels. A contemporary administrative manual states on the functioning of the provincial *mushrif* that "cash or kind should not be levied or expended without his knowledge and authorization." Moreover, he was to "investigate the affairs of the taxpayers and peasants so that the tax collectors, scribes and officials should not make improper demands or impose an extra burden upon them."[47]

These various institutions clearly suggest that bad governance was not only defined, but also considered a problem that needed the constant attention of rulers and high officials. On the other hand, while embezzlement was condemned by contemporaries, punishment for corrupt officials was rather mild. During the interrogations after their dismissal they were sometimes kept in confinement. Their confinement was not however a punitive measure, but a means of coercion to make sure they would disgorge at least part of their riches. After they had settled for repayment, they were often released and restored to office.

CONCLUSIONS

Abbasid, Buyid and Seljuq authors were expected to write about, and clearly were concerned about, unjust behavior by government officials. The idea that public office should not be abused for private gain was widely present in contemporary texts. This is especially visible in the ways embezzlement and extortion are dealt with in the advice literature and chronicles. Ideas of just and unjust behavior remained conspicuously intact throughout the turbulent and profound political, economic, social and religious transformations of the period between the ninth and eleventh centuries. Throughout this period corruption is implicitly defined as the opposite of good governance. Embezzlement of state revenues seems to have been society's main worry, while nepotism raised hardly any misgivings at all.

Continuity is further apparent in the anticorruption measures that were taken. The petition and response procedures (*maẓālim*) through which people could submit their complaints about abuse by officials, the administrative discharge procedures (*muṣādara* or *munāẓara*) through which dismissed officials were called to account and the audit offices (*dīwān al-zimām* or *dīwān al-ishrāf*) that controlled the financial bureaus all continued to function throughout this period. However, the scale of the administrative apparatus in general and of these institutions in particular seems to have decreased due to new, more indirect, forms of tax collection and administration.

Despite these normative and institutional continuities, there are some variations in the scale of attention given to corruption and anticorruption policy by contemporary authors. For instance, there is more attention to unjust practices in sources describing the early tenth century, when the political power of the Abbasid caliphs began to crumble. Similar interest in corruption is found in the histories describing Seljuq rule after the heydays of Alp Arslan and Malik Shāh. Whether this increasing

attention in the sources corresponds to an actual resurgence of corruption remains a matter of conjecture. Attention to corruption seems to have been part of a broader concern with political crisis in these periods and in line with more general temporal concepts of history concerning the rise and demise of dynastic power.

In the absence of quantifiable data and documents of practice, the effectiveness of these various anticorruption measures is hard to assess. Despite the obvious concern with abuse, calls to ensure good governance and the continuing presence of institutions to fight moral evil, we cannot discern a linear movement in the direction of less corruption or a better functioning anticorruption policy throughout time—nor do contemporaries claim such a development. The example of the director of the audit office, who controls a financial decision by the caliph in favor of his concubine and then is bribed himself, offers perhaps a reminder to the perceived vulnerability of the system as a whole. The many advice texts reiterating time and again the moral good and professional ethos officials should display, might have been intended as a form of preventative anticorruption and a moral upbringing in just behavior, but whether they actually contributed to the development of a cultural mentality renouncing abuse and embezzlement is questionable.

In general, as André Vitória puts it in the next chapter, the problem of corruption cannot be separated from the inherent limitations and contradictions of medieval government. However, the many striking parallels in anticorruption measures taken by the rulers of the three different medieval polities studied in this volume can be seen as a stepping stone to a better understanding of the functioning of anticorruption measures in pre-modern societies in general.

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5

Late Medieval Polities and the Problem of Corruption

France, England and Portugal, 1250–1500

André Vitória

In 1258 a man from Senlis named Henri de Foro made his way to Pierrefonds, where the *bailli* of Vermandois, Mathieu de Beaune, lived. He carried 25 pounds of Tours with him, with which he intended, by his own admission, to buy the *bailli*'s goodwill. The *bailli* was not at home when he got there, so Henri tried to persuade the *bailli*'s wife to accept the gift instead, which she refused. Not easily thwarted, Henri hid the money in the house, told the *bailli*'s wife where to find it and asked her if she could look after it. "My lord will rebuke me if he knows about this," she said, her determination waning, to which Henri reassuringly replied: "Lady, do not fear: I have business with the *bailli*, and if he should rebuke you for this, I would gladly have a word with him and set you at peace."[1]

The world of Henri de Foro and Mathieu de Beaune was one in which the exchange of gifts fulfilled an important social function as a mark of courtesy and respect, as George Bernard and Claire Taylor explain in their chapters. In this particular case, however, the wife of the *bailli* was probably right in thinking that the gifts Henri bore were intended to fulfill a very different and not entirely blameless function. Perhaps she knew that Henri and other men from Senlis were being prosecuted for heresy by her husband, which gave that insistently proffered gift the unmistakable tinge of obligation. Thanks to the French jurist Philippe de Beaumanoir (d. 1296)—incidentally one of Mathieu de Beaune's successors as *bailli* of Vermandois—we know exactly what it meant for a thirteenth-century judge to have his goodwill bought. The day before he was expected to pronounce a definitive sentence in a lawsuit between the fictitious Pierre and Jean, the equally fictitious judge conjured up by Beaumanoir decided, after careful consideration, that the law was on Pierre's side and that judgment should be given in his favor. But that evening he received a gold cup from Jean and:

> [H]e gave much thought to the said Jean's courtesy, and thought that he should certainly find legal ways for Jean to have the law on his side, and he studied his books more carefully than he had done before; and whenever he found a case that favored Jean he retained it for Jean in his heart and declared that he could certainly pass

> sentence in favor of the said Jean; and whenever he found anything in Pierre's favor, his disposition toward Jean prevented it from lingering in his memory, and he decided in his heart that he could with good reason rule in favor of Jean.[2]

His resolve lasted only the space of a night, for the next morning, his conscience pricked and reflecting on his settled judgment before receiving the gold cup, he decided to return Jean's gift and re-examine his law books, finally ruling in favor of Pierre.

Beaumanoir sees the integrity of the judicial function as fundamentally incompatible with the debt created by an accepted gift. This uncompromising view complicates our understanding of the function of gifts in pre-modern societies and of the porous boundary between a polite gesture and a corrupting one. For Beaumanoir, a judge's virtue was insufficient to ward off perversion of justice by the "cupidity lodged in the judge's heart," where inclinations and affections could be easily stirred up by enterprising litigants, but his solution to this problem is paradoxically dependent on the judges' refusal to take gifts "by which they may be corrupted."[3]

A royal officer's fortitude and discernment might be his best shield against the temptation of gifts, but in Beaumanoir's, as in Mathieu de Beaune's day, a less elusive restraint existed in the shape of the royal *ordonnance* of 1254, which made such gifts as gold cups and sums of cash entirely inadmissible.[4] These gifts were, consequently, not only morally indefensible but also strictly illegal under the laws that established the dos and don'ts of royal office in France in the second half of the thirteenth century. This brings us to the province of government and the exercise of public authority, and specifically to the question of how medieval royal government dealt with the kind of practice described by Beaumanoir, which we may for now term, as he did, corruption. In this chapter I wish to take a closer look precisely at that question and to discuss the role of anticorruption in later medieval politics more broadly. I shall do so by comparing developments in France, England and Portugal: three kingdoms that had in common a relatively centralized monarchical state and the challenge of exercising royal authority over extensive territories with reasonable effectiveness.

Royal government in the period covered by this chapter did not control political society directly through its agents, as most governments do today, depending instead on the cooperation of magnates and urban oligarchies. Yet it grew steadily, not only in size and complexity, but also in the extent of the claims it made on society.[5] Its laws were not the exclusive normative source in the kingdom or royal officers and judges the sole wielders of public authority and dispensers of justice, but royal statutes and courts became settled features of later medieval kingdoms, largely as a result of upward socio-political pressure. The functioning of government may have relied increasingly on the informal service of elites, on parallel structures of affinity, patronage and private enterprise, but this was a consequence of expansion and a deeper interlocking with political society, not necessarily a symptom of weakness or decay.[6] The negligence, brutality and rapacity of royal officers, which was continuously decried, came into sharper focus with the crystallization of an ethics of office and the formulation of rules of conduct and

procedures of accountability.[7] It is in light of these areas of tension and contradiction that we must try to understand the ways in which royal government addressed the problem of corruption.

WHERE CORRUPTION HAS NO NAME? FRAMING THE SEMANTICS OF CORRUPTION IN THE LATER MIDDLE AGES

Carving out a semantic frame of reference for writing about corruption in the later Middle Ages is complicated by the fact that the term was employed then much more broadly than it is today, but also much more imprecisely. The result of this is that censured practices that could have been described without anachronism as corruption were left to speak for themselves as examples of official misconduct. This is not to say that there existed at the time no notion of corruption as dereliction of office or that the word corruption was never used in that sense. Beaumanoir used it at the end of the thirteenth century, as we have seen, and the term is routinely employed in fourteenth- and fifteenth-century French sources, both literary and documentary, with a very precise meaning: to corrupt is to win someone over, to influence him, by money, promise or entreaty, to do something other than what his duty and conscience required. Understood in this way, corruption appears as an aspect of official misconduct, distinct from extortion or peculation, which is why officers could be accused of "extortions, corruptions and other delicts" without there being any redundancy in the phrasing of the sentence.[8]

The question of why the word corruption, in the sense explained above, caught on much earlier in France than it did in England or Portugal is tantalizing,[9] but it should not blind us to the fact that the practices and motives it conveys are in every respect identical to those behind such terms as embracery or ambidexterity, which are specific to English history,[10] as well as any allusive description of an improper exchange of gifts. The word extortion is used in French and English materials, though not exclusively, since more often than not extortion, like embezzlement (in the sense of misappropriation of public property), is described rather than named.

The sources that inform us about official misconduct draw a distinction—moral as well as legal—between acceptable and unacceptable behavior concerning a specific socio-political group in a particular socio-political context. This distinction was drawn piecemeal, randomly over time, and we should be careful not to deduce from the different sources that record it a cohesiveness and consistency of purpose it did not have beyond the historical circumstances of individual formulations. It would be obviously anachronistic to think that this process of distinction was animated by something akin to our comprehensive, conceptualized notion of corruption. But if we accept the premise that the efforts of medieval royal government to distinguish between lawful and unlawful conduct in office and to prevent and punish the latter on the basis of that distinction represented a process of anticorruption *avant la lettre*, as I argue they did, then it is plausible that they

were also an attempt to define a particular system of values and thereby reduce ambivalence—to use an expression central to Jens Ivo Engels's chapter—in the operation of government vis-à-vis the rest of society. This attempt cannot be dissociated from the growth of the state in the later Middle Ages and the success, apparent by 1500, of the monarchical form of government. Put another way, it is a measure of its increasing importance that the king's government should seek, under pressure from political society, to control itself and define procedures and rules of conduct for those who acted on its behalf and were "the custodians of his honor and state."[11]

LAW, JUSTICE AND ANTICORRUPTION

The most permanent features of the arsenal of laws and judicial and administrative procedures devised by royal government to tackle corruption took shape in the century between 1250 and 1350. This was a critical period for the political and ideological affirmation of royal authority and for the fixation of the institutional and legislative apparatus that supported it.[12] Let us consider, for instance, the *ordonnances* for the reformation of the kingdom of 1254, 1303 and 1389 in France; the Provisions of the Oxford Parliament of 1258 and the Statutes of Westminster of 1275 and 1285 in England; and the series of decrees by Dinis and Afonso IV in the first half of the fourteenth century regulating key royal offices and the functioning of royal justice in Portugal. These reforms, which decisively affected the form and functioning of royal government, produced a legislative matrix for dealing with corruption and regulating royal administration that would be later reiterated and expanded. Like the statutes of Italian cities examined by Guy Geltner in Chapter 7, the anticorruption provisions in these laws define accountability procedures and rules for office and distinguish between permissible and non-permissible conduct; their aim was naturally preventive, but they also created a penal framework for the prosecution of corruption. Although they responded to particular pressures as well as circumstances specific to the socio-political realities of each kingdom, they shared a discernible core of common concerns.

Royal legislation in England, France and Portugal is consistent in making allowance for modest gifts to royal officers, typically small quantities of food and wine, and in linking the acceptance of sums of money, land or valuable chattels with personal obligation, service and ultimately corruption.[13] The lawmakers' reasoning is thus identical to Beaumanoir's in this matter, even if its outcome is more clearly a compromise with reality. Anticorruption legislation in the three kingdoms also sought to establish procedures for appointing and replacing royal officers and define the duration of their terms of office,[14] implement record-keeping and accounting practices[15] and limit certain interactions that might be detrimental to royal office—for example, restrictions on property transactions or stipulations regarding the need for secrecy in administrative and judicial business.[16] Of the three kingdoms, France was the most precocious, and went the farthest, in developing a system of regular wages for local administrators paid directly by the treasury.[17]

Whether or not these laws had any practical consequences besides delimiting official conduct more sharply depended on the capacity of government to supervise and punish its agents. Louis IX's *ordonnance* of 1254 required *baillis* to remain in residence for fifty days at the end of their terms of office, so that complaints against their conduct could be made and addressed.[18] This expedient, which had a clear precedent in Roman law, was applied to the *prévôts* by Philip V in 1320, with the number of days reduced to forty.[19] And in 1389, as part of a spate of *ordonnances* on fiscal and administrative reform, Charles VI extended the end-of-term quarantine to the *baillis* and *sénéchaux* themselves, expressly forbidding them from moving their possessions out of their homes.[20] Given the vital role that *baillis* and *sénéchaux* played in the exercise and expansion of royal power in thirteenth- and fourteenth-century France, it is hard to overstate the importance of these measures, which bear some resemblance to the institution of *sindacato* in Italian cities.[21] In Portugal, where they were also the backbone of royal authority, *corregedores* (provincial administrators appointed by the king) were under formal scrutiny at the end of their term of office, but that scrutiny took the form of an investigation or audit led by the new *corregedor*, who was instructed to enquire about bribery, extortion, retaining and favoritism.[22]

Short of setting up a network of informers to spy on royal officials and their overseers, as Philippe de Mézières suggested,[23] this level of intermeshing supervision did not lend itself easily to being controlled and was open to all sorts of political chicanery. Their vulnerability to manipulation notwithstanding, enquiries carried out in the context of judicial action and administrative supervision were the only viable way to enforce royal legislation on corrupt practices and keep officers on their toes. Administrative enquiries into the conduct of *prévôts*, local judges and sergeants were carried out *ex officio* by *baillis*, *vicomtes* or *corregedores*, who had supervisory duties (end-of-term reviewing of the *corregedor*'s conduct involved the setting up of an enquiry, as we have just seen).[24] The *enquêtes de réformation* "pro correctione curialium," which became a staple of royal administration under the last Capetians, were periodically carried out and often resulted in judicial proceedings at the Paris *Parlement* against corrupt officers.[25] In England, wide-ranging enquiries into official misconduct could be carried out at the king's orders, as for instance the Hundred Roll enquiries that preceded the judicial reforms of 1275. But most were the result of the judicial business of the central courts of King's Bench and Common Pleas, the itinerant eyre and trailbaston commissions, the assize justices and, above all, the commissions of enquiry and *oyer* and *terminer*, especially from the reign of Edward I onwards. Edward I's role in defining the scope and dynamics of the common law and in giving the judicial institutions of the kingdom a more definitive shape has long been recognized.[26] His reforms to open up royal justice and make it more accessible and less expensive, encouraging litigants to make plaints directly to government, probably did more to bring corrupt and misbehaving officers to heel than most measures designed to prevent them becoming corrupt in the first place.[27] By comparison, in Portugal, we have to wait until the first half of the fifteenth century to find serial evidence of commissions of enquiry specifically directed at official misconduct.

To sum up this part of the argument, there were essentially two sides to the anticorruption efforts of royal government in later medieval France, England and Portugal. One side concerned the creation of a normative structure for the exercise of public power, that is to say, the establishment of rules for public agents' conduct, institutional devices to supervise it and a penal framework for the prosecution of official wrongdoing, and specifically corruption. The other side consisted in the actual punishment of corrupt officers, as a result of information obtained through administrative supervision (broad-based enquiries, standard audits) or judicial action. With regard to the latter, although we know a good deal about individual high-profile corruption trials, much more research into judicial archives needs to be carried out before we can draw any solid conclusions about trends and patterns in the prosecution of corruption. Romain Telliez's remarkably thorough study of royal officers on trial in fourteenth-century France, which shows how their prosecution evolved in proportion to the total business of the court and contains a wealth of evidence about corrupt practices, unfortunately does not particularize the evolution of judicial action on corruption.[28]

The question of change can be more easily asked of the normative side of anticorruption. The precise consequences of legislation on corruption are difficult to determine, but shifts in focus and intensity can sometimes be discerned, suggesting evolving concerns and priorities. As argued above, the period between roughly 1250 and 1350 saw royal government address basic aspects of office-holding and administrative accountability and supervision, as part of a wider process of legislative and institutional innovation. Particular emphasis was placed on judicial procedures and on the conduct of local or regional offices such as those of sheriff, coroner, escheator, *bailli, prévôt* or *corregedor*, which is symptomatic of their importance to royal government and to its developing judicial structures. These efforts cast a long shadow over subsequent approaches to corruption, not only because they were ground-breaking and shaped the very system of government, but also because they drew fundamental distinctions regarding the formal constraints of office that transcended particular historical conditions: they represented the first principles, so to speak, of governmental action on corruption. The cannibalization and occasional restatement of the statute of Westminster of 1275, or the *ordonnance* of 1303, for example, should not be interpreted as a sign of inertia or stasis but as a necessary recapitulation of basic rules against the ebb and flow of politics.[29]

It is against this backdrop of continuity that change becomes apparent. As John Watts points out in Chapter 6, concerns with corruption in England seem to have shifted during the fourteenth century from retaining of justices and official misconduct to the granting of liveries, conspiracy and manipulation of jurors. Retaining of justices, which had been quite common in the thirteenth century and which to some extent epitomized judicial corruption in popular imagination, resisted Edward I's and Edward III's purges of the judiciary, but not the more radical upheaval brought about by the Peasants' Revolt of 1381 and its aftermath.[30]

Transformation of government and of the demands it made on society gave rise to new anxieties about corruption: for instance, the growing role of justices of the peace in the fourteenth century, which was partly intended as a counterweight to the deep-seated power of sheriffs, despite their common roots in the landed gentry, created a new focus of apprehension about official misconduct;[31] progress in the collection of customs duties, especially after Richard II, brought with it renewed concerns with embezzlement and the need for regulation, penalties and supervision procedures.[32]

In France, concern with the corruption of *baillis*, *sénéchaux*, *prévôts* and their subordinates is progressively overshadowed from the mid-fourteenth century onwards by an obsession with the corruption of financial officers (*receveurs*, *trésoriers*, *élus* and so on), accounting at the *Chambre des comptes* and the farming out of taxes and offices, undoubtedly as a result of the financial demands of war. But a more subtle change seems also to have taken place at the time, as the Capetian emphasis on the intermediary levels of government drifted gradually to the central departments of state, the royal council, the *Chambre des comptes* and the Paris *Parlement*. This shift in emphasis, which can be explained in part by the expansion of the financial apparatus of the crown, is evidence of the preponderance of central government in the political and administrative life of the kingdom and how that altered the centre of gravity of corruption, from the exploitation of office for private benefit to the exploitation of the channels by which commodified offices might be obtained—a development, incidentally, to which regular remuneration may have unintentionally contributed.

In Portugal, the possibility that the course of justice might be perverted by the corruption of judges, lawyers, proctors and notaries seems to have been the overriding concern until the early 1330s. Several royal decrees were issued which limited the fees of legal officers, the gifts they were allowed to receive and even the nature of their interaction with the parties—sleeping with female litigants becoming statutorily out of bounds by 1313, for example.[33] In the 1330s and 40s, the focus of anticorruption measures is transferred to the *corregedores*, probably as a result of their increasingly meddlesome role under Afonso IV as the main tool of the king's jurisdictional ambitions. By contrast, royal legislation is strangely reserved about the *alcaide* (local military commander), though he comes across in the *Cortes* assemblies as every townsman's bad dream: an indication, perhaps, of a red line that it was prudent not to cross, the office of *alcaide* being normally in the hands of local noblemen on whom the king relied militarily. From the 1340s onwards, however, financial officers (*sacadores*, *porteiros*, *almoxarifes*) appear more prominently in the sources, both in terms of the complaints against them and the attempts to regulate and improve their conduct.[34] This is as much a sign of government's concern with corruption as it is of growing fiscal pressure, in the same way that efforts to limit corruption in military-related offices during the reign of João I (1385–1433) are certainly a reflection of the socio-political transformations and tensions engendered by warfare and territorial expansion in that period.[35]

DEMANDING THE IMPOSSIBLE: ANTICORRUPTION AND THE DYNAMICS OF LATER MEDIEVAL POLITICS

The examples above show very clearly that anticorruption measures and their variation over time cannot be properly understood without taking into account the wider dynamics of later medieval politics: the expansion of government and the question of its financing, the impact of war on society, the tensions inherent to a system of power-sharing, royal favor and informal service, the influence on government of personal interest, lineage, lordship and patronage, the pressure of public opinion and the opportunities created by broader political representation—in short, what Gerald Harriss called "the diversity and disjunctiveness of political experience."[36] The shifting interplay of these factors shaped the relationship between government and political society and set the pace and vigor of anticorruption measures.

A good example of this is the nexus between anticorruption and political crisis, one of the major threads of this book. There are indeed numerous instances in which purposeful action on corruption was taken in moments of political tension and instability. The Provisions of Oxford of 1258 and Edward I's pioneering administrative and judicial reforms were both direct and indirect responses to strong baronial opposition in England in the 1250s and 60s.[37] The *ordonnance* of 1254 was issued shortly after Louis IX's return to France, following six years of absence from the kingdom and a costly and less-than-glorious crusade.[38] The ambitious administrative reforms envisaged by the *ordonnance* of 1303 came about at a delicate juncture for Philip IV, who badly needed to strengthen his contested legitimacy and rally support for his defiant stance on papal politics, in the wake of his failed attempt to conquer Flanders and as tensions with Pope Boniface VIII flared up.[39]

These measures were undoubtedly in keeping with the role of supreme judge and the high moral principles kings professed to espouse; the fact that they were, to a significant extent, forced on rulers by the weight of circumstances and the interests and aspirations of political society need not detract from their intrinsically reformist character: as the fifteenth-century preacher Jean Courtecuisse put it, "if there are too many petitioners, then it is convenient to make new *ordonnances*."[40] What it does reveal, however, is the profound political dimension of anticorruption, as well as the possibilities it offered not only as a means of soothing opposition and obtaining public support but also as a pretext for removing opponents and strengthening one's political authority. Edward I's "state trials" of 1289–93 and Edward III's purge of his government and judiciary in 1340–41 can perhaps be interpreted in this light, their shock value having been arguably greater than their practical outcome in terms of fighting corruption.[41] Like Louis IX's *ordonnance* of 1254, both measures were carried out following two long royal absences from the kingdom and, in the case of Edward III, a disappointing military campaign in the Low Countries. It is, in fact, impossible to detach Edward III's anticorruption clampdown from the need to control the festering political crisis that awaited him upon his return, just as it is hard not to see his 1346 ordinance

banning the retaining of justices as a prudent concession to public opinion before embarking on another military expedition across the Channel.[42] In a different but no less delicate context, Charles VI's emancipation from the tutelage of his uncles and his political promotion of the group of reformist counsellors known as Marmousets in 1388 was followed a few months later by a timely series of *ordonnances* and royal letters overhauling the fiscal administration of the kingdom.[43]

The question of public opinion and the pressure it exercised on the governing elites is absolutely crucial to interpreting the politics of anticorruption in the later Middle Ages. Evidence suggests that the growth of government and the attendant widening of political society combined with the progress of literacy and vernacular literature in the fourteenth century spread political consciousness far beyond the ruling ranks of society and the conventional channels for political representation.[44] Power-holders had to reckon with a reality in which large swathes of society, united by social and professional affinities, were able to articulate their political desires in a forceful manner and translate them into political action. The pressure thus placed on politics had to be managed, especially in times of crisis. But the politicization of society was far from being merely constraining: it added, in fact, an interesting new dimension to politics and to the question of legitimate power that shrewd politicians could explore to advantage.

In addition to addressing concrete grievances, anticorruption measures obviously chimed with widely shared political expectations about what royal power should be like and how it should be exercised. They could be used politically to defuse or pre-empt a crisis, but also as justification for the crudest intrigues. For example, the downfall of two Capetian administrators, Enguerrand de Marigny and Géraud Gayte, was plotted on the basis of charges of corruption on an implausibly large scale, even though their official accounts had been duly inspected and approved.[45] Real or imagined, the excessiveness of their alleged transgressions was the crux of the matter: they had to be so outrageous as to rule out any possibility of a royal pardon. Petty corruption might be tolerable, if not lawful; immoderate corruption, on the other hand, was the stuff of scandals. In Marigny's case, the accusations were sufficiently grave—in Louis X's view—to warrant his banishment to Cyprus. But this was not nearly enough for the minister's political enemies, who availed themselves of something higher up than corruption in the taxonomy of crime by accusing him of using black magic against the king. To the large and cheerful crowd that gathered to see Marigny carted off to the gallows and then hanged, his death must have seemed exactly what a corrupt, necromantic officer deserved.[46]

The impeachment of the English chancellor Michael de la Pole, at the other end of the fourteenth century, was also a very public affair. His parliamentary trial probed deeply into his life as a top public servant and royal favorite. The charges brought against him can be divided into two categories, dereliction of duty and peculation—the latter bearing mainly on the exchange of annuities from customs duties for landed estates or for income deriving from land.[47] De la Pole's transgressions are in fact not unlike those of the early Tudor courtier William Compton, which are examined in detail in Chapter 8 by George Bernard. But in contrast to Compton, who lived out his days peaceably and honorably, in 1386 De la Pole

was stripped of his office and the lands he held by royal grant.[48] The reasons for this fall from grace had less to do with peculation than with the factious context of military anxiety, financial strain and antagonism between king and Parliament prevailing at the time. Furthermore, De la Pole's impeachment served to underline the need for the reform commission that Parliament subsequently imposed on the king and which it had every interest in advertising.[49]

The power of the public—and of city-dwellers in particular—to influence the course of politics and the different ways in which that power could be galvanized were much in evidence during the Cabochian revolt. This popular uprising swept through Paris in April–May 1413 and compelled Charles VI's regency council to promulgate an *ordonnance* so ambitious and wide-ranging in its reformist contents that it has been described as an "administrative encyclopedia" of early fifteenth-century France.[50] The Cabochian revolt was a ramification of the political, social and economic disarray caused by factional strife between the partisans of the apanaged houses of Orléans and Burgundy (commonly referred to as Armagnacs and Burgundians), itself the corollary of the steady disintegration of rulership after the first signs of Charles VI's madness became manifest in 1392.[51] However, the peculiar dynamics of the uprising—a grassroots movement led by the butchers of Paris, supported by the Duke of Burgundy and framed programmatically by the University of Paris—and the radical reformism of the *ordonnance* it engendered can only be explained by the level of politicization of whole segments of society and by their responsiveness to the ideological ferment of the period. They are an eloquent demonstration of how distinct political interests and aspirations—the plotting of high politics, the interests of coherent socio-economic groups and the concepts of government of university men—could converge and spark political transformation.

A great deal of what we find in the chapters of the *ordonnance cabochienne* of 1413 touching on corruption and misgovernment is essentially a reiteration of previous legislation on the oath of office, salaries, prohibition of gifts, accumulation of offices and end-of-term audits.[52] With respect to anticorruption, the true novelty of the *ordonnance* lies in its hard-edged attempt to reform the mechanisms by which central government and local administration were articulated and to make them less prone to lobbying and patronage: for example, *prévôts*, *baillis* and *sénéchaux* were no longer to be appointed directly by the royal council but by the *Parlement*;[53] the auctioning of several offices, namely that of *prévôt*, was suspended;[54] the sale of offices by their holders was forbidden;[55] stricter procedures were defined for making requests to the royal council, with a view to limiting procurement of offices;[56] and royal officers were barred from holding office in their places of birth.[57]

These measures were a direct response to a deep and lasting concern with the colonization of royal administration by affinities and networks of clientage through requests to the royal council and sale of offices. As early as 1303, *baillis* were prohibited from being appointed to their places of birth.[58] At the Estates General of Languedoïl that gathered in Paris in 1356, shortly after the French defeat against the English at Poitiers, royal counsellors were accused of caring too little about "common profit and utility" and too much about their "singular profit." They were

charged namely with appointing officers "without election, through friendship, favors or corruption, attending to the person and never to the office," who subsequently, "by their ignorance, corruption and negligence, did great harm to the people."[59] Alain Demurger has estimated that by the time the *ordonnance cabochienne* was issued more than seventy-five percent of the *baillis* and *sénéchaux* whose origins we can trace were appointed by the royal council either to the *bailliages* or *sénéchaussées* whence they hailed (or where they had their domains) or to neighboring ones. In fact, between 1400 and 1418, and as the royal council became a focal point of Armagnac-Burgundian rivalry, only twelve out of 114 *baillis* and *sénéchaux* were posted to completely foreign regions.[60] This was one of the fundamental problems that the *ordonnance cabochienne* was supposed to address, had it not been "broken, annulled, revoked, abolished and altogether reduced to nothing" just three months after its promulgation.[61]

The *ordonnance* did not resist the crushing of the popular revolt by the Armagnacs and the resentment of the wealthy, ruling strata of society at the violence and impudence of the Cabochians, which gave common cause to the aristocratic and merchant classes that had been on opposite sides of Étienne Marcel's rebellion in 1356–7. In their reassertion of established order, the princes of the blood, magnates, knights, prelates, *Parlement* members and bourgeois who gathered at the *lit de justice* that revoked the *ordonnance* were certainly moved by a dyed-in-the-wool contempt for the *gens de petit estat* and a desire to obliterate any trace of their recent (and to those close to power, humiliating) excesses. The *ordonnance cabochienne* represented, moreover, a dangerous departure from the traditional and approved processes by which law was made in later medieval France. In reality, the *ordonnance* cut much deeper than this: it upset the framework of privilege, interest and favor that sustained monarchical power by seeking to transform the structure of government and politics.

The failure of the *ordonnance cabochienne* offers a stark illustration of the organic incapacity of later medieval royal government to reform itself at a structural level and address the root causes of official misconduct and the patrimonialization of the state without imperiling its foundations. According to the Saint-Denis chronicler Michel Pintoin, certain royal counsellors were quite lucid as to the undisputable merits of the *ordonnance cabochienne* and their own reasons for demanding its repudiation after they had previously supported it: "Because, they said, by bending to the princes' will we can keep our position at court."[62] These weather-cocks, as Pintoin calls them, belonged to those who stood to gain from the expansion of royal government and whose personal interests and connections were closely intertwined with it.[63] They enabled the functioning and growth of government—the collection of taxes, the administration of justice, the negotiation of treaties, the preparation of war—but had a vested interest in blocking the structural changes that would eventually make royal service less appealing (or less easily accessible) as a path to social advancement and private enrichment.

There is definitely something in the *ordonnance cabochienne* of the systematic thinking about political and institutional problems (and corruption in particular) that Mark Knights writes about in Chapter 12. On the whole, however, later

medieval royal governments were limited to thinking about official corruption in terms of individual action requiring regulation and punishment. Reshaping the institutional and socio-economic conditions of office-holding, so that there would be fewer opportunities for corruption, was more than it could do without triggering resistance and causing discontent at various levels of society. Thus it was that tax farming and the sale of *prévôtés* continued to be practiced in fifteenth-century France, in spite of the malversations that inevitably ensued;[64] or that the Commons in the English Parliament conveniently failed to extend to sheriffs and justices of the peace (who came from their own gentry milieu) the requirement that royal justices should not be local men—a situation similar to that of *baillis* and *sénéchaux* appointed by the royal council.[65]

CONCLUSION

How later medieval royal government dealt with the problem of corruption depended on the fundamental questions of distribution of power and wealth that defined the relationship between government and political society. This did not necessarily preclude the development of an ethos of office based on loyalty, integrity and accountability or the formulation of a legislative framework for governmental action. But it certainly conditioned their practical effects and created a space of nuance and contradiction that could only approximately be described as toleration of corruption. Minor acts of corruption were tolerated because they were easily tolerable. Corruption was intolerable when it was excessive, when it was associated with more serious offences or when careful weighing of circumstances made it expedient that it should be so. There was no fixed threshold for toleration of corruption.

As a matter of fact, for royal government the corruption of its agents need not be a zero-sum game. This is made perfectly clear in the pardon granted in 1398 to the *receveur général des aides* Jacques Hémon, which sensibly acquitted him of any suspicion of peculation in consideration of the incompetence of clerks and the practical difficulties of collecting 6,500,000 francs, "which could not reasonably be expected without the aforementioned lapses, inadvertences and omissions."[66] Obviously not. Such concessions to reality were necessary to the operation of government, which depended on the service of men like Hémon, who could be loyal without being entirely honest. Besides, government could recover some of the revenues lost to corruption by pardoning offending officers in exchange for fines.[67] During the reign of Afonso V of Portugal, military and financial needs must have made royal amnesties for runaway officials willing to fight the king's wars in North Africa or along the frontier with Castile highly envisageable.

The evils of patronage and lobbying at court became apparent as these crystallized in the fifteenth century as permanent features of politics,[68] but they were mainly seen to reside in the corrupt or negligent conduct of officers appointed by favor, not in the practices that permitted their appointment in the first place. Although patronage grew with the needs of an expanding state, it was maintained, and became entrenched in political society, by demand from below. The dark side

of late-medieval and early-modern patronage, to which our modern eyes are perhaps too readily drawn, was the obverse of a mechanism of social mobility offering access to power, prestige and wealth; many who were attracted to it were capable, ambitious men, often trained in the law, who contributed to the professionalization of government. In these circumstances, a royal judge, administrator or minister could strive to live up to Beaumanoir's stringent standards, to resist temptation and obligation, and be loyal to the king, fair to the people and grateful to his patron. Imperfect as it was, or possibly because of that, the anticorruption action of later medieval royal government was pragmatically disposed to considering official misconduct on balance; but it was neither blind to the problem posed by immoderate corruption nor entirely powerless to punish it.

6

The Problem of the Personal

Tackling Corruption in Later Medieval England, 1250–1550

John Watts

In the 1450s, when the realm of England was "oute of all good governaunce," and King Henry VI was surrounded by councillors who had lost public confidence, Duke Richard of York and other "loveres of the . . . commone weele" took action against the "grete iniuries, coloured threasons and oppressions" practiced by these men, their "extorcions and . . . sophisticall subverting of the kinges lawes," their absorption of the "revenues of the crowne," and their stopping of "matieres of wronges doone in the reaume" from reaching the king, unless "brybes and giftes be messanger to the handes of the seid counseill."[1] This action—which involved rising up, making assemblies and calling for justice—was a classic way of tackling corruption in the later Middle Ages, but its proponents risked a heavy price. As York complained in 1452, the Duke of Somerset, chief of the king's council, "for my truth, faith and allegiance that I owe unto the King, and the good will and favour that I have to all the realm, laboreth continually about the King's Highness for my undoing, and to corrupt my blood, and to disinherit me and my heirs, and such persons as be about me."[2] For York's actions could be said to entail another kind of corruption—not that of the evil counselor, but that of the overmighty subject. The king's spokesman in the parliament of 1459 observed that the duke had been showered with "offices and great benefettes" and thus had every cause to be true to Henry VI; but instead he had plotted against the king, refused to "procede after the cours of your lawes" and raised forces "under a pretense of [common] wele," when all along his aim had been the "[diminishing] of youre power and auctorite roiall" and the destruction of "youre moost noble persone."[3]

This example tells us quite a lot about corruption in later medieval England. First of all, it was a broad concept, encompassing different kinds of betrayal and deceit, and shading into a general blackening of what should be good and true: while notions of abuse of office were clearly prominent, the term "corrupcioun" had a range of applications, only some of which coincided with this core meaning.[4] Second, allegations of corruption were often highly political, pursued by subjects as well as by the authorities, and under circumstances of conflict; while corruption was nominally a crime against the king, it could also be understood as a crime

against his subjects, with the king's friends—and even the king himself—very much in the firing line. The observation that "grete benefettes" had not made York more loyal, meanwhile, shows that contemporaries recognized a role for material gifts and rewards in the public sphere. This sits uneasily with their denunciations of evil counselors for taking bribes and pillaging the royal estates; some overlap between public service and private advantage was evidently accepted. And then, however deep was the political crisis of the 1450s, it is not easy to be sure that any real wrongdoing had taken place. For both York and his opponents, personal interests and public responsibilities were deeply intertwined, and while this made these men vulnerable to charges of corruption, it is hard to be sure that any of them had acted improperly, and still less that their actions were the causes of the dire situation in which the realm found itself.

Evil counselors and overmighty subjects will be much before us in this examination of measures to police corruption in later medieval England; so too will the "problem of the personal," to which these types or tropes allude, and which forms part of my title. As we shall see, the necessary, useful and eminently principled vesting of political authority in individuals was, and is, a central facet of concern about corruption. But before we can begin to look at how corruption was tackled in later medieval England, we need to consider how the term should be understood, so I have divided my paper into three sections. We shall begin by asking what corruption meant in a later medieval context. Second, we shall survey the main forms of anticorruption in this period. And third, we shall ask how much the handling of corruption changed over time.

THE MEANING OF CORRUPTION

In the later Middle Ages, as today, behavior identified as corrupt characteristically involved two things: the promotion of one's own interests above those of the public; and the bending of rules or official powers under the influence of bribery or affection.[5] But to leave the problem there would, of course, be to beg a lot of questions: what is the public? How is it distinguished from the private and why should it be preferred? What is the status of these rules and powers? Where does a figure like the king fit into this picture? What was the relationship between the identification of corruption and the reality?

The more sophisticated work of today's political sociologists addresses some of these questions. It treats corruption as reflecting a "competition of norms" in political society, a state of "normative plurality". In particular, pre-modern corruption is taken to reflect a tension between the sphere of the "official"—that is "roles" conferred by public "organizations" (or institutions)—and the contending, but equally legitimate, expectations made of individuals, notably those of social hierarchy, but also ties of affinity or clientelism; the self-interest imputed to those accused of corruption thus typically involved the interests of others, and showed a responsiveness to alternative political and social structures.[6] This is the atmosphere of "ambivalence" identified by Jens Ivo Engels in Chapter 11, but we may observe

that these conditions are not confined to the past. Robert Harris, in a recent synthesis, regards modern corruption as an "interstitial" activity, existing in the space between recognized sectors of social and political life, especially where "the bureaucratic-political machinery is not mature, coherent or integrated." He argues that corruption is the "extension of normal political behaviour," condemned only when scandals occur that are "beyond the equilibrating capacity of the system to manage."[7] In his interpretation, there is an essential ambiguity over whether anything out of the ordinary has happened when "corruption" is exposed—has the agent judged corrupt behaved worse (more selfishly, more perversely) than anyone else? Or is s/he the victim of a political stitch-up—a bid for legitimacy by the authorities or a protest from the public which could have had other causes?

It is clear that this approach resonates with the example we began with. Building on Harris, and turning to the later Middle Ages specifically, we might say that corruption could be understood as situationally-defined excess in one or more of the gray areas of public life. Actors judged "corrupt" were thought to have gone too far in the pursuit of practices which were normally accepted, even though these practices contravened principles that were also accepted. Gray areas exist in all political societies, of course (no articulate political order fits the social facts exactly), but it would be helpful to explain why they existed in later medieval England specifically, before going on to consider what bearing that had on the forms of corruption that most commonly arose.

The major reason for these gray areas derives from a pattern common in medieval societies, in which a sovereign kingship was obliged to share power with other groups in society: notably the aristocracy, a caste of warrior landowners arranged in hierarchies of lordship and service, but also with the church and with urban concentrations of capital and population. The institutions of English royal government—justice and law-making, fiscality and troop-raising, representation and counsel-taking, all of them developing rapidly between about the mid-twelfth-century and the mid-fourteenth—had to accommodate the interests and networks of the holders of social power.[8] This was a process full of tension. While the king's sovereignty was broadly accepted, it was forced to operate in a world where the power of enforcement lay mostly with others, and royal officers typically drew on private resources and connections when acting on the king's behalf. Since a high value was placed, throughout society, on the accountability and propriety of officers, on the authority of law, and on the principle of due process (first articulated in 1354, but essentially present by 1215), there were obvious dissonances between ideals and practices.[9] The king's government provided a host of useful political services—and this was a major reason why it commanded allegiance—but power-holders naturally wanted these services to work in their own interests.

So there were compromises between what we might call the "royal state" and its leading subjects or citizens, but it is important to understand that these compromises started at the top, with the "lord king," who—like everyone else of substance—combined public, private and social power in his own person.[10] The kings of the period were not just heads of state; they drew on a wide array of informal means and connections—reward, grace and favor, judicial manipulation and retaining—in

order to secure their conventional goals of defending the realm and maintaining order; and they were expected to do so. While they normally upheld the authority of the legal system, and acted through officers, they also enjoyed a high measure of "liberty" or "prerogative" to operate beyond the formal structures of the state. The kingship could itself be figured as an office—"though his estate be the highest estate temporall in the erthe," wrote the political theorist Sir John Fortescue in about 1470, "yet it is an office, in wich [the king] mynestrith to his reaume defence and justice."[11] But the royal officer was as ready to bend the rules as anyone else.

Three factors made this precarious state of affairs a stage more complicated. One was that the king's government was a major source of innovation, and the scope of its activities—regulatory, judicial, communicative, fiscal—changed throughout the period.[12] New compromises between royal and private power were continually having to be struck, as the crown created new judicial resorts, new officers, new legislation, and stuck its nose into an ever-wider range of activities; in this way, practices that had hitherto been normal or acceptable might be recast as corrupt.

A second complication was that a corollary of the growth of royal government was the growth of public power. The pressures and innovations of government produced media for articulating and promoting a public interest—most notably parliament, from around the middle of the thirteenth century onwards, but also temporary coalitions of magnates, knights, townsmen and even peasants, who rose up and demonstrated on behalf of the "commune," "community" or "commons" of the realm.[13] The political history of medieval England was marked by frequent tussles over the extent to which the management of the powers of the crown should be left to the king's discretion, supervised by panels of his subjects or regulated by law. These tussles marked the way from the constitutional crises of the thirteenth century towards the depositions of kings in the fourteenth century and the usurpations of the fifteenth century. They created a rich field of discourse and dialectic around notions of treason and obedience, royal liberty and tyranny. But they also prompted allegations of corruption, as in the example I began with: the king's councillors might be judged flatterers and pillagers of the royal estate; their opponents (busily declaring their loyalty) might be charged with ambition and deceit; either group might be seen as "accroaching" the king's power—using royal authority and its resources for private or sectional ends.[14]

The third complicating factor was a deep ambivalence throughout society about the virtue of laws and rules. It was not only pragmatism that authorized challenges to *rigor iuris*, numerous schemes of values cut across it. John T. Noonan, in his brilliant diachronic survey of bribes, identifies reciprocity as a fundamental value in human society, a value that scriptural notions of true justice, adopted by clerical and secular legislators, simply ignored.[15] In the later Middle Ages, this reciprocity was most frequently captured in relations of lordship and service—the provision of protection and reward in return for deference and support—and the moral and social power of these relations was at least as strong as the norms of office.[16]

But it was not only ties of lordship and service that challenged the law. Mirrors for princes, the most accessible body of normative statements on politics in later medieval England, prescribed mercy and temperance for the amending of legal

severity, and were unclear over the grounds on which these powers should be used; they also recommended liberality and magnificence, side-stepping the king's duty to maintain the fisc attached to his crown, and blandly recommending a middle way between avarice and "foole largesse" (excessive generosity).[17] Aristocratic convention, born of romance, chronicle and social practice, prescribed the armed defence of honor and right, the projection of "courtesy," "mansuetude" (gentleness, tact), "debonairté" (charm, lightness of touch)—qualities that had little to do with the precise fulfillment of the terms of office.

For all their emphasis on law and public authority, moreover, later medieval Englishmen followed Aristotle in wondering whether a good man might be a better source of rule than a good law: a man could attend to the specifics of the case, while the law was forced to deal in generalities; but a man was also better able to balance the conflicting demands we have been talking about, and to smooth out the tensions in the body politic—provided he cultivated the virtues. In these ways, contemporary political values encouraged the kinds of interpersonal and discretionary relationship from which allegations of corruption could readily arise; only those on the inside could know for sure whether delegated or shared authority was being appropriately used, for an appropriate mixture of public and private purposes.

Drawing these points together, it is not hard to see how the organization of government in later medieval England made corruption a continually available charge. For a range of reasons, the system relied on the more-or-less voluntary compliance of powerful individuals with the expectations placed upon them—expectations which were partly encoded in laws and offices, but which also drew on other norms and required the exercise of discretion. Almost everyone was required to behave (in some sense) illegally and unofficially, but they were also to know the proper boundaries of that behavior, and when to stretch a point. That knowledge—a matter of prudence, justice, temperance and fortitude—was a sign of good character, and that helps us to understand the highly personal criticism that was levelled at those who fell short; together with the mood of shattered trust, when a public servant turned out to have preferred private lucre or affection to the common good, it explains much of the outraged rhetoric that attended cases of corruption.[18]

Before we end this section, it might be helpful to outline the forms of political corruption most commonly identified in later medieval England, and to broach the question of why the polity's gray areas could suddenly be seen in black and white terms. In fact, the three main types of corruption have already been aired in the example I began with, and, as we shall see, it is telling that people accused of one were commonly accused of others as well. The first to be clearly identified as a crime, or a group of crimes, was judicial corruption: the bribing or laboring of judges or other judicial officers—sheriffs, jurors—to procure false judgments, or the voluntary collusion of these officers with others for the same purpose.[19] From the end of the thirteenth century, the prosecution of a cluster of auxiliary crimes was made possible through writs and statutes—maintenance (the support of other people's legal quarrels); conspiracy/confederacy (the formation of gangs to overawe proceedings and/or to bring false suits); and, by the end of the fourteenth century, livery of cloth or badges and the practice of retaining, targeted as means by which

gangs, or affinities, were marked out and protected.[20] In contemporary comment—petitions, poems, treatises—these forms of corruption were associated with "great men" and constitute a major plank in the construction of that great bogey of the later Middle Ages that I mentioned earlier: the overmighty subject (a term coined by Sir John Fortescue around the end of the 1460s, but an idea abroad in its essentials long before then).[21]

A second form of corruption concerned the wastage of the fisc, and centered on the activities of courtiers and councillors around the king, who encouraged the king to overspend on courtly extravagances and/or found ways to siphon royal offices and perquisites towards themselves and their friends, preventing the king from earning a proper return on his estate and thus increasing the tax burden on the people. This concern, vented in parliamentary protests, manifestoes and other public writing, grew alongside taxation; first encountered in the conflict between Henry III and the barons in 1258, it became a more prominent and fleshed-out feature of politics from the early-fourteenth century onwards.[22]

A third form, overlapping with the two previous ones and found in the same kinds of sources, was evil counsel: the presence of men around the king, typically said to be low-born—who acted either for themselves or for powerful paymasters, and prevented the free flow of honest and wise advice, including the expression of grievances, from reaching the king's ears; at the same time, these men flattered the ruler and/or persuaded him towards courses of action that suited themselves and their allies.[23] This phenomenon was as old as kingship, but its prominence increased as the kingly office expanded, and attacks on evil counselors were a recurrent feature of public life between about the middle of the thirteenth century and the middle of the seventeenth. Quite clearly, these imputed corruptions were positioned at the joining-points between royal authority, the public estate and private power; they thus correspond neatly to Harris's "interstitial" locations and my own "gray areas". How, then, did they come to be identified and/or to get out of hand?

It has to be understood that some accusations of corruption were low-grade, instrumental and routine: no-one was scandalized when juries were sued for attaint, and even more serious allegations of embracery, maintenance or livery might attract little political heat and be taken for what they were: namely strategic deployment of the law to advantage a litigant or force a settlement.[24] As already mentioned, however, there were times when the crown launched crusades against judicial manipulation—notably in Edward I's reign, in the 1340s and 50s, in 1389–90, in the late 1460s and under Henry VII, and in the later 1510s.[25] During these periods, laws on judicial procedure were created, extended or reissued, powerful commissions were launched, new tribunals created and show trials were held—of high court justices in 1289–93 and 1350 and of leading magnates in 1414–15, 1467–8 and under Henry VII and VIII.[26] Attacks on the king's counselors, whether for pillaging his estate or for misadvising him, were always a heated affair, and crises of this kind arose: in the 1250s; throughout Edward II's reign; in 1340–1; in 1376 and throughout the reign of Richard II; in the 1400s, 1450s and 60s; at points in the 1490s; and in 1509 (and then again, under somewhat specialized circumstances, in 1529, 1540 and the years that followed).[27]

We have seen that allegations of corruption against the king's ministers cannot be taken at face value, and, in interpreting them, it is important to bear two factors in mind. One is that it often suited the king to accept, or even to invite, allegations against his officers: Edward I's trial of the judges between 1289 and 1293 netted him £20,000 and helped to re-forge relations with the political elite after the king's three-year absence in Gascony; Edward III's judicial assault on his ministers and officials in 1340–1 was partly designed to extract cash and obedience from a group of men who had let him down, and partly to defuse public anger in a period of high taxation.[28] There was a long tradition of mulcting royal officers, stretching back at least to the fall of Ranulf Flambard in 1100; it helped to remind these powerful men whose servant they were, and to rein in their autonomy; usually they were reinstated, once the king had taken his cut.[29]

The second consideration is that big corruption cases typically arose in periods of governmental pressure (heavy taxation for war), governmental innovation (new taxes or courts, uncustomary modes of handling public money or public justice), or governmental disarray (royal minority or ineptitude, serious external or internal threats which the king was failing to address). Under these circumstances, royal officers, magnates and the king himself may well have found themselves behaving in an excessive manner—pressing too hard on rights, defending claims too forcefully, taking undue steps to protect themselves—but they were doing so in response to the demands of the political system. While it would be foolish to deny the possibility of official misbehavior or incompetence, it is important to recognize that corruption scandals typically occurred when the whole system was under stress—when there was *systemic* excess, in fact; an excess that was more conveniently blamed on individuals.

ANTICORRUPTION IN THE LATER MIDDLE AGES

If we turn to the measures used to tackle corruption in later medieval England, it becomes evident that they fall into two groups—preventive and responsive (see also Chapter 5 by Vitória). We have seen that this society had quite clear notions of official propriety and these were restated time and again, often in the form of legislation (and typically in response to public complaints and petitions), but also in ordinances for the royal council, in the articles of eyres and justices of the peace, in the writs made available in chancery and in the terms of oaths sworn by royal officers. The foundations for this activity were laid mainly in the 1270s, as Edward I rebuilt and extended royal government in the wake of the Barons War, and as the legal system became sufficiently extensive and hegemonic for attempts to manipulate its procedures (as opposed to ignoring or defying them) to be widespread.[30] The crown tackled collusion of officers, maintenance and the receipt of gifts by judges in the first Statute of Westminster (1275); it returned to these issues in the second Statute of Westminster (1285) and tackled conspiracy by a mixture of writs, ordinances and statutes from around 1290.[31] These statutes were reissued on numerous occasions (the crown was still legislating on maintenance in 1542).

Mounting pressure was exerted on the matter of gifts and fees to judges: a great statute on that topic in 1346 banned the retaining of judges and was followed by high-profile action in 1350 and 1365.[32] Moves against livery and the retaining of gentlemen began in earnest in 1377, though, once again, royal ordinances and statutes tended to repeat each other, and were minimally enforced; the requests of members of parliament to tighten them up were typically resisted, and only from the 1480s was a concerted effort made to stop great lords from having their own followings.[33]

Similar preventive measures were adopted in relation to the fisc and the king's council. The principle that the king should live off his own means, protect his livelihood and resume it when it had been wrongly given out, was reiterated on numerous occasions between the 1150s and the 1510s.[34] Kings tended to grant resumptions "in summe, but nat in alle," as a Paston correspondent tartly noted in 1450, and they resisted restraints on their freedom to endow and reward.[35] But they and their advisers recognized the utility of the notion of the fisc and paid it lip service, collecting the proceeds of ill-judged grants through state trials and acts of attainder as much as through acts of resumption. At times between the 1370s and the 1400s, tax incomes were collected and disbursed by special treasurers of war, to ensure that they were spent on the purposes for which they were raised, though it seems likely that this measure—proposed by parliament after parliament and only conceded *in extremis*—did little to stop the free anticipation of tax revenues by the Exchequer.[36] Meanwhile, council ordinances, issued frequently between 1390 and 1437, prescribed appropriate methods of decision-making, including most of today's notions of best practice: the ordinances approved in parliament in 1429–30 ordered counselors with an interest in any matter to leave the room while it was "in communyng," restricted consideration of petitions to set days and places, established a quorum and majority voting, forbade the councillors to engage in maintenance, obliged them to keep their business secret and invited them to allow each other to speak freely and honestly, "alwaye due reverence kept to every astate and persone."[37]

So official probity was repeatedly promoted through the medium of legislation, but it would be wrong to give too much emphasis to the regulatory mechanisms of the state in challenging corruption; other kinds of prevention were also attempted. For one thing, rulers were more inclined to rely on trust, supplemented by intermittent crackdowns, than on legal and institutional supervision: their attitude is neatly revealed by Edward III's 1365 protest against the "enormous infidelities" of the two chief justices who had been sacked for collusion with powerful litigants.[38] Not rules, but oaths were the essential means of tying officers to best practice, and a number of historians—John Sabapathy, Conal Condren, Chris Fletcher—have drawn attention to the role of character formation as a means of challenging official corruption.[39] This was an important and under-appreciated element in the vogue for didactic literature in the thirteenth, fourteenth and fifteenth centuries: it was designed to teach people to cultivate the qualities that would enable them to fulfill their duties—their *officia*. If this was a pious hope, it was also a recognition that, ultimately, good performance in office depended on the ability and conscience of the office-holder.[40]

This is very plain in mirrors for princes, which recycled the more-or-less Aristotelian idea that the king must learn to rule himself before he attempted to rule others, and then set out practical advice on the moral and personal attributes he needed to acquire.[41] Chris Fletcher has proposed a similar purpose for the numerous poems criticizing official peculation in the fourteenth century: these texts were mainly owned by gentry, townsmen and civil servants—the very targets of such writing. Fletcher's plausible suggestion is that these had a penitential purpose, their tendency to evoke the danger of popular uprising a moral warning, rather than an incitement to activists.[42] More generally, tracts, poetry and petitions recited familiar assumptions that could act as prophylactics against corruption: it was better if offices were held by wealthy men because they were less easily corrupted by riches; the king's officers should be salaried and then they would not need to seek backhanders; counsel should be given as openly as possible because secrecy was more likely to involve conspiracy and impropriety.[43]

So the normal way of handling corruption was through a mixture of exhortation and normative restatement. From time to time, however, as we have seen, more drastic action was taken, whether on royal initiative or in response to public protest, which was characteristically expressed through a mixture of popular and parliamentary demonstration, in which—as in the case of York—leading magnates became embroiled. While the crown was more likely to take voluntary action against judicial corruption (often with a view to heading off impending criticism), the public was more likely to complain about the perceived wastage of the fisc and its results—notably high taxation and other fiscal oppressions—and public representatives also often denounced the judicial manipulations, maintenance and conspiracies of evil counselors, as well as their putative treasons, accroachment of royal authority and failure to defend the realm and keep order. If the king rejected public complaints and protected his counselors, crises deepened, civil war broke out and deposition or usurpation tended to follow.[44] If, on the other hand, the king allowed the punishment of key individuals and accepted reforms—as Edward III did in 1341, or as Henry IV did on a number of occasions between 1403 and 1410, and even Edward II, Richard II and Henry VI did at points in their reigns—pressure could be released and things might calm down.[45]

It is important to remember that the real problem in these crises was not "corruption," but intolerable political conditions—typically an over-extended crown, unable to finance itself, deep divisions among the elite and a serious threat to the order, honor or integrity of the realm. Attacks on evil councillors were the best available means of venting dissatisfaction and providing the circumstances in which some kind of settlement could be created. By simplifying the problems faced by the polity and enabling acts of purgation and redemption, corruption crises functioned rather like Mary Douglas's pollution rules, providing "a kind of safety net" in which an unmanageable situation could be reduced to some kind of order.[46]

Drawing this section together, then, it seems clear that in relation to corruption, as in other spheres of medieval wrongdoing, the approach of the authorities was to provide regulation but to leave enforcement to the trusted holders of social power;

to state and restate norms and to engage intermittently (typically under duress) in apocalyptic acts of judgment. These last could have some positive effect—not in stopping manipulation of justice, counsel or the king's resources, but in alleviating the excessive pressures that had produced political crisis in the first place. While the political fall-out could be prolonged and damaging, the tax-burden at least was always, and instantly, reduced.

The striking thing about these episodes—obvious, and therefore overlooked—is how a complicated malfunction of the political system was transmuted into the crimes of a small number of individuals. On one level, as we have seen, there was justice in this—office, as Condren points out, required "persona," and these individuals had failed, one way or another, to perform their roles.[47] At the same time, removing the heads of the hydra did not kill the beast, and gave rise to all sorts of other problems in a society full of personal connections and hereditary interest in property and status. Of course, killing the hydra was not usually the aim: medieval rulers were in no position to introduce the sharper divisions between public and private that we associate with modernity, and there are few signs that they wanted to. Only in the last great medieval bloodletting—the Wars of the Roses—were there significant moves in this direction. It is time to move to my final section, and consider whether responses to corruption changed over time.

CHANGE OVER TIME

At a certain level, there was continuity: the late-medieval and early-modern polity continued to rely on the semi-private delegation of public power to individuals and their networks; it continued to expect these people to exercise discretion and to draw on private resources; and it continued to align public service with practices of endowment, reward and gift-giving which could give the impression of bribery or fiscal wastage.[48] While corruption crises typically produced attempts to improve the regulation of justice, counsel or finance, these attempts were often contested by the crown, and typically unwound as things returned to normal: indeed, it is the flip-side of the condemnation of fallen ministers and overmighty subjects that they had abused a trust which was usually, and properly, expected to deliver good results.

But if we look more closely, we can detect changes—at least in the areas of greatest concern and in the modalities of anticorruption activity. As Christine Carpenter has noted, during the course of the fourteenth century the focus of parliamentary complaint about official corruption switched from overmighty officers to overmighty subjects; by 1400, there was less anxiety about the retaining of justices, less hostility to royal judges, less complaint about the oppressiveness of royal officials, and more concern about the granting of liveries, the laboring of juries and so on.[49] While this development probably reflects changes in the organization of local power, it may also say something about the advancing claims of the state on the imagination of subjects. In a like way, it seems to have been in the early decades of the fifteenth century, around the 1430s, that the English terms "corrupt" and

"corruption" first emerged in their modern sense, testifying to the social recognition of a particular kind of crime associated with public officials, and requiring no further clarification or distinction.[50]

These developments may have formed part of a shift in public attitudes, realized in the reform programs that accompanied and followed the Wars of the Roses. The power of magnates to retain followings of gentry, to influence judicial proceedings in the localities, or to rise up for the common good, was significantly curtailed; the royal fisc was more closely managed and made to pay its way; there was less sharing of royal authority and counsel with men of independent resource. Instead, royal agents were supplied with revocable grants of land, custody and office to give them the means to serve the king: they continued to possess networks and followers, but these networks were often smaller, lower in status and more completely penetrated by, and answerable to, the crown than had been the case earlier on.[51]

This "partial differentiation of the state" might be seen as characteristic of "early modernity." But if the more centralized realm of the sixteenth century restricted some forms of corruption—those of the overmighty subject—it scarcely interfered with, and perhaps even promoted, others: as Joel Hurstfield remarked in a famous essay, "society was different, and so was the corruption that afflicted it."[52] As ties of lordship declined, and the importance of obtaining influence with courtiers and modestly-born administrators increased, gift-giving became a more central activity, both for the definition of new hierarchies and for more instrumental reasons.[53] The move from "bastard feudalism" to "*Ancien Régime*" thus involved new means of corruption, but the repertoires of anticorruption—under-enforced regulation, moral exhortation, intermittent crisis—changed rather less, and so did the underlying reality that sustained them: of public power mediated through personal contacts in partly-private settings.

CONCLUSION

It is clear that "corruption" is always a matter of ambiguity—always, in some sense, a political and positioned charge; always the reflection of a clash of norms and structures. Was there more ambiguity—more "ambivalence"—in later medieval England than in later forms of polity? Yes, in that discretionary personal authority (monarchy) enjoyed a pre-eminent legitimacy that it would later lose. And yes, in that tensions between public and private, or between social hierarchy and citizenship, were generally fudged rather than resolved—and the occasional explosions along these fault-lines did little to change the fundamentals of pre-modern political society. But there are important continuities too. On the one hand, modern regulatory frameworks and institutional devices were extensively anticipated in the Middle Ages, as we have seen; it was simply that they lacked the cultural hegemony they would later come to possess. On the other hand, the tendency of medieval states to opt for accommodations with private power had a long future

ahead of it, and has, of course, reached a kind of apotheosis in the new feudalism of today's business-friendly political order. Equally, as many of the chapters in this collection demonstrate, states both past and present have been unwilling to resource the implementation (and even the enforcement) of public policy: these tasks have frequently been left to the private sector, reproducing the circumstances in which corruption anxiety flourished. In all, if the "problem of the personal" is essentially time-bound, the patterns of anticorruption have a certain repetitive quality.

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7

Fighting Corruption in the Italian City-State

Perugian Officers' End of Term Audit (*sindacato*) in the Fourteenth Century

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If Italian city-states could be said to have stumbled into autonomy, they certainly worked hard to retain it.[1] Political elites sought stability externally by increasing the volume of trade, expanding diplomatic relations and building up military capacity, while internally they began fostering practices of office rotation, regular elections, isolating officials and upholding strict criteria of eligibility. To present-day eyes some of the latter procedures in particular may appear to be proto-democratic and progressive, placing these nascent polities on a fast track to modern statehood. Yet, putting teleological interpretations aside, most scholars would now agree that, in their immediate context, these measures were mostly products of distrust, designed to break away from cities' internecine pasts and obviate power grabbing by a single family-clan or interest group. Indeed, the most emblematic office of the communal era—namely the (mostly foreign) *podestà*—was appropriated as a creative solution to power sharing among new and distrustful elites. That these checks and balances would not survive the test of time is a historical fact, a process traced on numerous levels, both locally and regionally, "from commune to *signoria*."[2] Renaissance Humanism, it is often forgotten, flourished not only during repeated bouts of plague, but also under more or less benign forms of despotism, not republicanism.

Nonetheless, and as political historians and scientists have long noted, some paradigmatic aspects of good government that crystalized in the communal era accompanied cities' transition into territorial states, maritime republics and authoritarian *signorie*. It is one aspect of this legacy, namely the relation between accountability of office and political legitimacy, which this paper seeks to highlight. Specifically, it proposes to explore the institution of *sindacato*, or the audit of urban officials at the end of their term, and how it defined and reflected contemporary approaches to increasing transparency and fighting corruption. From a legal and institutional perspective, *sindacato* was a direct and well-documented mechanism for defining accountability and curbing corruption in and beyond the Italian city-state.[3] This hardly amounts to arguing that it was the only, or even the most efficient, way to safeguard what was perceived as good government, be it in theory or practice.[4] Yet the regulations governing its execution and the records left by its

practitioners provide a unique opportunity to explicate the historical relations between thinking about, and acting to protect, the public good in an era often associated with ambivalence between the private and public spheres.

The first two parts of this chapter examine the nexus of auditing and anticorruption from a comparative peninsular perspective, and how it fits into normative discourses at the time about accountability, the role of government and the *bene commune* (common good). The third and central part of this paper analyses a rich and still untapped set of records from one city, Perugia, covering most of the fourteenth century. It is a first attempt to begin filling an enormous lacuna in this field—namely the execution of *sindacato*. With the partial exception of Florence, and to an even lesser extent Genoa, audit procedures have been studied almost entirely on the basis of normative texts such as guides for rulers and urban statutes.[5] These certainly provide insights about best practices in medieval urban government, but they cannot be, and given the available records need not be, viewed in isolation from documents of practice. Perugia therefore presents a rich case study, one that can provide a stepping-stone to further explorations in the field, including an important comparative perspective in and beyond Italy. The conclusion, finally, will propose what this joint perspective can tell us about the relations between fighting corruption and state-building, and whether historicizing this nexus can throw fresh light on the pre/modern divide.

ANTICORRUPTION POLICY IN THE ITALIAN PENINSULA

Notwithstanding its well-preserved *sindacato* records, Perugia is hardly unique in peninsular terms. A survey of one hundred discrete collections of Italian urban statutes, in and out of print and covering the period 1250–1500, yielded forty-six pertinent texts representing forty different cities (see the appendix at the end of the chapter). With great consistency, these passages deal directly with audit procedures undergone by commune officials, especially, but not exclusively, the *podestà* and his *famiglia* or professional entourage, and later to the *capitano del popolo*, a second major urban executive. Broadly speaking, these rubrics prescribe the procedure's schedule and goals, the officers and private individuals falling under its jurisdiction and the range of punishments that could be meted out. What actually constitutes good conduct among officials tends to be defined in other statutes, which deal with specific offices. This division allows *sindacato*-related texts to focus on who is eligible to oversee the audit and their remuneration, who may lodge complaints against officials (how and when) and what consequences convictions might entail. The texts vary in detail, at times with significant implications, and governments revised them continuously, in some cases well beyond the communal period. But to what extent did these prescriptions explicitly situate the office and its procedure as a means to fight corruption?

Although forty-six statute collections in our sample prescribe auditing procedures, merely six invoke the term *corruptio* (corruption). These instances moreover

only intermittently overlap in meaning, differ in terms of prescribed punishments and infrequently appear in the immediate context of *sindacato*. Approaching the concept of corruption from the perspective of the audit thus does not provide a comprehensive survey of its meanings in the pertinent prescriptive literature. Yet, since this paper participates in a larger effort to historicize anticorruption, it seemed worthwhile briefly to consider how these rubrics employ the term and to what degree it is embedded semantically in local approaches to defining and dealing with deviant officials, those who expose themselves to malfeasance or non-officials pursuing such goals.

The earliest statute in our sample to employ the term *corruptio* hails from Viterbo (1237–38) and it concerns the actions of a judge or high official (*iudex*). Given the absence of any formal distinctions between the executive, legislative and judicial branches of government in this period, commune officials often presided over a court or at least a summary judicial procedure. In this case, the legislators warn that a judge whose decision was influenced by a cash bribe (*pretio*) may no longer adjudicate cases and will have all of his goods confiscated. Whoever bribed a judge directly or through a third party would suffer a similar fate.[6]

The rubric posits symmetry between corruptors and corrupted by prescribing their equal monetary punishment, and specifies money as one kind of bribe or illegitimate incentive driving corruption. This approach contrasts with the next mention of corruption in our sources, namely the 1286 statutes of Pisa:

> Should we come upon . . . someone who corrupted anyone or who seeks or sought to corrupt, with money or in any other way, anyone among our judges or soldiers, for his own sake or that of another, we shall punish him and fine him between ten and one hundred *lire*, according to the severity of the affair and the rank of the person.[7]

The symmetry informing the previous paragraph is noticeably absent. Instead, the focus is on the corruptor, whose victim can be any member of the *podestà*'s entourage, including his military personnel. Moreover, bribes now comprise gifts in money or kind, and fines range between 10 and 100 *lire*, according to the specific circumstances of the offense and the rank of the offender. A rubric from a different set of statutes issued in Pisa that year deals with the city's Elders, who are strictly forbidden from receiving any gift. Indeed, any of them is to be put to death if found to be corrupted by money (*pecunia*), a penal severity defended by referring to the Elders' political prominence, which in turn renders such acts most damaging to Pisan public good.[8]

Three later laws defining or otherwise illuminating the term corruption broaden the scope and diversity of approaches in this period even further. In 1325, Florentine legislators addressed themselves to what they decried as a prevalent phenomenon:

> . . . since many in the city of Florence are accustomed to engage in corruption, by bribing judges, vicars and the *podestà* of the city of Florence and members of their entourages with money or gifts, it is ordained that no one from the city or region of Florence or any other person of whatever condition, may dare or presume to seduce, by himself or through an intermediary, the lord *podestà*, anyone from his entourage,

> a sergeant or any official of the commune of Florence with money or fraudulent gifts or in any other way, or attempt to give or donate something to those officials so they would do or commit something against the honor of the lord *podestà* and the commune of Florence. And should anyone act to the contrary, he is to be fined one hundred *lire*, more or less according to the wish of the lord *podestà*, considering the facts of the case and the status of the persons involved in committing the deed and those of whom they wished to corrupt.[9]

The Florentine text is the most expansive yet, especially in terms of potential objects and means of corruption. Here we can find echoes of the Pisan statutes' allusion to the city's common good, as the text puts any official or non-official in a position to engage in corrupt acts, broadly (circularly?) defined as anything harming the *podestà*'s and city's *honor*. A similarly inclusive approach emerges from a law promulgated by the commune of Montepulciano. In 1337 it too threatened anyone attempting to corrupt a *podestà*, judge, or any other official with a fifty-*lire* fine. A double fine applies to any of the aforementioned officials for allowing themselves to be corrupted, albeit without defining what that meant.[10]

A final example, from fourteenth-century Rieti, sets much clearer boundaries for what can be considered a corrupt act—a contrast with the Florentine rubric that is further underscored when considering the Florentine focus on the corruptor to the exclusion of the corrupted. In Rieti:

> Should anyone corrupt or attempt to corrupt, by means of money or gift, any official or judge regarding any legal procedure or quarrel brought before him, be it civil or criminal, he is not to be punished. And the corrupted official will be fined one hundred *lire* and be removed from his duty immediately.[11]

Despite its focus on corrupted judges, the text is less limiting than it would seem at first sight. To recall, diverse officials could arbitrate in legal matters, and the clear indication that corruption charges apply to both civil and criminal cases underscores just such practices. Still, the scope is a narrowly judicial and professional one, ignoring the kind of venality that other office holders could engage in. And it is the failed professional who is eliminated from the judicial roster, while the agent of corruption is ostensibly left unscathed. One way to explain the asymmetry—which echoes observations made in this volume by John Watts and André Steiner—is that the statute sought to protect the existing system by giving the public good a very technocratic face, whose occasional blemish could be almost surgically removed.

Far from being conclusive or exhaustive, the foregone survey merely sought to underscore the breadth and diversity of approaches that various communes took at different times to define and fight against corruption. Such diversity was thus hardly limited to the Islamicate world, as discussed by Maaike van Berkel in Chapter 4 of this volume. In both contexts, however, the variety of approaches does not detract from the shared view of corrupt practices as undermining the public good, and the idea that procedures for bringing officials to account were a common means developed to protect it.

EVIDENCE FROM DIDACTIC LITERATURE

How, if at all, did the statutes examined above share in other normative discourses on fighting corruption, and specifically their treatment of *sindacato*? One medium through which medieval political thinkers propounded ideas about public officials' accountability was didactic literature.[12] To keep us intellectually and politically close to the Italian urban context, I deliberately chose to focus on two acclaimed treatises hailing from it, without detracting from the importance of more general *Mirrors of Princes* and earlier political treatises, not to mention religious instruction.

The first and most obvious point of departure is Giovanni da Viterbo's *Liber de regimine civitatum*—a major Latin political treatise probably composed in the 1240s, ostensibly by an experienced *podestà*.[13] Reflecting on how to prepare the well-rounded ruler, Da Viterbo reiterates the importance of virtue as a key to success, perhaps in response to a prevailing emphasis on skills and experience. As a commune's chief executive, the *podestà*'s main priority was to assemble the best entourage around him, not only from a technical point of view, but also, and perhaps especially, from a moral one. And it is here that corruption comes to the fore. A *podestà*'s judge for instance cannot be corrupted ("corrumpi non possit"), and his notaries likewise ought to be erudite, knowledgeable and experienced, as well as incorruptible.[14]

As for exemplifying corruption, the author claims to have witnessed numerous *podestà* being shamefully ejected from their office "on account of malice and evil deeds, petty corruption and the clandestine exchange of money, and other depraved extortions of goods by judges and notaries."[15] While the passage provides no definition of corruption, it is clear that as an umbrella term it leaves room for a wide range of behaviors that exceed the professional sphere emphasized by some of the statutes examined above. Judges and notaries remain an important focus, but greed and lack of transparency generally are major concerns, which made holding onto public office untenable.

Another influential treatise, Brunetto Latini's *Li Livres dou Trésor* (1264?) deals directly with accountability among the *podestà*'s men. By raising the topic of corruption, the work encourages the aspiring ruler to keep his underlings from harm's way as follows:

> Let them not be on intimate terms with anybody, and let them take care not to be corrupted by money, or by women or by anything else, and if they behave otherwise, I say that the lord [*podestà*] must punish them more harshly than the others [i.e. the city's residents or subjects], for a more grievous punishment falls on your own associates than on those who must keep our commandments.[16]

Government officials must be kept to a higher standard, according to Latini, and are therefore to be punished more severely for the same offense as compared with regular citizens. It is unclear, however, if his main concern here is to protect the common good or the office's reputation, since the passage is mostly focused on stimulating proper behavior and discipline within the *podestà*'s entourage. Indeed,

protecting the value of the office is to Latini an end in and of itself, and to accomplish this the worthy *podestà* must be scrupulous about his conduct and standing. Accordingly he must:

> See to it that justice is not sold for money, for the law says that he who does this should be condemned like a thief. He should also be careful not to be intimate with his subjects, for through this he falls into scorn and suspicion. Similarly he should avoid receiving presents from anybody within his jurisdiction, because all men who receive gifts or services have sold their freedom and are obligated, as they would be for a debt. Also, let him avoid taking private counsel from anyone in the city, or going riding with him, or going to his house to eat or drink or to do anything else, because this gives rise to suspicion of him and envy of his citizens.[17]

Although Latini may appear here to be striving more for a semblance of incorruptibility than its practice, it is nonetheless clear than certain kinds of associations were seen as corrupting because they threatened to compromise a *podestà*'s autonomy. As a pillar of good government in this period, the ruler's independence and social isolation participated in ensuring public trust and wellbeing, and keeping the floodgates of narrow political interests closed.

De regimine civitatum's treatment of *sindacato* specifically is brief and telling, for it tends to construe the procedure as an opportunity to demonstrate the *podestà*'s worth (for instance, by coming forth to declare a misstep), rather than as a fail-safe mechanism to detect or curb corruption. Accordingly, it stresses that holding an official accountable for his actions is not so much a barrier to success as the ultimate proof of one's virtue.[18] This somewhat forced emphasis on showcasing virtue can be read as a response to what must have been widespread concerns among acting *podestà* regarding the *sindacato* procedure's vulnerability to politicization and its potentially dire consequences for outgoing officials. It is small wonder therefore that Da Viterbo stresses the importance of swift transitions between *podestà*, not over-extending *sindacato* (LIV) or withholding the exiting entourage's salary unduly (LXIV). Each of these interventions was evidently legal, but could nonetheless cast a shadow over officials' reputation and threaten their employability while simultaneously undermining a city's chances to attract high-quality officials in the future.

These two widely circulating texts join numerous urban statutes to attest the role corruption played in defining the pitfalls of good government generally and designing the practice of *sindacato* in particular. It remains to be seen what documents of practice can tell us about the application of *sindacato* and the degree to which its executors were interested in curbing what contemporaries defined as corruption.

AUDIT PRACTICES IN PERUGIA

The state archive of Perugia, a major Umbrian commune from the twelfth century onwards, allows us to reconstruct audit procedures on a concrete basis by juxtaposing legal and administrative records. Between 1250 and 1350 in particular, Perugia was

a thriving city-state and an autonomous Guelf ("pro-papal") stronghold, which later fell directly under papal rule.[19] *Sindacato* procedures predate and continued throughout and beyond this period, as attested both by the city's normative sources and its administrative records of practice, which we will look at in turn.

The city's 1279 statutes and their vernacular redaction of 1342 contain elaborate instructions on end-of-term audits, as distinct from those regulating officials' conduct generally, very much in line with the statute collections we have examined above.[20] As a rule, the statutes state that, within eight days of stepping down, the *podestà* and *capitano* are to be scrutinized. Responsible for the procedure is a *sindaco* (*sindicus* and later *maggior sindicus*), a Perugian citizen elected by the city's *maggior consiglio* and representatives of each of the city's five neighborhoods (or *porte*) for the duration of a *podestà*'s term (normally a twelve-month period). An eligible *sindaco* must own property or goods adding up to at least two hundred *lire* and he must wait (just like the *podestà* and *capitano*) at least ten years between stints, during which time he cannot have held an office subject to auditing. One notary and a judge share the *sindaco*'s workload, and all three may not be closely related to the city's ranking chamberlain or stewards. A *sindaco*'s salary amounts to twenty-five *lire*—equal to that of his judge—while their notary is to earn fifteen *lire*. They may accept nothing further from anyone during their term under a fine of fifty *lire* and termination of their office. Their decisions may not be contested and their sentences are final. Anyone summoned by this office must report at the appointed time or else be declared contumacious.

In theory, once the *podestà* steps down, the *sindaco* has three days to announce any charges he wishes to raise against the outgoing officer, his entourage or anyone employed in an official—that is to say public—capacity during his term. This declaration (technically known as a *litis contestatio*) is done in the first instance on the basis of existing records regarding any official or private citizen exercising public power (*balìa*) anywhere in the city and throughout the Perugian *contado* or subject countryside. An important exception to this rule are previous auditors, who "must not be examined or audited in any way" (*examinari vel sindicari non debeant ullo modo*).[21] The relatively brief period of three days and the privileging of official records in the preliminary investigation suggest the limited access and thus transparency of such procedures from beyond officialdom.

Moreover, the sterile zone in which the *sindaco* operates appears to have been more apparent than real. A subsequent rubric already delivers the actual prosecution of the *podestà* and *capitano* from his hands to those of a committee of six judges. And while the latter must consult with the *sindaco* or his judge, the extension of the case into the next administrative term meant the process is in practice handled by a later *podestà*, not an independent auditor and, at any rate, not the one who brought forward the original charges. Once the *sindaco* announces whom he intends to prosecute and why, the process enters a very public phase, during which evidence for and against the plaintiffs and potentially new allegations—presumably also regarding officials not yet named by the *sindaco*—would begin to surface. Indeed, it is hard to imagine injured and interested parties holding their tongue even that long.

The statutes outline that the *sindaco* must notify defendants personally within two days if they are in the city or three days if they reside in the countryside. They in turn are to present themselves before the *sindaco* or his judge and swear an oath that they are ready to be examined. Both steps are important from a legal point of view since the announcement of a *litis contestatio* and a defendant's initial response to it greatly limit both parties' options, rendering contumacy for instance (all but an admission of guilt). A failure to respond while under examination is to be fined: fifty *lire* in the case of a *podestà* and *capitano*, forty *lire* for other officers and twenty-five *lire* for stewards. If convicted and fined, officials must pay within eight days.

The statutes establish *sindacato* as an integral duty of the city's officers, lasting fifteen days after a *podestà* steps down and at least thirty days from the end of a *capitano*'s tenure. Accordingly they insist that the *podestà*, *capitano* and their *famigliari* may not seek pre-emptive absolution, but, rather, must wait in Perugia until the audit is completed, under pain of a one hundred *lire* fine. Failure to pay this fine should result in the amputation of the *podestà*'s or the *capitano*'s tongue. By extricating themselves from their offices in this illicit way, they will have lost—both symbolically and physically—any right to respond to their charges, let alone pronounce any more judgments.[22] Under less extreme circumstances, they are to prepare guarantors who are responsible to pay any fine announced by the *sindaco* within three days.

Last but not least from this study's perspective, the 1279 statutes underscore the illegality of offering officers or entourage members any form of payment beyond their stated salary, under pain of fifty *lire* or the severing of a tongue. Any layperson or clergyman, local or foreign, attempting to influence an officer's action or judgment by offering or promising sexual or material favors (*rufianançe vel trameçarie*) will pay quadruple the regular fine, while the *podestà* and *capitano* are to be fined one hundred *lire* for failing to uphold the law. This rubric is immediately and likely intentionally followed by another strict prohibition against the *podestà*'s or *capitano*'s seeking special permission to punish beyond the remit of the statutes or in any way that is at odds with them.

Two points can be stressed regarding the relevant rubrics in the statutes' 1342 redaction, as compared to the previous text. First, they widely expand the (*maggior*) *sindaco*'s jurisdiction, which now covers a variety of criminal and civic offenses well beyond that of officials' misconduct. Second and perhaps relatedly, they emphasize how crucial the social isolation of the commune's officials must be on the grounds of impartiality and corruptibility. Assuming the *sindaco*'s broader remit does not reflect a diminishing concern for official misconduct, the new emphasis can be explained as a prophylactic measure meant to reduce the pressure officials were under from local stakeholders, especially now that the *sindaco* had more to do without more help.

These and other hypotheses can be tested against the office's documents of practice, which have left solid traces in Perugia's state archive. The *maggior sindaco*'s surviving records comprise seventeen registers, intermittently covering the years 1332–1390. Statistically, this is a modest part of what would have been the original series. Assuming one register was produced for each administrative term of six

months (as seems to have been standard practice in and beyond Perugia), a complete run for this period would have amounted to 116 registers—nearly seven times more than the extant series. Moreover, some of the registers are rather fragmentary, consisting of several folia, while others are more or less completely preserved. In total there are 575 folia or an average of nearly sixty-eight sides per register (see Figure 7.1). If the average length of the fullest three registers (n = 82) is used as an index, around six percent of what would have been the entire original series (9,512 folia) is currently at our disposal. Nonetheless, the Perugian series is likely the largest of its kind for anywhere in Italy before the sixteenth century, and a rather legible one at that.

The earliest record of a Perugian *sindacato* dates to 1332, when a certain Lando de Pellatis of Montecatino oversaw the proceedings. It contains the sentencing of

Register and year	fols.	Total cases[i]	Charges[ii] (% of cases)	Acquittals (% charges)	Convictions (% charges)	Unclear outcome
4 (1332)	2	1	1 (100%)	0 (0%)	1 (100%)	0
5 (1335)	8	5	5 (100%)	4 (80%)	1 (20%)	0
6 (1335)	4	38	30 (79%)	30 (100%)	0 (0%)	0
7 (1336)	20	7	6 (86%)	3 (50%)	3 (50%)	0
8 (1346)	47	20	2 (10%)	0 (0%)	0 (0%)	2
9 (1347)	22	68	3 (4%)	2 (66.6%)	1 (33.3%)	0
10 (frag.)	15	7	0 (0%)	0 (0%)	0 (0%)	0
11 (1348)	96	28	16 (57%)	7 (43%)	8 (50%)	1
12 (1357)	6	0	0 (0%)	0 (0%)	0 (0%)	0
13 (1358)	13	0	0 (0%)	0 (0%)	0 (0%)	0
14 (1377)	46	149	2 (1%)	0 (0%)	2 (100%)	0
15 (1377)	42	177	0 (0%)	0 (0%)	0 (0%)	0
16 I (1386)	59	683	2 (0.3%)	2 (100%)	0 (0%)	0
16 II (1386)	48	635	17 (3%)	0 (0%)	17 (89%)	0
18 (1388)	82	367	67[iii] (18%)	1 (2%)	66 (98%)	0
19 (1390)	67	190	0 (0%)	0 (0%)	0 (0%)	0
20 (1390)	18	54	0 (0%)	0 (0%)	0 (0%)	0
Total: 17	575	2429	151 (6%)	49 (32%)	99 (66%)	3 (2%)

[i] Excluding general and group inquests of officials, which invariably result in absolution. Only what appear to be developed, non-generic allegations were counted. Individuals accused in the same case were counted separately.
[ii] Individuals accused in the same case were counted separately.
[iii] Includes fifty-five aggregate cases (in four groups) against rural communes for neglect of duty, which could act as a proxy for but is not necessarily an allegation of corruption.

Figure 7.1. Prosecution of Officials' Malpractice by the Perugian *Sindaco*, 1332–1390.
Source: Archivio di Stato di Perugia, Il Maggior Sindaco Esecutore e Utile Conservatore, reg. 4–20.

Abatengo Angeli of porta santa Croce, who acted as tax collector on behalf of the commune during the previous year. His records, scrutinized by the *sindacato* notary during an inquest (*inquisitio*), indicate that just over 480 *lire* he had collected never found its way into the city's coffers. Abatengo is summoned to respond to the charges but never appears. On 27 April, after rather considerately deducting Abatengo's and his notary's salary of twelve *lire* each, the *sindaco* sentences the contumacious tax collector *in absentia* to a roughly quintuple fine of 2,282 *lire*, nineteen *soldi* and three *denarii*.[23] Nothing in this register suggests the fine was ever paid or the culprit absolved, a constant frustration accompanying the study of court records, and the bane of historians of crime and punishment in premodern Europe.

By contrast, the next available register, dating to 1335, documents numerous charges brought to the attention of and then pursued by the *maggior sindaco* Pietro ser Franchesco di Pantiaticis of Pistoia. The allegations concern a broad range of commune officials, lay and religious, operating in the city and its hinterland. A long list of stewards, builders, tax collectors, prison custodians, guild priors, their aides and numerous other *soprastanti* are individually and collectively accused of having "dolose et fraudulenter"—abused, neglected and variously acted against the statutes. The document then relates more specifically when and in what capacity these men worked for the city, but as yet without articulating what the actual infraction/s might have been. Finally, the judge announces that:

> We proceed against each and every one of them *ex officio*, [that is, by an inquisitorial procedure, on the grounds that they had committed] theft, embezzlement, simony and made illicit gains; that they had done what they should not have and neglected what they should have done . . . did not distribute what they should have distributed or returned what they should have returned . . . and many other things.[24]

Here we finally encounter an unequivocal if still general statement about official misconduct, including offenses easy to identify as mismanagement or outright private appropriation of public resources—the classic modern definition of corruption. Given the length of the list, which names many dozens of officials, we are likely dealing with a legal formality that required the *sindaco* to be comprehensive, if not exhaustive at the outset. To recall, a licit prosecution depended on the official's timely naming of anyone he intended to proceed against and the production of a *litis contestatio*. The hypothesis is largely confirmed by the second half of the same paragraph, which swiftly absolves all those just named:

> Wherefore a solemn inquest was conducted against each and all of them [i.e., the officials named in the previous list] and an interrogation of witnesses. And they were not found guilty of anything comprising this inquest. The accounts of each and all were reviewed and calculated by the commune accountant, [etc.].[25]

In other words, this is a record of compliance meant to reassure the public of the *sindaco*'s due diligence and recapitulate the commune's notion of what its officers' accountability amounts to. But whether this also attests to the local officials' clean hands is quite another question.

Each of the extant registers contains the same comprehensive lists followed by the same blanket acquittals. In order to trace if and when the *sindaco* actually

proceeded from this type of *inquisitio generalis* to a specific prosecution, it is necessary to read through all the charges subsequently raised; a task that becomes quite burdensome with the massive expansion of the *sindaco*'s remit, dating to 1342 at the latest. At any rate, as Figure 7.1 shows, the *relative* share of official misconduct allegations drops sharply from the 1340s onwards, even as the registers become better preserved.[26]

But what of those few who did get caught in the *sindaco*'s net? Here, too, acquittals are not uncommon. Still in 1335, two men, ser Lello di Andrea and ser Puccio di Martini, charged with embezzlement during the *sindacato* of 1326, were reexamined and acquitted. Torpinuccio Taducci, a lay friar from porta Sole, hired by the commune to supervise some public works, was likewise charged with and later acquitted of embezzlement and technical mismanagement. The same happened to Pellolo Andrucci of porta sant'Angelo, charged by a previous *sindaco* of not returning unused funds and absolved in the present *sindacato*. None of these cases, incidentally, and despite the statutes' insistence, were fully processed by their original *sindaco*. Bringing officials to account could evidently be a slow process.[27]

As the table above also relates, however, for every acquittal there were, on average, two convictions. Almost regardless of the caseload, a high conviction rate is normal, which contrasts sharply with the outcomes of other legal procedures in Perugia and elsewhere across Italy.[28] For our purposes this underscores either the relative vulnerability of officials brought up on such charges, how seriously these specific charges were taken or both. As authors of didactic literature on the topic duly noted, serving communal regimes certainly had its risks, a structural problem also underscored by other chapters in this section of the book.

As for the offenses themselves, the *sindaco*'s focus was almost uniquely on embezzlement. Allegations framed in more specific terms than dereliction of duty, deal with failure to pay or pay back public money, misuse of funds or disappearing revenue collected under official capacity, a *restum et residuum* ranging from several *lire* to several hundred *lire*.[29] Of course, peculation hardly exhausted contemporaries' notions of what constituted a violation of public office or corruption. For instance, as David Chambers and Trevor Dean have shown for fifteenth-century Ferrara, at least four kinds of deviance were named as "explicitly corrupt behaviour" among public officials: namely, fiscal and material profiteering by officials; deliberate abuse of the judicial apparatus for private gain; the exploitative use of courts by people outside it; and "customs" perpetuated by bribery that helped create loopholes in the justice system through which acquittals became very common.[30] *Podestà* also violated prohibitions by informally networking with local elites (often through their wives), by marriage or by embarking on various business ventures, activities which were strongly condemned in both the didactic literature and urban statutes, as we have already seen. In Perugia, however, all of these behaviors except the first were either absent, went undetected or simply did not concern the *maggior sindaco* for the better part of a century. Some political historians and scientists may find this a surprising fact, given that we are dealing with a more rather than less participatory regime than in Ferrara.[31] Others, of course, would not assume or strive to demonstrate such a correlation in the first place.[32]

A few observations before moving to situate Perugia in a broader context. First, all those charged by the *sindaco* are men, be they religious or lay. This may seem obvious given that officialdom in this period was predominantly a male domain. But women too could have strong private interests and there remains the possibility of women acting as corrupting agents. Normative sources certainly mention sexual as well as material favors as forms of corruption, and numerous women were in a position to offer either or both, directly or as intermediaries. And yet women remain completely absent from Perugian records of practice—a state of affairs cutting across virtually all the case studies discussed in this volume. Second and perhaps least expected given *sindacato*'s modern reputation, cases could drag on (or be ignored) for many years rather than swiftly conclude within the allotted fifteen or thirty days. And by that point the investigation was mostly out of the accusing *sindaco*'s control, exposing the flaws of an intensive audit process as opposed to an ongoing one. Finally, there is a striking absence from these records of *podestà* themselves, as well as other (especially foreign) entourage members. Most of those charged are either low-ranking officers or tax collectors from Perugia.[33] Is it possible that Perugia was so consistently blessed with upright top officials? Or are the sources and the mechanisms they purport to document engaged in covering as well as uncovering official misbehavior?

At any rate, these observations collectively chime in with the statutes' emphasis on financial responsibility as a regime's key concern, and presumably that of the population at large. What the sources certainly seek to stress is that auditors' main task was to ensure taxes were duly paid, collected and deposited. As such they lend greater credence to Victor Crescenzi's understanding of the procedure as mainly driven by good accounting, not political strife.[34] And although the two impetuses are hard to tell apart, it seems that as long as this basic need was met, auditors could, and likely did, turn a blind eye to deviancy at the margins they defined, especially as their resources came under increasing pressure from around the middle of the fourteenth century.

CONCLUSIONS

Moritz Isenmann, the foremost student of *sindacato*, hailed it as "doubtless the most widespread form of public monitoring [*Amtskontrolle*] in late-medieval and early-modern Europe."[35] After being introduced among the Italian communes in the late-twelfth century, the practice spread to France, the Holy Roman Empire, Iberia and the Papal States, and by the early-sixteenth century similar procedures were implemented in the Americas. Yet taken from the collective perspective developed in this section of our volume, *sindacato* augmented rather than replaced traditional forms of accountability, be they top-down, horizontal or bottom-up. Among the former two in the Middle Ages and Renaissance, one can list visitations, commonly practiced within the monastic/clerical world and provincial and regional chapters of religious orders.[36] Among the latter category, meanwhile, one can include ad-hoc procedures such as petitions and supplications, which continued

to operate in England, France, and the Middle East.[37] Louis IX (St. Louis; 1214–70) even developed a hybrid form—initiated by a king, but meant to identify grievances shared by commoners mainly against the local nobility.[38]

In the Italian context, modern scholars' efforts have collectively established that *sindacato* cannot be coupled historically with one type of political system, including republicanism: auditing could support, in form if not in substance, far more authoritarian regimes, which also employed such practices to buttress their claims to legitimate rule. In other words, audits neither typify transparent and participatory polities, nor do they necessarily clash with and undermine despotism. This is supported by the stability of the audit in the transition from commune to *signoria* undergone by numerous Italian city-states in the fourteenth century.[39] Clearly, the deeper roots of this procedure presented it as a significant enough emblem of legitimate rule.

More importantly in the context of our larger project (see the Introduction to this volume), the existence of documented audits does not in itself guarantee a high degree of transparency or act as an efficient buffer against corruption at the meso- and macro levels. Indeed, mechanisms to promote transparency and visibility—be they ancient, medieval or modern—never lack ambiguity in the sense that the documents and activities belying them conceal as well as reveal.[40] It is difficult therefore to assess a government's relative degree of corruption merely on the basis of documentary practices. As John Sabapathy aptly puts it, "[b]etter documented government does not mean better government"[41]—a maxim easily applicable to the present-day's compliance culture. Moreover, as Maurizio Viroli and others have argued, the rise of despotism in early Renaissance Italy can be seen as *epitomizing* a process of corruption, that is, it served as the utmost manifestation of harnessing an entire state apparatus to the needs of an individual family, corporation or party.[42] In such contexts, the implementation of *sindacato* communicates a relative increase in centralized patrimonial power rather than imposes limits on it. Yet it remains a valid question whether, even under such regimes, the procedure helped reduce what Monika Bauhr has dubbed "need" (as distinct from "greed") corruption, and accordingly, participated in presenting those in power as pursuing citizens' everyday concerns.[43]

In summary, while a patent concern for accountability of office can certainly be documented for Italian city-states and later despotic regimes, it offers a weak or at least very partial signal of embarking on a path to modern, Euro-American state-building, let alone of a participatory democracy. As Sabapathy illustrates, statism—or a particular Weberian paradigm tying bureaucratization and the modern nation state—has done much to skew historians' views on how to gather evidence for political centralization. To some extent, the link encourages premodern historians such as myself to question the historical validity of Weber's (and his followers') observations, while perhaps unwittingly accepting his (or to be fair, a certain Weberian) paradigm of the state. Either way, the importance of accountability of office can wax and wane independently of political centralization, rendering corruption in turn a problematic litmus test for the broadening or narrowing of power bases.

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APPENDIX: SINDACATO REGULATIONS IN ITALIAN CITY-STATE STATUTES, 1250–1500

Ordered alphabetically by city

AMELIA

1. "Gli statuti trecenteschi di Amelia," ed. Laura Andreani, Renzo Civili and Rita Nanni, in *Amelia e i suoi statuti medievali*, ed. Enrico Menestò et al. (Spoleto: Centro italiano di studi sull'alto Medioevo, 2004), 367–754: 1330 statutes, 4 (370–1); 1346 statutes, 18 (567–8), 29 (573–4); fourteenth-century fragment, 10 (716–18).

BADIA TEDALDA

2. *Gli statuti quattrocenteschi di Badia Tedalda e di Pratieghi*, ed. Myriam Laurenti and Paola Mariani Biagini (Florence: All'Insegna del Giglio, 1992), Badia Tedalda, LVII (53–4).

BERGAMO

3. *Lo statuto di Bergamo del 1353*, ed. Giuliana Forgiarini (Spoleto: Centro Italiano di Studi sull'Alto Medioevo, 1996), Collatio I, X–XV (38–42).

BOLOGNA

4. *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella, 2 vols. (Vatican City [Rome]: Biblioteca Apostolica Vaticana, 1937–39), II, II (1:43–5); V, CLI (516–21).
5. *Lo Statuto del Comune di Bologna dell'anno 1335*, ed. Anna Laura Trombetti Budriesi, 2 vols. (Rome: Instituto Storico Italiano per il Medio Evo, 2008), I, 23–4 (1:49–64); II, 21 (102).
6. *Gli Statuti del Comune di Bologna degli anni 1352, 1357; 1376, 1389 (Libri I–III)*, ed. Valeria Braidi, 2 vols. [successively numbered] (Bologna: Deputazione di Storia Patria per le Province di Romagna, 2002), 1352 and 1357 statutes, I, 21 (51–65); III, 12 (116–35); 1376 and 1389 statutes, I, 12 (385–8), II, 22 (615–34), 30 (679–80).

BORGO SAN LORENZO

7. *Statuti della Lega del Borgo a San Lorenzo di Mugello* ed. FIlippo Bellandi, Fausto Berti and Mario Mantovani (Florence: Leo S. Olschki, 1984), 12 (61–2).

BRA

8. *Gli antichi Statuti di Bra, MCDLXI*, ed. Edoardo Mosca (Bra: Editrice Artistica Piemontese, 1994), XXIII (103–5).

CASTIGLIONE DI SOPRA

9. *Statuti dei comuni di Castelfranco di Sopra (1394) e Castiglione degli Ubertini (1397)*, ed. Giulia Camerani Marri (Florence: Leo S. Olschki, 1963). Castiglione statutes, 4 (176–7).

COLLI VAL D'ELSE

10. *Statuta antiqua communis Collis Vallis Else (1307–1407)*, ed. Renzo Ninci (Rome: Instituto Storico Italiano per il Medio Evo, 1999), 2 vols., 1307 statutes V–VI (22–6), L (65–7), XLV (150); 1351 statutes, III (223–7), XIII (245), XXVIII (260–1).

CUNEO

11. *Le* addictiones *agli Statuti di Cuneo del 1380 (1384–1571)*, ed. Davide Sacchetto (Cuneo: Società per gli Studi Storici della Provincia di Cuneo, 1999), 547 (73).

DERUTA

12. *Statuto di Deruta in volgare dell'anno 1465*, ed. M. Grazia Nico Ottaviani (Florence: La Nuova Italia, 1982), III, 118 (267–8).

EMPOLI

13. *Empoli: Statuti e riforme*, ed. Fausto Berti and Mauro Guerrini (Empoli: Comune di Empoli, 1980). Statutes of the popolo of Sant'Andrea (1416–41), XXXIII (80–1); Statutes of Empoli (1428), XXII (173–4).

FIGLINE

14. *Statuti di Figline*, ed. Fausto Berti and Mario Mantovani (Figline: Blanche Grafica Edizioni, 1985), 1408 statutes, CXXXIII (81).

FLORENCE

15. *Statuti della Repubblica Fiorentina*, ed. Romolo Caggese, rev. ed. Giuliano Pinto, Francesco Salvestrini, and Andrea Zorzi (Florence: Leo S. Olschki, 1999), Capitano statutes 1322–5, I, I (1:12–14); II, VII (86–8); V, LIII (230–1); Podesta statutes 1325, I, I (2:7–8); II, LVIIII (118).
16. *Statuta populi et communis Florentiae . . . anno salutis MCCCCXV*, 3 vols. (Freiburg: Michael Kluch, 1778–83), I, LXII (1:72–7); Tractatus ordinamentum iustitiae, VIII (416); V, XLV (2:553–4); Tractatus IV, LXXIV (3:663–7).

FOSSATO

17. *Li Statuti medievali do Fossato*, ed. and trans. Luigi Galassi (Assisi: Minerva, 2000), pre-1390 statutes CXCV (189), CCXXV (200–3), CCXXVII (203), CCXXX (205–6); 1406 statutes, LII–LIII (241–2).

L'AQUILA

18. *Statuta Civitatis Aquile*, ed. Alessandro Clementi (Rome: Instituto Storico Italiano per il Medio Evo, 1977), 31 (34–5), 187 (136–7).

LUCCA

19. *Statuto del Comune di Lucca dell'anno MCCCVIII*, ed. S. Bongi (Lucca: Giusti, 1867), reprinted as Statutum *Lucani communis, an. MCCCVIII*, presentazione di Vito Tirelli (Lucca: Maria Pacini Fazzi, 1991), II, 1 (51–4).

MASSA E COZZILE

20. *Lo Statuto di Massa e Cozzile del 1420*, ed. Antonio Lo Conte and Elena Vannucchi (Florence: Polistampa, 2006), I, 15 (37–8).

MONTEPULCIANO

21. *Statuto del Comune di Montepulciano (1337)*, ed. Ubaldo Morandi (Florence: Le Monnier, 1966), I, XXX (47–8), IV, I–LXV (285–336).

MONTEVETTOLINI

22. *Statuti di Montevettolini, 1410*, ed. Barbara Maria Affolter and Manila Soffici (Ospedaletto [Pisa]: Pacini, 2001), I (46–7), XXIIII (75).

MONTOPOLI

23. *Statuto del Comune di Montopoli (1360)*, ed. Bruno Casini (Florence: Leo S. Olschki, 1968), I, 2 (63–4), II, 99 (202–3), III, 107 (282–3).

PADUA

24. *Statuti del comune di Padova del sec. XII all'anno 1285*, ed. Andrea Gloria (Padua: F. Sacchetto, 1873), I, viii, 94–109 (37–40).

PERUGIA

25. *Statuto del comune di Perugia del 1279*, ed. Severino Caprioli, 2 vols. (Perugia: Deputazione di Storia Patria per l'Umbria, 1996), 131–41 (1:146–58).
26. *Statuto del comune e del popolo di Perugia del 1342 in volgare*, ed. Mahmoud Salem Elsheikh, 3 vols. (Perugia: Deputazione di Storia Patria per l'Umbria, 2000), I, 4 (1:21–33), 15 (65–74), 20 (88–101); III, 26 (2:62).

PIANCASTAGNAIO

27. *Il Comune medievale di Piancastagnaio e i suoi statuti*, ed. Alessandro Dani (Siena: Il Leccio, 1996), 1432 (?) statutes, I, I (4–5); V, CXXIII (124).

PISTOIA

28. *Breve et ordinamenta populi pistorii (1284)*, ed. Lodovico Zdekauer (Milan: Hoepli, 1891), reprinted in *Statuti pistoiesi del secolo XIII. Studi e testi* vol II, ed. Renzo Nelli and Giuliano Pinto (Pistoia: Società Pistoiese di Storia Patria, 2002), I, XXV–XXVIII (17–18); II, XLV (76), CXV (104), CLXXXX–CLXXXXVI (138–43), CLXXXXVIII–CCIIII (144–9), CCVII–CCXI (150–3).
29. *Statutum Potestatis Comunis Pistorii (1296)*, ed. Lodovico Zdekauer (Milan: Hoepli, 1888), reprinted in *Statuti pistoiesi del secolo XIII. Studi e testi* vol III, ed. Renzo Nelli and Giuliano Pinto (Pistoia: Società Pistoiese di Storia Patria, 2002), I, VIII (12–14).

PONTE A SIEVE

30. *Statuti del Ponte a Sieve*, ed. Paola Benigni and Fausto Berti (Pontassieve: Comune di Pontessieve, 1982), Statuta legarum Ghiaceti Montis Lauri et Rignani (1402), V (44–6), XL (64).

RAVENNA

31. *Statuto ravennate di Ostasio da Polenta (1327–1346)*, ed. Umberto Zaccarini (Bologna: Deputazione di Storia Patria per le Province di Romagna, 1998), I, 3 (16–20).

RIETI

32. *Lo Statuto della Città di Rieti dal secolo XIV al secolo XVI*, ed. Maria Caprioli (Rome: Istituto Storico Italiano per il Medio Evo, 2008), I, 39–40 (45–7).

ROCCANTICA

33. *Statuti della Provincia Romama*, ed. T. Tomassetti, V. Federici and P. Egidi (Rome: Forzani e C. Tipografi del Senato, 1910), Statuto di Roccantica del MCCCXXVI, X (61).

ROME

34. *Statuti della città di Roma*, ed. Camillo Re (Rome: Tipografia della pace, 1880), III, xxxiii–iv (xxxii–iii) (216–17), xxxiv (xxxiii).

SALUZZI

35. *Gli statuti di Saluzzi (1480)*, ed. Giuseppe Gullino (Cuneo: Società per gli studi storici, archeologici ed artistici della Provincia di Cuneo, 2001), 4 (83–4).

SANTA MARIA A MONTE

36. *Statuto del Comune di S. Maria a Monte (1391)*, ed. Bruno Casini (Florence: Leo S. Olschki, 1963), LXXVI (116–18).

SCARPERIA

37. *Gli Statuti di Scarperia del XV secolo*, ed. Vanna Arrighi (Florence: Edizioni Firenze, 2004), Statuti del vicariato del Mugello del 1415, 9 (44–6), 12 (48–9).

SETTIMO

38. *Statuti di Settimo*, ed. Alfonso Mirto (Scandicci: CentroLibro, 2001), XI (39).

TREQUANDA

39. *Statuti medievali e moderni del Comune di Trequanda (secoli XIV–XVIII)*, ed. Donatella Ciampoli and Patrizia Turrini (Siena: Cantagalli, 2002), I, 7 (32–3).

TREVISO

40. *Gli Statuti del comune di Treviso (sec. XII–XIV)*, ed. Bianca Betto, 2 vols. (Rome: Istituto Storico Italiano per il Medio Evo, 1984–6), CCCCXLVIIII (CCCCXXXVIIII) (1:305–10).

VALGRANA

41. *Gli Statuti del Comune di Valgrana (1431)*, ed. Pier Paolo Giorsetti (Cuneo: Società per gli studi storici della Pronincia di Cuneo, 2004), I, II (20).

VERONA

42. *Gli statuti veronesi del 1276*, ed. Gino Sandri, 2 vols. (Venice: R. Deputazione di Storia Patria per le Venezie, 1940–59), I, XXVII (35–6).
43. *Statuti di Verona del 1327*, ed. Silvana Anna Bianchi and Rosalba Granuzzo, 2 vols. (Rome: Jouvence, 1992), I, XXVII–XXVIII (1:144–6).

VILLANOVA D'ASTI

44. *Statuti comunali di Villanova d'Asti*, ed. Pietro Savio (Vatican City [Rome]: Biblioteca Apostolica Vaticana, 1934), Statutes of 1414, II, LXXXVII (48).

VITERBO

45. *Statuti della Provincia Romana*, ed. Vincenzo Federici (Rome: Istituto Storico Italiano, 1930), Statuto di Viterbo del MCCXXXVII–XXXVIII [fragment], CCCCLIIII (87–8).

VOLTERRA

46. *Statuti di Volterra I (1210–1224)*, ed. Enrico Fiumi (Florence: Deputazione di Storia Patria per la Toscana, 1951), I (1210–22), CLXVIIII (87–8); Codice II (1224), CXXVIIII (171–2).

PART III

EARLY MODERNITY

8

"A Water-Spout Springing from the Rock of Freedom"?

Corruption in Sixteenth- and Early-Seventeenth-Century England

G. W. Bernard

CORRUPT COURTIERS AND MINISTERS?

Nestling in the fold of the gentle hills west of Banbury, some twenty-five miles north-west of Oxford, is the picture-book early Tudor country house of Compton Wynyates, built by Sir William Compton, early Tudor courtier (c.1482–1528). Compton came from respectable but not wealthy origins. Where could he have found the resources necessary to build so magnificent a house? The answer lies in his exploitation of royal favor. When his father died in 1493, Compton became a ward of the crown, and may have become a page to the then young Prince Henry (c. 1491–1547). Once Henry came to the throne in 1509, Compton's rise was spectacular. In 1510 he became groom of the stool, and later chief gentleman of the king's bedchamber—posts which required attendance on the king morning and night. The grooms were responsible for the king's clothing and the various possessions he took with him as he travelled from palace to palace. Compton played dice and jousted with Henry, who entrusted him with delicate tasks such as arranging Henry's extra-marital encounters or arresting an unsuspecting duke of Buckingham.

More significantly for our purposes, Compton also received, held and spent money on the king's behalf. In 1515, for example, some £18,000 was received by him for the king's petty expenses. Did Compton succumb to the temptation of misusing such funds? Had over the years Compton held on to some of the moneys that had been transferred to him? Had he made money by lending the king's treasure and pocketing the interest? Had he sometimes pocketed the principal as well? On 31 August 1527, Compton, musing on his will, sent his fellow courtier Sir Henry Guildford a letter "written in haste." Compton had, he said, received money and jewels for the king's use which he had failed to deliver. Despite having had a royal pardon, he was troubled in his conscience and requested Guildford and his executors to pay 1,000 marks (£666), a suspiciously round number, in recompense to the king. The reference to a pardon hints at some legal action against him, but

there is no clear or full evidence of any charges of embezzlement or theft. More broadly, did Compton exploit his proximity to the king to favor suitors seeking his assistance at court? Some miscellaneous notes record how he received six shillings and eight sixpence from John Cheyne, sheriff of Bedfordshire, for "getting the byll assynyd for the tayle of reward of lxx li."

The evidence is fragmentary and tantalizing. And his wealth can be explained in other ways. The king rewarded him with a mass of grants: he was appointed as constable of castles, as bailiff and as steward of royal manors. Compton also vigorously purchased land. He lent to noblemen in financial difficulties (perhaps with an eye to securing their estates) and he was ready to use force locally (perhaps trusting that his royal favor would protect him). By the end of his life he had become a landed magnate. He held lands in Warwickshire, Oxfordshire, Northamptonshire, Gloucestershire and Worcestershire. His great house at Compton Wynyates declared his arrival into the social elite. If he had not died of sweating sickness in 1528 he would very likely have been ennobled. His grandson, Henry Compton, was ennobled as Lord Compton in Elizabeth's reign. What drove Compton was personal service to the king—and self-enrichment. What he did was to convert the rewards and opportunities of royal service—which were by their very nature likely to be temporary and almost certainly would not last longer than his own lifetime—into a permanent landed patrimony that would both provide for him and his family in retirement or after disgrace, and, even more importantly, serve as a basis of a lasting landed endowment for his descendants.[1] In all that, Compton was far from unique. Similar stories lie behind the building of a great many courtier-administrators' houses in the sixteenth and early-seventeenth centuries.

Compton was essentially a courtier, not a politician. He held posts with financial responsibilities and opportunities, but he was not someone who made policy. Yet those who made policy, those who were undoubtedly what we would call politicians, were no less adept at enriching themselves. Thomas Cromwell, Henry's minister, was presented by the historian Sir Geoffrey Elton (c. 1921–94) as the disinterested visionary architect of "The Tudor Revolution in Government." Yet no less than Compton, Thomas Cromwell enriched himself. Just like Compton he turned the potentially temporary rewards of office and favor into what would, if he had not fallen for treason in 1540, have become a permanent landed patrimony. He built up estates in Sussex and the south-eastern home counties, especially from 1538.[2] Cromwell was gifted the former monastery of Lewes in 1538 and would be gifted twenty-three manors by the king in 1540 when he was created earl of Essex. But much land was purchased. Where did the funds for that come from?

Michael Everett has shown convincingly that Cromwell's wealth almost doubled between 1529 and the end of 1532: in his will of 1529 he bestowed £900 in cash, in that of 1532 over £1,830.[3] Everett also found records of the annuities that Cromwell received. Between March 1525 and June 1534 ninety-four are recorded, the earliest in 1525 soon after Cromwell started rising in Wolsey's service. Between 1525 and 1529, Cromwell was granted thirteen separate annuities, ranging from twenty shillings to thirteen pounds, six shillings and eightpence; in 1531 alone he received nine (ranging from thirteen shillings and fourpence to twenty pounds),

in 1532 twenty-one, in 1533 thirty-three. The annual totals rose from fifty-four pounds in 1529 to ninety-four pounds in 1531, £129 in 1532 and no less than £437 in 1533. In the single month of October 1537, Cromwell would receive £500. These annuities quickly mounted up. Annuities were usually simple payments. Cromwell was also a recipient of gifts: for example in 1532 he received twenty-four partridges and six plovers along with a request "to obtain the king's signature." In 1534 Cromwell was offered one hundred pounds and the stewardship of the monastic house at Wilton, together with a yearly fee of ten pounds, if he advanced a candidate to succeed as abbess there.[4] Such gifts were clearly intended to influence Cromwell's actions and reward him appropriately. Everett highlights a striking example. When Wolsey was dissolving two-dozen smaller monasteries in the late 1520s, an annual annuity of twenty-six shillings and eightpence was granted to Cromwell, then Wolsey's servant, by the prior of Shulbrede, Sussex, so that "they maye . . . dwell att rest with owte trowbill & continue styll yn ther house." Was this annuity they bestowed on Cromwell the price they paid to escape dissolution? Everett thinks it is even worse than that. Shulbrede was not on the list of the monasteries chosen for dissolution but Cromwell accepted an annuity from the monastery anyway.[5]

Elton's last published paper was a communication, "How corrupt was Thomas Cromwell?"[6] If Elton conceded that Cromwell "probably did on occasion take what to modern eyes would look like straightforward bribes," he denied that Cromwell was regularly receiving payments of money intended to buy favorable decisions, including grants to the person offering the bribe of offices or positions of profit. Cromwell did, as Elton notes, frequently receive all sorts of gifts—food, birds, horses, luxurious clothing—and he also expected a range of fees for issuing writs and sealing documents—fees that were levied. But all that was standard and not corrupt, Elton insisted (Felicity Heal's reaction to this was that her former supervisor did protest too much).[7]

Everett has gone deeper, concluding that Cromwell was "certainly capable of acting dishonestly for his own financial gain."[8] So was Cromwell corrupt? There are a handful of cases where payments were offered or made with very specific matters in mind, though in most cases the payments, notably the annuities, were more general gifts rewarding past favor and offering an inducement for future favor. "Does this make Cromwell an unscrupulous and corrupt minister?" Everett asks, concluding: "ultimately, yes; he took bribes and probably made considerable sums when doing so."[9] As he rose in royal favor and dealt with more and more of the king's business, the sums involved grew too. And yet just pronouncing Cromwell corrupt does not get us very far.

First, Cromwell was not unique. As far as we know, *all* courtiers and officials behaved as Cromwell did, if on a smaller scale. Second, it is exceptionally difficult to find detailed evidence that would conclusively condemn him. Third, it is pretty much impossible to show that Cromwell did something that he would not otherwise have done (or that he did not do something that he otherwise would have done) because he received a payment. Cromwell charged fees and accepted annuities but it is hard to show what changed as a result. Fourth, although

Cromwell would be accused rather generally of bribery in the Act of Attainder (a bill of accusations brought before parliament and turned into an act)—he had allegedly "acquired and obtained into his possession by oppression bribery extort power and false promises . . . innumerable sums of money and treasure,"[10]—no evidence was cited, and bribery was just the kind of general charge that could be thrown into the pot in such circumstances. Two years earlier, in 1538, Cromwell was accused by one George Poulet of being "a great taker of money. For he woll speak solicit or do for no man but all for money."[11] Cromwell's annuities suggest that Poulet was right, but his jibe was not backed up with any details. And in the years that Cromwell was Henry's leading minister, there was very little talk of that kind. If he had indeed been taking vast sums, especially unusually high sums, and making unjustifiable decisions in consequence, then it is very likely that his critics would have accused him of that. The Pilgrims of Grace in autumn 1536 were very hostile to Cromwell but that was because they saw him as the author of religious changes they hated and feared: they did not attack him for corruption.

So if courtiers such as Compton and leading ministers such as Cromwell were receiving gifts and annuities—to the extent that they became extremely wealthy, could buy land and build great country residences—what does that tell us about early modern politics and political morality?

ATTITUDES TO "CORRUPTION"

Was this "the abuse of entrusted power for private gain"—a formulation borrowed from Mark Knights citing *Transparency International*,[12] but a notion going back to Plato and Aristotle? Or was it that there was a large grey area between what was clearly unacceptable and what was perfectly fine? And, more directly in relation to the themes of this volume, where was "anticorruption"—that is to say, administrative and legal measures intended to root out and prevent corruption—in all this?

Corruption that took the form of outright theft was readily condemned and clearly thought indefensible. Straightforward embezzlement was prosecuted and punished. This was not described as "anticorruption", but for our purposes such laws and prosecution for those who broke them can be seen as such. John Beaumont, receiver-general of the court of wards under Edward VI, was convicted in 1552. He had committed two sorts of offences. First, he did not record receipts as such, but rather as payments in arrears, and pocketed the receipts (amounting to £11,823); second, he invested the sums he received (£9,765), repaying the crown by the due date, but keeping the interest and returns from speculative ventures for himself. It was his successor who seemingly uncovered the first of these. No one would have approved of such outright theft and his condemnation can be seen as a vindication of contemporary standards of public honesty.[13]

It could also be argued that if only a very small number of officials were ever prosecuted for embezzlement that was because it was a very rare offence. For centuries the financial administration had made the prevention of such frauds its priority. From the twelfth century, financial officers were visibly accountable for the

moneys that came their way (accountability is not an exclusively modern idea).[14] And it could be concluded that in the face of large-scale fraud, measures that we would call "anticorruption" were effective in dealing with those senior administrators who stole from the crown and in deterring those who might have been tempted to steal but did not. The difficulty with such a line of reasoning is that it could be argued that, far from being unusual, Beaumont was typical, and that his case was unique only in that he was found out.

High standards of probity were also expected of judges. Above all judges were not to sell justice. Here various royal instructions and parliamentary statutes can be taken for our purposes as examples of anticorruption. The Provisions of Oxford of 1258, reinforced by later statutes, made that plain, limiting any gifts to food and drink. Judges were expected to refuse greater gifts. Direct evidence that judges were offered gifts and made judgments in favor of the donors of gifts is very hard to find. Does that mean that anticorruption measures had succeeded, that judges had internalized the values of anticorruption? But if it is hard to show that gifts affected judgments, it seems clear that giving gifts to judges was commonplace. That Sir Thomas More and Sir John Fitzjames were praised for refusing all gifts might perhaps be thought to show that the acceptance of gifts was the norm. Thomas Hobbes in the *Leviathan* would write of "the frequent corruption and partiality of judges,"[15] though without citing evidence. Yet perhaps looking at this in terms of corruption or anticorruption is to miss the true significance of what was going on. Perhaps the key here is that judges had already enriched themselves as lawyers before they became judges, and found their senior status sufficient reward and came to believe sincerely in their rhetoric of the public good. Moreover, it is easy to convince yourself (quite sincerely) that you are impartial; and you may indeed be impartial, despite accepting gifts. The initiative for giving gifts may well have come from the parties in dispute, not from the judge. And it might be that both sides in a legal action would provide the judge with gifts so that the judge would have no reason for favoring one party over the other, rather than with any more specific intention. Perhaps independently wealthy judges are themselves a form of anticorruption. Does, as Aristotle supposed, wealth make you incorruptible?

And it might be worth making distinctions within gifts. It is very clear that suitors seeking favors, whether specific or general, routinely offered gifts to their hoped-for patrons. Special or rare delicacies such as quails, sturgeon or venison pies, wines, horses, greyhounds and hawks feature prominently in the correspondence of Arthur Plantagenet, Viscount Lisle, Henry VIII's deputy (effectively viceroy) in Calais in the 1530s. Clearly John Hussee, Lord Lisle's London agent, believed that such gifts mattered, urging that a firkin of sturgeon be sent to the Lord Chief Justice or Lord Chancellor. But evidence of such remarks is rare, and, whatever Hussee believed, it is hard to show that decisions were actually taken as a result of such gifts or some suitors were favored over others. Maybe what such gifts ensured was that your case was not unduly delayed. But, again, if both sides were making gifts, it is hard to see who could gain an advantage. Paradoxically a world in which everyone offered gifts can be seen as less corrupt than one in which only some offered gifts. Gifts could in that sense even be seen as measures of anticorruption. And in many

senses gifts were given because gifts were given. Not to do so would make you stand out, raise doubts about your trustworthiness, about whether you were "a good chap." It makes more sense to see them as a kind of performance than as necessarily corrupting.

Asking for and accepting monetary fees was evidently universal. There is nothing to show that this practice was seen as wrong, as corrupt, and nothing to suggest that it was deplored or that attempts were made to eradicate it as part of a program of anticorruption. There was no such program. An obvious explanation of the practice, and of the acceptance of the practice alike, is that while crown officers were paid salaries, these salaries were very low (and were not adjusted in line with later sixteenth-century inflation). Consequently, officials had long charged individuals and bodies for whom they performed services fees and kept those fees for themselves.[16] Modern administrative departments do often charge fees for services rendered—for example, fees are charged when you renew a passport or seek probate of a will—but, crucially, these fees do not go into the pocket of the officer who is doing the administrative work for you. In the sixteenth century they did. Nor, today, would offering a larger or additional payment or giving the officer a present be tolerated or produce more rapid service (though it is worth noting in passing that you can pay double, have your application form checked at the Post Office and receive your passport much more quickly than if you pay the standard amount).

It is hard to show that paying fees made a difference (though perhaps not paying a fee might have done). So the payment of fees should be seen as conventional—more like modern tipping of taxi-drivers and waiters, rather than as attempts to bribe officials into doing something they otherwise would not have done or something illegal. It was not about securing some special favor or unusual attention. Most officials would not have made a huge fortune from such payments; it would be the very small number of leading courtiers such as Compton and leading politicians such as Cromwell who would benefit substantially. And arguably kings and queens, rather than embarking on any sort of anticorruption program, readily went along with this. It was, from the monarch's perspective, an excellent way of rewarding their most important advisers lavishly without having to find the rewards from the revenues of crown estates or from taxation.

During much of the medieval period monarchs had exploited the church, rewarding their closest advisers with appointments as bishops and deans and abbots; the revenues of the richest sees were comparable to those of lay noblemen. In effect the church had been subsidizing the costs of government.[17] With the increasing use of lay officials in the sixteenth century, the costs of the rewarding them for their labors now fell more exclusively on those who had dealings with those officials. The modern alternative has been officials paid by salaries funded from taxation and borrowing. The early modern method was perhaps not so different in spirit. And perhaps, though this is hard to demonstrate, a system of fees and annuities kept officials on their toes. In so far as fees were paid for specific services to be rendered, then officials who failed to do what had been agreed or what was expected would soon receive complaints.

Many leading ministers received pensions from foreign powers. Thomas Wolsey, Henry VIII's great minister, received £7,500 from Francis I, king of France, in

1527. But scrutiny of Wolsey's diplomatic activities hardly supports any interpretation except that throughout his decade-and-a-half in office he was pursuing what would be most to the king's honor; and Henry's close involvement in diplomacy makes any suggestion that Wolsey was acting independently of the king in the greedy and selfish pursuit of foreign pensions far-fetched.[18] Receiving sums of money from foreign powers was fairly routine, with no larger significance. It was not seen as corrupt nor were any anticorruption measures introduced to combat it. In some circumstances accepting pensions from foreign powers was seen as a problem, but not because a leading minster was accepting money—rather because he was being disloyal to the monarch. And if ministers were prosecuted for accepting pensions it was on the grounds not that they were corrupt, but that they had committed treason.

The sums that courtiers and administrators received by way of fees and annuities were not publicly recorded (though it should be noted that we are not in the world of overseas bank accounts and tax havens here). We may not know just how much courtiers and administrators amassed, but we do know that they spent lavishly on land and on building the grand residences that we so enjoy visiting today. There was nothing secretive about Compton Wynyates and many other comparable sixteenth- and early-seventeenth-century residences. There was thus no need for any anticorruption commission to name and shame their builders. Compton was not worried that anyone seeing his house would have gone on to accuse him of corruption. Were contemporaries concerned by the sheer scale of such accumulated wealth as reflected in building? Did some courtiers go too far? Or was all this seen as entirely conventional? It is intriguing that Compton may at some point have felt uneasy in his conscience, securing a pardon and asking his executors to make restitution. Should fear of God, fear of your fate at the Last Judgment, be seen as an internalized form of anticorruption? Yet if Compton felt some qualms, what he offered by way of restitution did not affect the bulk of his fortune.

All this is not exactly "modern" government and fundamentally calls into question the claims that Elton made for a Tudor Revolution in Government and for Cromwell as the statesman who established modern and impersonal government. It also qualifies the claims of more recent scholars who write of developing state formation. Implicit in Elton's idea of modern and impersonal government is the model of disinterested and honest civil servants. Implicit in ideas of state formation is the model of government free from privileged special interests. But that is too optimistic a view of early modern—or indeed of any—officials. That courtier-administrators were interested in their own enrichment does not necessarily mean that they were not good administrators, but it does add another dimension to any study of government and it must be taken into account in any characterization of that system of government. In particular, if government was more personal than Elton supposed, then the attitudes, the habits and the mentalities of those individuals who were doing the administering must be seen as a significant part of government. Interesting too is the sense that the term "courtier-administrators" seems the most apt nomenclature, rather than simply "officials," much less "bureaucrats." For these officials were servants of the crown, and, in a real sense, members

of the king's or queen's court. And this militates against the very sharp distinction that Elton made between "household" and "bureaucratic" government: the two overlapped too intimately. There was no rigid distinction to be made, as one suspects Elton would have wished, between creative and hard-working administrators who got on with things and courtiers who were frivolously wasting everyone's time.

PATRONAGE

And there was another highly important sense in which government was not "modern"; a sense in which many modern commentators would think it corrupt. All courtier-administrators were appointed by patronage. Leading ministers and courtiers were chosen by the king, though in a highly personal and informal way. Ministers themselves chose those who assisted them. Everything depended on the favor shown by patrons. Jobs were not openly advertised. There was no system of competitive examinations and formal interviews. All that would largely be replaced in the mid/late-nineteenth centuries as far as what we call the civil service is concerned. But in the sixteenth century everyone who secured a post in the service of the crown did so through the exercise of patronage. Sometimes money changed hands. To modern eyes that seems corrupt. Appointments should be made on merit, we would argue. Yet sixteenth-century rulers and observers did not feel as we do, did not treat patronage as inherently corrupt and took no measures that we would call "anticorruption" policies. We ought to pause, suspend our assumptions, and ask whether patronage is necessarily bad, or inferior to competitive procedures.[19] The performance of modern civil servants is less than wholly persuasive. A generation ago, stating that a civil service recruited on merit was the only honest and effective way of running a modern state would have seemed axiomatic. Now that we have all too much evidence from *The Blunders of our Governments* of grotesque and costly incompetence, that axiom no longer holds.[20] And for all the modern anticorruption measures, patronage in effect survives much more than our rhetoric suggests. Senior posts are still largely filled by patronage since the talented have to be invited as they do not always apply.

If patronage was so obviously damaging in the early modern period, it is surprising that nothing much was done about it. Perhaps patronage should be viewed less unfavorably. The buying and selling of office at first glance appears unreservedly corrupt and wasteful. Clergy had long been required to refrain from simony (though it is by no means clear that they did refrain). But if an ageing official sold his post to a young man, perhaps he was simply seeking a pension to support his retirement. It was not so different from the way that modern medical doctors in some countries—Australia, New Zealand—buy and sell their medical practice today. And patronage made sense when what was required was not any deeply specialist knowledge or training but trustworthiness. If what was needed was someone reliable, then the best way of finding him was to ask those whom you knew for recommendations. In the modern world, as Patricia Crone has pointed out, people prefer to hire cleaning ladies on the basis of recommendations from

friends rather than unknown employers because the crucial question is not whether she can clean—anyone can—but whether she can be trusted to work unsupervised in your home. If trust was of overriding importance, then "nepotism was a virtue, not a sign of corruption."[21]

Much modern anticorruption is concerned with rulers and officials stealing from the state—government as kleptocracy—with all sorts of concessions granted to friends on the one hand and to those believed to be dangerously powerful on the other. Patronage, on that view, is seen as an instrument by which the crown cynically increased its power, sharing the crown's wealth and revenues with a favored few. Effective kingship, on that view, involved the skilfull management of such patronage. Poor rulers were those who did not manage their patronage effectively. Much writing on patronage reifies the practice. Sir John Neale rather assumed that Queen Elizabeth and her leading minister William Cecil, Lord Burghley, ruled by granting men appointments. Hugh Trevor-Roper saw the intensification of patronage as on the one hand over-burdening the crown's financial resources and on the other hand dangerously inflaming the jealousies of the "outs" as a parasitic court seized more and more.

Yet few historians writing in this vein have actually *demonstrated* the supposedly political working of patronage. The objection to this kind of analysis is that the posts to which men were appointed in the crown's service were not sinecures—that is to say simply titles with no responsibilities or duties. That was not the case in the sixteenth century (though, intriguingly, it does seem to have been quite significantly the case in the later eighteenth century). The mass of stewardships, constableships and bailiffs to which Sir William Compton was appointed were all real responsibilities. Assuredly Compton would not carry out the duties associated with them himself: he would appoint deputies and pay them a fraction of the payments he received. But someone had to collect rents, sort out leases, deal with local disputes. And no patron would benefit if his deputy was unsuitable, incompetent or damagingly corrupt.

So patronage was an instrument of administration, rather than a matter of politics and power. It was not some grand system of outdoor relief for landowners. Lurking behind the notion that politics at this time was all about patronage is the assumption that there was a store of treasure that rulers could distribute to buy and to consolidate support. That was true only to a very limited extent. Early modern England was not an economy dependent on a single raw material that foreign companies extracted and exported. There was no easy "rent" for the ruling groups to extract. The nearest was probably to be found in sheep. Sheep, it is fair to note, yielded wool that was a lucrative export trade for a long period, and clothiers, merchants, landowners and the crown manifestly did well from it. Some individuals and families benefited hugely (as, for example, the memorial brasses of clothiers in Northleach church, Gloucestershire, bear eloquent witness). Monarchs also benefited from taxes on wool and cloth. If all that could in some senses be seen as "rent-seeking," none of it really amounted to corruption, not least as much hard labor and meticulous organization was involved. And no one considered taking any action in the name of anticorruption.

The conference at which I was invited to give an earlier version of this chapter took as its theme not so much corruption but *anticorruption* over the centuries and in different countries. That posed me some challenges since corruption and patronage do not strike me as significant and constant political concerns in early modern England. One of the delegates at the conference observed that what I demonstrated was the *success* of corruption. Yet it would not be right to take the success of corruption as evidence of the failure of measures of anticorruption. The word failure is ambiguous. Contrary to many of the chapters in this volume, I argue that it was not that rulers tried to root out corruption but failed; rather, it was more that rulers largely failed even to try (chiefly because they did not see corruption as a great evil). But I agree with the other contributors in this volume that we must not assume that concern over corruption was constant and unchanging. It is perhaps revealing that, if the *Oxford English Dictionary* may be believed, the word "corruption" was not clearly used in its modern sense in the sixteenth century, but was instead confined to the rotting of fruit or to moral corruption. Hobbes's use, already quoted, and a broad charge against Francis Bacon in 1621, seem to be the earliest deployment of the word in its modern sense, but it is not till much later, in the second half of the eighteenth century and the first half of the nineteenth that it became commonplace.

CORRUPTION AS A POLITICAL ISSUE

In the reigns of Henry VII, Henry VIII, Mary and Elizabeth, corruption was simply not a political issue, with one important exception to which I shall return. Before the last years of Elizabeth's reign there was little significant concern at anything of the kind that we would call corruption. It would be hard, for instance, to find many inquiries into allegedly corrupt behavior by judges or officials. And yet practices which I would unhesitatingly call corrupt seemingly abounded. Was this because in the age of Machiavelli, rulers grasped that values clash, that effective government involved the recognition of human nature and that not just the use of force and dishonest dealing but also measures that we (but not they) call corrupt were effective weapons in any rulers' armory, whatever their professed ideals and however much they might claim to be honestly pursuing the public good? Was corruption seen as a necessary and unavoidable evil? Henry VIII and the rulers of England in Edward VI's reign had plundered the church. In Henry's reign, ex-monastic lands were mostly sold off at market prices but in Edward's reign the residual ex-monastic lands and chantry properties were granted on long leases and at low rents to those in power and in favor. There are signs of resentment but nothing substantial.

It was at the very end of Elizabeth's reign that favored courtiers were granted or sold monopolies. Originally intended to support substitution of imports, and to subsidize start-ups of new companies, grants of monopolies from the 1570s were increasingly used as rewards—rewarding crown servants and courtiers who were granted monopolies of established trades and manufactures and who could then

raise prices. In effect this was an indirect tax on consumers. Why did the crown allow this? Partly under pressure from suitors and partly as a financial expedient in difficult years. And monopolies did provoke significant resentment and political opposition. But this was a single objectionable practice and protests were neutralized when the queen promised not to repeat it. The resistance to monopolies could be seen as an anticorruption campaign, but that was not really how contemporaries saw it.[22]

It was in James I's reign that corruption become a lively contemporary issue. The crown inescapably made outright grants and gifts, and in the reign of James I these may well have become damaging politically and financially. The special circumstances of James's accession to the English throne amply explain his favor to Scottish courtiers. It is far from clear that such patronage was in fact politically helpful to the king as it provoked English jealousies. And while, arguably, corruption and the abuses of patronage reached new depths in his reign—vividly captured in attacks on the authors and beneficiaries of such corruption—we should nonetheless be wary of believing that such attacks amounted to a program of "anticorruption" or of accepting at anything like face value the charges that were made against royal ministers and favorites during his reign. Corruption was too easy a polemical weapon. Few, if any, ministers and favorites could have claimed to have been incorruptible. And courtiers and ministers who accused others of corruption were not engaged in a moral crusade intended to purify public life, but rather were out to seize a moral advantage and to embarrass their rivals, especially when those rivals were already on the way down because they had lost the monarch's favor: "Those who came forward against Francis Bacon, Lord Chancellor, in 1621 did so not because of some high-minded hatred of bribery but because they had been frustrated."[23] Believing that corruption explains your failure is a consoling thought. In this sense cries of "corruption" are no more than losers mendaciously crying foul against the referee. Perhaps they are nonetheless a sign that things are thought to be going wrong, and more likely to be found at times of military failures, fiscal pressures and political quarrelling.

There are nonetheless tensions in how historians have presented corruption under James I. Joel Hurstfield argued convincingly that efforts by courtiers and ministers to enrich themselves by accepting gifts, fees and annuities were endemic; he exonerated his hero Robert Cecil, marquess of Salisbury, but then went on to excoriate Robert Carr and George Villiers, successively James I's great favorites—"it was only then that the system was indeed distorted into corruption . . . national interests were sacrificed to a decadent court"—though without really showing how their behavior was qualitatively worse than that of others at the time or earlier.[24] Menna Prestwich at one point presented Lionel Cranfield as making heroic efforts to restrain royal extravagance, but also showed him as no less personally ambitious than those he moralizingly criticized.[25] And Neil Cuddy has suggestively argued that the accusations of corruption in James's reign were not so much proportionate responses to courtiers' and ministers' behavior as a broader reaction to the great long-run problems of royal finance which he sees as coming to a head in James's reign.[26]

Some scholars have argued that we should concentrate on analyzing the form and the rhetoric of attacks against corrupt ministers, but my strong objection to that is

that we need to know whether those ministers were actually acting corruptly in order to pronounce safely on what those who attacked ministers for corruption really intended. If Bacon and others really were guilty of what we would call corruption on a grand scale, then the attacks on them will be understood in a very different way than if they were innocent or doing no more than those who accused them. What makes concern over corruption in James's reign so perplexing is that such concerns quickly and largely dissipated under Charles I when the bones of contention were rather different. Thus it is hard to see concern over corruption as a constant. And if, at least in the eyes of contemporaries, there was no continuing chronic problem of corruption, it is not surprising that there was also no program of anticorruption measures.

Charges of what I would now call corruption were here mostly about the enrichment of those who enjoyed royal favor. Corruption was not seen as an instrument by which kings and leading ministers ruled. In various ways, and at different times, the crown may have been using its powers of making grants to act politically, to win support. But it is far from sure that it did so consistently or particularly effectively. And what does not seem to have been the case in this period is any obviously partisan use of patronage—the kind of practice that would have provoked an outcry and, possibly, some coherent anticorruption measures in response. A monarch might favor one nobleman rather than another and some gentry could be left out of the commissions of the peace, but, overall, a monarch's room for manoeuvre was quite limited. And where there were real jobs to be done there was no advantage for the monarch in having them done badly.[27]

Bill Doyle has claimed that the undoubtedly increased constitutional and political importance of parliament from the 1690s—when it became vital for governments to secure majorities in the House of Commons and from when the Commons were needed not only to grant taxes but to underwrite rapidly expanding public debt—stimulated much greater attempts by monarchs and leading politicians to control parliament by "influence-peddling through the distribution of jobs, sinecures, and pensions" and that what came by the late-eighteenth century to be called 'Old Corruption' was the consequence. For much of the century it proved an effective system. But when the American colonies were lost, "Old Corruption" came to be blamed as a way to underscore progress. What was called "Economical Reform" and what we might style "anticorruption"—an assault on the luxuriant expenditure of patronage to secure political support—was the consequence. In that context political parties and the development of the idea of the legitimacy of "His Majesty's Opposition" led to institutionalized watchfulness and denunciations of anything that seemed like corruption, not least when scandals were publicly revealed. Doyle endorses Philip Harling's wry observation that the clamor against Old Corruption "was never more loud than when the thing itself was rapidly disappearing."[28]

Doyle's model of the initial triumph of Old Corruption is very much a top-down model. Viewed from the perspective of supplicants, however, such posts appeared as a reliable source of income, and ambitious young men, not least those trained in

the law, might well lobby for such appointments. A good deal of the momentum of patronage came from below, a point that deserves to be heavily emphasized. And that is what was behind Namier's remark that "corruption was not a shower-bath from above, constructed by Walpole, the Pelhams or George III [I might add Henry VIII or Elizabeth or James I], but a water-spout springing from the rock of freedom to meet the demands of the People." (And, by "the People", Namier no doubt did not intend the poor commons but nonetheless a large political nation, including those who might turn out at the hustings on election day.) "Political bullying," Namier added, "starts usually from above, the demand for benefits from below."[29] It was most often the supplicant who initiated the search for patronage. That was certainly the case in sixteenth-century England. The death or fall of a minister or courtier stimulated shameless requests for appointment to now vacant posts. And that has implications for any consideration of anticorruption. If a significant group saw patronage as an opportunity rather than as a problem, the absence—while Old Corruption seemed to be working—of any significant measures of anticorruption is readily understood.

CONCLUSION

Namier's invocation of the "rock of freedom" suggests that he saw such a positive interpretation of corruption in broader constitutional terms.[30] Perhaps Namier also had in mind the impact on his family of the Russian revolution and communist totalitarianism. A society in which bribery is possible is in some senses freer than a totalitarian society in which governments control all. Bribery, it seems, secured the release of my mother from a Gestapo prison in Prague 1940.[31] Bribery is a mechanism; sometimes—perhaps especially in illiberal or totalitarian societies—it can lead to a good outcome.

Just as "anticorruption" is a hooray-word, so "corruption" is a boo-word, too often unthinkingly deployed as a term of abuse. Its employment implies that there are more honest and open and meritocratic and effective societies than early modern England, and, especially, that in the western world we now live in such societies. Such assumptions underlie much contemporary "anticorruption" writing but those assumptions need to be teased out and proved. Is the scope for corruption actually much greater in the modern world (I think of infrastructural projects involving governments and private contractors, of rich international companies able to offer politicians and civil servants rewards far greater than their salaries) than a simple model of beneficent modernity and carefully calibrated anticorruption policies vanquishing evil corruption would suggest? As the Introduction to this volume suggests, corruption is too readily presented as a sickness. Perhaps it is a symptom, rather than the underlying cause, of any illness; corruption and patronage were (and are) in many senses attempts to make things work. Did and do corruption and patronage make societies poor? Or is it in poor societies that corruption and patronage are more likely to be found? Is anticorruption necessarily

to be thought of as positive and as effective? Maybe it is more constructive to see corruption more as a reflection of, and a creative response to, the human condition as men (and women), and companies and corporations, strive to live within political societies and resolve their disputes over wealth and power. Patronage and the giving of gifts have, after all, been with us much longer than modern bureaucratic states and certainly longer than modern notions of anticorruption.

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9

A Sick Body

Corruption and Anticorruption in Early Modern Spain

Francisco Andújar Castillo, Antonio Feros and Pilar Ponce Leiva

INTRODUCTION

In his timely work, *Corruption: Ethics and Power in Florence, 1600–1770* (1984), Jean-Claude Waquet predicted that because corruption was "difficult to classify," its future in historical research would be very limited: "It will no doubt continue to appear on history's stage," he wrote, "but it is unlikely to become a leading figure."[1] In evaluating historiography on the early modern Spanish monarchy, Waquet seems to have been correct. Few historical studies on corruption appeared during the Franco era—perhaps for fear that the regime would see such studies as commentary on their own crimes—and the few scholars who did study corruption did no more than apply traditional concepts and frameworks. Or to put it differently, twentieth-century Spanish historians tended to view the early modern period as a time when corruption ran rampant, and was—as the Catalan historian Jaume Vicens Vives wrote in 1960—the very foundation of the system itself: "la fraude erigée en système."[2]

There was not much change in the period following the death of Franco and the establishment of democracy in the late 1970s. Perhaps the best example of this historiographical continuity emerged from the pen of Horst Pietschmann, a German historian and specialist in the history of Spanish America. In 1982 he published an article on corruption in the Spanish American territories (known as the Indies in the early modern period), which he subsequently revised according to the changing climate of historiographical debate, defending the idea that corruption was so ingrained in the early modern politico-institutional system that all modernization projects proposed by the Bourbon regime in the eighteenth century were destined to fail.[3] Corruption in the Americas, he argued, was not only a result of attempts by local elites to prevent reforms that diminished their power; it was also an instrument of the state apparatus itself, which depended on these mechanisms to secure its own influence. Perhaps more important is that among historians who have analyzed the theme of corruption in the Spanish colonies in America, the majority suggest not only that corruption was a central foundation of the administrative system, but that neither the monarchy nor the local authorities had any intention of eliminating or

even significantly controlling that corruption.[4] The collective effect of these works, or of many of them, has been to create a prevailing view among historians that early modern Spanish America, more than the peninsula, was the key locus of corruption, and that corruption was so rooted in the system that it has persisted into the present day.[5] This view has even had a great influence on political scientists and economists that try to explain the "success" and the "failure" of other countries on different performance indicators.

What seems curious is that historians of the Spanish monarchy have not afforded much attention to the theme of corruption in the peninsular territories of the monarchy. Monographs dedicated to what in the most general sense we could call the history of corruption in early modern Spain are very few, and almost all discuss corruption as only a part of the analysis of certain important seventeenth-century political actors (the Duke of Lerma and his favorite Rodrigo Calderón). Other studies discuss the situation among local authorities (as in the case of Córdoba analyzed by José Manuel de Bernardo), or graft during the reign of the first Bourbon king, Philip V (1683–1746), such as that by Santos Madrazo.[6] The dramatic persistence of political corruption in modern Spain, under various Socialist governments—but especially under governments led by the conservative Partido Popular (PP)—and even among members of the royal family, had moved some historians, such as Alfredo Alvar in a work on the Duke of Lerma, to claim that corruption is a kind of permanent Spanish disease that no regime had been able stop or change. His main thesis is that systems of corruption in the Spanish world were, and are, introduced by governing officials themselves and that these systems have persisted into our own day.[7] There are even fewer works on the processes and politics of anticorruption. Here the explanation is clear. The belief that corruption is not only persistent but above all an essential part of the system has led many historians to not only deny the need to investigate the legal and institutional processes used to control and combat corruption, but also to see these processes and institutions as merely providing window dressing for certain powers that saw themselves as profoundly benefitting from the existence of corruption.

There are, however, clear indications that the situation is changing, at least in Spain. In recent years several more studies have appeared, although no one has attempted yet to synthesize and analyze the larger body of scholarship and the growing amount of information now available. These new works have adopted a broader vision of the phenomenon of corruption and have diversified their source base. Alongside texts of political theory, they are adding the works of humanists and moralists, administrative (reports, letters to the king and his councils) and notarial (especially wills) records, but also sacred oratory texts, texts of moral guidance, trade manuals, speeches, sermons, courtly literature and plays. Indeed, any public act or symbol, could be used in the period to spread the critical message of bad government and the illegal activities of ministers and officials, as can be seen in the sermons, emblems, burial markers, eulogies and triumphal arches all across the Spanish Monarchy. The main goal of this new approach to corruption and anticorruption in the early modern Spanish Monarchy, is to analyze the variety of discourses and symbols contemporaries used to explain their world—concepts

such as public, private, duty and favor—and whether new understandings of "the state" made people believe that corruption ("corruption of the state and public good") was rampant already in the seventeenth century.[8] The argument is that the ample attention paid to corruption in so many different sources is not only a sign of a thoroughly corrupt regime, but also of a system of preventions and of a political culture that tried to understand corruption. In addition, this contribution explores what different forms of corruption the Spanish were aware of and how they tried to control it in different ways.

CORRUPTION: CONCEPTS, PERCEPTIONS AND PRACTICES

One of the major historiographical debates of recent years, in Spain and elsewhere, has focused on whether it is appropriate to use the term "corruption" to analyze early modern societies. In an article published in 2012, for example, Mary Lindemann reminded her readers that "the question of what corruption meant in early modern Europe is a thorny one."[9] One of the reasons, she insists, is that the "intermingling of the private and the public realms in early modern times likewise has bedeviled attempts to create a working, or even heuristically valuable, definition of corruption."[10]

As in many other similar cases, scholars have turned to dictionaries of the period in an attempt to reveal whether early modern Spaniards had a clear consciousness of the meaning of corruption as they evaluated a series of activities that from our perspectives would be considered corrupt. Historian Michel Bertrand, for instance, has shown that in Spanish, as in French, at least as early as the seventeenth century, one of the clear senses of corruption was precisely political corruption, or "bad government."[11] By contrast, in Spain, in the famous *Tesoro de la Lengua Castellana o Española* by Sebastián de Covarrubias, published in 1611, the term "corruption" did not yet seem linked to questions of political administration. Rather, the verb "to corrupt" had several meanings: for example, "to corrupt a young woman," as well as "to corrupt judges, to bribe them."[12] The definitions of "corruption" and "to corrupt" did, however, appear more clearly fixed in a dictionary prepared by the *Real Academia de la Lengua* (1726). Here the definition of "corrumpir o corromper" is taken to mean "All men that corrupt another by begging, or by giving, or that promise by some trickery to give false testimony, he who corrupted him, and who said false things, shall have the appropriate punishment." Again, the notion of corruption as mainly relating to governance was not yet clearly defined, and would not be until well into the twenty-first century.[13]

The question here is not so much whether or not "corruption" in the early modern era existed as a clear concept; instead, the point is to understand the concepts used by early modern Spaniards to explain a series of practices that were clearly against the common good and the interests of the state—and sometimes explicitly called corruption—and what was done to curb them, as will be discussed later in this chapter. There is no doubt that one of the reasons why political

corruption was so difficult to identify and classify is precisely because of the nature of the political structures of the period. Although perhaps it might seem obvious, it is important to note once again that when speaking of early modern monarchies, and of public duties, we are not speaking of the modern state. The Italian historian Giorgio Chittolini reminded us of this in 1995, when he defined the early modern state as one constituted by,

> [A] marked pluralism of bodies, estates, and political nuclei within the state itself, each of which has claims to authority and power; by a limited capacity and desire to act on the part of the central government and public agencies; and even by a certain institutional inclination to limit their own prerogatives and recognize instead separate and particularized forms of political organization.[14]

Even more important is his idea that practices that we now call "corrupt" had been "ingrained" in the officials of the period because the state was "a system of institutions, of powers and practices, that had as one of its defining features a sort of programmatic permeability to extraneous (or, if one prefers, 'private') powers and purposes while retaining an overall unity of political organization." Trying "to sort out the elements that might be called 'private' or 'public' in a modern sense," he warned readers, "would run the risk of generating anachronisms, for the demarcation line between the two concepts was not yet drawn according to the political geometry of absolutism."[15]

William Jordan is right when he claims that, since the thirteenth century, European monarchies created "the essential foundations of the centralized state," but that the main function of these institutions was primarily to help protect and administer the king's interests. This is also the case in early modern Spain. Royal officials obtained their positions as part of the king's right to patronage or by purchase; under these conditions they were all, whatever their position in the administration, servants of the king and therefore they were obligated to be loyal to the king, to protect the king's state and to help him administer justice to his subjects. They were not civil servants required by law to serve and protect the commonwealth and the state. This is why in almost all the cases of royal officials found guilty for receiving bribes or other crimes, the officials in question were in general accused not of "corruption" but of usurping the king's authority, of appropriating and privatizing the king's patronage and of perverting the king's justice.

The early modern period, however, also witnessed the surge of a new meaning of "state," accompanied by a revival of classical concepts of public good and public service. Although the topic has not been deeply studied in the Spanish case, by the second half of the sixteenth century "state" started to be defined not as the king's domain, but as "the institutions of government, and thus to a distinct apparatus of power."[16] Together with this view came the recovery of classical theories about the centrality of the "common good" and with it the idea that, from the king to the very lowest of the royal servants, all were obligated—if not by law then certainly by moral and ethical philosophy—to defend and serve the common good.[17] In a text published in 1559, for instance, political writer Fadrique Furió y Ceriol gave as the "ninth" quality of good councillors "that they not only love the public good, but also that in procuring it they forget their own benefit and reputation, in such a way

that where he can benefit the common good, the Councillor should employ all of his efforts and diligence, even if in so doing he does damage to his own fame, life and possessions."[18] Pedro de Valencia, a well-known humanist who in time became Royal Chronicler under Philip III (1598–1621), also made the king and all royal officials responsible for protecting the commonwealth. He warned of the danger posed by those ministers and servants who intended to serve and view the king as "a private, rich and powerful man," and not as a public persona, the main protector of the public good and promoter of good government.[19] The clearest attempt by the monarchy to conceive of the ministers and officials as servants of the public good, however, was the order of Charles II to all royal ministers in 1677 stating that,

> [N]eeding so much to placate the divine anger in all things that might encourage it, and given that corruption and the lack of integrity of the ministers is one of them, I have desired to prevent them and to remind all the Councils, that the great obligation incumbent upon subjects is to commit to behaving themselves on this point with the correctness that they should, as Christians and as my ministers.[20]

Perhaps the most important conclusion we have to extract from this royal order, however, is that during the last years of the seventeenth century, state authorities began to use the term "corrupción" (corruption) to subsume a whole series of well-known political and administrative malpractices.[21]

ANTICORRUPTION: CONTEXTS, FUNCTIONS AND MODALITIES

As in the majority of cases from early modern Europe, it is difficult to ascertain whether anticorruption is an appropriate lens for viewing the early modern Spanish administration's response to political and administrative malpractice. We do know that contemporaries wrote about the most famous cases, and in general seemed preoccupied with the quality of the administration of justice and the government. It is, however, difficult to ascertain whether they believed the rulers did all that was necessary to protect the commonwealth, or whether it was possible to extract general lessons from some of the most particularly grave cases. The historian and philologist Bernardo José Aldrete expressed this sentiment in 1619 in a letter to his colleague, Cristóbal de Aybar, explaining that the crimes of Rodrigo Calderón—the powerful favorite of the Duke of Lerma—were so many and public that in this case it did not seem that anything or anyone could save him (Calderón went to trial in 1621, accused of murder and corruption, and was publicly executed a few months later). But he also asserted that this punishment was not issued "for the health" of the commonwealth or to create the conditions which would prevent this type of behavior in the future; rather, it was done for the pure "punishment of those who with little fear of God and their consciences" had allowed themselves to be corrupted.[22] What we know, however, is that anticorruption policies became central to the political process at several moments during the seventeenth century, and especially during the ministry of the Count Duke of Olivares (Philip IV's royal

favorite and prime minister from 1621 until 1643). Olivares in particular made the fight against corruption a central element of his reformist program, mainly because he believed political corruption was driving the monarchy into decline.

Responses to corruption in early modern Spain depended on context. During the sixteenth and seventeenth centuries there was no clear definition of corruption; however, legislation, as well as contemporaries' commentaries, attest to the fact that there were many practices that could be considered corrupt or examples of bad government, that could be punished by the courts. For example, charge 34 against Alonso Ramírez de Prado, prosecuted and imprisoned in 1607, stated that, "being the essence of his office to keep his hands clean (*limpieza de manos*), abstaining not only from that prohibited by the laws as detestable vices, but also from anything that could cause" others to suspect that so high a minister could be open to being corrupted, "he received from all types of persons things to eat and drink, medals," clothes and many other things and goods.[23] The same breadth of crimes was included in Book II of the *Compilation of the Laws of the Indies* (*Recopilación de Leyes de Indias*), including those of "receiving gifts or presents from anyone, loans of money, things to eat, advocating for or receiving benefits of legal arbitration," as well as attending "betrothals, burials, weddings, unless it were very necessary; or visiting any neighbour for personal reasons."[24]

There were also institutional mechanisms that the monarchical state developed to combat corruption. These included *juicios de residencia*, a wide range of *visitas*, the *pesquisas*, the sending of *jueces de comisión* (commissioned judges), the obligation to create inventories of personal wealth before assuming (or leaving) an office; the prohibition of those with outstanding debts in fines from receiving new offices and the freedom of any subject to denounce what they saw as an abuse or a crime by any royal official. These mechanisms were implemented with more or less continuity and efficacy to guarantee the proper administration of justice and maintenance of the public good. Leaving aside the relation between such measures and the works published in Spain throughout the sixteenth and seventeenth centuries by jurists, moralists and other renowned authors who gave social or ideological meaning to political action, one finds a tight link between, on the one hand, the fight against corruption and, on the other, the development of a structured administration, of reformist policies and of mechanisms the crown used to secure resources.

Although all the territories of the Spanish Monarchy were subject to these controls, it was in America that they were implemented with the greatest intensity and consistency, as the massive amount of conserved documentation attests.[25] While the *juicio de residencia* in Castile fundamentally affected the *corregidores* (provincial officials) and *alcaldes mayores* (local officials) until the seventeenth century, in Spain's territories in the Americas all officials were subjected to these controls, from the viceroy to the *alcaldes mayores*. This remained the case until the beginning of the processes of independence in the early-nineteenth century. The evidence that anticorruption methods were applied, or were intended to be applied, more rigorously in America than in the Spanish dominions in Europe is often presented to support the argument that corruption was a widespread phenomenon there. Historians supporting this thesis have usually attributed this situation to

distance, among other factors. Contemporaries, however, believed that the problem was not so much distance as the possibilities for enrichment offered by the colonies in America. Everybody in the Spanish world knew that the main reason to migrate to the Americas was the possibility of social advancement that they found there. In the case of Spanish America in particular, there was not only availability of land and labor, but also mineral wealth in gold and silver, along with internal (intra-American) and external (intercontinental) mercantile circuits offering possibilities of enrichment to those who did not have personal or family wealth. In this context, colonial officials did not enrich themselves by the wages they received, but by the opportunities of lawful and illicit business that America offered.

Developed during the Middle Ages, and with legal precedent in Roman law, the *juicio de residencia* was maintained as a primary means of regular control. It was the most utilized mechanism, used more commonly in the Indies than in Castile. The *juicio* consisted of an evaluation of the activities of a king's agent during a specified period of time and was usually completed by the person who had been designated to replace the investigated official. Such a measure was intended to ensure that representatives of the king fulfilled their existing legal duties and sought to ensure "good government." In the economic realm, this meant that they would not commit embezzlement or other abuses, take bribes or engage in "bad procedures" in general.[26] Every *juicio de residencia* was composed of a secret part, in which the conduct of the official was investigated, and a public part, in which individuals in the official's jurisdiction were allowed to present complaints and denunciations against the official. The *juicios de residencia* not only served to control the governing action of the official investigated, but also that of all the officials under his jurisdiction (especially in large and distant districts, which were more difficult to supervise because of geographical distance). This was the case, for instance, with the *juicios de residencia* conducted in 1774 on the government of the Captain General of Cuba, D. Antonio María Bucareli, which resulted in the condemnation of the Bucareli and many of his collaborators (although the judge's actions were much less rigorous against them).

In order of importance, the second mechanism of control over the king's servants was the *visita*, which referred to the inspection of an institution (whether of the treasury or a court of law). *Visitas* were usually conducted periodically—although without defined regularity—in order to investigate the performance of the royal officials serving in those institutions. Despite having the same objective as the *juicios de residencia*, the *visitas* were in many ways different; they could be carried out at any time, not only at the end of each official's mandate; those affected could continue to exercise their duties while the investigation was ongoing (except by express order of the official in charge of the *visita*); the testimonies received were to remain secret and anonymous; the investigation had no established time limit (and thus could take as long as necessary); and they judged the present as much as the past managerial performance of each public official.[27]

The *visitas* could be of a general or a particular character. The former were conducted on an institution while the latter—the particular ones—were usually secretive, were conducted through private initiative (very similar to a *pesquisa*) and

could ultimately end in the separation of ministers from their offices.[28] In America, the general *visitas* aimed to determine the state of the territories and the most distant towns—although, like the individual *visitas*, they were always motivated by news of abuses or embezzlement.[29] The use of general *visitas* reached a peak in the first decades of the reign of Philip IV, at the beginning of the government of the Count Duke of Olivares, a period that was characterized by an intense reformist and moralist agenda at the royal court in Madrid. This context explains the emphasis placed by the Council of Indies after 1621 on determining first-hand the excesses committed in the districts of the American *Audiencias* (high courts of appeal), complaints about which were accumulating in the Council's archive. As a consequence, after some doubts and reflections, in September 1621 the Council of the Indies presented a report to the king calling for four simultaneous general *visitas* to be sent to the viceroyalty of Peru.[30] The interesting aspect of these inquiries is that their object was not only to inspect the courts of justice, but practically all of the viceroyalty's administrative institutions—a decision much debated in the Council of Indies. In addition to these four *visitas* in Peru, the king, at the request of Olivares, ordered another one to be carried out in New Spain in 1624.[31]

It was in this context that *visitas* and various other controls were exercised at the Treasury Council—the epicenter of the crown's financial administration—where embezzlement and theft could most easily prevail. The *visitas* conducted at the Treasury Council in the sixteenth and seventeenth centuries were not merely aimed at evaluating the level of honest and responsible management of public funds by the Council's numerous employees; rather, they had a triple objective: first, to correct possible abuses committed by councillors, accountants, treasurers, scribes and other personnel managing the treasury; second, to increase the holdings of public coffers through improved management; and, lastly, to adopt measures to reform the fiscal system. To all this was added the benefit the royal treasury could accrue from the money it might recover by unearthing embezzlement and imposing penalties on officials accused of corruption. Indeed, the level of embezzlement and fraud in the management of public funds developed to such a degree that *visitas* conducted at the Council of Finance became institutionalized in the second half of the seventeenth century through the creation of a *Junta de Visita del Consejo de Hacienda*. This institution was composed of members of other Councils assigned the task of evaluating the performance of all Treasury Council personnel.

Some of the *visitas* of the Council of Finance were extremely harsh. This was the case, for example, of the *visita* to the Treasury Council in 1596, which resulted in the meting out of diverse punishments against 74 ministers (indeed, only three of the 77 investigated were declared completely innocent). The majority of the charges were related to accepting gifts from people conducting business with the Council; appointing family members to fill Council positions; buying and selling offices; and delaying the payment of salaries in order to profit from interest. These cases were very similar to the charges made against many viceroys of the Indies during the seventeenth and eighteenth centuries: permitting the illicit commerce of foreigners in return for money; skimming money from late payments for personal benefit; selling political and judicial offices before this practice was legalized; and

inventing imaginary expenditures. The evidence of corruption extracted by these *visitas* is so great that it will take years for historians to complete an accurate general assessment of the political-administrative situation in early modern Spain.[32]

Lastly, the *pesquisa* was another procedure utilized when a complaint had been previously registered. It was used to determine criminal liability as it was linked to the commission of offenses under criminal law. Unlike the *juicio de residencia*, which was conducted after one's term of office had concluded, the *pesquisa* was carried out while an individual was still in office. As with other procedures, we should distinguish between general *pesquisas* and special *pesquisas*—the latter of which were motivated by reports of concrete criminal acts made known by a registered complaint or another investigation. The general *pesquisa*, on the other hand, functioned as an instrument that facilitated regular overviews of the state of justice anywhere in the domains of the Spanish monarchy. It was fundamentally a limited procedure intended to control judicial offices and investigate possible criminal acts committed by royal officials.

Many of the systems that attempted to regulate the exercise of public office originated from the informal mechanism of the complaint. Complaints of abuses and excesses committed by governing officials consisted of a *denuncia particular*, which is to say, a complaint of malpractice committed by an agent of the king made to superior authorities by an individual or group of individuals. A good example would be the case of the Count of Castellar, viceroy of Peru, who was found guilty of distributing offices to his relatives and clients, and was deposed in 1678. In fact, it is more accurate to say that his tenure was not extended for another three-year term due to complaints made to the Council of Indies of the "excesses" he had committed during the first years of his mandate. The Council's decision, ratified by the monarch, was based as much on "written letters" to the Council of Indies itself as on letters to its president "and on other papers and testimonies" presented by individuals complaining about Castellar's overall malpractices.[33]

CORRUPTION SCANDALS AND ANTICORRUPTION MEASURES

Sixteenth- and seventeenth-century inhabitants of the peninsula were shaken by a series of scandals that affected the most important figures during Philip II's reign (1556–98), Philip III's (1598–1621), Philip IV's (1621–65) and Charles II's (1665–1700). During Philip II's reign, public debate, and ultimately official prosecution, affected the two most powerful royal secretaries, Francisco de Eraso and Antonio Pérez. In Philip III's reign those investigated were Alonso Ramírez de Prado, Pedro Franqueza and Rodrigo Calderón—all clients of the Duke of Lerma, Philip III's prime minister and royal favorite. Lerma himself was also prosecuted on charges of corruption after Philip III died in 1621 and was succeeded by Philip IV. Lerma and many of his relatives, allies and clients were harassed by the favorites of Philip IV, especially the famous Count-Duke of Olivares, who, beginning in the 1630s, and culminating in 1643, was together with his clients also investigated and

accused of corruption, everntually losing his offices, benefits and wealth acquired while in office.[34] During Charles II's reign, several royal favorites (along with some of their clients, and even their wives) were accused and persecuted of corruption: Fernando Joaquín Fajardo, marquis of Vélez, along with his wife and his secretary, Manuel García Bustamante; and Ana María Luisa Enríquez de Ribera Portocarrero, wife of Juan Francisco de la Cerda Enríquez de Ribera, the duke of Medinaceli and Charles II's favorite until 1685.

These famous cases of corruption were objects of public debate in which publicists and theologians competed to design means aimed at controlling and correcting what everyone saw as bad government and corrupt officials. Almost all the reports advocating governmental reforms in the seventeenth century included discussions about corruption and its persistence, envisioning the monarchy as a sick body. News reports published in various parts of the peninsula and many of the letters that have been preserved discuss at great length the theme of bad government and comment on the most paradigmatic cases of corruption.

This widespread interest explains why in certain moments the monarchs adopted anticorruption policies precisely as a response to public criticism of corrupt ministers and officials. Such was the case of Philip IV, who, in response to what was widely seen as the complete degeneration of the monarchy under Philip III, ordered that all ministers and officials present a declaration of goods and properties upon receiving their office, as well as at the end of their mandate. We know much about the process that led to these decisions. A royal decree from 14 January 1622 ordered that all those officials who had served since 1592 provide a report of their patrimony. On 21 January 1622, the crown made public the declaration form all officials were required to complete. A few days later, on 1 February 1622, the crown ordered that officials with municipal positions in cities should also complete these inventories and, on 21 February 1623, the law was extended to all public offices in Portugal and its overseas possessions. Philip IV justified these measures by indicating that they were necessary to restrict human greed—the true origin of corruption, as he saw it, which was not the result of a lack of laws or of anticorruption measures. This was also the opinion of Alonso de Cabrera in a report from January 1622, in which he explains that,

> [T]he primary end for which His Majesty has ordered these inventories is to know which ministers have served with greed and which have served cleanly, in order to punish the former in the manner which seems best and so that the others [the latter] serve Your Majesty with more trust and confidence.[35]

The Marquis of Gelves, viceroy of New Spain and a loyal follower of the Count Duke, brought this reformist and anticorruption energy to the Indies by requiring that all officials in New Spain fulfilled immediate reports of their patrimony. The measure even affected those initially not obligated to complete the inventory, which meant that among some populations of New Spain almost all legal residents were required to complete them.[36] None of the inventories from Peru or other regions of the peninsula have been preserved. Historians suspect that they were never written, in clear opposition to the royal decree. And Philip IV himself complained in 1627

that the committee charged with helping reform the monarchy was doing nothing about the issue.[37]

There is no doubt that many of these cases resulted from political or factional conflicts at the Spanish court, aimed at gaining the king's favor and power. Anti-corruption policies served not only to persecute political opponents; they also provoked public debates regarding good and bad behavior in the political-administrative world. Anticorruption was in many senses a symbol of integrity and clean hands, of good governance.

PUNISHMENT AND RIGOR

Those who were accused of corruption in many of the more famous cases—Eraso, Pérez, Ramírez de Prado, Franqueza, Calderón, Lerma, Olivares and some of their clients—were punished by losing all their offices. They were also sometimes imprisoned, at least one of them (Calderón) was executed, two were exiled from the court (Lerma and Olivares) and some lost also wealth, lands and rents acquired during their years in power.

This contrasts the case of the *visitas*, *pesquisas* and other inspections. In general, the penalties that resulted were minor and the sentencing was followed by a process of negotiation that permitted, in the majority of cases, a reduction of the penalties and fines. These types of resolutions (or, better yet, the limitations in the struggle against corruption) have attracted the attention of many historians and created a sense of pessimism, which sees anticorruption as generally ineffective because none of the measures taken really attacked the true root of the problem. The debate over the efficacy of *visitas* and *residencias* is as old as their own existence and has generated a certain degree of controversy. From as early as the seventeenth century, there are both dispositions from royal favorites and councillors advocating in their favor and numerous reports from authorities in Spain and America that highlight their limited usefulness (given the high degree to which they were manipulated) and, above all, their dangerous consequences. Views among contemporary researchers are also mixed. Some argue that the archival evidence shows without doubt that sentences lacked force, while others argue that penalties, fines and even prison sentences imposed on guilty officials demonstrate a certain rigor in punishment.

Historians who see corruption as part of the system, or as something that permitted the system to function, believe that the lack of rigor in the persecution of corruption is due simply to the fact that the monarchy also benefited from corruption, arguing that public powers were open to sharing in the benefits of corrupt acts by imposing on them pecuniary penalties, which they secured after years of litigation and negotiation. Yet, before providing a judgment on the efficacy or uselessness of these measures, it would be useful to ponder over what was expected from them and the mental universe in which they were prescribed. With due caution, it is worth considering that, at least in relation to America, the mechanisms of control, and of dominion, were conditioned by negotiation, the most effective practice of government the Spanish Monarchy possessed in the

sixteenth and seventeenth centuries. Such negotiation was not explicit but effectively implicit in the relation between king and subject. The *visitas a la tierra* carried out by judges of the *Audiencias*, for example, offered indigenous peoples legal tools to demand justice for what they considered to be the excesses of *encomenderos* and miners at the beginning of the seventeenth century.[38] The practice demonstrated that the more intransigent and less flexible the *visitador*, the worse the results they obtained since *visitas* were also spaces of negotiation between structural parts of the system, conducted in order to obtain information about the terrain and, if possible, introduce reforms without the need to administer exemplary punishments first.[39] As demonstrated by the resistance Philip IV faced after ordering the declaration of goods and property, one process we should take into account is precisely the monarchy's fear of offending elites and public officials. We know that on many occasions monarchs decided not to take measures against the ministers of a certain institution for fear of creating more serious political problems.

Forgiveness was always an option by way of pardons (*indultos*) and fines. And, in this sense, it is questionable whether with these mechanisms the Crown was really able to tackle and prosecute actions of bad government by its servants, or even obtain a true sense of the degree of fraud and corruption present. The question also arises—and is worth investigating further—as to what role fiscal concerns and interests played in the granting of pardons, in the Indies as much as in Spain. Take for example the pardons conceded to agents of the king in America: namely, to provincial and local officials, provincial governors, treasury officials and magistrates of the *Audiencias*. These various pardons were usually sustained by either the American justice tribunals themselves or by the commissioned judges sent from Madrid. The idea was not to repress these officials' fraudulent practices, but rather to force them to agree to pay fines, and thereby obtain additional income for the treasury.[40] This was the case, for example, with Diego de Vega, a Portuguese based in Buenos Aires, who in 1615 was accused of 38 crimes including fraud, illicit trading in silver and gold on land and at sea, concealment and usurpation of royal rights. He was sent to prison and fined 128,000 pesos. After various appeals the total was reduced to 18,000 pesos, Vega was set free, and was even allowed to return to his business as a merchant. As another example, in the *visita* conducted at the House of Trade (*Casa de la Contratación*) in Seville that begun in 1643, many officials were found guilty of corrupt practices. The large majority received amnesties, however, or saw their punishments reduced to the minimum sentence in 1656. A similar outcome occurred after the *visita* to the Seville Mint (*Casa de la Moneda*) in 1664, in which, after the issuing of numerous sentences, the guilty were all pardoned after they paid various sums to the Royal Treasury.

CONCLUSION

Waquet's conclusion after analyzing similar attitudes, decrees and prosecutions is that "the repressive discourse came to nothing." The *ancien régime* state, he argues, was weak and lacked the capacity or will to punish and, above all, end these types of

behaviors. "As for the rules the state decrees," he writes, they failed in "modifying the framework of corruption, leaving corruption itself intact." For him, the problem was not that early modern rulers did not have the will to impose these limitations, but that the "eradication of evil . . . does not fall within the scope only of public authority. It also depends on employees, and in the end it is they who must penetrate the meaning of transgression and of duty. From this point of view, the state is at the mercy of those who serve it."[41]

We are not sure that it was so simple. Although more research is needed, it does seem as that, despite the various defects of the anticorruption policies and procedures, and although the state was never able to fully judge or punish alleged crimes committed by royal officials, the anticorruption measures passed during this period did at least create a certain fear among agents of the king that they might become the object of an investigation. The very existence of the *visitas*, *residencias* and *pesquisas*, contributed to maintaining a certain degree of honesty among many members of the king's administrative hierarchy. And although these measures were not able to achieve all of their objectives, they did at least ensure that abuses did not acquire even larger proportions.

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10

Corruption and Anticorruption in France between the 1670s and the 1780s

The Example of the Provincial Administration of Languedoc

Stéphane Durand

In seventeenth- and eighteenth-century France, the struggle against corruption within royal and local administration took place at every level of what was reputed to be a highly centralized state apparatus. In this paper, I will consider especially the intermediary level of provincial administration, which provides, in my view, a particularly good vantage point from which to observe the efforts of the French state to deal with corruption. Certain documentary collections in the C Series of France's departmental archives preserve the records produced by provincial administrators, which include the dossiers compiled as a result of their attempts to fight malversation in the administration of the French provinces. The information that we can obtain from these dossiers must be analyzed with care, however, as it gives us an incomplete image of corrupt practices and anticorruption efforts, and this mainly for two reasons. The first is that it allows us to see only a fraction of the cases of corruption that were dealt with judicially. The majority of those cases must be looked for outside the C Series, in the main judicial collections, and in order to unearth them one would have to comb through hundreds of cardboard boxes full of uncatalogued records.[1] The second reason is that some instances of corruption must have simply escaped prosecution and left no documentary trace.

The C Series contains the records left by the royal commissioners known as *intendants de police, justice et finances* or simply *intendants*. These royal officials were charged with setting up inquiries into corruption, according to a special procedure, and with investigating them before sending the relevant dossiers to the *Conseil d'État* for judgment, unless the king had given them a mandate to judge the cases themselves. Unfortunately, the *intendance* records do not cover our period evenly, the eighteenth century being much better documented than the seventeenth, when the office was originally created. On a national scale, however, the total number of records is quite large, so I propose to focus here on those left by the *intendance* of Languedoc—the largest province in the kingdom. They are kept at the Archives

départementales de l'Hérault, with the shelf marks C 1 to C 5974. The dossiers C 1118 to C 1370 comprise the decisions of the *Conseil d'État* empowering the *intendant* to rule on a variety of matters[2] as well as all relevant court records: hearings, settlements, letters, requests, copies of judgments from other courts, seized documents and so on. The *intendant*'s judgment is often missing, however, either because it was lost or because the judgment was delivered by the *Conseil d'État*.

These dossiers, which cover roughly the period between 1679 and 1789, are mostly not about corruption. They deal with various sensitive and complex matters, some of which demanded a quick solution, ranging from soldierly violence to the replacement of financial officers or the hearing of such cases as that of a man accused of climbing over a convent wall, impregnating one of the boarders and hitting a lay sister with stones.[3] However, "malversations," "prévarications" and "concussion" (the word "corruption" is never used) were effectively within the remit of the *intendant*. Twenty-six cases, and as many dossiers, fall under these categories, a modest number for a province made up of 2864 communities.

The examination of these different dossiers shows, firstly, a phenomenon that was very diverse in its forms and a governmental response to it whose vigor depended on the unique way it was administratively and judicially handled. Second, the influence of the Enlightenment on the problem of corruption throughout the eighteenth century seems to have been all but imperceptible. Third, the more political aspects of corruption cases appear to have been more or less immune to incrimination.

THE VARIOUS FORMS OF LOCAL AND PROVINCIAL CORRUPTION

Corruption appears under various forms, depending on the social or professional background of the person being charged. Based on the twenty-six dossiers mentioned above, six social and professional clusters seem to have been particularly relevant.

Royal notaries, who were in charge of recording deeds of sale, wills, marriage contracts etc., are especially numerous in our sample.[4] They were accused of concealing the registration of deeds from the *bureau du contrôle des actes*, a tax office responsible for monitoring the issuing of such deeds and collecting the fees due to the king through a private administration called the *Ferme Générale*. This represented an indirect loss for the king, but we have no way of knowing if the individuals on whose name the deeds were registered were the notaries' accomplices and benefited financially from their fraud.

The officials of the *Ferme Générale* also appear in great number in the *intendance*'s dossiers. Being responsible for collecting various taxes entrusted by the king to the company of private financiers known as *fermiers généraux*, they sometimes "forgot" to register what they collected, or reduced its value by concealing the real nature of the deeds—"a sort of malversation that can only be seen as premeditated robbery"[5]—or engaged in activities that were incompatible with the office they held, such as trading in the very goods they were supposed to tax.

Next, the different employees of the provincial mint (the *Hôtel des monnaies* of Montpellier)—be they engravers, *juges gardes* or controllers—were charged with stealing hallmarks, which allowed them to counterfeit coins. This was, as we know, a particularly serious crime. Before being entrusted to the *intendant*, this type of crime was under the jurisdiction of a special royal court, the *Cour des Monnaies*, the judgments of which could not be appealed.

The clerks of the communities, less numerous in our sample, show us a further type of corruption at the local level. Elected by their fellow citizens to draw up deeds for the community (and therefore elected municipal officials), they were prosecuted for embezzlement of public money and for what might be called conflicts of interest in the exercise of public functions. The inspectors of the manufactories form a rather more discrete group within our sample. Considered quasi-public officials at the service of the French king, they were expected to supervise the activity of manufacturers and to provide them with counsel, in line with the state economic policy designed by Colbert and adopted by the Bourbon kings in the seventeenth century. Some of the inspectors were accused of extorting money from the manufacturers by threatening not to certify the goods they produced, thus supplementing their wages with illegal fees.

We must finally consider the isolated but quite extraordinary case of the military officer and fortifications engineer Darles de Chamberlain, who was accused of tampering with measurements ("toisés mensongers") in order to hide the fact that some of the works which had been paid to the contractors had actually not been completed: a practice very similar to that of false invoices.

From the examples above, a mere twenty-six *intendance* dossiers yield a broad spectrum of corruption practices involving a variety of public or semi-public officials: hereditary royal officials (notaries), elected local officials (clerks), government civil servants (inspectors of the manufactories) and employees of a private company working for the king (the officials of the *Ferme Générale*). Some were accused of defrauding the royal treasury, either not collecting enough taxes or collecting too much for their own private advantage. Others were accused of colluding with private contractors and embezzling public money. The forms of malpractice were therefore extremely diverse and hardly confined to a specific section of the provincial administration. Moreover, with the exception of the public notaries (who at times also served as *fermiers*), the individuals I described above dealt for the most part with economic actors representing relatively important financial interests: manufacturers, public contractors and tradesmen—all of whom were victims and sometimes accomplices of their extortions.

The word "corruption" is never mentioned in the *intendance* dossiers, as if it was not part of the administrative and judicial vocabulary and the lexicon of accusers and witnesses. In fact, in eighteenth-century France the term seems to have been used mostly in a literary context and not for individual crimes: it fills the pages of polemical works but not the records of court proceedings.[6] As Ronan Chalmin has shown, the corruption of morals is a trendy theme in the French literature of this time and when Montesquieu is discussing the decline of political regimes, writing about the "corruption of the principles of the three governments,"[7] the word

"corruption" is considered as the contrary of "virtue," a philosophical value and not a temporal incrimination. Jean-Baptiste Denisart's jurisprudence handbook, very popular amongst French jurists at this time, does not have a single entry for corruption. As in the *intendance* dossiers, however, Denisart does mention malversation,[8] sending the reader to *prévarication*,[9] defined as "the abuse committed in the exercise of a public office." *Concussion* is defined as "anything that is not due [to the king] but is anyway demanded by persons in place from those who, by reason of their offices or employment, are under their authority."[10] More serious and with more precise contours, the crime of peculation ("péculat") is described as the offence of those who "seize, embezzle or misappropriate the money which belongs to the king or his *fermier*, and which should not leave the *caisses* except at its destination."[11] Thus, for example, embezzlement and the misuse of public office were problematic and blameworthy according to contemporaries, but we should be aware of the fact that there is never a word about corruption per-se in the sources. In fact, the possibility of a conspiracy to defraud—a *pacte de corruption*—or the question of determining who might have benefited from corruption are never considered: public officials were the only ones to be judged when cases of corruption were detected. Could this mean that those who denounced corrupt officials were the principal victims of corruption? As we shall see, the question is more complex than it seems.

WAYS TO DENOUNCE

The dossiers of the *intendant*'s investigation do not highlight the role of those who uncovered instances of corruption and informed the administration. Accused officials, however, were sometimes quick to condemn their denouncers. Corruption was occasionally uncovered as a result of a control operation. There were specific procedures of control in place for overseeing the conduct of public officials. One example would be that of the so-called *inspecteurs des domaines et controlle des actes et exploits et autres droits y joints* (inspectors of the royal domains and control of deeds and other connected rights), who inspected the drafting of deeds by notaries and the activity of their controllers (*commis au contrôle des actes*), even though they had no formal hierarchical authority over public notaries. They were itinerant inspectors whose task was to compare the notaries' records with those of their controllers and the latter with the tax collection register. Fraud, if it existed, was thus easily found, but those individuals who had actually been defrauded by the notary and his controller would not be any the wiser, since the *contrôle des actes* was not public.

Predictably, notaries complained about the *contrôleurs des domaines*, but not because they feared being exposed as inveterate tax evaders. Their complaint was rather that the *contrôleurs* themselves were not above demanding undue sums from them, as when they requested payment of unperceived taxes that had meanwhile lapsed. Thus it was that in 1734 when news of a popular riot in the small town of Joyeuse, in the Vivarais region, reached the ears of the *contrôleur general des finances*, France's finance minister: "It seems that this riot was caused by the abuses

committed by the *commis au contrôle* with regard to the old taxes," wrote the minister Philibert Orry. While he wished the rioters would be punished with the utmost severity (especially since "the originators of this rebellion had taken the precaution of dressing up and blackening their faces"),[12] the minister showed a willingness to tolerate his officials' misconduct because "at the beginning, this matter was less well known and tax collection was not carried out with the same precision as it is today."[13] He demanded, accordingly, that no prosecutions be concluded without his explicit agreement.

Once corruption was exposed, it was up to the *Ferme Générale* to lodge a complaint through one of the *fermiers généraux*. In fact, although the misappropriation of the king's taxes was a matter of public interest, it was the private interest of *fermiers* that was injured in the first instance. Plaintiffs never forgot to mention, however, that in these "malversations and maladministration so contrary to the governance of His Majesty's *fermes*, the public was also concerned."[14] For the king, the absolute priority was to preserve one of his most vital sources of income. Lack of support for the *Ferme* in this particular instance would be tantamount to a discredit of the state vis-à-vis the *fermiers*.

Supervision by one's administrative superiors could also reveal corruption practices, although it is difficult to know whether or not a particular suspicion of corruption was raised by a denunciation that was never made public. In the affair of Darles de Chamberlain, the sudden interest of his superior, the director of fortifications of Languedoc, suggests that he might have had earlier doubts about his conduct. Darles de Chamberlain was warned too late about the investigation and did not have enough time to correct the measurements he was suspected of having tampered with. He was accused of forgery and of colluding with a number of public works contractors. The latter could hardly have been the ones who denounced the fraudulent practices in which they were themselves involved, but maybe their competitors did. The same conclusion applies to the Templier case, in which tradesmen were found to have conspired with the employees of the *Ferme Générale* in charge of collecting customs duties.[15] Corruption conspiracies of this sort would have been extremely hard to identify.

The situation of the clerks of the communities is rather different, since they were often denounced by citizens. In the Brun case, for example, it was a group of local notables who applied to the court to denounce the dishonest dealings of some of their fellow citizens in their relationship with public power.[16] Competition amongst equals for local power is certainly part of the explanation for the much greater vigilance regarding the conduct of local officials. The fact that political opponents had a comparable social status made it easier to call into question the behavior of local administrators, all the more so since rotation in public office was just about inevitable, even in the most closed political systems.[17]

Once corrupt practices were revealed, it was up to individual plaintiffs to decide to which first instance courts they should turn. In the Gimel case, for example, where an employee of the *Ferme Générale* responsible for collecting custom duties in the small port of Vendres was accused of malversation, the first justice official to be apprised of the matter was the prosecutor of the commercial jurisdiction of the

town of Agde. As a result, the "criminal procedure" was entrusted to the ordinary judge in that jurisdiction.[18] In the Brun case, on the contrary, the first instance court was the *Cour des Comptes, Aides et Finances*—a superior court in the *justice ordinaire* of *Ancien Régime* France, whose judgments could not be appealed.

Besides jurisdictional competition, to which I shall return shortly, the main problem with this judicial practice was the slowness of proceedings at the ordinary courts, which sometimes led plaintiffs to appeal instead to the king's *justice retenue*, which was overseen directly by the king and his agents, as opposed to the *justice déléguée*, exercised in the king's name. It was the sluggishness of ordinary courts, moreover, that prompted the king to take the initiative by bypassing them and ensuring that swift and exemplary punishment was more directly administered.

QUICK TRIALS AND HARSH PUNISHMENTS

The corrupt practices of its agents confronted royal government with the need to find an alternative way to deliver the sort of swift and effective justice that could not be readily obtained from ordinary courts. As one *arrêt* of the *Conseil d'État* explicitly put it, referring to the Gimel case (1726), the reason why the king had referred to the *justice retenue* was to "speed up ruling in this case."[19] The case was entrusted to the *intendant* not because the king wished to remove matters of administrative corruption from the jurisdiction of ordinary courts, but merely to ensure that a quick and adequate judgment was delivered: in other words, to make sure that the corrupt official "might receive the penalties he might have deserved," as in the Bouchon case of 1752.[20]

When cases of corruption reached the *intendant*'s ears, he was duty-bound to inform Versailles, particularly the minister on whom the administration of the province in question depended. Every time that a royal official's misdeeds were considered too serious to be left to the ordinary courts, a procedure of *évocation* was indicated by which the case was referred directly either to the king in council or to a jurisdiction designated by him for that purpose. This procedure was set off by an *arrêt d'attribution*. In the corruption cases that concern us, the *intendant* of Languedoc was appointed to carry out a preliminary inquiry for the *Conseil d'État* and, occasionally, to determine the matters himself. This mechanism precluded, in principle, any attempt by the accused to play on the competition between courts that I have mentioned earlier.

Accordingly, in the Arboux case, which concerned a tax collector in the Cévennes region, the accused was charged with fraudulent accounting, consisting of undue rewards "from auditors in his affinity."[21] Prosecuted in 1663 by the commission in charge of examining the debts of the communities, he was the object of several *ordonnances* by the *intendant*, which he subsequently appealed to the *Cour des Comptes, Aides et Finances* of Montpellier (I shall return shortly to this procedural mechanism). The judges in this court were certainly much gratified to be given an opportunity to challenge a royal commission that encroached on their

own jurisdiction. The tax collector was not ignorant that such jurisdictional quarrels could work in his favor, which was why he took the trouble of soliciting *lettres en règlement de juges*—that is, judgments on a jurisdictional conflict between two independent courts—to arbitrate between the court and the commission. After many years of judicial wrangling, the king finally issued an *arrêt d'attribution* on 15 January 1677 tasking the *intendant* with settling the contested sums so that the *Conseil d'État* could rule on the matter.

The Arboux case is a good illustration of how much the effectiveness of royal prosecution of corruption depended on "avoiding the multiplicity of judicial proceedings in different courts"[22] and entrusting all cases to a single, restricted court mandated to sentence "without appeal for both the prosecution and the defense."[23] To this end, the *intendant* was given the authority to appoint "any *gradués* he might wish in the number required by the *ordonnances*," as well as a *procureur du roi* to conduct the judicial proceedings and a *subdélégué* to investigate on the ground and set up the hearings. The *intendant*'s work started by delivering an *ordonnance* enforcing the *Conseil d'État*'s *arrêt* (an *ordonnance d'application* of the *arrêt*) and written at the bottom of the *arrêt* itself, by which the *intendant* appointed those who would conduct the inquiry and deliver a judgment.[24]

The logic behind these appointments was often quite pragmatic. The *intendant* normally relied on former *procureurs du roi* at ordinary jurisdictions (at a *cour présidiale*, for example), on *assesseurs* serving in another court and on the *subdélégués* who assisted him in the administration of the province (usually one to carry out the inquiry and another to serve as *greffier*, or court clerk).[25] Like all judicial commissions, his jurisdiction only existed for the duration of the inquiry, but the court over which he exceptionally presided was nothing if not ordinary in its composition. It was also within the *intendant*'s powers to order that all documents produced in the course of a trial at an ordinary court be rendered to him. All *greffiers* in possession of judicial records were "compelled by all proper and reasonable means" to hand them over to the *intendant*, whose orders could only be appealed to the *Conseil d'État*.[26]

Because of his extensive authority, the *intendant* was the frequent object of personal pressure and local hostility. In the Gimel case (1726), for example, a man named Sirié wrote to the *intendant*, "begging [him] most humbly to honor with his protection the *sieur* Gimel, receiver of the *fermes* at the port of Vendres, who is one of my close relatives."[27] In that same case, *président* Darène beseeched the *intendant* to intercede in his favor with the *contrôleur general*, "as you kindly promised me."[28] Sometimes attempts to influence the *intendant*'s action were more vehement, if not downright aggressive. In the case of the inspector of the Carbon manufactories, who was accused of extortion against the cloth makers, the bishop of Saint-Pons protested to the *intendant* that "he is not an inspector, he is a real tyrant."[29] Seeing himself as the natural protector of the communities and their inhabitants, the bishop set out to defend the weavers of his diocese from an inspector guilty of abuse of power. The *intendant* was thus trapped in a socio-political force-field where he had to serve the king's interests without unduly disturbing those of influential local forces.

As is sometimes the case with accusations of corruption, not all suspected officials happened to be guilty, but this situation is scarcely represented in the twenty-six dossiers under scrutiny. The inspector of the manufactories Arnaud de Lamarque was accused of malversation in 1696 by a man called Record, a cloth shearer from Carcassonne. The complaint was lodged with the *Parlement* of Toulouse, the ordinary court competent in such cases, which ordered an inquiry to be carried out by its *arrêt* of 28 July of the same year. The case was too serious to be left to the ordinary court—it concerned an inspector of the manufactories, which was no small matter—so on 11 September an *arrêt d'attribution* was issued by the king. Meanwhile, however, the man called Record had withdrawn his statement on 20 August, declaring that his denunciation "had been done by surprise at the instigation of some individuals."[30] The inspector then produced a legal statement (*factum*) "as plaintiff for compensation for this calumny . . . against the *sieurs* Vidal, La Salle and other merchants of the town of Carcassonne,"[31] quickly identified as the individuals behind the false denunciation.

He was never to see justice done, however. Admittedly, the king had stipulated in his *arrêt* that he "wished that the truth be known, and that if the said Lamarque is guilty, that he be punished, and that if he is not, that the authors of this false denunciation be punished in the same way," but the two merchants called on their connections to propose a deal to the inspector. Since the latter refused it, the ministry eventually dropped the case, considering that if the injured party wished to make it a personal affair, it was up to him to pursue it in the ordinary courts.[32] There was thus a double standard: royal government demanded the utmost severity in punishing a corrupted official, but was unwilling to do the same with malicious accusers. Likewise, we cannot but notice that the king protected the interests of the *Ferme Générale*—and therefore his own direct interests—much more vigorously than he protected his own officials.

We should bear in mind that the judicial arena was a battlefield amongst many and that although the *intendant*'s summary justice could be a formidable weapon, it was always a double-edged one. We see this clearly in the Aubrun case. The *sieur* Aubrun, who was in charge of recovering the remainders of accounts, was accused of embezzlement by a man called Grange. Aubrun was quickly arrested a few days later, on 13 March 1747, and interrogated by the *intendant*'s *subdélégué* on the 18th. By the 30th he was free and by May he was exonerated, whereupon he turned against his accuser, eventually dragging him to the court of the *sénéchal* of Nîmes in 1751 and accusing him of having maliciously sought revenge for an old lawsuit started by Aubrun when he was *procureur fiscal* of the prince of Soubise. Grange had apparently "boasted in public that he would cause his [i.e. Aubrun's] downfall and that he believed he could achieve that by misleading M[onsieu]r de Joubert, *syndic général* of the estates of Languedoc, and Monseigneur the *intendant*."[33] The charge of embezzlement was a vehicle for revenge, therefore; a public action driven by a complex private conflict.

When corruption was proven, however, it fell to the commissioned *intendant* to administer adequate punishment. In cases of embezzlement the court ordered the restitution of the misappropriated sums as well, as in the case of the notary and

commis au contrôle des actes of the village of Saissac, who was sentenced to pay 549 livres, eleven sols and five deniers and to pay a heavy fine of 59,800 livres.[34] The prospect of a large fine must have been much more of a deterrent than the return of the embezzled funds. In the case of the Saissac notary, who had meanwhile evaded prison with the jailer's complicity, his properties were also seized and put up for auction.

Suspension from office and dismissal from the king's service were also common punishments for corruption. Corrupt notaries were given a chance to resign of their own accord before being forced to do so by the authorities. Darles de Chamberlain, whom I have mentioned above, was suspended from office in the first weeks of the inquiry and then sentenced to death *in absentia*, as he had fled the kingdom in the meantime. A death sentence was also demanded in the Templier case, since embezzlement had exceeded 2,500 livres, but it does not seem that it was ever carried out.[35] It is difficult to say categorically whether or not harsh punishment was an effective deterrent. When considering anticorruption efforts in seventeenth- and eighteenth-century France, however, they must not be seen in isolation from the measures that were taken to prevent corruption.

PREVENTING CORRUPTION THROUGH LEGISLATION

Legislation was unquestionably the privileged means by which royal authority in Bourbon France addressed the problem of corruption. It was certainly privileged over the oath of office, for instance, which was far from being regarded as a miracle solution. When in 1738 the *contrôleur général des finances* was consulted about a new project for regulating "for the *marque et visite* of leather goods in the town of Toulouse,"[36] he did not think it worthwhile to replace the shoemaker jurors by "removable officials or *prud'hommes*," because "the latter's religion of the oath would scarcely be a better brake on their cupidity than that of the sworn shoemaker jurors whom we reproach for misconduct."[37] He nonetheless suggested to the *intendant* that when appointing an inspector to supervise the shoemaker jurors he should "choose someone capable . . . and on whom he could rely," paying his wages out of the jurors' emoluments: "this is the best way to punish them, and to correct them, and it has been put into effect with success in Marseille in a similar case." The oath of office being an ineffective curb on corruption, it was necessary to create sophisticated new regulations that would enable the administration to detect malversation whenever and wherever it was committed.

The activity of notaries and their supervision became therefore increasingly regulated.[38] Moreover, in the wake of the Templier case, a royal declaration from 3 June 1701 ordered that "receivers, treasurers and other officials responsible for handling the king's money who used it for their private benefit or embezzled it should be punished with death, without any hope of reduction of the sentence by the competent judges."[39] Possibly the Templier case and the 1701 declaration were directly linked, in which case the latter might have been an attempt not only to harden the legislative stance on corruption but also to put an end to the apparent leniency of judges towards corrupt officials.

In the decades that followed the Templier case, there was a marked increase in legislation regarding the handling of public money. While the *Cour des Comptes, Aides et Finances* issued an *arrêt* on 22 April 1723 forbidding administrators of the communities from being personally involved in the *fermes publiques* (which concerned, on that specific occasion, military logistics, butchers' shops and the maintenance of military barracks), the estates of Languedoc resumed a closer cooperation with the king aimed at a tighter, more rigorous regulation of local accounts. Moreover, a mixed commission appointed by the king and the estates was charged with combing through the communities' budgets, registering their debts and supervising accounting and the return of remainders.[40] These measures accompanied a royal statute that forbade relatives from sitting in the same local council.

It would seem in this instance that since the penal framework for corruption was already very severe (after all, corrupt officials could potentially be sent to the galleys or sentenced to death) and there was hardly any trust in the dissuasive effect of the "religion of the oath," royal authority and the estates of Languedoc bet instead on the concrete virtues of institutional mechanisms. Rather than pinning their hopes on personal devotion to the public good, which was typical of the political discourse of the Enlightenment, royal and provincial authorities preferred instead to draw on their Cartesianism and to put their fascination with systems to good use. Precise and general rules, they believed, would be enough to cut the jugular vein of corruption. The illusion of a world where everything could be classified and reformed impelled the rationalization and codification of administrative practices: in other words, the realization of one of the central premises of Weberian bureaucratization, but disconnected from the other parts of this theoretical interpretation of the modern state-building process. Was this action similar to the strengthening of anticorruption regulatory frameworks in later medieval England described in Chapters 5 and 6 by André Vitória and John Watts, respectively?

Judicial actions against corruption do not make use of a moralizing rhetoric. The administrative language and the rigor of procedures left little space for an ideological discourse on corruption. The simple fact that corrupt practices were illegal was enough to justify judicial proceedings. The only concrete traces of the influence of Enlightenment ideas on the judicial dossiers I have been analyzing can be found in the printed legal statements (*facta*) that were sometimes included in them, which have been studied (albeit in a different context) by Sarah Maza.[41] In the town of Lunel, the brothers Jean and Antoine Brun—the first a royal notary and municipal clerk, the second a first consul of Lunel—were charged with using their offices as a lever to infiltrate the business interests of the community and to amass what amounted to an illicit fortune. The case, which reached the *intendant* in 1752, had prompted the circulation of printed judicial *facta* from as early as 1749. The Brun brothers were charged with "prévarication," "concussion" and "malversation,"[42] but significantly the word corruption was never used: the language of proceedings remained consistently juridical, without ever assuming a moral connotation unlike in the later cases studied by Sarah Maza. Incidentally, the *arrêt* of the *Cour des Aides* of 22 April 1723, which I have mentioned above, had proved entirely ineffective in this case.

The fundamental question of whether or not these anticorruption measures had any real effect on corrupt practices is hard to answer, chiefly because a *prima facie* reduction in the number of corruption cases does not mean necessarily a reduction of corruption. Such reduction could be explained, for instance, by a greater discretion on the part of corrupt officials. In fact, overly precise rules might encourage the devising of ingenious schemes to bypass regulation, as shown by the creation of local slush funds.[43] In this case, it was because anticorruption legislation paradoxically hindered the proper government of the community that local administrators came up with a solution that was certainly illegal but also much more effective. Likewise, the commission created in 1662 to supervise local administration had been unable to solve the Arboux case and the jurisdictional conflict it sparked. In certain instances, the proliferation of legislation and the multiplication of supervisory controls alone could prove useless, if not actually counterproductive.

That being said, do our sources permit us even to assert that the number of corruption cases diminished between the end of the seventeenth century and the end of the eighteenth? The haphazard preservation of the *intendance* records during the eighteenth century suggests that some, perhaps a significant mass of materials may not have been kept. It is hardly a coincidence that the majority of corruption cases we were able to identify date back to the period between 1720 and 1770 and the successive *intendances* of Bernage, Bernage de Saint-Maurice, Lenain and Guignard de Saint-Priest, whose archives were also, as it would appear, the best preserved.

CONCLUSION: THE DARK SIDE OF CORRUPTION

By limiting one's historical analysis of corruption to its legislative framing and its judicial prosecution, as I have done, one risks overlooking certain dimensions of it that belong less to the realm of law than to that of social and political relations. Consider, for example, the case of the royal notary Louis Franques, from the castellany of Auzils, who was prosecuted on several counts of malpractice, allegedly committed while he was a local clerk in Auzils. He was accused of keeping some of the community's archives at home, of forging tax rolls and writing down as present the names of councilors who were actually absent from council meetings. In lieu of further sources, however, it is impossible for us to distinguish what is true from what is not. The accusations against the clerk were hardly exceptional[44] and could hide ulterior motives. The notary himself denounced a neighborhood conflict concerning goat pasturage, "a cabal aimed at causing his downfall," with the complicity of the lord of the place, the Marquis of Bournazel.[45] Corruption charges might conceivably have been the judicial side of a sociopolitical settling of scores.

In the Brun case discussed above, the accused brothers suggested to the *intendant* that they were the victims of a political affair, explaining that their opponents were merely pursuing "a vendetta . . . due to the discontent [amongst the notables of Lunel] caused by the billeting of the Spanish troops."[46] Similarly, in the Bouchon case, "the most despicable malversations and malpractices" attributed to that notary from Charmes were perhaps a pretext for severely punishing a man who had,

moreover, "been accused of holding scandalous views on religion and providing a safe haven for ministers and preachers [i.e. Calvinists]," not to mention the many *rapts de séduction* (meaning clandestine marriages),[47] of which he was also allegedly guilty. And was the dishonest clerk of Béziers in 1753 not being manifestly protected by the municipal authorities?[48] Here as elsewhere, social and political ties were deeply entangled,[49] which makes it necessary to think about corruption in the context of the dynamics they produced in a given place at a given time. It is only by studying the micro level of politics rather than the broader forces within a political regime that we may hope to gain a better understanding of the problem of corruption amongst civil servants.[50]

In the cases that we have looked at, inquiries focused exclusively on the charges of malversation, without ever trying to dig up their political ramifications. Political influence peddling escaped the scope of prosecution, even though we know it existed and that it had a role in political processes. Let us recall that the king himself regularly purchased votes at the estates of Languedoc until the beginning of the 1670s.[51] Corruption of royal officials in the province of Languedoc in the eighteenth century was objectively conceived as a defect in the administrative machinery—doubtless the result of the moral treason of a few individuals—and not as a strictly political issue. Although malversation could be linked to political intrigue in eighteenth-century France, only administrative corruption ever felt the full weight of justice.

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PART IV

FROM EARLY MODERN TO MODERN TIMES

11

Corruption and Anticorruption in the Era of Modernity and Beyond

Jens Ivo Engels

We are confronted with the fight against corruption literally every day. Since the 1990s at the latest, the problem of political corruption has not only been granted enormous media coverage, but it also seems to be one of the great endeavors in international cooperation. The founding of the non-governmental organization Transparency International in 1993 paved the way for a huge variety of national, supra-national and corporate activities to reduce corruption. Responding to Transparency, organizations such as the OECD, the World Bank and the United Nations tackled bribery and corruption in the countries of the Global South as major obstacles to modernization, growth and wealth.[1]

In his famous 1996 speech on the "cancer of corruption," World Bank president James Wolfensohn declared that development financing should always be linked to efforts in combating corruption, to improvements in the efficiency of government and to measures against undue influence on public services: in short, to good governance. Wolfensohn and his supporters built their assumptions upon scholarly economic theory, which began roughly in the same period to identify corruption and bribery as important reasons for economic standstill and backwardness. Soon there was international consensus on the need to reduce corruption. The UN Convention against corruption, approved in 2003, initiated multiple efforts at the national as well as international level to tighten anticorruption measures.[2]

The political debate around the topic remains tremendously influenced by the idea that corruption is harming economic modernization and innovation.[3] The recent Euro crisis, for instance, was often attributed to the cultural peculiarities of south European countries: Portugal, Spain, Italy and, above all, Greece, have been portrayed by leading economists and news media as being prone to patronage, clientelism and the embezzlement of public money by citizens, civil servants, political parties and even governments. In short, a culture of corruption seems to lie at the heart of the excessive public debts and the low growth rates in these countries. Corruption is not only portrayed as an impediment to economic growth, but also as one of the main obstacles to political maturity in a democratic society. Fighting corruption is one of the core concepts behind "good governance." Only a corruption-free society, it is argued, can develop democracy and participation. By contrast, dictatorships or failed states appear to be hot-beds of corruption.[4]

Our understanding of corruption does not only imply the bribery of civil servants or political leaders, but includes also the venality of companies' employees. Private companies have long been obligated—not least by American law—to oversee their staff members regarding corruption. However, continued failings led to the so-called "compliance revolution" at the turn of the century. Since then, companies themselves have tried to fight corruption by establishing supervision capacities and compliance departments. These measures are similar to the principles of the "new public management" approach in public administration: both are based upon the assumption that an organization's development and the behavior of its members should be made transparent to external actors who control and supervise these activities. In response, the so-called anticorruption industry emerged—fueled by the need of public and private companies and organizations to meet anticorruption goals and standards.[5] Of course, these few lines give only a partial overview of the importance of anticorruption measures in our time. However, they do hint at the major problems perceived and addressed in these contexts.

AIM OF THE CHAPTER

One of the unsettling experiences of the so-called fight against corruption is this: despite the unprecedented efforts to reduce corruption in the last two decades, there is no serious sign that these efforts can ever be successful. Quite the contrary is true. The more private and public organizations are spending money on the fight against bribery, the more media are looking closely at illicit practices, the more corruption scandals are breaking out and the more "gray zones" of venality are detected. One of the aims of this chapter is to explain why the fight against corruption necessarily can never be completely successful, regardless of the numerous efforts made by different organizations and actors. We could answer, cynically, that the "anticorruption industry" has no interest in being successful, because this would ruin its business model. We can also assume, less cynically, a classical insight of the history of criminality: the more a certain type of crime is focused on by prosecution authorities, the more transgressions are detected.[6] Prosecution paradoxically creates the crime. In the case of anticorruption, however, there is another factor to be considered. It is linked to the very notion of corruption and its long history.

This is an argument not to view the fight against corruption from the standpoint of the anticorruption consensus. I would like to invite the reader to regard it as a result of certain historical developments. In the past, anticorruption has always been an instrument of power, grounded in a certain conception of the field of politics, enabling a moral assessment of political behavior linked to the historical public/private divide. I will concentrate on notions of corruption in public debates, which were very often reform debates. Therefore, this chapter deals with anticorruption by analyzing underlying historical notions of corruption. As corruption has always been a concept describing defects of a society or political system, it implies the need for reform or the need to fight against it. In this sense, every corruption debate has been an anticorruption debate.

In this chapter I will often allude to the changes of "around 1800." This does not mean that I pretend seminal changes occurred during one decade or so. Of course, I will try to highlight concrete examples between, roughly, the French Revolution and the end of the Napoleonic era. However, many of these examples—like most administrative reforms—took decades to be implemented. So in dealing with the era of 1800, I am referring to what the German historiographical tradition calls "Sattelzeit." This is a term coined by Reinhart Koselleck and it describes a long period of transition between the era of the Enlightenment and high industrialization, roughly between 1750 and 1850.[7]

CORRUPTION CONCEPTS AND THE ERA OF MODERNITY

Corruption, bribery, venality, purchasing of votes—these phenomena have been criticized since antiquity.[8] However, the foundations of a (relatively) precise notion of corruption were laid only at the turn of the modern era.[9] Since, roughly, the transition from early modern Europe to the modern world, between the mid-eighteenth and mid-nineteenth centuries, the notion of corruption has remained more or less stable. Since then, corruption has signified ambivalence—and modern societies have tried to reduce ambivalence.

Although corruption is not at all an invention of the time around 1800, it did change very much in the decades before and after the late Enlightenment and the French Revolution. During the centuries before, corruption was used in very diverse ways. To name only some aspects: corruption had been a way to describe the moral quality of the average sinner (as opposed to the perfection of God); corruption had been used to denote the venality of judges; corruption had been, in the (post-) Machiavellian and Aristotelian tradition, a concept describing political decline in a broad manner, ranging from the loss of virtue in political leaders to declining operability of political institutions. Typically, a cyclical model of decline and regeneration prevailed in terms of these usages.[10]

From the late eighteenth century onwards, however, the notion of corruption concentrated more and more around the acts of bribery, malpractice and illegitimate personal gain in office.[11] Corruption was more and more seen as an offence against the interests of the community and as a concrete violation of rules. On the one hand, this was not entirely new, because corruption had been used in similar ways before.[12] Moreover, traditional uses of corruption did not vanish altogether—old ideas of decline and eroding virtue remained connected to corruption, like other aspects including corruption as sexual deviance. Nevertheless, the idea that corruption was a violation of rules in a political or in a public office for private ends proved to be the prevailing understanding.[13] "Prevailing" does not simply mean the most common application in numbers, but the most important in qualitative terms. "Corruption" became an important, if not central, concept in political thinking which enabled contemporaries to regulate the limits between the public and the private spheres and to counteract ambivalence.

The starting point for this chapter is the assumption that the notion of corruption and the era of political modernity have developed in close interrelationship. However, this relationship is much more complicated than most contemporary social scientists assume.

Without doubt, we learn much about the modern era by analyzing the history of political corruption. Corruption may even serve as a lens for identifying some major features of political life during the last two hundred years. This is not without importance for other branches of history, not least because the very idea of modernity has been seriously called into question. Postcolonial historians in particular have heavily criticized the concept of modernity as euro-centric and, therefore, unsuitable to describe history without an ideological, white, Western bias. Minority and subaltern studies argue in a similar way. One of the solutions put forward has been the concept of "multiple modernities" by Shmuel Eisenstadt and others.[14] This concept has been widely debated, but it has also attracted criticism for being still too centered on Western culture or, by contrast, for giving up on a coherent notion of modernity. Moreover, in recent years, certain understandings of the modern era have been called into question, so that a number of researchers have come to doubt the analytical value of the concept.[15] Initially, modernity had been identified with positive features like progress. During the last decades, however, scholars have often concentrated on the problematic attributes of modern societies—on the dark side of modernity, so to say. The modern state has been seen as a failure because it turned out to be violent, dictatorial and ineffective, according to James C. Scott's *Seeing like a State*.[16] Similar assumptions about violence and inhumanity dominate the discourse on the "modernity" of the Nazi regime in Germany.[17]

Modernity is of course a complex and contested concept, but it is particularly suitable for the interpretation of anticorruption during the last two centuries—precisely because corruption has been, and still is, a Eurocentric concept, because it was influenced by the typical modern vision of moral progress (and threatening regression) and because anticorruption never created sustainable "progress." The aim of this chapter is not to whitewash the idea of modernization; quite the contrary. In fact, West European and North American ideas of political modernity have largely been articulated *ex negativo* by the concept of corruption and anticorruption. Regarding the concept of corruption and its specific meaning in the light of modernity helps to reconstruct the ambiguity of both modernity and anticorruption.

LEGITIMACY OF PATRONAGE AND COMPETING VALUE SYSTEMS IN PREMODERN EUROPE

If we consider the rise of anticorruption around 1800 as part of a fight against ambivalence, what kind of ambivalence had to be fought? The struggle against corruption was a fight against the uses and blurriness of early modern norm systems. As the German historian Hillard von Thiessen has explained, the behavior of people in early modern societies had been organized according to different and

competing normative systems. He identifies three single systems as being partly opposed to each other: social norms, religious norms and public-office-centered norms. Leaving aside religious norms for our current purpose, social and public-office norms often turned out to be contradictory.[18]

These norms were connected with competing role models: the Pope, for instance, and his leading minister (who was often his nephew), had to obey differing commandments. Being office-holders in the Church or in the Papal States, they had to make decisions in the name of the common good of all subjects or Christians without regarding the interest of individuals. These actions were commanded by public-office-centered norms. But as heads of their family, and as representatives of certain patronage systems, both had to follow different norms at the same time (i.e. they had to favor their relatives and their clientele in accordance with social norms). The same commandment could be derived from religious norms, however, which stated that people were obliged to serve their neighbor. According to Von Thiessen, the norm systems were equitable (with one exception: approaching death, every Christian would prefer the religious norm system). There was, however, no general principle that would help people to decide which norm system should be preferred to the other. So individuals had to decide case by case. The casuistic use of value systems created forms of behavior that we perceive as contradictory. On the one hand, popes and ministers respected their role as neutral "fathers of the fatherland." On the other hand, they openly displayed their clientelistic preferences and established without any problems specific bodies for the administration of favors to friends, followers and relatives.

Therefore, patronage and favoritism was not simply a dark side of their behavior; it was not even hidden, but rather an obvious and legitimate part of their activities.[19] Patronage as such was not a problem and could even be cultivated. Indeed, under certain circumstances, kings styled themselves as special patrons to certain individuals.[20] Likewise, the emergence of the early modern state was organized partly by clientelistic networks led by the leading minister-favorites from the Duke of Lerma (see Chapter 9 by Andújar Castillo, Feros and Ponce Leiva) and the Duke of Buckingham to Cardinal Richelieu.[21]

From time to time, government or ministers' patronage was indeed criticized as corruption.[22] However, this was not necessarily the rule since lacking patronage in office could also be a reason for dissatisfaction. In many cases, criticism of corruption was triggered not by favoritism in public office as such, but by a patron's mistakes. In fact, breaking the rules of patronage was often called corruption, meaning that the benevolent and successful patron was not necessarily corrupt.[23] We must bear in mind this profound ambiguity when we try to understand the changes in the discourse surrounding corruption in the period around 1800.

OLD REGIME CORRUPTION AS AN ARGUMENT FOR STATE REFORM AROUND 1800

By the end of the eighteenth century, the anticorruption discourse had transformed into an important, if not the most important, argument for fighting political patronage. Political patronage, favoritism and clientelism lost legitimacy.

Of course, this is not to say that these practices vanished. Political patronage remained an important tool of government in all European countries.[24] New forms of clientelistic politics continued to emerge—for instance in France during the Third Republic, when the Republican elite established its own system of favors exclusively for political followers. In fact, in most of the European countries of the nineteenth and twentieth centuries, specific systems of political patronage existed.[25] Nevertheless, patronage became disreputable. It was seen to be unruly and morally wicked, with no possible justification. Whereas early modern favoritism could have easily been defended under the regime of competing norm systems, it was officially banned from politics around 1800. Patronage went underground, so to speak. As there were no democratic societies in the early nineteenth century, we cannot explain this evolution simply by the dissemination of democratic values.

How could this happen? Patronage had become, precisely since the 1780s, a synonym of corruption. Literally in every European country, important reform movements attacked what was called, in Great Britain, "Old Corruption." These attacks were directed against the social, economic and legal order of Old Regime Europe in general—patronage and favoritism in public office being a sort of *pars pro toto*. The French revolutionaries of 1789, of course, blamed the Court of Versailles and the royal administration for corruption. They attacked specifically the system of tax farming and the purchase of public offices—the latter applying literally to all posts of judges. During the revolutionary process, these practices were quickly abolished—not least because criticism of them had been developing for several decades.[26] Less specifically, corruption represented, for revolutionaries like Maximilien de Robespierre, the general condition of French society *before* the revolution.[27]

As the other chapters in this section demonstrate, in many European countries, administrative reform appeared on the political agenda during this same period. In the German states of Prussia and Bavaria, for instance, important reform movements within the administration attacked the established order during the 1780s and 1790s. Reformers were, to a greater or lesser extent, openly scandalized by what they regarded as corrupt old-fashioned administration. Some of them even organized themselves in secret societies, such as the *Illuminati* in Bavaria. These societies often backed the contemporary state reform schemes, like the important administrative revisions undertaken by the Bavarian First Minister, Count Montgelas, from the 1790s. In Prussia, reformers construed local administration as scandalous by reference to corruption, although they had to wait until the military defeats against Napoleon of 1806 before they were granted the opportunity to transform the Prussian state radically. It is noteworthy that these reform movements criticized the patronage and nepotism of the old administrative elites, but at the same time, they formed their own networks and systematically favored their fellow members. Recent findings from corruption history show that the German reforms were not simply imposed from above. Instead, rather than revolutionary processes, they reflected important power struggles over political values and between competing networks within the political elites.[28]

In the Netherlands, two important reform movements developed during the 1770s. One group, the so-called patriots, complained about patronage at all levels of the Dutch political system. In their eyes, the common good was neglected for the benefit of private interests. Patriots promoted a transformation of local government and an opening up of public debate. Conservative members of the bourgeois elites, by comparison, concentrated on the alleged favoritism of the Governor, the Prince of Orange, as they feared centralizing tendencies. Both movements wanted reform and they regarded corruption as an inherent problem of the existing political and social structures. However, little reform was enacted before the transformation of the 1790s, when the Netherlands came under the influence of revolutionary France, which sponsored the so-called Batavian Republic.[29]

In Britain, political radicals like Jeremy Bentham and John Wade fought publicly against sinecures, government pensions and favoritism influencing the appointment of members to the House of Commons.[30] Criticism came not only from left-wing radicals, but also from Whigs, the landed gentry and, eventually, even Tory governments. In a gradual process, economic policy and public administration were transformed, leaving behind the structures of "Old Corruption."[31]

To summarize, revolution and state reform around 1800 were built upon the assumption that traditional administration and legal systems had been corrupt. Reform was equated with the fight against corruption. At the beginning of the modern era, anticorruption debates and reforms dominated the political agenda for the first time in history.

ANTICORRUPTION: SEPARATING PRIVATE FROM PUBLIC AND PRIVILEGING THE COMMON GOOD

Traditional historiography has explained the anticorruption campaigns of around 1800 as a kind of necessity and as a reaction to objective problems that had to be solved. The new historiography on corruption proposes a different interpretation, analyzing the construction of corruption within the broader context of political and ideological change.[32] According to the latter, the aforementioned reform movements did not so much try to restore something that had gone terribly wrong in the past, rather, they tried to create something new—a new understanding of the relationship between political structure and corruption. The novelty of this understanding was the emphasis put on the public/private divide in combination with the fight against ambivalence. In short, reformers and revolutionaries tried to ban categorically all private interests and privileges from the realm of politics and public administration. And, unlike older debates, anticorruption reform now linked to the idea that a fundamental and durable transformation could be realized, clearly based on the enlightened idea of progress.[33] Their idea was not merely to fight the corruption of individuals or a given group of individuals, but rather to develop a systematic approach: to fight corruption by changing structures.

Although they did not yet operate with definitions, reformers adhered in fact to the so-called public-office-centered definition of corruption.[34] They were very

successful, not so much in effectively reducing the importance of patronage, clientelism or favoritism in the political sphere, but rather in creating a new hierarchy of political values, upon which all of political life in Europe has been based ever since. There are two innovations in particular I would like to consider in detail in the following paragraphs.

The first of these innovations was the sharpening of the public/private divide. The debate on corruption that took place at this time was not so much a *result* of this new idea—that both realms should be clearly separated—as it was an important *contribution* to the separation process. Some aspects date back to earlier centuries. In the theoretical debate on what we now would call "good governance" of the seventeenth century, there had been a growing awareness of possible conflicts between general and individual interests. What was still lacking, however, was a conception of "the public" as opposed to individual interests. Rather, the prince stood for the public sphere and the common good.[35] This represented somewhat of a problem, as the prince was himself an individual, with individual interests, and committed to different normative systems (as we have seen with the example of the Pope). The new conception of corruption, however, promoted the development of the idea of the state as an impersonal entity.

By its own momentum, the corruption debate helped to construe the divide in a new way. It started not with the person of the ruler, but with lower office holders. During the eighteenth century, corruption became a systematic diagnosis, put forward in lengthy debates and concentrated on the existence of private interests within public administration (be it the financial interests of tax farmers or personal patronage systems). Corruption was (and still is) considered not merely a technical mistake, but a severe offence, because it was a genuinely moral concept, implicating wickedness and premeditation. The severity of the accusation made it more and more inconceivable to accept any blurring of the boundaries between public and private.

When state reformers set up measures to tackle corruption, these were based on the idea of a sharp line of division between the two spheres. They consisted of, for instance, separating public from private law and public office money from privately operated finance. This was an important innovation and led to a drastic transformation of administrative practices: the abolition of the sale of offices, the elimination of fees or guarantees when a new holder got into office, the separation of public budget and personal income and the prohibition of gifts in relation to the office.

This separation of financial flows affected the ruler, too. Since the end of the eighteenth century, it was accepted that the ruler had "private" expenditure that did not relate to the government of the country. Typically, this comprised court expenses, expenditure for princely consumption and spending for members of the ruling family and its clients. Revolutionary France first invented the "civil list" (inspired, however, by British examples under the Hanoverian dynasty). Previously, the person and the life of the king had been entirely "public," so it made no sense to establish any distinctions between public and private expenditure. Of course, for centuries the Estates and the nobility had argued in debates over

fiscal policy that the (French) king should live exclusively off the income of his country estates. However, the "civil list" was an important innovation for two reasons. First, the success story of the early modern monarchy was partly due to the fact that the nobles' abovementioned claims became totally marginalized. Second, the argument now was different; royal estates had never been considered private or personal in a modern sense. Rather, the so-called French *lois fondamentales* (the mythical "basic laws" of the realm) stipulated that the good of the crown was *inaliénable*, so the king could not dispose of it.[36]

These examples show how office holders were transformed from being servants of the prince into servants of the state, and how the prince himself was transformed from being a kind of embodiment of the state into a servant of the state.[37]

The second innovation concerns the normative systems. All reformers attacked what had been the law in early modern society—namely the legitimate co-existence of different value systems.[38] This left only one possible legitimation for action in political or public office: the common good. The fight against patronage was integral to a new conception of politics that put the common good of the multitude at the center of politics, excluding the possibility that common good and individual interests could be congruent. This meant that in the realm of administration and politics, the public-office centered value system became exclusive, with no alternative norm system left.

The common good, of course, was not a new idea in European history. Numerous political thinkers had previously stressed it as the only legitimate aim of rulership. But again, in pre-modern times these ideas had not been completely unchallenged, and alternative conceptions of legitimate state politics had existed (such as the personal glory of a ruler or the salvation of the souls of the faithful). Even in cases where the common good was invoked, this could mean different things.[39] In many states, the ruling dynasties had, since the seventeenth century, managed to be accepted as the custodians of the common good, so that political acts in favor of the dynasty and personal loyalty to the ruler need not be separated from the common good.[40]

Around 1800, the notion of the common good underwent two important changes. First, it was more and more identified with the interests of the whole population and, eventually, with the interests of the nation (implying, for instance, the exclusion of minorities).[41] Because of that, the concept of the common good, like the idea of the state, became more abstract. It became detached from the person of the ruler and removed from certain social groups, so that, necessarily, patronage became illegitimate. Second, the common good became attached, so to speak, to the public sphere. The public/private divide therefore turned out to be one that separated legitimate and illegitimate interests. Subsequently, the separation between private and public was transformed into a fundamental principle, enabling people to assess the activities of the elite. These activities were deemed legitimate as long as they conformed to the idea of separation, because the latter guaranteed the rule of the common interest. However, when private interests were detected, they "contaminated" these activities and rendered them criminal. The word used to describe this contamination and blurring of the boundaries was corruption.

SEPARATING SPHERES, FIGHTING AMBIGUITY, PURIFYING THE PUBLIC SPHERE: CORRUPTION AS A PRODUCT OF MODERN PATTERNS OF THOUGHT

Both of the previously mentioned innovations were informed not so much by objective necessity as by important epistemological shifts. In particular, they were the result of the genuinely modern tendency to fight ambiguity. Many scholars have described modern thought and practice as attempts to establish clear-cut categories.[42] The historian of science Bruno Latour, for instance, depicts modern natural science as an operation to separate socio-cultural phenomena from the realm of nature, attacking all kinds of hybridity between the two.[43] With respect to social phenomena, social scientist Zygmunt Bauman has drawn a similar picture of modern culture, stressing our "obsession" with creating order through classification, statistics and taxonomy of the social world for fear of ambivalence.[44] Ordering reality means separating phenomena, including and excluding from specific categories. Thus, the reverse of including most people into the category of the "nation," for instance, is the exclusion (and persecution) of minorities or itinerant people. This example shows that modern classification is never politically neutral, but rather transports ideological assumptions and preferences. Moreover, it creates or transforms power relations. The same applies to the public/private divide. Office holders had to strictly observe the commandment of non-transgression. Intrusion of the private into the public was the chief problem, not the opposite. The realm of public activity, of politics, the state and the administration, had to be kept seperate from private interest, not the other way round.

The connection between purity and (anti)corruption has been highlighted by political scientist Peter Bratsis. Inspired by Mary Douglas' concept of purity, he portrays the notion of corruption as a conceptual tool used by bourgeois society in order to show that private interests are foreign to the public sphere—that is to say, that they cause pollution. Thus, because capitalist society regards private interest as a legitimate driving force behind human activities, these interests need all the more significant constraints within the polity.[45]

Finally, the separation of the private and the public can be explained in terms of systems theory. Systems theory as developed by sociologist Niklas Luhmann describes modern societies as communities marked by growing functional differentiation.[46] According to this theory, the public/private divide constitutes a prerequisite for the constitution of the subsystem called "politics"—the sphere were the public interest prevails. Luhmann shows how modern societies have become very efficient in ordering (social) reality by separating it into different subsystems (politics, economy, law etc.) in an effort to prevent and solve conflicts of interests.

There are many general interpretations of modern society that situate and explain the mechanisms of anticorruption thought during the last two hundred years. So far, however, I have left unmentioned the other side of the coin; namely theories and concepts of modernity that have focused on the inherent contradictions

of modernity. All the aforementioned authors are at least partly driven by an awareness of the aporias in modern thought and action. The most important point concerns disambiguation. Latour emphasizes that there can never be a stable categorization of phenomena following the nature/culture divide, because everything is hybrid, a mixture of both.[47] Modern scientists have refined their categories in order to "split" hybridity into its natural/cultural components, but this operation can never be successfully completed. Bauman presents the same reasoning. He argues that the fight against ambiguity will necessarily never come to an end, simply because reality is so complex and people do not easily fit into the standard categories of the social.[48] Both the unprecedented dynamics and the eternal incompleteness of the modernizing process can be explained by these circumstances.

EXPLAINING THE NEVER-ENDING FIGHT AGAINST CORRUPTION

What can we learn about corruption and anticorruption from these theories of modernization? At a theoretical level, they help us to explain why anticorruption measures are doomed to fail, with respect to functional as well as epistemological considerations. To say it more precisely: single anticorruption measures can have their intended effects, but corruption as a problem will never disappear. Modern, Weberian-style bureaucracy, for instance, was implemented during the nineteenth century in Western Europe, and of course it replaced old-style civil service, including the purchase of offices or the combination of public function and commerce.[49] Private business and public administration were successfully separated—at least in a formal way. But, from even the early nineteenth century, this separation caused serious functional problems. Business could not work without close ties to the legislator, precisely because the rule of law became so important. The social separation of business and political elites was never completed, because both sides had, and still have, good reasons for cooperation. Cooperation requires social proximity, or better yet, interrelations. These interrelations took the shape of organized lobbying or the networking and patronage of businessmen and political leaders (often the same individuals). There are countless examples of organized and informal ties existing between business and politics, such as the so-called railway interest in mid-nineteenth century Britain, the close relationship between French president Jules Grévy and his industrialist partner and son-in-law Henry Wilson, the symbiotic relationship between Otto von Bismarck and his Jewish banker Gerson von Bleichröder and so on.[50] Although such lobbying and networking of business and political leaders has ever since been regarded as corruption (or nearly corruption), modern societies cannot refrain from developing these links and ties because to do so would endanger the functionality not only of the economy, but also of the state.[51]

In addition to functionality, there is also epistemology. Regardless of the anticorruption measures passed, the question of corruption will remain open forever

simply because reality is too complex to be separated into binary categories (private vs. public). The private necessarily intrudes into any public function so long as every office holder is a natural person. The unsolvable problem is raised by the question of knowing where to draw the line between the private life of the office holder and the standards by which his or her motives or actions are to be evaluated. This is particularly difficult in the case of politicians: which parts of their daily routines and which hours of their day can be assigned to private life? When are they allowed to act on private motives and follow individual interests? Of course, no clear-cut separation is possible (this applies to past leaders as well as the political leaders of our time). The social life of politicians is necessarily both private and public. Any attempt to identify a clear-cut boundary will fail—as has been shown recently during the affair regarding the former German head of state, Christian Wulff, who was suspected of taking bribes or private benefits while in office. A crucial aspect of the scandal was the question of whether or not a certain dinner had been paid by him or by another person, whether it was a private or a non-private event and whether the company around the table was private or official in nature. There were no easy answers to these questions because of the inherent intermingling of personal and public life.[52]

This obsession with delineating between the private and the official sphere can also cause severe constitutional problems. In 1990, the Belgian king Baudouin faced an unsolvable conflict of roles. The Belgian parliament had recently passed a law regarding abortion. As a constitutional monarch, the king would have to sign it "automatically." Baudouin, as a practicing Catholic (a private person in the language of modern thought), was not prepared to sign a law he considered un-Christian. The solution was temporal abdication for two days, enabling the government to implement the law without the participation of the king. Although this example has nothing to do with corruption, it shows the fictitious nature of the line separating the public and private spheres.[53]

The same difficulties apply to the motives for action. Bleichröder, for instance, was at once the personal banker of Bismarck, a straw man who secretly took control of some important newspapers, a source of important political information on foreign countries (that he obtained by means of his business network) and an important trader of government bonds of various states, including the Prussian. Members of the political opposition framed these activities as scandalous, suggesting that Bleichröder—and by extension Bismarck—acted on private motives.[54] Of course, Bismarck's political friends rejected these accusations, claiming that every action had been made in the interest of Prussia and the State. Again, the debate cannot be conclusively answered.

Peter Eigen, founder of Transparency International, states in one of his books that German chancellor Helmut Kohl was corrupt, not because he had enriched himself, but because he had taken money from (unknown) donors to support East German local branches of his party. The problem, Eigen argues, was that he did this in order to cement his power inside the party.[55] If we agree with this assessment—that the transgression of the public/private divide is caused by actions intended to maintain personal power—then every politician necessarily transgresses this divide

and politics are inherently corrupt. For similar reasons, patronage and networking in public office can be seen as corrupt, although we know perfectly well that there can be no politics without it.

SOME REMARKS ON RECENT ANTICORRUPTION DEBATES AND STRATEGIES

Like other concepts in modern thought, the divide between private and public—guarded so to speak by the sentinel of anticorruption—has, on the one hand, been shown to create clear categorizations. On the other hand, it also creates inherently unsolvable problems, as disambiguation creates new ambiguity. This is why nearly every actor in politics can be considered to be guilty of corruption. Still, not all political leaders in history have been called corrupt. There have been phases of heated debates on corruption followed by periods without much concern about it. When we take the broad historical brush, we may detect intense disputes about corruption at the turn of the era of modernity (around 1800), a second phase between roughly the 1880s and the 1930s, and a third phase beginning in the 1990s.[56] Recent debates have been characterized by three new features: (1) the globalized nature of the discussion; (2) the extension of corruption into the private sector (employees of private companies being called corrupt when they betray their employer for private gains); and (3) the intensification of anticorruption measures on supra-national, national and company levels.

There seems to be a striking contradiction between, on the one hand, the spread of postmodern thought and experience since the 1970s and, on the other, the re-emergence in the very same period of a genuinely modern concept of corruption. Our lives are increasingly dominated by the vanishing of any separation between private and public spheres, as telecommuting increasingly takes place in private settings and during weekends and as intimate details of private lives are exposed on public social networks. Walls between business and the state have been systematically pulled down since the 1980s, while public services and infrastructures have been privatized in industrialized countries.[57]

The new emphasis in the fight against corruption has, of course, many causes. The end of the Soviet Union is one of them, helping to pave the way towards increasingly moralistic political cultures at a time when the classical ideologies of communism and socialism have lost their attractiveness.[58] Business interests in an increasingly globalized world provide another explanation for the recent fight against corruption. Perhaps, however, we should also consider an additional reason. The recent anticorruption debates (and their popularity) display a certain longing for clear-cut categorization, precisely because postmodern thought has proclaimed the end of unambiguousness. Of course, this is an illusion: extending the crime of corruption into the private sphere has produced again yet more ambivalence. So the history of anticorruption is similar to the history of science as described by Bruno Latour. Natural scientists have steadily refined their nature/culture distinctions and, in a similar way, anticorruption regulations have also been more and more

extended.[59] The "compliance revolution" is but one of the most recent steps in this history. It is probably a desperate but useless attempt to resolve the corruption problem once and for all.

History shows that humans are not easily able to conform to tightly woven systems of social rules. The tighter these systems are, the more individuals try to resist them or widen their scope of action in informal ways. According to historian Alf Lüdtke, stubbornness and obstinacy are important drivers of human action. Even in dictatorial systems, people systematically circumvent formal regulations, even when they seem to be completely subjected to a totalitarian regime.[60] From the standpoint of organizational sociology, Fran Osrecki highlights the importance of rule breaking as both a matter of fact and a necessary prerequisite for organizational innovation and development.[61] In short, it is very probable that the success of recent anticorruption efforts will remain limited.

12

Anticorruption in Seventeenth- and Eighteenth-Century Britain

Mark Knights

This chapter examines anticorruption in Britain and its colonies, following the late-sixteenth-century reformation to the reform movements of the nineteenth century, when the term "anticorruption" was coined.[1] There are a number of reasons why it makes sense to treat the topic across a period of nearly 250 years. The first is to emphasise that cultural, administrative and political changes took a very long time to effect: anticorruption was waged in bitter skirmishes that were part of a long battle drawn out over a very considerable timeframe. There was no sudden "anti-corruption" moment, even if the pace of change did undoubtedly accelerate during some key periods, such as the 1640s–50s and the 1780s–1830s. Second, treating the topic over such a long period shows that although "early modernity" was an era of transition, there was not a simple linear process towards a modern, uncorrupt state. Corruption was not simply eradicated in the nineteenth century (as Chapter 18 by James Moore reminds us) and there were interesting fluctuations both in the scale and success of anticorruption over time. For instance, in the mid- and later-seventeenth century there were experiments with a parliamentary committee or commission used to oversee public accounts and bring corrupt officials to account; but this was abandoned in 1715 (redolent of the fitfulness and impermanence of institutional mechanisms, noted by Guy Geltner in Chapter 7 on medieval Italy) and not resurrected until the 1780s, when it became a prime vehicle for reform. Seeing anticorruption in terms of waves of activity and success seems more realistic than a teleological trajectory that charts progress towards the triumph of anticorruption.

Third, as this chronology suggests, we should be wary about suggesting too abrupt a shift from a corrupt premodern world to a non-corrupt modern one, and about equating anticorruption solely with modernization. Jens Ivo Engel's claim in Chapter 11 of this volume that "at the beginning of the modern era, anticorruption debates and reforms dominated the political agenda for the first time in history" seems at odds with the British experience. In the era of the Renaissance and Reformation, an anticorruption ethos (as opposed to state reforming measures) was driven by religious and humanist motives, but that did not mean that those forces were weak or ineffective. The rise of the state over the period under study led to shifting concerns about the abuse of public office and resources and to slightly

different priorities for anticorruption campaigners, with a developing desire to tackle systemic rather than individual corruption. But although the focus of concern shifted slightly over time, earlier movements against corruption could, at times, be equally vigorous and far-reaching.

Anticorruption, then, was not just a modern concern or symptom of modernity; it just took different forms at different times to meet changing circumstances in the dynamic religious, political, administrative, legal, economic, social and cultural spheres. What appears to us, from our twenty-first-century perspective, as "modern" was but one strand of a much longer thread of anticorruption discourse and practice. It is thus worth remembering that "reform" is a contraction of "reformation" and that whilst the shortening did signify a more secular and state-focused approach, it also contained many of the elements apparent in the Protestant Reformation two hundred years earlier (and of course even earlier, when reformation was a term deployed throughout late antiquity and the Middle Ages). Similarly, "corruption" was most usually applied—and continued to be used in this sense at least until the late eighteenth century—to sinfulness or religious abuses, whether doctrinal or related to church governance. It is equally problematic to see the nineteenth century as non-corrupt. Even though domestic politics and administration had been considerably reformed, it was not until after the passage of a raft of legislation, between 1841 and the 1883 Corrupt and Illegal Practices Act, that electoral corruption was greatly reduced. Moreover, corruption in the imperial sphere persisted, and indeed arguably increased in the nineteenth century, with colonialism itself a form of state-sponsored corruption that systematically exploited imperial assets.

The present chapter is divided into three sections, each treating different dimensions of anticorruption. The first offers a brief overview of the historiography for this period, examines the language of corruption and sets out the variety of motives behind anticorruption campaigns. The subsequent section seeks to understand the very many factors that impeded anticorruption campaigns and which help to explain why change was often so slow-paced. The final section assesses some of the effects of anticorruption campaigns, highlighting how important they were in the very definition of what constituted corruption and also how they shaped a set of ideals about governance that were adopted as part of British identity—a perception that still carries a good deal of weight today, despite recent scandals.[2]

INTRODUCTORY OVERVIEW

Rather remarkably, there is currently no single work which maps the history of anticorruption in premodern Britain, though we have a number of fine studies of particular moments of crisis.[3] The outstanding study is Philip Harling's work on the later-eighteenth and early-nineteenth centuries, which, together with an influential article by William Rubinstein, suggests that there was an extensive reform process, beginning in the 1780s, which over the next seventy years sought to curb the excesses of, and eventually dismantle, the "fiscal-military" state which had

created a system of pensions, patronage, reversions, sinecures and safe parliamentary seats for those in positions of political and social power.[4] In another article, Harling and Peter Mandler chart an accompanying, and in part explanatory, shift towards laissez faire economics, whilst Rubinstein sees a parallel shift in how wealth was created, from office to private enterprise.[5] Peter Jupp suggests a slightly different version of modernization in his overview of the later-eighteenth and early-nineteenth centuries, arguing that as the state expanded in the social, economic, military and imperial spheres, so new professional and bureaucratic mechanisms—amounting to a bourgeois revolution in government—developed to meet the challenges this process posed.[6]

This model has recently been pushed further, and given a new twist, by Douglass North, John Joseph Wallis and Barry Weingast.[7] Although not primarily about anticorruption, their book suggests a transition to an "open access order," equated with modernity, in which citizens secured impersonal political rights, more transparent institutions, free markets and a separation of the economic and political realms. Britain, they claim, was on the "doorstep" to such a transformation in the late-eighteenth century, and made the transition between 1800 and 1850.[8] A more subtle treatment of the same period, a collection of essays edited by Joanna Innes and Arthur Burns, traces reform processes occurring in politics, the church and the empire, as well as medicine, gender and culture.[9] The essays again draw attention to the 1780s–1830s as a transformative era and examine reform as an "aspiration" and multi-stranded project that was envisaged by diverse people for diverse ends. Together, all these studies show that anticorruption was the language through which political struggle was conducted and that what emerged as a modern-looking anticorruption strategy was just one side of this contest.

The period after 1780, as Jens Ivo Engels, Mette Frisk Jensen and Andreas Bågenholm argue in this volume, is also seen as important in studies of Britain's continental rivals (even though their political systems were often quite divergent), suggesting something of a pan-European "moment" (though their chapters also suggest varying speeds and intensities of reform).[10] The idea of a step change occurring in the later-eighteenth and early-nineteenth centuries has many merits, since there was a push for administrative reform and a delegitimizing of some of the social and cultural practices that blurred the boundaries between licit and illicit behavior; but there is also a real danger of ignoring earlier anticorruption moments and movements in order to prioritize movement towards a certain type of "modern anticorruption." There were important earlier periods of cultural and systemic shift in Britain, during the Reformation and Puritan Revolution of the mid-seventeenth century.[11] The mid-seventeenth-century upheaval itself drew on older concerns. An important study of the early-seventeenth century, by Linda Levy Peck, thus argues that the reign of James I witnessed a period of intense anxiety about corruption at court.[12] Indeed, it was during this period that the form of parliamentary trial known as impeachment was revived (it had fallen into disuse in 1459 after repeated use in the late-fourteenth and early-fifteenth centuries) in order to prosecute a number of high-profile corruption cases.[13]

But it was the 1640s and 50s that perhaps best brought anticorruption discourse and initiatives together. Jason Peacey's recent survey of print culture and public politics during the civil wars and interregnum highlights the simultaneous and related developments of parliamentary accounting, a print revolution and the notion of accountability.[14] Even after the return of the monarchy in 1660, reform did not simply disappear. Gerald Aylmer's work examines many attempts to reform the administration and the "genesis of modern bureaucracy" in the period before 1780.[15] Both he and John Brewer point to the anticorruption measures taken in the excise branch of revenue collection well before 1780: qualifying entrance requirements; regulations preventing officers being stationed where they had personal ties in order to avoid conflicts of interest; and a rudimentary superannuation scheme.[16] In short, apparently rapid change in one period drew on changing attitudes that had been evolving over a long time and as a result of many different corruption scandals during a period of two hundred years.

In political theory, too, we can find well before 1780 a discourse that was often sharply focused on anticorruption.[17] John Pocock traced the transmission of Machiavellian notions of corruption and anticorruption into English political language in the seventeenth century, still evident in eighteenth-century ideas of the disinterested "patriot" who placed the public interest above his own.[18] Indeed, anticorruption campaigners were often styled "patriots," a word first used in English at the end of the sixteenth century and which developed in close parallel to anxieties about corruption.[19] David Wootton has also traced the emergence of the idea of checks and balances—integral to the Federalist controversy in the 1790s—back to the late-seventeenth century, when mechanical notions of the state as a piece of clockwork machinery that needed adjustment mirrored scientific developments in horology.[20] In turn, older notions of the state as an organic body politic in need of physical care survived well into the modern era. The idea of "purging" the state of corruption, still prevalent today, was commonplace in the seventeenth and eighteenth centuries, when satirists depicted corrupt figures vomiting and purging the religious and political impurities in their bodies.[21] In fact, the phrase "cancer of corruption," which has been routinely invoked in recent anticorruption speeches, originated in the 1590s (the metaphor was originally a religious one).[22]

Indeed, if we turn our definition of corruption back to a meaning that prevailed for much of the premodern period—corruption as sin and moral failing, and as errors of church doctrine and organization—then the "long" Protestant Reformation stretching from the sixteenth through to the eighteenth century, can be seen as an anticorruption exercise.[23] The Protestant Reformation stressed both the Catholic corruption of the institution of the church (sharpening an association between anticorruption and anti-popery) and the dangers of the vices most associated with corruption such as avarice, luxury and self-interest (a term coined in the 1640s).[24] Similarly hypocrisy, another of the vices associated with corruption's inherent tendency to disguise and conceal, was, as John Jeffries Martin has shown, a Renaissance innovation and preoccupation.[25]

Anticorruption was thus often a form of moral reform, powerful precisely because the term corruption was loaded with moral disapprobation and because

(as John Watts notes in Chapter 6) the reformation and character of the individual was thought to be as important as the reformation of the system. Throughout the premodern period there were waves of moral reform or what was in the later-seventeenth century called "the reformation of manners."[26] It is interesting to note that the two periods already identified as reformist, the mid-seventeenth and the late-eighteenth centuries, were both marked by religious movements stressing the importance of individual integrity and purity as well as institutional reform. The personal and the public thus seemed to move in tandem. Seventeenth-century puritanism and late-eighteenth-century piety and Evangelicalism were different beasts, but they shared a common animus against the corruption of the individual and of the world.

Taking these earlier perspectives seriously, therefore, questions how far the reform impetus of the era after 1780 can be seen as entirely novel and "modernizing" (no-one calls seventeenth-century puritans "moderns"!). Rather than a linear move towards an un-corrupt modernity, we might instead see undulations, periods of intense anticorruption debate and reforms punctuated by others which seemed less worried by it and less reformist, as well as periods (such as the 1730s) of intense rhetoric against corruption but very little state action. Put another way, instead of a transition after the end of the eighteenth century to a modernity in which corruption was a novel and key concept, we might see periodic, wave-like convulsions as having occurred much earlier, engaging with different forms of corruption and coming up with different solutions to those refined in the nineteenth century, even while contributing to the formation of that later mindset. We might also want to distinguish between, on the one hand, administrative and institutional reform and, on the other hand, social and cultural shifts—the latter taking much longer than the former even though they provided the societal framework in which the former could operate.

We can push these lines of argument further by examining the motives behind attacks on corruption, since looking at anticorruption in the late-sixteenth to the early-nineteenth century throws up a pattern of common factors across the period. These can be divided into the micro (personal), meso (sectional and group interests) and macro (larger forces).

FACTORS FOSTERING AND RESTRAINING ANTICORRUPTION

A variety of personal motives underlying anticorruption efforts can be found across the premodern period. Sometimes personal crusades seemed covers for self-interest and many anticorruption hunters had financial interests in uncovering the corruption of others. Sir Stephen Proctor, who was given licenses at the start of James I's reign to collect money that he claimed was being corruptly siphoned off by local office-holders, also gained financially himself from the revenue he collected and aroused antipathies and jealousies accordingly. Proctor's corruption-hunting was sharpened by his hostility to the crypto-Catholicism that he thought lay behind

some of the corruption of those employed by the state, but his attempt to further what he saw as the public good through his own advancement left him open to charges in parliament in 1610 that he himself was corrupt.[27] At the other end of our period, Colonel Gwyllym Wardle, who rose to prominence by exploiting Mary Clarke's 1809 revelations that the Duke of York had sold commissions in the army and other offices, was found to have paid Clarke for her damaging memoir and also to have himself had a corrupt background in army contracting.[28]

Other anticorruption campaigners and champions also had personal axes to grind, such as Sir Edward Coke, who, in 1621, was intent on pursuing Francis Bacon, his long-standing rival for high legal office. Meanwhile, others basked in the popularity that anticorruption attacks could bring, such as the early-nineteenth-century reformer Sir Francis Burdett. Other crusaders were motivated by offended personal integrity, revulsion at misappropriated public resources and/or an exalted sense of their own integrity. The Earl of Macartney, for example, sent to be Governor of Madras (1781–85) with a remit to cleanse the East India Company, boasted to Edmund Burke that he would:

> [F]ind that I have acted the most impartial, unprejudiced part, like an honest man and a good Englishman. You will find that whether arising from pride, prudence or principle, I have strictly observed my covenants with the Company, and have never accepted the smallest present for my own benefit . . . The temptations here are undoubtedly very strong, but to my feeling the embarrassment of a man's circumstances, instead of being a motive of avarice, should serve as a monitor to Integrity.[29]

Sectional or group interests were often political or at least politicized, and it is worth underlining that anticorruption was often highly political, since it involved making choices about the type of polity that did or should exist. Anticorruption campaigns advanced political careers and causes by delegitimizing a rival person, group or ideology (whilst legitimizing others) and were fought out in the public sphere in a contest for public opinion, particularly when scandal was involved. But sectional interests mobilized against corruption were politically charged (a feature, as Claire Taylor shows in Chapter 1, reaching back to Classical Antiquity). They included factions (such as those ranged against the duke of Buckingham, favorite of two kings and monopolizer of patronage, in the 1620s, and against the earl of Clarendon in the 1660s) and the political parties that emerged in the later-seventeenth century (first perhaps evident in the impeachment of the duke of Leeds in 1695 for corruption in part because he was a figurehead for the Tories who the Whigs sought to supplant).

Such group interests, however, could also be religious in inspiration. William Prynne articulated the Presbyterians' desire for fiscal prudence in the 1640s and Evangelicals sustained anticorruption rhetoric in the later-eighteenth century. Economic groups also nurtured anticorruption campaigns and rhetoric. Rival mercantile groups used anticorruption as a weapon against each other in the West Indies in the eighteenth century and rival groups within the East India Company used anticorruption as a means of advancing their interests. Indeed, the longest corruption trial in British history, that of Warren Hastings, which lasted

for seven years between 1788 and 1795 (and even longer if one includes the preliminary accusations), was in part the result of conflict between rival factions within the Company, with Edmund Burke's attack being fueled by the evidence gathered by Philip Francis, who had been a thorn in Hastings' side since being sent to India in 1774. Besides disliking one another (and fighting a duel in 1780), they represented different visions of running the Company, with Francis ironically close to Lord Clive, whose self-aggrandizement through Indian riches had earlier scandalized parliament, but who then saw himself as cleaning up Company practices. Francis was sent to India as a result of legislation passed in 1773 to give the state a greater say in the regulation of the Company (it was this act that prohibited East India men from accepting presents or bribes from the natives).[30]

As this last example suggests, personal and group interests fed off larger macro factors. One important development which attracted a good deal of anticorruption attention was the growth of the fiscal-military state.[31] War in the 1640s, 1690s and 1780s provoked investigations into abuses and stricter public accounting.[32] Periods of war (against France and Spain in the 1620s; civil war in the 1640s; against the Dutch in the 1650s–70s; against France between 1689–1713; on a global scale in 1756–63; against the American colonists in the 1770s and early 1780s; and then against France after the Revolution, between 1792 and 1815) also generated considerable social and economic dislocations which accentuated popular hostility to high taxation and hence also to those thought to be corruptly gaining from popular misery. Another macro factor related to war—since warfare became increasingly global and colonial rivalries fueled conflict—was the growth of empire, evident at least from the late-seventeenth century onwards. In the West Indies, planter elites almost constantly jockeyed for power using the weapon of anticorruption, while in the East Indies the boundaries between private interests, the interests of the East India Company and the interests of the British state were constantly blurred. In both instances, those returning to Britain laden with what seemed like ill-gotten gains (the East India men were nicknamed Nabobs, from the Indian "nawab" meaning princely ruler) were frequently the target of satire, abuse and prosecution.[33]

Another macro factor that fostered and enabled a swelling of anticorruption campaigns was the freedom of the press, which was temporarily gained in the 1640s, renewed for a short period after 1679 and then established permanently after 1695 when the government's ability to censor print before publication was allowed to lapse. The press, either in pamphlet or periodical form (and in the eighteenth century also in visual satires), became an important weapon against the corrupt from the 1640s onwards. Print both exposed corrupt behavior but also acted as a sort of informal court of public opinion, particularly important in generating a popular scandal when more formal prosecution proved difficult. Thus the anonymous *Junius Letters* in 1768–72 harried government ministers, leading to the resignation of Grafton as prime minister.[34] Yet another macro factor at work in fostering anticorruption was a growing legal culture, which in the eighteenth century began to refine common law on issues of corruption at a time when statute provisions were often vague or non-existent.

Given the range and extent of micro-, meso- and macro pressures behind anticorruption campaigns, the obvious question that follows is why these pressures were only partially successful and why reform was so piecemeal and took such a long time to achieve. I suggest that anticorruption was hindered by the following factors:

a) Inadequate safeguards for whistle-blowers. Throughout the premodern period those who attempted to draw the attention of their superiors to malpractice frequently found themselves blocked, ridiculed or maligned as informers and were quite commonly themselves prosecuted on corruption charges in order to invalidate their claims. For instance, in the late-seventeenth century, Robert Crosfeild, an official in the victualling office who sought to expose the corruption in the navy, was arrested when he published his allegations;[35] and in the early-nineteenth century another naval officer, James Gilchrist, was also prosecuted in order, as he saw it, to try to silence him.[36] Significantly both Crosfeild and Gilchrist were described as "mad," highlighting how certainly either extreme bravery, moral certitude or priggishness and/or a disregard for advancement were necessary to swim against the tide.

b) Scandal was an inadequate mechanism for achieving reform unless handled carefully.[37] Scandal, particularly as it developed in the seventeenth and eighteenth centuries, tended to focus on individual misbehavior rather than promote wholesale structural reform—though some limited measures did occasionally result and, cumulatively, these could be important (the history of measures against electoral corruption, for example, was one of response to glaring acts of corruption, but no individual abusive campaign was sufficient to achieve systemic reform). The weight of public opinion generated by scandal was certainly important in creating a climate within which political reform operated and at certain moments even proved decisive in pushing for state reform (the early 1830s are an obvious example, when fear of serious unrest helped the reformist momentum at a critical moment). But public opinion was by no means a consistent or coherent force and scandalized public opinion was not in itself sufficient to achieve change: it needed to be channeled into political action.

c) As George Bernard's and André Vitória's chapters also suggest, social, economic and cultural norms blurred the boundaries between licit and illicit behavior and between what was public and private, so that it was possible to defend or even legitimize practices that were being attacked as corrupt (though I do not go so far as Bernard's claim that there was no notion of corruption). In particular, friendship, gift-giving, patronage and the notion of office as something private rather than public conferred some sort of legitimacy on the "favors," "presents," "gratuities," "fees" and sale of office that others condemned as bribes, extortion and venality (an ambiguity highlighted by Claire Taylor in her discussion of Greek terms in Chapter 1).[38] In other words, there was a prolonged contest over what constituted corrupt behavior that was not simply the individual posturing of those attacked, but also

reflected areas of genuine moral ambiguity. These gray zones could become more black or white over time. Usury, for example, gradually became more acceptable over the premodern period, whilst sale of office became less so.[39] Private interest was condemned for much of the period, but came to be seen as compatible with, or even a driver of, the public good.[40] Because norms of behavior were embedded in social and cultural practices, these views took a very long time to shift. Friendship, for example, frequently blurred the lines between gifts and bribes, favors and cronyism. Friendship and social decorum were a key part of the defense made by Charles Bembridge in 1783 when he was accused of failing to reveal a large hole in the accounts of his patron and boss, Henry Fox, the Paymaster of the Army. The case is important because it established the law on misconduct in public office, but although the sentencing by Judge Mansfield carried a very clear injunction that friendship was no excuse for corruption, a single judgment could not change social behavior overnight.[41]

d) Whilst a good deal of anticorruption ire was focused on the armed forces, the necessities of war and the inadequacies of the state nevertheless militated against easy and enduring reform. Whilst anticorruption rhetoric condemned those who profited from war, the state nevertheless relied on agents and financiers who could raise the liquidity and resources needed.[42] Moreover, the sale of army offices provided social cohesion and an informal mechanism for provision in old age or retirement,[43] whilst the confusion of war made it more difficult to make charges stick, especially when proper accounting was far more difficult under such circumstances. Indeed, the take-up of "modern" accounting practices took a long time to effect across the multiplicity of state departments.[44]

e) Besides the internalized policing of the conscience, effective anticorruption control also required an impartial umpire able to enforce rules and the law. Legal definitions of, and restrictions on, corruption were either absent or weak. Although corruption was a recognized crime in terms of the dispensation of justice and the administration of the royal revenue, the legislation governing it was very incomplete: a law passed in Richard II's reign was full of holes and another of 1552 was hardly more watertight. There was no statute governing bribery (significantly, the more commonly prosecuted crime was extortion, suggesting that it was abuse of office that merited punishment rather than the offering of money or other rewards). Outside of the arenas of perversion of justice and parliamentary elections, for which legislation did exist, bribery only gradually became a common law crime in the late-eighteenth and nineteenth centuries.[45] This meant the most important cases had to be dealt with by parliament on the ill-defined charge of "high crimes and misdemeanors"—an indictment also used against those accused of treasonable activity. Moreover, since parliament was a highly politicized forum it was not a very good mechanism to deal with corruption. The process of impeachment was used relatively frequently during the seventeenth century, but it was

increasingly seen as a partisan tool and fell out of use for half a century after 1725 and then permanently after another set-piece corruption trial of Lord Melville in 1805–6. It is true, of course, that parliament was not the only arena in which to bring miscreants to book. Parliamentary commissions and committees of public accounts also triggered prosecutions (though before the 1780s they too could be extremely politicized), as did departmental investigations and procedures initiated by trading companies against their members for violation of their own regulations, but these were often ineffectual, limited, patchy and also open to partisanship.

Anticorruption was most effective when the micro-, meso- and macro factors outlined above coincided. Both the mid-seventeenth and the later-eighteenth/early-nineteenth centuries witnessed wars (civil and external) on such an unprecedented scale that they required a thorough review of established practices in order to cope with new challenges; but both periods were also ones of moral reform that sought to establish norms of personal responsibility and accountability. Moral reform helped to enforce rules of behavior internally at the same time as institutional scrutiny imposed it from without. Both eras similarly witnessed a profusion of printed debate and the mobilization of groups and individuals who campaigned against corruption. Both moments witnessed rapid expansions and extensions of the state so that it was seen as very obtrusive into everyday life, and also considerable social tensions between those enjoying lucrative positions of power and those who felt they were being asked to pay too much for them in a way that was not properly accountable. And they also tended to see reform occurring simultaneously across the political, economic, social and religious spheres, as part of a systemic approach. Indeed, the language of the "system" as a way of talking about associated or related things or a set of persons working together as a network—a term so charged in the hands of radical journalists such as William Cobbett and Richard Carlile in the early-nineteenth century who condemned corruption as a set of interrelated practices—was first popularized in the mid-seventeenth century.[46]

The two periods, of course, had their differences. The seventeenth century revolutions began the process of building the fiscal-military state while the later-eighteenth and early-nineteenth centuries saw its dismantlement and the evolution of the liberal. And the greater reach and size of the state and empire in the later period necessarily meant that the "system" was more complex and geographically extensive than ever before, as well as being interlinked in a way that required a more wholesale, methodical and rationalized (some would say, utilitarian) approach. But the similarities between seventeenth- and nineteenth-century reformations/reforms are marked and a number of later critics saw their activities in the light of earlier anticorruption movements. William Hone, for example, the early-nineteenth-century radical publisher of anticorruption satire, deliberately modeled his defenses, when tried by the government in 1817, on John Lilburne, the outspoken critic of the corruptions of the mid-seventeenth century regimes and one of the leaders of the Levellers who produced manifestoes demanding accountability and press freedom whilst displaying considerable animus against those with corrupt vested interests, such as lawyers.[47]

THE IMPACT OF ANTICORRUPTION

There were nevertheless interesting changes across the premodern period that shaped anticorruption rhetoric and practices. One of the most important concerned the conception of office-holding. As social historians of the state have emphasized, early modern office was an intensely personal form of authority, resting as much on the social standing and cultural brokerage of the holder as it did on the formal legal nature of the office.[48] To be sure, office-holders were restrained by humanist ideas, prominent in the Ciceronian writings which enjoyed such a prominent place in premodern education, and also by Christian ideals, which stressed the importance of justice and equity.[49] Nevertheless, we can also point to developments that further shifted the responsibility of the office-holder from God or the King to the public or the state. One was the growing readiness, from the mid-seventeenth century onwards, to see office in terms of a legal trust. By 1650 officers were thus conceived, at least by some, as being entrusted by the people or the state to fulfill certain duties; they had discretion but were to exercise authority for the good of the public and were not to exceed or breach the trust given to them. The evolution of the notion of entrusted power—along with notions of what constituted the abuse of this trust and of the remedies for such abuse—took place over the next two centuries to shape the nineteenth-century or "modern" model of bureaucratic office-holding, which is outlined in Chapter 11 by Engels, thereby perfectly demonstrating the need to see later changes in a much longer context. What began as a seventeenth-century innovation (itself drawing on Classical ideas) culminated in a nineteenth-century mindset.

The legal notion of trusteeship was important because it contained within it ideals that we now associate with probity in public life: impartiality and disinterestedness; a duty of care to the people; discretion to act but within the limit of acting for the good of the public; accountability and transparency; and integrity of character.[50] Considering public officers as trustees thus helped to provide a mechanism for accommodating the discretion necessary for efficient and good governance with the systemic accountability and responsibility that was also demanded. Trust thus helped to resolve the dilemma, identified by John Watts, for the later medieval period of how to hedge in the discretion and personal attributes that were so essential to the proper functioning of a dynamic society in which interpersonal relations were still highly important.

Although we can find occasional usage of the word "trust" to describe office in the early-seventeenth century, the language of trusteeship became far more commonplace after February 1642 when Charles I responded to propositions made to him by Parliament in an attempt to avert civil war, stating that God had entrusted royal authority in the king "for the good of our people," talking of "the trust reposed in Us by the law" and referring to "places of Trust" that he had filled by his nominations to office.[51] His words were immediately seized on by Henry Parker, a polemicist for the parliamentary cause, who argued that the king had admitted that the Crown's authority was a "speciall trust" of the people, which had to be performed "for the peoples good" and that "all rule is but fiduciarie," with limitations and remedies when breached.[52] Parliament, too, picked up on the

new importance of the rhetoric of trust, passing a resolution on 17 February 1642 that the buying and selling of "places of trust" was a cause "of the Evils of this Kingdom." There was thus a legalization of the language of anticorruption through the deployment of the notion of fiduciary trust.

This notion of office as entrusted power, responsible to the people, began to take hold, enriched by the fiduciary theories of John Locke and Algernon Sidney but operating even before they published at the local level. A 1654 Hertfordshire remonstrance against the county treasurer, William Hickman, and his agents, found them "corrupt in their trust" and turned them out of their places:

> [G]ood Governors and just and upright men in Office and places of Trust are not only the Foundation but the props and pillars of a Commonwealth; so the contrarie, [if] corrupt men are put in Office or Trust, Men self-seekers, covetous, contentious, dishonest, or uncivil in their charge or carriage towards the People.[53]

And a sermon to an assize in 1708 laid the obligations out:

> [A]ll Authority and Power, is a Trust reposed by God and Men, in the hands of some for the benefit of others; for the controlling of Evil-doers, and for the helping such to right, who suffer wrong: And that Right be maintained according to Law and Equity, is what Men justly expect, and claim from those who have the Authority and Power; who are concern'd in Honour and Conscience not to fail such reasonable expectation and demands.[54]

The notion of entrusted power also became important in the colonial sphere. The late-seventeenth-century charters of Connecticut and Rhode Island declared they were grants "in trust" for the benefit of the settlers there, whilst the notion of breached trust was important in the case that the American patriots made in the 1760s. John Adams argued in 1765 that "rulers are no more than attorneys, agents, and trustees, for the people" who could revoke the authority if their "interest and trust is insidiously betrayed."[55]

To be sure, this process of conceiving of public office as a limited trust was not one achieved overnight and rested on strengthening notions of office as on object of public interest rather than private concern. In 1725, the Lord Chancellor, the earl of Macclesfield, was impeached for selling offices in the court of Chancery and a significant part of his defense was that offices were entirely private matters, so long as competent officials were appointed to them:

> The Publick is concerned only in the Goodness of the Officer, not how advantageous to him the Grant of the Office is, nor in the Inducement to which he that appointed him had to put him in: whether Friendship, Acquaintance, Relation, Importunity, great Recommendation or a Present.[56]

Macclesfield was nevertheless convicted of corruption. A similar defense was made in 1769 when proceedings were begun against a Jamaican planter, Samuel Vaughan, for attempting to buy office. Vaughan published a vindication in which he argued that "if the duty of the office is well discharged, the public have no business to enquire into it."[57] But Judge Mansfield, whose ruling in the Bembridge case has already been mentioned, cited the Macclesfield precedent and condemned attempts to buy office

as corruption: "I take it to be a very necessary consequence that, wherever it is a crime to take money, it is a crime to give it; because the corruption is reciprocal. It is corrupt in the receiver, it is corrupt in the tempter and giver."[58] So when Mansfield argued in the Bembridge case in 1783 that "a man accepting an office of trust, concerning the public, especially if attended which profit, is answerable criminally to the King for misbehavior in his office," he was developing a line of argument that had a long gestation, another demonstration that the reform movement of the 1780s drew on much older roots.

Another important part of the notion of office as a trust from the public, rather than the crown, concerned members of parliament (MPs). A sustained critique of royal influence over the members of the House of Commons was evident during the 1670s and 1680s, but it endured beyond the revolution of 1688 and survived as a potent concern for much of the eighteenth century. If MPs were also entrusted with popular power, it was argued, they abused that trust when they accepted offices and rewards from the crown, since these encouraged them to represent royal rather than public interests. A mass of publications from the late-seventeenth century onwards championed the virtues of the disinterested magistrate, MP or local officeholder who put the public interest before his private one and who steered a resolutely independent line of action, resistant to court blandishments.[59] The perceived corruption of the constitution through excessive royal influence, and the breach of popular trust, was a key anxiety underlying many reforms from the late seventeenth century onwards as well as the parliamentary reform movement the culminated in the 1832 reform act.[60]

"Entrusted power" (together with the importance of acting primarily in the public interest), accountability, press scrutiny and avoiding conflicts of interest all became, from the seventeenth century onwards, important parts of the anticorruption platform. The development of each of these strands was contested over a long period of time, with moments of quickened pace and even some reverses. Yet it is also the case that these ideals of how power ought to be exercised became themselves part of important anticorruption fictions. The genre of utopian writing, begun in the early-sixteenth century, revolved around the idealized fictions of non-corrupt societies and implicitly critiqued or satirized the corruptions of the early modern world. The utopian impulse in the mid-seventeenth century is particularly rich in exploring the possibilities of preventing corruption and later proto-novels did likewise: *Gulliver's Travels* (1726), for instance, provided a vehicle for its author Jonathan Swift to satirize the corruptions of early-eighteenth-century society and politics. The year 1711 witnessed the birth of another literary fiction: John Bull, the personification of the everyman Briton. This character took on a life of his own, rapidly taken up as a polemical tool that could be deployed against an array of different subjects, and was used to depict the British subject as oppressed by the weight of the corrupt regime that over-taxed and oppressed him, and also as the epitome of plain honesty who could be outraged by corruption.[61] In graphic satire after satire, John Bull also embodied the virtues of naïve honesty, the public good and accountability even if (or perhaps because) he seldom exercised authority personally.[62]

This virtuous, patriotic and anti-corrupt idealized figure of the eighteenth and nineteenth century helped to create a notion of Britain as a place that opposed and resented corruption. When Edmund Burke attacked Hastings in 1788 he claimed that the British nation would disown his system of corruption because,

> [I]f any one thing distinguishes this nation eminently above another, it is the dignity attached to its offices, from this, that there is less taint of corruption in them; so that he who would, in any part of these dominions, set up a system of corruption, and attempts to justify it on the score of utility, that man is staining, not only the general nature and character of office, but he is staining the peculiar and distinguishing glory of this country.[63]

The idea of British "purity" had long been bolstered by the Protestant Reformation, in which Britons saw themselves as having thrown off popish corruptions and internalized the merits of conscience, selflessness and self-restraint. In the domestic sphere, such representations could assist anticorruption. In the imperial sphere, however, they lent weight to the idea that Britons were superior to the races over which they found they had dominion. In the late-eighteenth and early-nineteenth centuries, the idea of colonial natives as corrupt peoples in need of civilizing and restraining began to acquire ever more momentum, a fiction that not only justified empire but also legitimized its extension.[64] Anticorruption, then, was a way for Britons to imagine themselves and the nation, a way of constructing a narrative about their identity and their past, present and future.

CONCLUSION

Anticorruption played a very large part in determining what constituted corruption. Across the premodern period anticorruption took on many different guises, attacking religious impiety, perceived attempts (by the crown or by partisans) to unbalance and undermine the constitution, the embezzlement of public money, the sale of office, the abuse of the justice system, illicit plunder from imperial ventures, sexual immorality and even the diffusion of corrosive ideas and beliefs. Anticorruption thus helped to define the nature of religious, political, economic, imperial, sexual, legal and cultural corruption. Anticorruption and corruption were linked together in a synthetic process that was continually evolving. One of the reasons why modern anticorruption campaigners find it so hard to agree on a common definition of corruption is not only because corruption has always been a multi-stranded and pejorative term, but also because anticorruption has always also been evolving and creating swirling contests and debates about the boundaries between licit and illicit behavior. Out of the scandals, campaigns and contests, repeated frequently over a long period of time, came slightly reconfigured expectations among both people and state, as well as new or tighter rules that also increased anticorruption's role in policing them.

But no matter how many small victories were achieved, anticorruption could never achieve closure. Figure 12.1 shows a satiric image from 1784 featuring

Figure 12.1. The "champion of the people" cuts off one of the heads of the hydra, labelled "corruption," but a new one will grow.

Source: Thomas Rowlandson, *The Champion of the People* (1784) © Trustees of the British Museum.

Charles James Fox, one of the leaders of the Whig party who was at times a vigorous anticorruption campaigner (though also at times seen as the embodiment of corruption), slicing a head, labelled corruption, off a hydra.[65] Corruption was frequently depicted in premodern graphic satires as a multi-headed hydra which grew new heads as soon as the old were cut off. The hydra was an allusion to Classical mythology; but it also drew on the biblical story from Revelations of the seven-headed beast that, significantly for Protestant Britons, carried the whore of Babylon, the name often given to the Catholic Church.[66] From the sixteenth century onwards, then, Britons saw themselves as locked in a battle with corruptions in church and state. In that contest, the forces of anticorruption helped to define the "abuse" they were attacking.

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13

Statebuilding, Establishing Rule of Law and Fighting Corruption in Denmark, 1660–1900

Mette Frisk Jensen

In 1660 the Danish king, Frederik III, managed to introduce the fullest form of absolutist rule in all of Europe. This type of government, exercised in various forms over the centuries, proved remarkably durable and lasted until the introduction of a liberal constitution in 1849. Absolutism precipitated a number of administrative reforms primarily in order to consolidate power for the monarch, but over the years it also created a very strong state with a solid focus on establishing the rule of law as well as training civil servants who were loyal to crown and state. These developments were part of what can be seen as the introduction of a large number of new anticorruption mechanisms and practices in the state of Denmark after 1660. Initially, this process was not part of a conscious set-up related to fighting corruption—the primary goal for Danish kings was instead the consolidation of their rule. Accordingly, the effect of this development in terms of anticorruption can be seen as a secondary, or even unintended, result, albeit of considerable value. As numerous authors in this volume argue, the deepening of the public/private divide in and beyond Europe was already well on its way before the mid-nineteenth century. This was the case in Denmark too, where civil servants were being put on trial for forgery, embezzlement or receiving bribes. In 1824, for example, a top bureaucrat in the Danish royal administration described a severe "epidemic of embezzlement" amongst the local and regional civil servants. At that point in time there was no doubt that this was not an accepted practice for civil servants.

This article builds and expands on the main findings of a large empirical study on the history of corruption in Denmark between 1800 and 1866, and discusses how Denmark became a present-day "best performer" in terms of perceived low levels of corruption.[1] It argues that a complex mixture of elements was of particular relevance in the development of anticorruption mechanisms in Denmark: namely, the establishment of the rule of law; a focus on the loyalty of royal servants; the use of petitions to inform the king of the performance of royal servants; and a growing general notion that corruption was a severe crime and a sin. These changes were achieved gradually as part of the process of statebuilding in Denmark, especially after the introduction of absolutism in 1660. It was also the moment that saw the

first signs of what can be interpreted as a more modern perception of corruption, with laws that clearly criminalized malfeasance such as bribery, fraud and embezzlement for royal servants in particular. Although there was no formal-legal definition of corruption at the time, this legislation, and its interpretation and use at the Danish courts and within the administration, will be referred to when discussing corrupt crimes in this study. The actions of royal servants that are described in this set of laws reveal what was defined as criminal and morally unacceptable—and these laws remained in place largely unchanged until the 1840s.

THE NOTION AND CRIMINALIZATION OF CORRUPTION

The end of the seventeenth century was in many ways a period of reforms in the administration of the Danish state and the kingdom more broadly. In 1661, a commission was set up by the Danish king to review the existing legislation and remove what was not in line with absolutist rule. The work of the commission resulted in the Danish Law of 1683, which redefined Denmark as a legal entity. The code modernized and standardized the former provincial laws, and—to a large extent—introduced the principle of equality before the law. This collection of the majority of the country's laws into a single legal code helped create a new basis for the enforcement of the rule of law.[2] At the end of the seventeenth century, further reforms were introduced to reduce the likelihood of criminal activity among royal servants. A number of laws regulating the duties of civil servants and imposing harsh punishments, such as life imprisonment and loss of office for a number of crimes, were introduced with the purpose of minimizing exploitation in the state's administration. The first explicit ban on bribery and the acceptance of gifts by royal servants was introduced in 1676, a piece of legislation renewed and extended in 1700.[3] Under the law of 1676 it was forbidden to either give or receive bribes, granting a reward to the person who reported the crime. Clerical, civil and military officials were covered by this law.

Throughout the eighteenth century, the ban on bribery was reinforced and targeted at specific groups of officials, such as for example the customs officers. In the Danish Law of 1683 and subsequent legislation the standards for official duties were also described: forgery by civil servants was included and a clear ban was imposed. Embezzlement was to be judged as theft from the crown. The king also issued a law specifying and regulating the penalty for fraud and embezzlement in office in 1690. The sentence was hard labor for life unless the money was repaid to the king's treasury.[4] Danish Law also specified demands for judges in the court system. To be appointed as judges they had to be both *uberygtede* and *vederhæftige*—that is they could not have been found guilty of any act considered by the general public to be dishonorable.[5] They also had to have sufficient private wealth to meet their financial obligations. This requirement was probably set up to minimize the risk of their being tempted by bribes or embezzlement.[6]

THE HISTORICAL REALM OF DENMARK

Denmark, which is today among the oldest monarchies in the world, has a long history in terms of statebuilding, having undergone several key changes in relation to its geography and the type of state control. For roughly three centuries, from the early-sixteenth century to the beginning of the nineteenth, the kingdom geographically included Norway, Iceland, the Faroe Islands, Greenland and a number of colonies in the West Indies, West Africa and India. In 1814, the territory of the former Danish empire was reduced by the loss of Norway during the Napoleonic Wars, leaving the Danish state a small country in the European context.[7]

The Lutheran Reformation of 1536 came to play a crucial role in the country's development of institutions of central government and in the organization of society as a whole. After the Reformation, the Danish monarch became the secular head of all churches, which gradually formed into a state church that exists to this day. As head of the church, the monarch and the state gradually took over the responsibility for people's wellbeing, which had traditionally been the responsibility of the ecclesiastical hierarchy. From the perspective of statebuilding this top-down model of reform enlarged the administrative tasks of the state and enhanced its capacities.[8] Alongside its expanding role in ensuring the welfare of its people, the Danish monarchy also had military ambitions, and together these two elements played a major role in the Danish process of statebuilding. The constant rivalry between Denmark and Sweden between the sixteenth and the eighteenth centuries created what has been termed a "fiscal-military state."[9] To build the military institutions and finance an army, the state needed to be able to collect taxes effectively, and for this purpose a civil administration was required. By the beginning of the eighteenth century, and most likely already during the later seventeenth century, the two Nordic monarchies were the most militarized European states, and this played a decisive part in the expansion of state administration.[10] The Danish people, on the other hand, wanted something further in return for their taxes.

CORRUPTION IN THE DANISH ADMINISTRATION IN THE NINETEENTH CENTURY

At the beginning of the nineteenth century, Denmark was involved in the Napoleonic Wars as an ally of France. The costs of the war were immense and in 1813 the Danish state went bankrupt and the country was hit by a severe economic crisis that lasted until about 1830. During this period there was a rise in the number of prosecutions of civil servants accused of corruption, especially at the regional and local level, but also in the central administration. A study of a large number of court cases against discharged civil servants between 1800 and 1866 shows that between 1811 and 1830 the number of officials convicted of and sentenced for corrupt crimes grew.[11] Whether this trend represents an actual increase in the number of civil servants engaged in corruption or a closer monitoring of the civil servants by the crown resulting in more cases put on trial is hard to determine exactly, but as

several chapters in this book make clear (see, in particular, the chapters by André Vitória, John Watts and Mark Knights), war and political crisis were particularly conducive to anticorruption crackdowns. At any rate, and as was already pointed out, the situation at this time was deemed by at least one senior official in 1824 a veritable "epidemic of embezzlements," suggesting that the increase in the number of cases of malfeasance was at least perceived as very serious.[12] This development was followed by a decrease in misconduct among civil servants, so that by 1860 Denmark had reached a very low level of corruption: a level that has remained fairly constant ever since.

A close examination of the court cases shows that the vast majority of allegations concerned embezzlement. Part of the reason for this was the impact the economic crises had on civil servants; inflation had eroded salaries, while declining activity in the community had meant lower wages for the officials, who were partly paid by the so-called *sportler,* a kind of commission. In this situation, several officials began to "borrow" the money they held in connection with their office. Royal officials were allowed to borrow from public funds and had to repay the loan when an audit was carried out. Being unable to do so was considered a crime of corruption and was taken very seriously by the king and the top echelons of his bureaucracy; nevertheless, the fact that the practice still existed shows that there was still no clear separation between the public and the private spheres at this point.[13]

There were good reasons to clamp down on such practices, however. As mentioned earlier, Denmark also experienced in this period the greatest loss of territory in its history, with the transfer of Norway to Sweden in 1814. The future of the state had been at stake during the Napoleonic Wars, whilst Danish absolutism was also under threat as other European countries experienced revolutions and the introduction of liberal constitutions, as in Norway in May 1814. The French Revolution was still fresh in people's minds and Danish intellectuals were increasingly aware of liberalism and democracy, while the majority of the population was experiencing economically hard times.

The Danish king, Frederik VI, and his closest advisors thus had every reason to fear a revolution, and corruption among the king's civil servants was most likely perceived as a threat to absolutist rule. The increase in administrative and economic misconduct among the civil servants presumably drew the crown's attention as something that needed to be handled and punished if the king was to maintain absolute power. This is one important reason why the crown was so consistent in its condemnation of corruption. Along with this, the general notion that the official misconduct of civil servants was morally incorrect and a severe crime had grown among the people.

When corruption was discovered, a civil servant was usually suspended while his case was thoroughly investigated before being put on trial. Had this not been the case, and had the king decided to pardon corrupt civil servants (as an absolute king could), this might have led to an administrative culture where embezzlement was routine. Instead, quite the opposite happened, and this could well be one of the important elements in the history of anticorruption in nineteenth-century Denmark.

Another central finding from the research was that cases of bribery were infrequent: most of the crimes had to do with embezzlement. It appears that, by the beginning of the nineteenth century, bribery was no longer a common form of corruption in Danish bureaucracy. One explanation for this could be that the legal and administrative framework set up for the civil servants in the decades after 1660 had over the years minimized recourse to bribery on the part of civil servants. If bribery among crown officials had been more commonplace at the beginning of the nineteenth century, then the path to minimizing corruption would have differed from the one followed to prevent embezzlement. In the case of embezzlement, the problems discovered between 1811 and 1830 could be handled with the suspension and conviction of the specific civil servant who had stolen from the public funds he was hired to administer. A well-developed administrative system of bribery, on the other hand, would have involved a large number of people and demanded a different approach. Even though the consistent condemnation of maladministration by civil servants at the beginning of the nineteenth century most likely sent a strong message to act according to the law, these prosecutions were also followed by a number of legal and administrative reforms. These combined efforts most likely contributed decisively to the lowering of the overall level of bureaucratic corruption by the middle of the nineteenth century, which can be concluded from the analysis of Danish archival material. This, however, does not explain why bribery levels were so relatively low by the beginning of the nineteenth century. What type of rule, what administrative and legal history and what general moral values and perception of corruption might have contributed to this development?

THE INTRODUCTION OF ABSOLUTISM AND ITS IMPACT ON ANTICORRUPTION

Early modern Danish society consisted of a fairly small core of noblemen with extensive land holdings, an urban middle class and a large peasantry. Noblemen had privileges from the crown, including exemption from taxation and the right to own land, fish and hunt, which enabled them to accumulate great wealth. Up until the introduction of absolutism in 1660, nobles held the majority of the offices in the central and local administration, which gave them substantial influence on the dealings of the Danish crown.[14] In the sixteenth and seventeenth centuries, there were several wars between Denmark and Sweden, and in 1658 the Danish kingdom had to cede all of the Scanian provinces east of Oresund to Sweden. Among the lost territories were three large provinces in the southern part of modern-day Sweden, which meant that the Danish-Norwegian kingdom lost control of the entrances to the Baltic Sea, and the capital Copenhagen was left exposed on the new Eastern border. The persistent Swedish ambition of conquering its archenemy completely was very close to being fulfilled at this point.[15]

In Denmark, the military defeat of 1658 and the ensuing crippling economic breakdown that brought the state close to bankruptcy led to a political crisis in 1660, which forced the nobility to transfer some of its power and privileges to the

king. After a military coup, and counting on the strong support from the bourgeoisie and ecclesiastical estates, King Frederick III (r. 1648–70) was acclaimed as hereditary sovereign in 1660. The King's law, signed in 1665, gave him unrestricted and absolute power; his main task being to keep the kingdom undivided and maintain the Christian religion in accordance with the Lutheran Confession of Augsburg. The king possessed supreme power and the authority to make laws and ordinances according to his own good will and pleasure.[16]

In order to consolidate this new absolute supremacy, Danish kings strove to deprive the nobility of its former political power. In the years after 1660, the distinctions of rank were minimized and all citizens were considered to be on a par under the absolute monarch. At the same time, the monopoly of the aristocracy on landowning and the higher offices in the king's civil administration and in the military service was abolished. Even though the noblemen who owned private estates in the Danish countryside did preserve a large share of responsibility in relation to public administration and the collection of taxes from their tenants, their overall influence on state affairs was greatly reduced.

These radical changes meant that Danish absolutism effectively paved the way for meritocracy in the recruitment of civil servants and also led to greater social equality.[17] Royal government reorganized itself and its administration in a highly hierarchical manner, centered on the monarch and based on the rule of law. According to the King's Law of 1665, the monarch possessed the unrestricted right to appoint and dismiss all royal officials.

Gradually, the aristocracy lost its prominence in the civil service and was replaced by a new group of bourgeois bureaucrats. By the beginning of the nineteenth century, only ten percent of the royal servants had an aristocratic background, and these individuals mainly occupied offices in the Foreign Service.[18] The rationale for the crown was that civil servants of non-noble origin would be more likely to be loyal to the king. They did not have their own political agendas to the same extent that nobles did and were in general also more dependent on the income from office.

Central to these administrative changes was the establishment of a new office: the *Generalfiskal*, designed to strengthen the monarch's control over his administration. This high-ranking senior official was the king's Chief Prosecutor and had a special responsibility to investigate and appeal against any royal official who abused his office. Other central tasks included recovering tax arrears and safeguarding the king's interests in general, for instance by starting prosecutions in cases involving Majesty and state crimes.[19]

The first generations of monarchs after 1660 made ample use of their unrestrained rights of appointment to change the corps of royal officials and establish an administration personally linked to the king. In the early years of absolute rule, receiving a royal office was still seen as an act of grace from the king towards a person he wished to support. But gradually, and especially during the regency of Frederik IV (1699–1730), the qualifications royal servants needed in order to perform their duties came to be a prerequisite for being appointed to office. This replaced the former informal procedures, where the assurance of good intentions or personal relations had in many cases been sufficient to obtain an office.[20]

In Denmark, the civil servant never personally owned his office, and this probably played an important role in containing corruption. In the short period 1700–1701, and again in 1715–16, Frederik IV chose to use his right of appointment for financial gain by selling offices; but the qualifications of buyers remained a priority. The sale of offices was used as a way of financing the Danish participation in the Great Northern War (1700–20), as well as the construction of a building for the central administration close to the King's Palace in Copenhagen. Forty-seven offices in the Exchequer and fifty-six in the Chancellery were sold, which amounted to six percent of all appointments in each department. This method of raising money was stopped after 1716.[21]

Essentially, what happened in Denmark after the introduction of absolutism in 1660 was a conscious move by the crown to curb the power of the new corps of royal servants. It was made clear from the outset that the offices were to be managed by the absolute king. The power those in office exercised was only a loan from the crown. An office could be lost at any time if the civil servant did not act according to the laws of the country and the instructions of the administration.[22] Certainly, the overall development since this period has been complex, bumpy and far from smooth. There have been many exceptions to the strict rule of law in the administration and they are not to be compared with today's demands for transparent government. But it seems fair to say that the intentional moves made in Denmark after 1660 to create a corps of bureaucrats loyal to the king and with formal qualifications have over the years contributed to the prevalence of a state governed by law and loyal civil servants, first to the king in person and later to the state.

THE OATH OF OFFICE, PETITIONS AND MERITOCRACY UNDER ABSOLUTISM

Part of the framework for the new royal servants was specified in an oath of office that was to be renewed in person before each new monarch. Especially for the first absolute kings, the establishment of a corps of devoted servants was a main priority. To occupy an office, the royal servant had to solemnly swear an oath of fidelity and loyalty to the king in person and thereby promise to perform his duties according to the king's laws and guidelines. It was specified that the civil servant must be honest, hardworking, diligent, promote the best interest of the king at all times and secure the king's fortune.[23] The oath established a bond of loyalty that must not be underestimated between the absolute monarch, ruling by the grace of God, and the servant. As with other monarchies in Europe up until the middle of the eighteenth century, the Danish king's power was believed to be divine, rendering the oath of the highest importance and adding great prestige to royal office.

As the ideological basis for the absolute monarchy changed from divine right to a social contract, and as the administration changed from royal to bureaucratic absolutism, the oath still remained a personal contract between the absolute king and his civil servant; a moral backbone with specifications about the ethics of office. In return for their loyal service, the king and his advisors worked consciously to

secure prestige and social status for the officers. In 1671 a law on rank was adopted which allowed the king to acknowledge dutiful and faithful service with honorable titles of noble rank and attendant privileges for both the civil servant and his family.[24] This helped enshrine the principle of office and rank as something that was awarded by the king on the basis of merit, not something acquired by virtue of birth.[25] Both the bond of loyalty implied in the oath of office and the use of prestigious titles and positions granting social status to royal servants may have contributed to improving the regulatory framework for the officers.

A central challenge for all heads of state was how to obtain sufficient information about the actual functioning of the administration. Denmark followed several early modern European states in setting up a system of petitions (*supplikker*). (See also the chapters by Maaike van Berkel and André Vitória in this volume for premodern and non-Western examples.) Under The Danish law of 1683 any of the king's subjects had the right to send in these applications or petitions.[26] The topics brought to the king's attention in this manner ranged widely, from trade to family issues and legal matters: they might include applications for the king's pardon; a farmer's protest that he was harassed by a landlord; or general complaints from or about royal servants, as well as suggestions for changes and improvements in administrative procedures. Throughout the eighteenth century the use of petitions increased dramatically. The 1,539 petitions dealt with by the Danish Chancellery in 1706 had risen to 11,298 by 1799.[27] This established a formal space for communication between the king, his administration and the people, where wishes or complaints about the system and its administration—including corrupt officials—could be filed. In more general terms, it also contributed to legitimizing a system of government in which the subjects of the king had a chance to be heard and the monarch had an opportunity to exhibit and emphasize the legitimacy of his rule by being merciful, accessible and able to guarantee law and justice.[28]

Early Danish absolutism can be fairly described as regulated despotism. As already mentioned, Danish kings did have special responsibilities as the secular leaders of the Lutheran church. The state was to a large extent a religious state and the absolute ruler took up the responsibility of making true Christians of his subjects. Beginning in the late eighteenth century, Danish kings and their governments were inspired by the ideas of the Enlightenment, and royal power in the latter part of the period has been interpreted as an absolute monarchy controlled by public opinion, where government was performed to a large extent in accordance with the will of the people. Royal government worked in the interests of the people by maintaining law and order, gradually introducing reforms desired by the people—the success or failure of which the regime was able follow through the *supplikkerne.* This form of communication gave subjects more than just the impression of being heard.[29] At the same time, the notion that official corruption was a severe criminal act and a great sin was also fed to the population through the book of explanations of Luther's understanding of the church, which was mandatory reading in all Danish schools after 1739. This book was the most widely read

book in the country in the eighteenth century; a period in which the level of literacy also grew substantially.[30]

By the middle of the seventeenth century, the officials that were of noble origin had often studied law, languages, philosophy or theology at different universities in Europe. Others had received practical training from the office of a civil servant where they started out by copying letters and keeping books; thereby learning the administrative procedures, the formal language used in the documents and the laws of the kingdom. At the University of Copenhagen an examination in law was established in 1736 and at the same time it was decided that no official in the future was to hold the office of judge without a formal law degree. The establishment of the law school was intended to improve officials' skills with, and knowledge of, Danish law.[31] Law graduates, mainly of bourgeois origin, gradually came to occupy the offices in the administration, thereby contributing to the professionalization of the civil service.

Throughout the eighteenth century, jurists gradually took over state offices, starting with the central administration in Copenhagen and spreading slowly to most regional and local higher public offices. Around the beginning of the nineteenth century, royal nominations to administrative positions were fundamentally meritocratic and this improved the conditions for building a state governed by the rule of law. In general, the official requirement that royal servants should possess formal knowledge of the law was strengthened and, by 1821, a new law was passed that made it a requirement to have a law degree in order to obtain a wide range of state offices.[32] All in all, a century-and-a-half after the creation of the absolute monarchy, a number of specifications about the qualifications of royal servants were introduced and the regulation and level of control of individual servants became more detailed and thorough.

The administration's competence, diligence, legal knowledge and allegiance to the king also came into focus in a more direct way than was previously the case. The idea that civil servants must serve their state and their king rather than their own private interest was central. Recruitment came to be based primarily on formal qualification and merit. These changes in the system of appointment, as well as the legal set-up for royal servants, likely contributed to a tighter, more precise definition of the professional responsibilities and duties of office, as well as to the development of a more general ethics of public office. The multifaceted combination of these many administrative and legal reforms with a more developed notion of corruption as a sin may have had an effect on the fairly low level of bribery that we find at the beginning of the nineteenth century.

CURBING CORRUPTION IN THE DANISH ADMINISTRATION AFTER 1660

Despite several attempts in the decades after the introduction of absolutism to strengthen control over the administration, improve the formal qualifications of

royal servants and set up a legal framework to criminalize corrupt crimes such as bribery, forgery and embezzlement, corruption in the royal administration was, of course, never entirely suppressed. One of the most prominent corruption cases in Danish history came to light in 1676, shortly before the first law specifically banning bribery was adopted. It involved the chamber secretary and chancellor of King Frederik III, Peter S. Griffenfeld, who had played a crucial role in writing the King's Law of 1665. He was convicted and imprisoned for life for his involvement in the systematic sale of clerical and secular offices, embezzlement, abuse of office, acceptance of bribery and insult to the royal majesty.[33]

The law criminalizing bribery was a reaction to the Griffenfeld case, a sign that this type of behavior was clearly perceived as a problem by 1676. With the exception of this case and several others from the beginning of the eighteenth century, there has been no systematic study of illegal activities among civil servants in the early years of absolute rule. As a result, our knowledge unfortunately still rests on these scattered cases up until the end of the eighteenth century, making it impossible to determine whether or not there was actually widespread corruption in Denmark or merely a perception of widespread corruption. As in most other European countries, the history of corruption and the development of anticorruption mechanisms have been greatly neglected by historical studies in general.[34] Fortunately, we are better informed about how official misconduct was perceived, handled and dealt with as we advance into the nineteenth century.

In 1803 an initiative was taken to strengthen control over the local and regional administration and to ensure administrative practices were conducted according to the law and the instructions of civil servants. A deputy in the Danish Chancery was to travel across the provinces to inspect the administration every year. It was the deputy's job to review the organization of the administration, inspect the books and guide the local or regional official if errors or omissions were found. This system continued until 1807, when it was suspended because of the war. In 1819, these regular inspections were reinstated after the Danish Chancellery received a large number of complaints about civil servants' misconduct, made by the general public to the king. Between 1819 and 1830, several top officials from the central administration and judges from the Supreme Court were sent to the different regions of the country to audit the administration and especially the account books of officials.[35]

This increased surveillance meant that the likelihood of corruption being discovered grew considerably and it was during these official tours of inspection that the fraudulent activities of several civil servants were discovered. In line with the crown's desire to punish maladministration, officials were prosecuted and in many cases given prison sentences. This surveillance probably played a central role in changing the situation. In a fairly small country like Denmark, news of the crown's approach to bureaucratic corruption would have spread quickly both among the civil servants and the population in general (even though the press was not free until the end of the absolute rule in 1849 and the king could not be criticized openly). Since the civil servants were under the direct responsibility of the king, any critique of the administration could be perceived as, or related to, a lack of capability on the part of the sovereign monarch. This perception was naturally irreconcilable with

the autocratic form of government and malfeasance had the potential to cause discontent with the king and his rule.

In the reports made by the delegates who travelled through the regions to monitor the administration, one of the clear conclusions was that the standard procedures for monitoring, audits and accounting in general were out of date, badly organized and inefficient. This led the king in 1824 to appoint a committee of top officials to prepare a new set of laws to regulate the state's accountancy. One of the most prominent members of this committee, Jonas Collin, highlighted the slow and inefficient audit as the main reason for the many cases of embezzlements by civil servants at the time. The commission continued working until 1835 and came up with a recommendation that led to the adoption of a new law for the administration of public accounts in 1841.[36] This law introduced a more detailed keeping of accounts, separate account books for separate offices and a considerable intensification of audits. Importantly from an anticorruption perspective, the law also abolished civil servants' right to borrow from the public funds, demanding a clear separation of civil servants' private and public funds.

By 1840, a new general penal code was introduced which included a law on misconduct in office. Crimes such as embezzlement, fraud and forgery were described in far greater detail than in previous law codes and new standards for meting out penalties were introduced. In the former penal code there was a single punishment for embezzlement, which gave the civil servant little incentive to refrain from that crime: the penalty would be the same regardless of the amount he stole from the public funds. By comparison, the penal code of 1840 was drafted by one of the most competent top officials in Danish jurisprudence at the time, A. S. Ørsted. He had a thorough knowledge of the criminal laws of malfeasance in other European countries, which inspired his draft of the penal code.[37] The 1840 penal code was revised in 1866 to include a separate chapter specifying the forms of misconduct of public servants in even greater detail and to introduce the general principle of no punishment without law.

During several of the trials after 1810 in which civil servants were convicted of corruption, the salary system and insufficient wages were mentioned in their defense. By the beginning of the nineteenth century, a fixed salary was in place for royal appointments to the central administration, the Supreme Court and the higher regional courts. However, officials in regional and local administration were primarily paid through a combination of a small fixed amount and a certain percentage of service and legal fees (the *sportler*).[38] Even though the service and legal fees were regulated, officially they continued to represent a potential source of extra income for civil servants. By the 1850s, salaries had been raised and civil servants in general had become a part of the well-to-do middle class. In 1861, a new law on the salary system for the state's civil service was passed which abolished the fee system and granted fixed salaries to all categories of officials. During the eighteenth century, many of the civil servants' official duties had been added to the salary system and posts were accumulated in an attempt to provide civil servants with a decent wage, so that by the middle of the nineteenth century most civil servants were also full-time employees.[39]

In the early years of absolute monarchy, pensions for civil servants were considered to be an act of royal grace that civil servants could apply for as they resigned. In an attempt to solve the persistent problem of financing pensions, a public pension system for deserving elderly officials was established in 1712. The funds to finance the pension system were, however, insufficient throughout most of the eighteenth century. From the late 1700s, it became fairly standard practice to give officials at their resignation a pension that amounted to around two-thirds of the amount of their previous salary. The Danish constitution of 1849 introduced the right of all civil servants to receive a retirement pension at the age of seventy or in case of illness. The detailed rules for the retirement reform were further specified in an 1851 act, which also stated that the right to a pension could be lost in case of misconduct in office.

The legal and administrative overhaul of the nineteenth century, in combination with the determination of successive kings and their top advisors to condemn civil servants' misconduct, incentivized officials' proper conduct. This, along with a gradually more developed notion of corruption and several other reforms and initiatives after 1660, most likely contributed to a new and fairly non-corrupt Danish administration, which was securely in place around the middle of the 1800s. At this point in time in the process of statebuilding in Denmark, several other central elements in modernizing the state framework were introduced. The liberal constitution of 1849 changed the absolute rule to a constitutional monarchy, established a bicameral parliament, separated powers and granted freedom of press, religion and association. (The king did still maintain a central role in the government until 1901, when cabinet responsibility was introduced). The administrative and legal reforms of the first half of the nineteenth century supplemented an institutional framework for bureaucracy that was already to a large extent—according to the standards of the time—based on law and justice, and which had undergone a process of professionalization. Malfeasance in the form of bribery, fraud and embezzlements was criminalized, offices were designed so that the power civil servants exercised was only a loan from the crown and the chance of being dismissed was present at any time. Royal officers had sworn an oath to the king and received with that oath a specification of the duties of their offices. The loyalty demanded by the king of his civil servants clarified the distinction between their interests as private citizens and their duties in office. Special attention was given to the establishment of judicial institutions and to specific qualifications such as formal legal training, which became a condition of office.

CONCLUSION

Absolutist rule in Denmark, which lasted between 1660 and 1849, created a very strong state, characterized by the rule of law and the service of royal officials who were loyal to the king. From the end of the seventeenth century onwards, acts of bribery, fraud and embezzlement among royal servants were criminalized. A study of the period 1800–66 has shown a rise in the number of prosecutions of civil

servants for these crimes in the years 1811–30 and a drop towards 1860, by which time the number of crimes defined in this study as corruption became fairly low in Denmark. The vast majority of these prosecutions concerned embezzlement. These cases were taken very seriously by the absolute ruler and civil servants were consistently put on trial, many of them being sentenced to jail for life, a sentence they often served.

These cases demonstrate that the public/private divide was not fully established by the beginning of the 1800s, but came closer to being so within the next 40 years. Bribery was apparently rare by the beginning of the nineteenth century and the comprehensive institutional framework that was set up in the century after 1660, combined with continuing reforms to improve the administration, formed an important basis for an administrative culture based on the rule of law, which eventually reduced crimes such as bribery.

The building of absolute state power relied on the establishment of a strong and comprehensive state hierarchy with a king at the top as the guarantor of the rule of law and a merciful source of justice for his subjects. The king was not only head of state, but also the secular leader of the Lutheran state church, and Lutheran-based values and institutions were reinforced in the governance of the country. In this way, crimes of corruption by royal servants were seen as a great sin. These elements, in combination with an increasing perception that corruption among civil servants was an illegal and punishable offense, began to have an impact on the levels of corruption around the middle of the nineteenth century. Certain things had previously been rotten in the kingdom of Denmark, but the situation was gradually changed due to a combination of a variety of initiatives and developments that constitute the deep historical roots of Denmark's reportedly low levels of corruption today.

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The Paradox of "A High Standard of Public Honesty"

A Long-Term Perspective on Dutch History

James Kennedy and Ronald Kroeze

The Netherlands consistently ranks among the world's "cleanest" countries. Recent years have seen a growing interest in studying the history of countries that appear to have checked the allegedly endemic corruption of past times. However, the Dutch case has not been studied yet.

Francis Fukuyama, focusing on the example of Great Britain, argues that "accountable government" was accompanied by a "strong state" and "rule of law."[1] Michael Johnston adds that many anticorruption reforms were not explicitly intended, but frequently "they were the results of democratization and political contention, and were devised by groups seeking to protect themselves rather than as plans for 'good governance' in society at large." In his more recent work, Johnston further stresses the rise of "deep democratization"—that is, "a continuing process of building workable rules and accountability by bringing more voices and interests into the governing process."[2] Longer ago, in his influential 1934 essay on the quintessential Dutch spirit, the famed historian Johan Huizinga wrote that extensive corruption in the Netherlands had been made impossible by "a high standard of public honesty" that characterized this thoroughly bourgeois country.[3]

This self-understanding of the Netherlands as largely free from corruption, and the scholarly discussion about the "pathways" to less corrupt government, are the starting points for this chapter on the history of the Dutch case from the time of the Dutch Republic up into the modern Dutch state. We argue that the Dutch case offers a paradox and differs from the straightforward history of some other supposedly corruption-free countries such as Denmark (see Chapter 13 by Mette Frisk Jensen in this volume).[4]

THE GRADUAL REDUCTION OF CORRUPTION

The Netherlands is widely perceived to be a country that effectively combatted corruption relatively early, mainly as the result of long-term developments instead of a "big bang."[5] In the Middle Ages, Dutch cities experienced a relative diffusion

of power between the nobility, the urban patricians, farmers and urban groups such as the guilds. Their property rights were protected by public authorities.[6] This laid the foundation for the country to become "the world's first modern economy" in the sixteenth century.[7] Financial arrangements encouraging entrepreneurship militated against graft and other corrupt practices through periodic public audits of organizations such as the United East India Company (VOC). The prevalence of advanced accounting techniques, such as double-entry bookkeeping, also made it more difficult to steal or to commit fraud.[8] Finally, the financial administration of Holland was particularly efficient and sustained public confidence to defend the Republic against the Great Powers of Spain, France and England.[9]

The Republic had no monarch and—although in many periods there was a *stadhouder* from the House of Orange—power and positions were shared among new intermediary groups (the burghers instead of the aristocracy or the clergy).[10] These burgher-administrators were inclined to republicanism and "a pragmatic culture of bargaining between citizens and authorities . . . aimed at problem-solving, channeling interests and conflicts, and socialization."[11] The intensive meeting culture, from high government councils to local church bodies, served to further regulate social and political life as well as internalize ethical standards.[12] These networks had their own consistent value system that called for harmony and proportionality on the shop floor.[13] Dutch patrician elites resisted opening up the system but they kept the government machinery running fairly well; in the Republic, good administration through cooperation frequently was a feature of town life.[14] The self-interested collaboration among burghers to protect their profits limited the possibilities for central authorities or powerful individuals to use large sums of public money in their own exclusive interest.

Dutch judges (*schepenen*), rooted in the towns and districts over which they presided, had a reputation for exuding probity in their dispensation of justice, even if they were not paid for their services.[15] There are also numerous examples of officials being publicly accused of corruption when they were seen to have benefitted themselves too greatly. The active Dutch pamphlet press played a role in this. Without a centralized censor, it found ways to publish on any number of topics—including on the financial crimes of politicians and administrators—helping to sustain an open "modern" debate culture and keeping shady functionaries on their toes, lest scandals undermine their authority.[16] Making a scandal public with the help of the press could damage one's ostensibly corrupt opponents, and such tactics were deployed regularly.[17]

Corruption, moreover, was combatted by prosecution; some 143 sheriffs (*baljuwen*) were brought to trial before the Court of Holland between 1572 and 1810, often for extortion.[18] Social scientific research has argued that processes of professionalization and the bureaucratization of offices effectively restrained corruption.[19] A historical study of rural politics in Cromstrijen (southern Holland) makes a similar claim. In 1731, the work of the town secretary prompted Holland's authorities to hold hostage local justices until the local taxes were paid. To prevent reoccurrence, the vetting of, and instructions to, new officials were made more explicit than before, and complaints about the administration subsequently

declined. The minutes of local council meetings grew longer in the last half of the eighteenth century.[20] However, there are also periods that lack prosecutions; in contrast to their Belgian counterparts, the early-nineteenth century Dutch judicial branch did not face any prosecutions for crimes or for moral turpitude.[21]

In all of this, local officials often took the sentiments of the local population into account.[22] "*Rekesten*" (written appeals seeking government action on a particular issue or injustice) were frequently made by the local population. Living in proximity to the local population and having frequent contact with residents made such a stance both natural and prudent. Established patterns of rebellion—the "little tradition" of urban revolt against urban elites (as opposed to the "great tradition" in which cities rebelled against their external rulers)—could explode in Dutch cities, rendering it in any event wise for Dutch administrators to avoid provocative excess.[23]

Anticipating Fukuyama's work, with its stress on religious movements in contesting corruption, Philip Gorski claims that the Calvinism of the Republic's dominating church exerted a confessional disciplinary pressure on administrative elites to resist bribery and other forms of malfeasance common in countries like France, if only in order to further solidify their own moral authority.[24] Bourgeois-Calvinist suspicion of concentrated power may have undergirded this impulse.[25] At some point, public office, at least at the higher levels, also came with the expectation that all forms of moral turpitude rendered the office-bearer unfit for office. The role of religion should not be overestimated, however. A surge in religious motivation, embodied in the Evangelicalism which helped change the public mores of early-nineteenth-century Britain, had no evident parallel in the Netherlands (for the impact of religious reform on anticorruption in modern England, see Chapter 12 by Mark Knights).[26]

When in the second half of the eighteenth century the Republic entered a period of economic decline and new ideas about politics were introduced by the Enlightenment, debates about reform began in earnest. Accusations of corruption and the perception that Dutch society was in moral decline played an important role in these discussions.[27] The first evidence in this respect came in 1747–8, when a French invasion served as a catalyst for protest against the standing elites and forced the return of the *stadhouder* in the all-important region of Holland. In cities like Amsterdam and Rotterdam, there were calls for the democratization of elections and the opening of public offices beyond the network of patrician families—a powerful protest that made the Netherlands the only country that experienced a revolution in Europe in the mid-eighteenth century. The spectatorial press had become increasingly critical of the state of the country; a process accompanied by widespread protests against tax-farmers, who were seen as extorting the citizenry through unfair and uneven taxation. Demonstrators in many towns sacked tax farmers' houses and, in Amsterdam, the unrest continued for more than two weeks. *Stadhouder* William IV colluded with other elites to prevent the proposed democratization, but he did reform the tax system, bringing it under the control of the sovereign states of the Republic. New bureaucratic norms were imposed that included guidelines to tax collectors, a demand that bookkeeping be kept up-to-date and a requirement that regular office hours be held.[28]

Public agitation for reform was triggered again in the 1780s, when a disastrous war with Britain undermined the authority of the *stadhouder*. Old rivals of the *stadhouder* attacked his power. Most striking was the rise of a new sensibility, which began to question the legitimacy of patronage and legal inequality.[29] The Patriot press of the early- and mid-1780s condemned the regime as corrupt for its arbitrary concentration of power in the hands of Orangist coteries. With the help of citizens' militias, the Patriots managed to take control in many of the Republic's towns, but they were swept away in 1787 by a Prussian invasion aimed at restoring the *stadhouder* to power. Seven years later, though, the Patriots, accompanied by a French army, seized control.

In line with Jens Ivo Engels' comments about Western Europe generally (see Chapter 11 in this volume), corruption among the Batavians was imaged as a serious political problem and resulted in fierce anticorruption campaigns that were portrayed as a break with the past.[30] Patronage, the selling of office, tax keeping in private hands, the lack of democracy and openness when selecting officials: all were labeled corruption. In the newly established "Batavian Republic" (1795–1801), old privileges were swept away in a wave of democratic enthusiasm in which the public sphere emphatically was separated from the private.[31] The unitary state—the product of Batavian democratic radicals—severely weakened the local governance structures that had been the basis of the old patronage system.[32] In 1796, indirect elections based on universal male suffrage were held to select the members of the National Assembly, who would go on to compose the first constitution in Dutch history in 1798. Later, a new judicial system, the French *Code Civil*, was introduced. The new penal code of 1804 included for the first time in Dutch law sections on bribery and embezzlement and the 1809 revisions judged such transgressions to be worse if perpetrated by officials than by ordinary citizens.[33] This reflected the fact that corruption was starting to become used to describe individual misuse of public office and practices that could be eliminated if the right anticorruption laws were in place and used. In fact, functionaries were demonstrably held to new standardized norms; twenty-two of the twenty-six prosecutions for embezzlement in the period from 1701 to 1811 were introduced after 1795 (paralleling a similar pattern in Denmark, as described in this volume by Frisk Jensen), and the years from 1795 to 1811 witnessed half the total number of cases against functionaries in this longer period.[34] In this respect we could speak of "the waning of old corruption" in the Netherlands around 1800.[35]

After the final defeat of Napoleon between 1813–15, the Kingdom of the Netherlands was established with William I (1813–40), the son of the last *stadhouder* William V, on the throne. William I kept in place many of the French reforms, such as the civil code, that criminalized bribery. Norms regarding the behavior of civil servants that were tightened up during the French period were kept in place as well, even (if only for show) in the colonies (for example on Java). And although William I took on a bureaucracy that was employed to report and measure every important issue in his kingdom,[36] government records at the central level hardly report corruption of any kind in his term, suggesting that it was not

considered as a problem—though trials for small corruption were occasionally reported in the press.[37]

In the 1830s, a liberal movement began to criticize the royal system, demanding direct insight into the public finances of government when it was discovered that the financial policies of William I had brought the country to the brink of bankruptcy. In 1840, William I was succeeded by his son William II (1840–9). The abdication went hand-in-hand with constitutional reform that introduced partial ministerial responsibility, stronger influence of parliament over finance (the budget was discussed every two years instead of every ten) and the appointment of a liberal-minded Minister of Finance, Floris van Hall. In the 1840s, Van Hall restructured state finances and separated the king's private financial interests from those of the state.[38]

This new set of reforms lasted until 1848 when the liberal Johan Rudolf Thorbecke wrote a new constitution. He had studied extensively the effects of the French period and concluded that one of its main contributions had been the formal separation of public and private interests—a development short-circuited by William I.[39] Elaborating on the older critique of William I, liberals also attacked the government system for its "incompetence, sloppiness and dereliction of duty,"[40] evident in fraud cases within government. They saw this as stemming from a system of favoritism and a culture of secret politics and decision-making.[41] One of the guiding principles of the 1848 reforms was thus that "the public cause must be publicly discussed."[42] Furthermore, in his critical reviews of the government of William I and William II, Thorbecke attacked the system of patronage, arguing that the selection of officials was based too much on "family background, but less on capability."[43] Hence, the constitution of 1848 strengthened accountability, transparency and public engagement by introducing: full ministerial responsibility; the right for parliament to hold enquiries; direct elections of the members of parliament (based on census suffrage); and the freedom of the press and political association. Within the local, provincial and central administration, Thorbecke also replaced several high officials.[44]

Around 1900, the political system was further democratized by the gradual extension of suffrage—universal suffrage was finally established in 1919—and the political inclusion of new population groups (Catholics, socialists and lower-born Protestants), which ended the liberal hegemony over high government positions.[45] As in Denmark and elsewhere, the end of the nineteenth century witnessed an explosion of civil society and, in this respect, a democratization of public life.[46] At the same time, social welfare, education, infrastructure and even the organization of trade and the distribution of food (during the First World War) became state tasks. To meet these needs, the state budget and the number of civil servants rose substantially and government departments established new rules for the correct and ethical conduct of staff, including an exam for civil servants to test their capability, rules to eliminate additional income and standards that put a ban on gifts and gratuities. This development, beginning with new statutes in the 1890s, would eventually lead to a general law for civil servants (*Ambtenarenwet*), enacted in 1929, that standardized bureaucratic procedures for appointment, salary, punishment and appeal.[47]

From this transformative period many examples can be found of Dutch opinion-makers who actively narrated the Netherlands' entry into a corruption-free modern era. Nineteenth-century newspapers saw corruption as chiefly taking place elsewhere (primarily in Britain or France and, after 1900, in Russia, the Ottoman Empire and the Dutch East Indies). To name but a few examples, scholars such as the historian Chris te Lintum wrote in 1913, referring to the words of the nineteenth-century liberal historian Robert Fruin, that because of the liberal reform of 1848, the corruption of past times had vanished, and everyone had come to exercise oversight over everyone else.[48] In 1934 Huizinga argued that a high standard of public honesty was part of the bourgeois mentality that dated back to the time of Dutch Republic.[49] And in 1961 H. J. Brasz and W. F. Wertheim restated that corruption had been "resolved" in the Netherlands: endemic corruption was to be found elsewhere in non-European traditional societies.[50]

PERSISTENT CORRUPTION?

This relatively straightforward narrative, which has remained dominant until recently,[51] might suggest that the development of an anticorruption culture was completed roughly a century ago. However, in reality, the story is more complicated than that of moving from a still somewhat corrupt Republic to a non-corrupt modern state.

First we need to understand that officials of the early modern Republic had to deal with legitimate but conflicting values and obligations; they had to serve their personal and family interests as well as the common good of the commonwealth and they had to obey formal rules (e.g. rules on the Generality level that prohibited gifts) as well as the implicit codes of conduct of the shop floor (that treated gifts as normal).[52] The morality and obligations of face-to-face networks made administration a difficult balancing act for conscientious administrators who accepted parallel value systems that demanded different ethics as a fact of life.[53] But there were limits and corruption scandals did occur, especially when officials neglected the implicit codes (for example, those related to administrators' fair share to lucrative public positions). Moreover, a changing political context was crucial. For example, it was widely accepted that an excessive *quid pro quo* trade of money for particular favors was wrong—something that the Recorder of the States-General, Cornelis Musch (1628–50), had been guilty of in selling offices and secrets on scores of occasions. But only the death of the *stadhouder*—his benefactor William II (1626–1650)—precipitated his fall and suicide; and as a remedy only moral exhortation seemed available.[54]

Whenever borders were crossed, at least three main forms of corruption came to light in the early modern period. First, disrespecting "Contracts of correspondence"—agreements among local regents to divide public offices and their dividends among themselves. Accusations of corruption that stemmed from these assessments were mainly the result of factional strife—when rival groups competed for part or all of the public emoluments. This can be seen from the corruption scandals that

occurred when the *stadhouder* tried to (re)appoint his own men (and the resistance from established "regents" this caused) after the First and Second Stadhouderless Periods (1650–72; 1702–47).[55] Sometimes public accusations of corruption had effect. Lodewijk Huygens, for example, was appointed by *Stadhouder* William III to become bailiff, but was removed from his position after he was publicly accused of raising taxes for his own benefit and ignoring local magistrates.[56]

Two other practices that were labelled as corruption were uneven or unjust taxation of particular persons and the practice of "composition" (when the sheriff opted not to prosecute a person in exchange for a fee). Although the latter custom was accepted, accusations and, under specific circumstances, scandals and legal punishment could still be made if sheriffs were found to have left income unreported and used their office to exploit residents. But even if certain practices were officially forbidden or contested under particular political climates, corruption was hard to prove because the boundary lines were hazy.

In the second half of the eighteenth century, patronage, favoritism and parallel value systems were increasingly criticized because the established families saw the financial and social perquisites of public office as more alluring than profit-seeking in a declining Dutch market. Although for individuals it seemed beneficial, the dividends these elites, as VOC shareholders, extracted were beyond what the Company could financially justify. Moreover, officials of the VOC that traded on behalf of the VOC in the East Indies were more and more focused on their private concerns instead of the company's interests. There are economic reasons for this changing behavior,[57] but in the eighteenth century the rotten VOC symbolized the decline of the Dutch Republic. With the establishment of the Batavian Republic, the VOC came to a formal end.

However, old practices died hard. Corruption related to the VOC, or the practice of appointing officials by using contracts of correspondence, disappeared after 1800, but accusations of favoritism, patronage and nepotism persisted. This was mainly because the authoritarian King William I continued to exercise control over all government appointments, meaning that the old cliques from before 1795 returned during his reign, competing for the king's favor.[58] Although there was a constitution and a parliament, William personally ruled the Netherlands with the support of a small and loyal bureaucracy and regarded partisanship and political debate (and critique of his policies) as dangerous for harmony and stability. Censorship and bribing of journalists were regularly used during his regime and that of his son William II.[59] At the level of finance and economics, William I's *Amortisatie Syndicaat* was also infamous: it was a publicly-funded organ ostensibly created to reduce state debt, but exclusively controlled by him and used to fund his projects, including some from which he and his family personally profited.[60]

Concerns about corruption also did not disappear after 1848. Modern practices resulted in new forms of political corruption. The direct elections of representatives were one of the new arenas that raised concerns. For example, in 1864 the orthodox-Protestant leader Guillaume Groen van Prinsterer published open letters in which he recommended who his followers should vote for. He was accused of corrupting the elections by liberal Robert Fruin, especially for

undermining "political morality": the independence of electors and elected.[61] In 1865, to offer another exemple, a scandal erupted when it turned out that the liberal Minister of Finance Gerardus Betz had made a promise in a letter to withdraw his proposal to raise the taxes in Limburg should voters in this province support the liberal candidate. He and Paul van der Maesen de Sombreff—the liberal candidate who had used the letter to convince voters—had to resign from their office in what came to be known as the "Letters Affair."[62] In 1909 and 1910, meanwhile, Abraham Kuyper, the leader of the orthodox-Protestant party and a former Prime Minister, was publicly accused of corruption after providing honors to men who donated money to him for electoral campaigning. After an investigation by a committee of inquiry, which found evidence of behavior deemed immoral, Kuyper had to make apologies in parliament to save his position.[63] Other "modernizations," such as industrialization or the rise of imperialism and the mass media, also contributed to the emergence of new forms of corruption and their scandalization.[64]

Another reason why it remains debatable how far the Dutch reached a corruption-free era is the claim made by Huizinga in 1934 that favoritism remained a feature of the country's otherwise "honest" public administration. To be sure, the dearth of cases supports a modernist interpretation: by the late nineteenth century, corruption cases involving the misuse of public office for private gain were incidental in scale rather than systemic. But corruption was also discussed in an "early modern" way as well (i.e. as something systemic and recurrent), notably in respect to the Dutch East Indies and in periods of severe crisis. The extortion of the local population by the Culture System or the granting of very lucrative concessions to entrepreneurs under the supervision of the colonial administration could generate an outcry for moral renewal and better government control.[65] And, at the end of the First World War, the Netherlands experienced a fierce debate on corruption. At that time, the Dutch crisis system—a government system to prevent shortages during the war—was synonymous with inefficient use of public money, war-profiteering and misuse of position, undermining the image of the Netherlands as a modern country with a well-functioning parliament, bureaucracy and rule of law. In the words of the liberal newspaper *Nieuwe Rotterdamsche Courant*, "corruption was everywhere," a sign that the "highly esteemed Western civilization" was degenerating.[66] For the social-democratic leader Pieter Jelles Troelstra, who initiated a failed revolution in November 1918, the Dutch "bourgeois society" was "vermiculated and rotten." Strikingly, parliament decided to begin an enquiry, but when this crisis-enquiry committee finished its final report in 1922, the war-crisis was forgotten and so was the accompanying corruption; examples of misuse that many had viewed as corruption during the war were now "exaggerated incidents" that had not undermined the prestige of the Dutch government whatsoever.[67] Hence, as can be seen, the self-image of the modern Netherlands as corruption-free is also based on being able to collectively forget such episodes and envelop them in silence.

LATE BUREAUCRATIZATION AND HESITANT DEMOCRATIZATION

There is yet another problem with the straightforward narrative on the evolution of anticorruption in the Netherlands. Many studies on good government and effective anticorruption assert that countries are more vulnerable to corruption when the governing elite is small, popular participation in politics is low and a strong central state with a well-functioning bureaucracy is undeveloped (i.e. there is a lack of trained civil servants who are regularly paid well and follow standardized rules).[68] The Dutch case provides paradoxes here as well because it was characterized by slow democratization and the continued dominance of elite groups, patronage and relatively late bureaucratization—features which, paradoxically, contributed to the control of corruption in their own way.

The Dutch Republic lacked a strong state, whilst republican ideals were stressed that concentrated on locally grounded rights against growing absolutism and state-centralization.[69] The decentralized Republic depended on fifty towns and cities to cobble together the Generality policy—an anomaly at the time. The Republic had few paid civil servants at the national and local level and administration was dominated by diffuse, if related, patronage networks that extended across a patchwork of jurisdictions, each with its own "ancient" charters based on local common law. Local government, meanwhile, was carried out by officials who were often entrepreneurs who served their private, family, city, province and, during international affairs, national interests. They were expected to pay public costs out of their own pockets during a financial pinch, and thus had an additional motivation to relativize the distinction between public and private sources of income. In addition there were innumerable "citizen-functionaries" (*burgers-ambtenaren*), both high and low, from justices to school supervisors to dike watchers, who did their work with little or no remuneration.[70] The Dutch Republic, it might be said, was full of functionaries at all levels, but very few of them were salaried employees. Hence, most administrators of the Republic possessed few of the criteria of the Weberian bureaucrat.[71]

Of course, this is not to say that officials did not have to conform to more uniform and standardized rules over time.[72] The corruption case against the military governor of the Dutch-held fortress town of Tournai around 1720 suggests that salaried employees were increasingly held to a higher standard about no gift-taking.[73] Also, in a rural area like Cromstrijen, face-to-face relationships between the rulers and the ruled became at once more distanced and more contractual.[74] More important, however, was the development of office-holders who shared a collective ethos in office. In the eighteenth century, virtues that were cultivated amongst a subset of like-minded people became an important asset and administrators who were considered a problem to the effective functioning of government were sidelined if there was political room to do so.[75] This ethos was undergirded by socially-defined networks of family and friends of the regent class, and patronage was key to maintaining this system.

In the nineteenth century the emerging centralized state shifted to employing salaried bureaucrats, but it remained—in contrast to other continental European states—relatively small (only several hundred worked in The Hague in 1850). Moreover, administrators' salaries were determined on a case-by-case basis. And, although an increasing number of civil servants held a university law degree, appointments remained a matter of royal privilege and of belonging to qualifying families. Until the very end of the nineteenth century, the Dutch civil service was the domain of the haute-bourgeoisie—relatives of the same families that had administered the Republic—who regarded standardized salaries and rules as *déclassé*. Part of this bourgeois ethos was the notion that a civil servant should not depend financially on the income of the office, that the position was highly esteemed and that bourgeois values such as modesty, reliability, honesty and trustworthiness should be upheld. At the local level, remuneration remained low for most positions and the state continued to assign tasks such as poor relief or care work to private parties, not least the churches.[76] Only after 1880 did the number of civil servants sharply rise, standardization become the norm and the bureaucratic ideal start to be embraced (to some extent).[77] Nevertheless, it still took another half century before appointments and tenure were fully codified. If the Dutch government of the late nineteenth century was relatively uncorrupt, therefore, its secret lay not in the size and influence of a large central bureaucracy, but in a relatively small state and oligarchic governing elite.

Finally, there is the role of democratization. Johnston claims that democratization is necessary for the development of an effective anticorruption culture, although he is careful and nuanced in his definition of "deep democratization," even claiming that "it does not necessarily culminate in democracy itself in any formal sense."[78] The Dutch Republic was decidedly non-absolutist, but it was hardly an "early democracy" either. Dutch republicanism (as elsewhere) was a flexible theory; almost all key positions were in the hands of a limited number of burghers and the power of the *stadhouder* grew in a monarchical direction.[79] Formal representation in the most important councils and appointments of the Dutch government, locally and nationally, was limited. Roughly two thousand people played a significant role in determining the direction of the Republic—a scale comparable to the medieval political societies discussed earlier in this volume by Watts and Vitória.

To be sure, forces from "below" or "outside" the political elite could serve as a check on corruption. In the time of the Republic, the *rekesten* of the population were taken seriously. Clear malfeasance and misuse of power, as noted previously, could cause sufficient unrest that compelled the authorities to step in. Likewise, a critical and unfettered press could also foment scandals. But popular anger produced different results. Jacob Seyms, head of the dominant faction in Hoorn, embezzled some 40,000 guilders from the VOC chamber in his hometown, and was arrested in Amsterdam in 1672 at the request of the Amsterdam chamber. After his release and return months later, he was chased out of Hoorn by an angry mob, his faction's power broken. Jacob van Zuylen van Nijevelt, the grasping sheriff of Rotterdam notorious for his extortions, had his house sacked in 1690 in a riot that

in part stemmed from widespread hatred towards him. The outcomes of these two cases, however, were very different. Seyms was caught for embezzlement during the political turbulence of 1672 when the regents fell from power in many towns. In contrast Van Zuylen, though subjected to an investigation that lasted two years, had *stadhouder* William III stand by him, who saw to it that he was compensated by the city of Rotterdam for all the damages he had incurred.[80]

Democratically-minded reformers, partly inspired by the municipal militias, came to prominence during the unrest of 1747 and 1748. The so-called *Doelisten* in Amsterdam wanted all public offices to be sold publicly. These reforms quickly floundered against the united front of *stadhouder* and rival regents, both deeply committed to the patronage system. It would take thirty years before another large-scale public movement launched an attack on the existing "cabals," as they were called, that corrupted government by selling offices and feathering their nests at public expense. The French occupation of the country empowered this democratically-minded movement to take power in 1795. The first parliament based on indirect universal male suffrage was subsequently established. But the experiment with democracy was short-lived and full of disillusionment, resulting in two coups in 1798 and, after 1801, in a complete emasculation of democratic forms through Napoleonic contrivances. The decline of town civic life through French reforms, from centralization to the abolition of the guilds and restrictions on organizational life, undermined Dutch civil society, eliminating sources of opposition to centralized government power.[81] Combined with an atmosphere of repression this contributed to a timid political climate that lasted throughout the first half of the nineteenth century. As a result, elite social reform movements only gradually began to emerge again in the 1830s.[82]

The liberals behind the changes of 1848 could be said to be democratic in that, by heading off the possibility of popular revolution, they ended an autocratic monarchist regime and replaced it with a constitutional parliamentary system in which members were chosen directly. Yet few of the liberals were themselves democrats. Indeed, as the influential jurist Johannes Buys opined, the people had but one right, and that was the right to be ruled well.[83] The introduction of direct elections in 1848 caused much debate, but liberal leader Thorbecke was not in favor of democracy defined as universal suffrage.[84] He put emphasis on good government: "If it is only a question of what the people or the majority wants, then the search for what is just, true, good and feasible ceases to exist."[85] This emphasis on good government instead of universal suffrage was what distinguished European liberalism in the nineteenth century.[86] The new liberal order may have been dominated by men who were characterized by a disinterested high-mindedness, and who understood the state as a moral entity that required public authority of the purest kind,[87] but the haute-bourgeoisie remained, as earlier in the century, firmly in command. For many of them, one of the most dangerous forms of corruption was the distasteful kind of politicizing that inevitably came with democratic elections such as those held in Britain, where pandering electioneering bought votes by making promises to specific interests. This explains why an apparent promise of low taxes to the voters of Limburg province caused a liberal minister

and liberal member of parliament to lose their positions during the "Letters Affair" of 1865.

It was only with the rise of mass political parties that things changed, and even then, it was tempered by political leaders, on both the left and the right, who were not eager to let Dutch politics get out of hand through a too rapid and thoroughgoing democratization of public life.[88] The system of pillarization—the segmentation of Dutch society into different groups based on class and religion that was promoted by many of the Dutch elite from around 1900 until the 1960s—has been regarded as much as a force of emancipation of Catholics, orthodox Protestants and socialists as a system of social control. Indeed, the persistence of aristocratic forces in opposition to democratic elements in Dutch politics and administration continued to make its impact felt until quite recently.[89] And Dutch voters, generally, seemed to trust their government to keep matters above-board. Though scandals would continue to rock the political firmament as noted above, the Netherlands did not reach the same level of politicization of corruption evident in countries like Germany.[90]

In summary, there may have been a kind of deep democratization that held political leaders to account and helped to control corruption. This role, however, cannot easily be called a sustained one. There was no ingrained tradition of republican vigilance that actively kept government accountable, but rather a series of popular eruptions erratically asserted in times of crisis. Even after the gradual democratization of the late-nineteenth century, the Netherlands in some respects embodied Schumpeter's minimalist vision for democracy: regular elections, but with great latitude for politicians, and especially experts, to make policy in-between elections.[91] With relative freedom to develop their own associational life due to the lack of a strong central state, the Dutch electorate was mostly content to let their own political representatives advance their interests and left government to the political elites, who were expected to govern them well.

CONCLUSION

In summary, it is possible to tell a straightforward history of how the Netherlands became a modern country in which corruption was successfully controlled. The Dutch Republic was characterized by high levels of economic growth and sizable incomes for large groups that contributed to social-economic stability and opportunities relatively early. The political system of the Republic was an anomaly: citizens ruled themselves and cooperated on the central level. All this was supported by vested "ancient rights" and the ideology of republicanism that centered around citizen's self-rule and political freedom. Although there were periods of revolution, the positive things from the past were kept and the path of gradual modernization was followed in the nineteenth century by King William I (who kept the French *Code civil*) and the liberals (who strengthened parliamentary democracy in 1848 and eventually paved the way for the establishment of universal suffrage in 1919). The process of bureaucratization was completed in 1929 with the Civil Servant Act; which formalized the modern value system that precluded the end of early modern

plurality and of officials following formal *and* informal norms, as well as pursuing public *and* private interests. As a consequence, serious corruption no longer threatened the Netherlands, as criminal records and the self-image narrated by scholars and politicians show.

However, just as easily, one could tell a story of ongoing and new corruption against the background of a closed political system characterized by elitism, patronage and favoritism. To connect both and to understand what these contradictions mean for corruption and anticorruption we offer the following observations. First, the rise of an anticorruption culture in the Netherlands meant the successful control of *some* forms of corruption in *certain* periods. In particular, a number of explicit practices that had been normal in early modern society and were every now and then perceived as corruption, such as tax farming, the gift culture and composition, disappeared. As the meritocratic values of bourgeois liberalism and professional bureaucracy were idealized, the better-educated and well-paid officials with permanent positions no longer needed to rely on rents, gifts and contracts of correspondences. But that did not end corruption: the bureaucratic system had its own fallacies that were perceived as corruption, to leave aside the ongoing criticism of parliament and party politics as well as democratic elections and business as sources of immoral behavior in the modern era.

Second, anticorruption in the Netherlands was characterized by an elitist government culture in which self-restraint and the practice of leading public officials setting boundaries themselves played an important role, particularly against the background of competing elites and a lack of central authority. This self-discipline was in the rulers' own interest as corruption (for example in the form of extreme self-enrichment or favoritism) could incur high costs (such as being excluded from an office or popular plundering). The larger public was generally prepared to accede political prerogatives to a small circle, but they did expect rule to be reliable and were prepared to rise in protest if this was not so. In the nineteenth century we see the further development of a comparable bourgeois ethos that can be termed professional, though not in a Weberian sense. Although bureaucratization took place—both in the form of extending state responsibility for society and in setting formal standards for public officials—leading officials clung to their bourgeois status as a badge of their own incorruptibility. Thorbecke's reforms of 1848, for example, were part of a broader process of political modernization, but he himself is a clear example of the self-proclaimed trustworthy and capable bourgeois official that favored government by men of character.

Third, and relatedly, morality—or what was called political morality in the nineteenth century—played an important role in the history of anticorruption in the Netherlands. In short, this is the belief that, besides formal laws, public officials should be, and were accountable to, unwritten non-standardized values whose meaning depended on time, place and the interaction between abstract ideas about good government and practices on the shop floor. In other words, whilst legal norms could be treated flexibly, certain moral beliefs could not.

Corruption scandals themselves seemed to have played a role in this culture. Often after corruption had occurred and resulted in public scandals, values were

articulated, ad hoc measures were taken and changes initiated to improve government. When public officials were considered to be corrupt or to have neglected political morality, they were forced to resign, and, sometimes at the lower administrative level, convicted.[92] On other occasions, officials who were accused of patronage, favoritism or self-enrichment could stay in office when the outcome of factional strife, (failed) revolutions or changing political power relations made this possible. For an outsider, the decisions made may seem arbitrary, but for contemporaries the boundaries of political morality, even as it underwent change, became clearer. Only in-depth historical research can help fathom these shifting anticorruption cultures.

Fourth, the role of democratization in the process of the Netherlands becoming a relatively corruption-free country should not be overestimated since Dutch public life remained the preserve of political elites. To be sure, the small-scale nature of political life in the country's towns, the available avenues of protest and the possibility of mass revolt contributed to a long-term trajectory that checked abuses. But a sustained political mobilization of the citizenry into a public sphere is not really part of the Dutch case. In any event, the success of anticorruption did not depend on the continued politicization of the Dutch electorate, which in late-modernity was more passive and trusting than contentious.

Overall, the story of anticorruption in the Netherlands should be linked not to the modern, bureaucratic and progressive character of Dutch politics, nor to clear ruptures in history that transformed corruption into anticorruption, but, instead, to a gradual and uneven process of political change that needs to be understood within its specific contexts. In short, one should avoid the temptation to argue that the Dutch have followed a unique and predetermined path which can be described with facile concepts (bourgeois, Calvinist, Enlightened, capitalist, bureaucratic or democratic), though certain patterns—in particular a significant diffusion of power and money and a correspondingly accountable, if elitist, government—help explain longitudinal developments toward the apparent reduction of classic forms of corruption. What Dutch history tells us therefore is that there is no quick-fix toolkit for reaching the "end of history," underscoring the need to be flexible in regard to what should be considered elements of an effective anticorruption policy and of the culture that undergirds it.

15

Corruption and Anticorruption in the Romanian Principalities

Rules of Governance, Exceptions and Networks, Seventeenth to the Nineteenth Century

Ovidiu Olar

In contrast with the relatively intense media coverage given to corruption scandals in post-Communist Romania, there is still no adequate historical treatment of corruption and anticorruption in the early modern and modern Romanian Principalities. The reason for this is threefold. First, the banishment of critical political sciences from academic curricula under the Communist regime (1947–89). Second, the huge difficulty and even reticence faced and manifested by local scholars in catching-up with the developments in the field. Third, a certain lack of conviction, both among specialists and the general public, in regards to path-dependency theory.

The first claim is easy to prove. On the one hand, the Ştefan Gheorghiu Academy for Socio-Political Education and Development of the Leadership Cadres in Relation to the Central Committee (CC) of the Romanian Communist Party (RCP) held a monopoly on advanced programmes in political sciences, while the Academy of Political and Social Sciences and the Institute of Political and Social Studies of the CC of RCP had mainly ideological and propagandistic roles.[1] On the other hand, the history of corruption was approached exclusively from a Marxist angle—corruption was seen as an inherent characteristic of the monstrous Old Regime that was contested and abolished by the Communist Party. The second explanation is best substantiated by the analysis of the sole history of Romanian political ideas to date; namely, that by Vlad Georgescu.[2] Published in Munich several years after its author left Romania, the book puzzles the reader with the choice of concepts to be discussed: "the meaning of Romanian history," "the society—social structures and class relations," "the state—political structures," "the domestic policy," "the international relations of the Romanians" and "the national consciousness." Neither corruption nor anticorruption count among the 172 secondary issues that Georgescu carefully unpicks. As for the third factor, it is illustrated by the almost complete lack of thick or detailed investigations of the "impact of historical legacies," be they Ottoman, Habsburg or Communist.[3]

Nevertheless, although historians may play no role in shaping the present debates on corruption and anticorruption, one can still encounter two types of discourse imbued with references to corruption and anticorruption that make extensive use of a plethora of historical arguments. The first type addresses the modernization of Romania, whilst the second type tries to define the nature of the Romanians. In the first case, contributors depict the long and difficult process of modern statebuilding as a relentless fight against corruption—the corruption of the Ottoman Empire, of the Phanariot regime imposed by the Ottomans, and of the financial, political and military elite of Moldavia and Wallachia.[4] In the second case, historical sources are used to demonstrate the corrupt nature of the Romanians or to underline the corrupt nature of their foes.[5]

Unfortunately, both discourses rely heavily on quotations out of context. From a contemporary point of view, the Ottoman Empire might seem corrupt. To quote the Venetian *bailo* Daniele Dolfin, "there is no door that the key of gold will not open when it is guarded by a vile and venal people."[6] Yet from an Ottoman perspective what modern Western scholars usually call corruption was, until "the long nineteenth century," a functional—although sometimes decried as sick—system of payments and rewards that kept government working (see also Chapter 17 by Iris Agmon in this volume).[7] Likewise, for a twenty-first-century political scientist, the so-called Phanariot administration might seem to be the quintessence of corruption.[8] Yet for an attentive historian, many Phanariot princes can be seen as diligent administrators, legislators and even reformers. As for the nature of the Romanians, the response is very much in the eye of the beholder.

Fortunately, several pertinent aspects of Romanian political history have been thoroughly studied. While trying to grasp the character of the early modern Romanian political system, for instance, Daniel Barbu analysed the "political economy of forgiveness" and argued that the gift was actually "the distinctive form taken on by economic activity." As a consequence, corruption:

> [R]eveals itself as a word without any meaning in the old Romanian social, political and juridical vocabulary as long as the human relationships are *par excellence* direct and depending on customs, avoiding or ignoring the written norms and the impersonal principles of the positive law.[9]

In a similar vein, Violeta Barbu examined a number of seventeenth-century Wallachian cases of fraudulent appropriation of public money, as well as the punishment inflicted on the culprits. She also spoke about forgiveness and justice as traits of a society where "equity replaces the law."[10] Oana Rizescu, meanwhile, focused on the juridical practices of seventheenth-century Wallachia and showed how they shaped the political construction of the state, tracing back to this period the beginnings of a professionalization process of the legal state apparatus.[11] Andrei Pippidi studied the development of an administrative class in south-east Europe and addressed the issue of corruption and anticorruption in connection with the rise of a modern bureaucracy.[12] Manuel Guțan studied the thorny topic of the early-nineteenth-century "irrational constitutional implant"—that is, the massive import of foreign constitutional ideas and institutions—and examined the critical

reactions to this phenomenon by the Romanian intelligentsia of the time.[13] Last but not least, Cristian Ploscaru dedicated a monumental study to the clash between old and new, between the ancient privileges and rules and the reforms imposed by the Phanariot princes and by Russia, in the late-eighteenth and early-nineteenth century in the Romanian Principalities, focusing in particular on the origins of the modern political discourse in both Moldavia and Wallachia.[14] Few of these studies deal directly with corruption or anticorruption practices, yet, given their constant use of primary sources and up-to-date methodologies, one could feel positive about the future of the field.[15] We might therefore begin to ask questions rarely asked before about the existence, nature and perception of corruption, as well as the implementation and justification of anticorruption mechanisms in this period and region.

Although previously neglected, one very important category of primary sources are the reform projects drafted between 1769 and 1848 by members of the Moldavian and Wallachian political elite, which show that a significant change occurred between the end of the eighteenth century and the beginning of the nineteenth.[16] Addressed in times of war and trouble to the leaders of the states disputing control over the Romanian Principalities, these texts allow us to see how political language and theory underwent important changes. Forced by the circumstances to reflect on the condition of their state, the authors begin to imagine different political systems. On these grounds, the idea that corruption could be fought, contained and eventually overcome, gradually takes a consistent shape. In April 1834, for example, the politician and economist Nicolae Suțu expressed clearly his ideas about the defence of public interests from all fraud and of public money from all wrongdoings ("garantir de toute fraude les intérêts publics et de toute malversations les deniers de l'Etat"). He did so while commenting on a law prohibiting state functionaries from taking advantage of public revenues ("Loi concernant la défense aux employés de l'Etat de se rendre entrepreneurs des revenus publics").[17] Such comments are missing from earlier blueprints; we must therefore ask ourselves what made them conceivable.

To better grasp this significant change, I have decided to focus on three case studies. The first concerns the political theory of the Greek patriarch of Constantinople, Kyrillos Loukaris. A 1626 document issued by him allows us to see how privileges were negotiated between boyars of the Wallachian prince Alexander the Infant, several communities with specific interests and the patriarch himself. The second case study focuses on a 1705 allegorical novel and several diplomatic reports from 1741–2 that draw a map of Ottoman corruption. The last case study discusses the "Organic Regulations" of Wallachia, imposed in 1832 by general Pavel D. Kiselev during the Russian military occupation of the Romanian Principalities. The code illustrates the clash between two legal systems: a modern system imposed by a foreign army and a conservative and much more tolerant system deemed in accordance with the laws of the land.

The 1626 document has previously been edited and translated, yet it has not been thoroughly analyzed.[18] The 1705 novel and the 1741–2 diplomatic reports were also published (the latter only in Romanian translation), but neither has been approached from the angle of corruption.[19] As for the Wallachian "Organic

Regulations" of 1832, they are still awaiting a critical edition. The focus of the present study is on the chapter "On the Administration of Justice." Based on a manuscript copy held in the Russian State Historical Archives in St. Petersburg (РГИА), I will briefly contextualize the efforts made by the Russian administration, and especially by General Kiselev, in order to impose a modern, "civilizing" code of laws.[20]

The objective is by no means to measure the degree of compliance of the Romanian Principalities to idealized modern statebuilding standards. Accordingly, I will not start with recent definitions, but instead will see how corruption was defined and redefined in these specific cases. Then, I will show that the transition towards a relatively less corrupt system took longer than in Western Europe (unlike Denmark, a clear shift can be observed only in the second half of the nineteenth century). Finally, I will argue that the persistence of this allegedly premodern situation had less to do with the lack of a public/private divide, or with a lack of institutionalization, than with the political, financial and cultural status of the ruling princes and of the elites, as well as with the lack of a system of checks and balances.

Wallachia and Moldavia afford unique insights because, as tributary states of the Ottoman Empire, they were ruled by Christian princes who were both God's representatives on earth and the sultan's servants (see Figure 15.1). If one adds the rise of the so-called Phanariots—rich Christian families well connected with the upper echelons of Ottoman power—and the rise of Russia, the stage becomes set for a multifaceted analysis of the anti/corruption diptych—thereby making it possible to study not only the successful anticorruption campaigns, but also the persistence of corrupt practices in societies where there is a plurality of legal cultures.

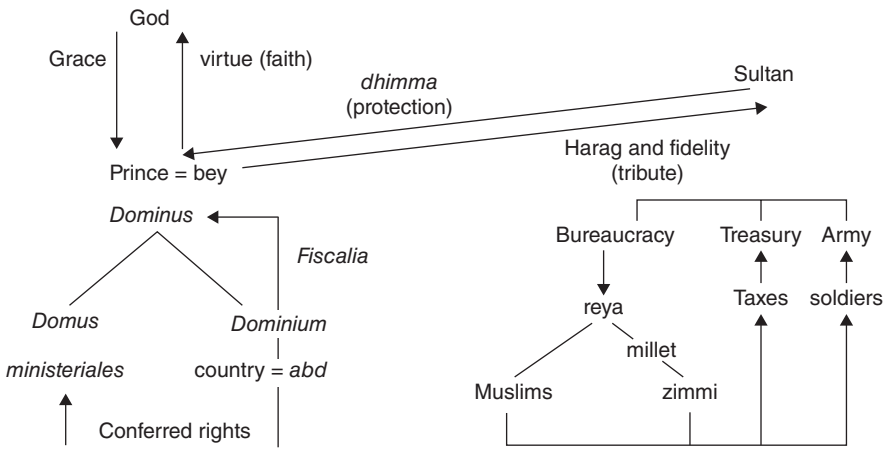

Figure 15.1. Circuit of Grace and Powers in the Romanian Principalities during the Ottoman period.

Source: Radu G. Păun, "La circulation des pouvoirs dans les Pays Roumains au XVII[e] siècle. Repères pour un modèle théorique," *New Europe College Yearbook, 1998–99* (Bucharest, 2001), 265–310 at 297. Reproduced by the author's permission.

"BLESSED REASONS WELL-KNOWN TO THEM"

In April 1626, the Greek patriarch of Constantinople, Kyrillos Loukaris, issued a document confirming the annulment of all financial privileges previously granted by the princes of Wallachia. The document is unique. Not only was such an abrogation unheard of, but it was decided by the main "archontes" of the country and not by the ruler, who was under the legal age at that time.

In order to justify this unexpected gesture, the patriarch called upon the concept of justice. Those versed in political affairs, he averred, were aware of the huge difference between governance according to the law and governance by tyrannical force. Tyranny, he continued, aimed solely at the tyrant's own profit; whilst, on the contrary, governance according to the law aimed at the common good. The most important subject among those who are governed is justice. Therefore, the decision to eliminate the fiscal privileges of all noblemen, monasteries and foreigners was a correct one. The present inequity, he argued, was damaging to the government and could encourage people who paid taxes to run away.

Yet, at the end of his exquisite apology for justice and equity, the patriarch introduced six exceptions. "For blessed reasons well-known to them," the rich property of Şegarcea (offered years before to Loukaris when he was patriarch of Alexandria), two communities of merchants specialized in long-distance commerce, two communities with military attributions and the possessions of a "nobleman of noble birth" called John were allowed to maintain their privileges. John was the nephew of one of the most important financial and political supporters of both the patriarch and the ruling infant prince. We have therefore good reasons to believe that he was one of the "archontes" initiating the measure confirmed by Loukaris. In other words, he belonged to an international patronage network covering south-eastern Europe. This group included the princely family, several merchants (some of them friends of the ruler who acted as his bankers and profited from this privileged and personal connection)[21] and influential high prelates—each of whom took advantage of their close connections with high-placed members of the Ottoman elite.

Was this corruption? According to the patriarch, it was not. He had confirmed an equitable measure primarily meant to "increase the power of the ruler and of the country." The fact that this measure happened to be favorable to a group of well-placed persons was neither unusual, nor against the law. In his eyes, justice represented "the fundament of all political community."[22] At the same time, the "honourable archontes of noble birth" were acting—just as Loukaris was—as shepherds of the Christian flock. As the patriarch and the nobles had reciprocal obligations, it would have been wrong had Loukaris shown an *excess of equity* and abrogated *all* financial privileges.

This does not however mean that corruption was not an issue. In July 1631, the Wallachian prince Leon Tomşa issued several measures against the "foreign Greeks" (*greci striini*), who were held entirely responsible for the troubles and poverty of the reign (*toate nevoile şi sărăcia ţerăi*)—measures explicitly designed to underscore the prince's fight against corruption.[23] Accordingly, all rulings had to

be given in accordance with justice and written Christian law, rather than be based on bribe, false testimony or boyar interest (*Judecata de ocină şi de alte moşii sau orice judecată să nu se facă pre mită sau pre fățărie sau pre voia a boiari, ce să se facăcu dereptate, după pravilă creştinească*). In addition, any election of archbishops, bishops or *hegoumenoi* had to be decided by a synod, not by bribe (*pre mită*). Although no punishment was stipulated, the document was clearly directed against the noble acquaintances of Loukaris, whose influence in Wallachia was also drastically (albeit temporarily) limited. The 1626 patriarchal decision thus shows how difficult it is to speak of corrupt practices when the power relations have a very personal character, when the law is negotiated between groups and communities, and when the difference between official gift-giving and illicit bribes (or between legal rewarding and abusive compensations) varies significantly from one group to another. In this sense, the similarity with seventheenth-century Muscovy easily comes to mind.[24]

While in line with prevalent practices, this type of legal behavior had significant consequences in the long run. As both cursing and excommunication were important judicial tools and were administered by the clergy, Loukaris and his likes were also prominent representatives of law and justice. They had the ability to bind and unbind, to forgive and to punish. In other words, their use of the *exception*, while making it impossible to build a system of checks and balances, contributed to the shaping of a juridical culture open to excess and abuse. Furthermore, the idea that truth was subject to negotiation often led to judicial unrest. Consciously or unconsciously aware that being right was often a matter of context, the plaintiffs could not always find their peace and tried their luck again and again each time it seemed more convenient.[25] Their alleged ignorance, stubbornness or shrewdness were corrosive to the justice system and paved the way for illicit practices.

"A GREEN LEAF"

There is, however, something intriguing about the Loukaris case discussed above. Of all the different types of corruption at this time, *ecclesiastical* corruption was the only one constantly and clearly attested and prosecuted as simony. The term was linked with Simon Magus, the heresiarch recorded in the *Acts of the Apostles* (8:9–24), and undergirded the prosecution of trafficking with ecclesiastical offices and goods and paying for illegal favors which encompassed the entire Christian world.[26] In November 1640, for example, the Wallachian prince Matthew Basarab declared null and void the decisions to grant monasteries to foregin monasteries from "Greece" or Mount Athos, taken in "treacherous" secret without permission and by means of bribe (*pre mită*).[27] Towards the end of the seventeenth century, an anonymous author used satire to mercilessly incriminate a vast array of corrupt ecclesiastical practices in a play called *The Stable*.[28] In July 1764, the Moldavian prince Gregory III Ghica played upon the classical designation of Simon as Magus, associated simony with "devilish" practices and witchcraft and reinforced the customary punishment—defrocking and excommunication—in cases of

transgression.[29] Still, when it came to secular corruption, things tended to become complicated (see also the chapters by Jens Ivo Engels and James Kennedy and Ronald Kroeze in this volume).

First, as Wallachia and Moldavia were tributary states to the Ottoman Empire, one has to distinguish carefully between legal mandatory payments, compensations and gift-giving towards Sublime Porte officials and abusive practices involving members of the Ottoman administration. A recent study has translated *rüşvet* as "bribe" and included in this category all the payments or gifts made by the Wallachian and Moldavian princes in order to obtain or secure the throne.[30] However, the sources suggest a far more nuanced reality, as already alluded to in Figure 15.1.[31] For example, Monk Azarie, a sixteenth-century Moldavian historiographer, considered that prince Despot gave a bribe to Ottoman officials in order to gain control over the country. "Blinded by bribe" (*orbiți de mită*), he says, the Ottomans had cleared the way for him. The same author also accuses prince Ioan of bribery, describing him as a "slave to the gold" (*robul aurului*), who would stop at nothing in his lust for power, "not even from bribe" (*chiar cu mită*). The interesting thing, however, is that, according to Azarie, bribery is specific to the enemy. Otherwise, the same behavior receives a different and milder treatment.[32]

The reports sent between 30 August 1741 and December 1742 to the Moldavian prince Constantine Mavrocordatos by his diplomatic agents in Constantinople abound in details concerning payments and gifts made to the Sultan and his servants by pretenders to the throne of the two Romanian principalities. For example, in order to avoid being transferred from Wallachia to Moldavia, Mavrocordatos offered 250 purses of gold to the Grand Vizier, one hundred purses to his lieutenant and one hundred gold coins to the lieutenant's secretary. These payments failed: Wallachia was granted to Mihail Racoviță, in exchange for one thousand purses and the promise of a fast reimbursement of previous debt amounting to three hundred purses (the dismantling of an unwanted alliance between the said Mavrocordatos and the former Moldavian prince Gregory II Ghica was also a bonus).

Dispatched to Moldavia, Mavrocordatos hurried to secure his position. He sent 110 purses to the Grand Vizier, fifty purses and a lynx fur to the Grand Vizier's lieutenant and an undisclosed "usual" sum to the Sultan. He also sent gifts to several influential members of the Ottoman state apparatus. Was this corruption? Contrary to what Azarie states, it was not. Strict rules regulated the process, which was overt and common. The hundreds of purses offered by Mavrocordatos during his attempt to retain the Wallachian throne were declined, and the prince was advised not to pursue the matter—the decision had already been made, and it had not been based solely on money. As a result, accepting the payment would have been incorrect. On the contrary, the purses offered in exchange for the Moldavian throne were accepted. In fact, the sum was often negotiated between the Ottoman functionaries and the agents of the prince.

The gifts were also subject to rules. Ali-effendi, the administrator of the Harem (and as such a close collaborator of the extremely influential Chief Black Eunuch), refused four hundred gold coins offered by Mavrocordatos. He also refused a

precious diamond ring, with the prince's representatives finding it hard to convince him to change his mind: "During the rule of my Master, I have all I need," stated Ali-effendi. "If I accepted from time to time a green leaf from the prince, I did it only to avoid upsetting him and to show him love and friendship."[33] As can be seen, Ali-effendi knew exactly how much his service was worth.

Of course, "the green leaf" was quite expensive and the line between gift, bribe and extortion was a very thin one. The Ottoman administration was not faultless; far from it. Still, as Boğaç A. Ergene has noted, such practices "did not necessarily undermine the legitimacy of the state."[34] The system was, and long remained, an efficient one. Only when it started to show signs of weakness and explanations were needed, were philosophical charges and administrative measures taken against what came to be construed as corruption.[35] Prior to this, competition between officials for revenues was considered a positive thing. What mattered was the loyalty towards the Sultan and the payment of the due fees. An anonymous report addressed around 1545 to Suleiman the Magnificent accused former Grand Vizier Rüstem-paşa of corruption. According to the whistle-blower, Rüstem-paşa had taken one million *akçe* from Mircea "the Shepherd" (*Ciobanul*) in exchange for the Wallachian throne. Neither the gesture nor the fabulous sum bothered the plaintiff. What was illegal and subversive was the fact that the recipient had failed to declare the money; instead of giving it to the treasury, as he should have done, he had kept it for himself as *rüşvet*.[36]

WORDS: MEANING AND RELEVANCE

The second difficulty regarding secular corruption that I have mentioned before is the coexistence of an official version of corruption with a radically divergent unofficial one.[37] Officially, bribery was considered very bad. It sullied and blinded. Unofficially, almost everybody made use of it. The few that did not—the Moldavian Grand Logothetis Constantin Costache Gavriliţi, nicknamed "Wart" (*Negel*), for example—were recorded as curiosities by the historians of the day.[38]

A text of the Moldavian prince Dimitrie Cantemir is particularly telling with respect to this public/private dichotomy. In a formidable allegorical novel written in 1705 and entitled *Hieroglyphic History* (*Istoriia ieroglifică*), Cantemir inserts a depiction of a "City of Lust" (*Epithimiia*) with a "Temple of Goddess Greed" (*Boadza Pleonexiii*) in its middle. Initiated by the "Old White Swan" in the secrets of this opulent and dangerous world, the Camelopard discovers "the nature and the sources of the Nile" and becomes an expert with respect to the meanderings of the river and the sacrifices performed by the wizards of the place.[39]

Cantemir himself helps us decipher the story by inserting a list of *dramatis personæ*. The Camelopard is Alexander Mavrocordatos, Chief Interpreter ("of the Secrets") of the mighty Ottoman Empire—the City of Lust. Disciple and successor of Panayiotis Nikousios—the Old White Swan—Mavrocordatos discovers the source and the mechanisms of corruption—the river Nile. He also learns how to deal with the rulers (the wizards) of Constantinople and how to deal with bribery—

"to make sacrifices in the Temple of Greed" (*jirtfă boadzii locului să facă*). In short, he becomes a Master of Secrets.

The depiction is haunting. Seated on a throne of fire above a heated oven, the Goddess of Greed is ready to collect "the yellow dirt" (gold). Her face is also yellow and her eyes are closed, yet her ears are wide open so as to hear everything. In her right hand she holds a balanced scale, with the Stone of Insatiability and Ruthlessness on one pan, and the World on the other. Her left hand holds a funnel connected with the oven and continuously fed by priest *Filohrisos* ("the lover of gold"). "The bribe blinds all eyes" and "all those who lost their way can find the bribe" (*mâzda tot ochiul orbeşte şi mita tot pierdutul nimereşte*), as the story concludes.

Because Cantemir knew the Ottoman capital well—having lived there, with minor interruptions, from 1688 until 1710, and whose map he even drew—his City of Lust is very credible. His map of informal Istanbul is as interesting as the official one. Yet maps are cultural objects. They do not merely depict tangible realities; they also illustrate wishes, dreams or a City of Lust situated on the banks of Corruption. They must be handled with caution.

The case of Epithimiia is conclusive. The *Hieroglyphic History* of Cantemir survived in one copy only and was published for the first time long after the death of the author. Like the *Historia Arcana* of Procopius, the text was undoubtedly destined to be read by a limited, even intimate audience. (The aforementioned pre-Phanariot ecclesiastical satire called *The Stable* also survives in a sole manuscript.) His devastating critique of Ottoman corruption was therefore "for your eyes only." Indeed, Cantemir actually showed a remarkable capacity to navigate his way through the Constantinopolitan web of power. Self-portrayed as the pure Unicorn, the erudite expert in Ottoman corruption ruled twice in Moldavia, first in 1693, then in 1710–11.

THE SNOW OF YESTERYEAR

This binary attitude is abundantly evident in the surviving historical sources. According to an eighteenth-century Moldavian historian, for example, Prince Constantine Mavrocordatos used to sell state offices. Yet, in April 1730, the same prince tried to counter the administrative disorders of three Moldavian districts. Ignoring the "ancient customs" (*obiceiul cel vechi*), two types of princely servants—*ispravnici* and *pârcălabi*—were competing for the same juridical prerogatives, with negative effects. Among other things, the ruler clearly stated that all accusations of corruption—that is, incorrect decisions based on bribes or abuse of power (*giudecată rea făcută, pre mîzdă sau pre voe vegheată*)—were subject to his jurisdiction alone.[40]

Was this a sign that he took this issue seriously? Was it an attempt to prevent further abuses by overlapping officials? Or was it just a way to stress his dominant juridical attributes? Whatever the case might have been, Mavrocordatos issued a

series of ostensibly modern fiscal and administrative reforms. For example, he created a professional salaried state apparatus that was at odds with the traditional personal and patrimonial system.[41] As we have seen, attempts to develop a professional administrative class date back to the seventeenth century; nevertheless, Mavrocordatos' efforts mark a turning point for future reforms.

In 1695, exasperated by the corruption of *clucer* Constantine Ştirbei (the sixth most important state official), Prince Constantine Brâncoveanu decided to take exemplary measures. Ştirbei was sentenced to prison and to repay the stolen or extorted money. Two weeks later, however, he was released (his family was well connected and appealed successfully to the ruler's mercy). In 1707, this abusive character became *ban*—that is, the most important boyar of the country.[42] It seems that corruption was not the issue, but rather the theft of the money destined to the Ottomans. As this could lead to the replacement, imprisonment or execution of the prince, the wrongdoer was convicted of high treason.[43] Nicholas Mavrocordatos, Constantine's father, was even more moderate. When the Grand Treasurer Grigorie Halepliul crossed the limits of decency with his abuses—he had "quite long nails" (*cam lung de unghii*) and "he took big bribes from everybody" (*mite de la toţi lua mari*), according to an anonymous eighteenth-century historiographer—the prince asked him to return the embezzled money and deprived him of his office. No other punishment was deemed necessary.[44] The reforms of his son were clearly a break from the past.

As time went by, legislation on this matter grew more and more draconic. "Any judge that takes a bribe will not escape our harsh punishment" (*nu va putea scăpa de grea pedeaspă a domniei mele*), stated the 1780 *Register of Rules*, and even bribing became outlawed—if proven guilty, the transgressor automatically lost the trial.[45] The practice of bribery, however, proved as pervasive as ever. In May 1777, for example, Arsenie "the Cossack" wrongly accused Stoica of Câmpulung of bribing two state functionaries; he asked for mercy and his fault went unpunished.[46] In February 1780, two county officers were found guilty of releasing two horse thieves in exchange for a bribe; their punishment does not seem harsh at all—they were only forced to pay a fine.[47] As the decision was his alone, it is obvious that the prince was responsible for a highly personalized judicial system.

The situation started to change at the beginning of the nineteenth century.[48] On the one hand, sultan Mahmud II and his successor Abdülmecid issued a set of reforms destined to drive that era of modernization known as the *Tanzimat*. As Fatma Müge Göcek put it, a "new vision of Ottoman society" was about to replace the old one.[49] On the other hand, Russia was also undergoing significant transformations. As an emerging European and Asiatic power, the Russian Empire became increasingly preoccupied by the Eastern Question and sometimes tried to impose reforms as a means to increase its stronghold on neighboring European states such as the Romanian Principalities.[50]

The open confrontation between the Ottoman Empire and Russia opened up the possibility for local elites to speak up. Between 1769 and 1831, 208 petitions and reform projects were addressed by Moldavian or Wallachian subjects to the Russian, Austrian, Prussian, French, Ottoman and English authorities. Iordache Rosetti-Roznovanu, Mihail Sturdza, Ion Tăutu and Mihail Cantacuzino were the most prolific among these authors.

Some of the reform projects tackled corruption. In December 1827, for example, Barbu Ştirbei (a soon-to-be prince) criticized in a memoir on the administrative system of Wallachia "le brigandage legal" and all sorts of "expédiens" practiced by the underpaid and unmotivated public officials.[51] The Russian authorities did not ignore these acts.[52] Partly convinced of their civilizing mission, and partly as a possible prelude to an annexation, they imposed a modernizing set of laws during the 1828–34 military occupation of Wallachia and Moldavia,[53] including attempts to eliminate important sources of dysfunction and corruption and to separate the administrative and judicial branches.[54] In addition, they circumscribed and diminished the legal rights of both the prince and the clergy, made the court sessions open to the public and reorganized the police force.

An amended copy of the chapter *On the Administration of Justice* of the *Organic Regulations*, now kept in the Russian State Historical Archives in St. Petersburg, offers important details on the topic.[55] Article 213 deals with the administration of justice:

> In Wallachia, justice will be administered: I. By district courts which at first instance will hear all cases, civil cases, correctional police cases and commercial cases; II. By two judicial *divans* based in the cities of Bucharest and Craiova, with two sections each, one dealing with appeals in civil cases, while the other with appeals in criminal cases; III. By two commerce courts based in the above-mentioned cities, dealing with appeals in commercial cases; IV. By a police court supervised by the Aga, whose jurisdiction will be limited to simple police cases in the Capital; V. By a Supreme *Divan* or high Court of appeal dealing with all cases of last resort.

Several annexes deal, among other things, with the attributions of public prosecutors—examples of forms to be completed are also provided—and with the organization of the prison system. Although brief, a note to the fifth paragraph shows that the text was continuously updated; according to this not, the Court of Review was not also mentioned because experience had already proved that "it is far from fulfilling its purpose." Considered either a Romanian creation, or an example of "constitutional imperialism or colonialism,"[56] the *Organic Regulations* are not only a colonial tool, but also a starting point for anticorruption measures.[57] On one hand, they were meant to ensure Russia's peaceful presence in the Principalities (according to General Kiselev and to others, until their annexation); on the other hand, many stipulations turned out to be beneficial. As Costache Faca puts it one of his poems (*Comodia vremii*, 1833), the times of negotiation were gone:

> Where are the days when you sat still,
> Solving everything unbothered by such small things as laws or will?
> You were all like brothers and your business was running flawless:
> Really, Caragea's legal code was priceless![58]

Nevertheless, the enthusiasm was far from general. The *Organic Regulations* were considered by some too mild and by others too radical, while sometimes also being dismissed altogether as foreign. Others still accused the new regime of being more corrupt than the old one. In Wallachia, the revolutionaries of 1848 publicly burned copies of the *Regulations*. Resulting from a political compromise, the *Regulations* were not the anticorruption toolkit one might have hoped for.[59]

In any case, the old habits that the Russians tried to eradicate proved resilient. In September 1871, a Bucharest city adviser threatened to duel a colleague who dared to ask for an exact account of the public infrastructure spending for which the former was responsible.[60] The idea that he was accountable for the spending of public money was still completely beyond his comprehension.

CONCLUSIONS

At first sight, the three case-studies presented above may seem exotic; however, they do show us how complex the question of anti/corruption was in early modern and modern south-eastern Europe, and how delicate the task of the historian dealing with such issues is.

It seems quite clear that we should discard the argument of a lack of separation between public and private interest in early modern times often invoked in order to: (a) prove that corruption was generally accepted; (b) deny the possibility that corruption existed prior to 1800; and (c) distinguish between old and new forms of corruption.[61] In Wallachia and Moldavia, as well as in the Ottoman Empire more generally, the words connected with corruption were not deprived of meaning. A sixteenth-century Wallachian "mirror for princes" (*The Teachings of Neagoe Basarab to his son Theodosius*) calls the wrath of God upon "the robbers and the plunderers" who acted not as agents of the prince (and of the state), but for their own gain. Likewise, the 1652 Wallachian *Guide to the Law* opens with an engraving showing the Archangel Michael holding a sword in one hand and the scale of justice in the other.[62] Several eighteenth-century Wallachian documents depict two of the capital virtues: Wisdom and Justice. The latter is holding a sword and a scale, and her eyes are not covered, as shown in Figure 15.2.[63]

The 1816 Moldavian *Civil Code of Calimach* depicts a monument to Justice, while the Wallachian *Code of Caragea* includes a hymn to goddess Themis.[64] As for Ottoman political thought, many authors condemned bribery as the root of all evil and suggested anticorruption measures. Of course, Muṣṭafā ʿĀlī, Aziz Efendi or Dürrî Mehmed Efendi should all be read in context.[65] They had their own agenda and their own way of understanding good government and corruption.[66] They also depended on the patronage system (*intisab*). As John Watts and George Bernard argue in this volume, the frontier between public and private might sometimes be gray. Still, I am of the opinion that early-modern Wallachians and Moldavians more often than not had a rather neat idea of what was corruption and what was legal practice; and corruption was certainly an issue.

Furthermore, this issue of corruption cannot and should not be treated locally. An entire web of interests is revealed upon closer analysis. This web stretched not only from Bucharest to Iaşi and back, but also from Bucharest and Iaşi to Constantinople and then even to Moscow. Recently, Radu G. Păun has put in a new light the reconstruction of the Greek Orthodox elites under Ottoman rule and the origins of the Phanariot phenomenon.[67] Christine Philliou has likewise challenged traditional conceptions and misconceptions about early nineteenth-century

Figure 15.2. Wisdom and Justice flank the coat of arms of Moldavia and Wallachia.

Source: Document issued by Ștefan Racoviță on February 5th, 1765, and written by priest Florea (MMB 13060). Courtesy of Muzeul Municipiului București.

Ottoman politics by reconstructing the life and career of Stephanos Vogorides (1775/80–1859), a leading representative of the Phanariot network.[68] Future studies dedicated to such networks may explain the permanence of specific practices, behaviors and conceptions, including those related to corruption. They

could concentrate, for example, on the question of why, unlike the Netherlands (see Chapter 14 by James Kennedy and Ronald Kroeze in this volume) but much like Russia,[69] there was not a heated debate on fighting corruption around 1800 and why the Romanian Principalities became perceived as less corrupt quite late (in the second half of the nineteenth century).

This shift towards a less corrupt society is usually correlated by Romanian historiography with the separation of public and private interests, a late achievement in Wallachia and Moldavia. However, the erosion of old networks may have been more instrumental to this change. At any rate, the erosion was very slow; as gray-area practices proved extremely complex and resistant, so anticorruption measures came and went. From 1741 onwards, officials had to attend an educational institution. Step-by-step, law professionals appeared—Nestor Craiovescu, Andronache Donici, Christian Flechtenmacher and Mihail Fotino.[70] Yet the princes—including the reformers—found it difficult to reconcile their position as legislators and judges—placed under the personifications of Wisdom and Justice—with their responsibilities as Ottoman functionaries and as clan members. As a result, their anticorruption measures were less effective than one might have hoped. To give an example, one boyar accused by Prince Caragea of being a thief allegedly conjugated (in Greek) the verb "to steal": "I steal, you steal and he steals"—soon after, Caragea promoted him.[71] This might very well be an anecdote, yet it points to how difficult it was—even for an occupation army like the Russian one—to implement anticorruption measures in a world of networks and clans where exceptions constantly challenged the rules. The pessimism expressed in this volume by Jens Ivo Engels in Chapter 11 seems quite justified in this respect.

There is, however, another hypothesis which we cannot neglect, all the more so as it was recently tested successfully for early-eighteenth-century England.[72] What if what has been called corruption in Romanian historiography for quite a long time, was actually more efficient for public or private business than virtue (or was considered a virtue in itself)? This is another rich topic that deserves be investigated in future research.

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16

Corruption and Anticorruption in Early-Nineteenth-Century Sweden

A Snapshot of the State of the Swedish Bureaucracy

Andreas Bågenholm

The *coup d'état* of 1809 is considered a milestone in Swedish history. The deposition of the absolutist King Gustavus IV Adolphus and the subsequent adoption of a new constitution drew the dividing line between *l'Ancien Régime* and the modern era and set Sweden on a path which eventually would lead to industrialization and capitalism as well as democracy.[1] These political, economic and social processes have all been subject to vast amounts of research. Less well studied, however, is the equally important process which transformed Sweden from a patrimonial society—where the boundaries between the private and the public were blurred, where the buying and selling of public offices and informal payments to public officials were accepted legal practices and where abuses of public offices such as bribes and embezzlement presumably were commonplace—to what it is today: a country which is considered one of the least corrupt in the world.[2]

There are plenty of examples in the literature of different types of malpractices at various levels and in different agencies and offices, which have led scholars to conclude that Sweden was a corrupt country a few decades into the nineteenth century.[3] These claims are mostly based on anecdotal information, or at least not on very systematic research, and it is not at all clear whether the evidence reflects the rule rather than the exception, and hence, whether these claims are fair or not. I argue that we basically lack concrete knowledge about the extent and type of patrimonial and corrupt practices in Sweden at different points in time; knowledge that is crucial if we are to identify the most relevant period to study and to understand how and why a relatively non-corrupt, Weberian-style bureaucracy was created.[4]

This chapter aims to fill this gap by analyzing how some centrally located, contemporary, political and societal actors perceived the state of the Swedish public administration in the early nineteenth century (i.e. at the time when, according to quite a few scholars, it was still "plagued" by patrimonialism, corruption and even feudalism).[5] In this way, it explores to what extent, and in what ways, the Swedish bureaucracy was considered corrupt and dysfunctional around 1820 and which remedies were suggested to solve the problems identified.

PREVIOUS HISTORICAL RESEARCH ON CORRUPTION

There is not much historical research on corruption and anticorruption measures, although interest seems to have picked up recently, as the present volume attests. It is therefore difficult to estimate the extent of corruption and malpractices in the past, let alone draw comparisons between countries. The difficulty lies not so much in finding evidence of corruption and malpractices (which exists), but in determining how widespread such practices were and whether these cases were the rule rather than the exception.

Although historical accounts are incomplete, there is still some agreement among scholars that slow and uneven change can be discerned from the end of the eighteenth century.[6] Finding a precise starting point is of course very difficult and, in the Swedish case, a complete history of the emergence of a modern Weberian bureaucracy would be impossible to write without going back at least to the major administrative reforms by the State Chancellor Axel Oxenstierna in the mid-seventeenth century, which lay the foundation for how Sweden was to be governed for centuries to come.

During the Age of Liberty (1719–72), traditional and modern values and modes of behavior seem have been at constant odds with each other, reflecting the ambivalence and blurriness of this final stage of the early modern era.[7] This sense of conflict also emerges from the extensive research on different aspects of public administration, in which some scholars view the period as one of progress—not least because of its semi-democratic, or at least parliamentarian, tendencies, with power concentrated in the four-estate diet and with a generally powerless king whose consent to legislation was not even needed towards the end of this period. Also, in terms of legislation concerning the modest-sized Swedish civil service, several important reforms were made, with, for example, the buying and selling of public offices (the accord system) criminalized and meritocratic recruitment to several positions in the bureaucracy made mandatory.[8] It has also been argued that a cultural change in values and views on, for example, the legitimacy of political power, publicity and the public as well as on the role of civil servants took place,[9] changes that eventually transformed Sweden and the rest of Scandinavia into progressive and stable countries.[10] There are thus a number of indications that scholars have used to argue that in Sweden civil servants were promoting a modern state, in which impartiality and honesty were held in high esteem.

The somewhat more critical accounts of the period point to the fact that even though a number of well-intended laws were adopted, the willingness or capacity to enforce them properly was lacking. Laws prohibiting accords, for example, were repealed and the system of informal payments made directly to civil servants was kept intact.[11] Corruption is commonly perceived as having flourished at all levels. Local civil servants were, for example, accused of frequently abusing their position by extracting rents from the peasantry.[12] Moreover, bribe taking (including from foreign countries in order to influence Swedish foreign policies), fraud and embezzlement were commonplace.[13] There appears to be, therefore, a vast discrepancy between the legal framework—which to a considerable and increasing extent could

be regarded as Weberian—and its implementation—which still left much to be desired and hence made the actual behavior more traditional and patrimonial.[14] However, apart from the content of legislation and the degree to which it was enforced and obeyed, it is next to impossible to determine the extent of corruption and malpractices on the basis of the information provided by the literature discussed above.

After the royal coup by Gustavus III in 1772, which ended the Age of Liberty and effectively resurrected the absolutist monarchy, there seems to be some agreement that corruption was reduced.[15] Adoption of new legislation, but above all enforcement of the old one, basically put an end to the type of corruption that had been prevalent before.[16] The judicial system in particular experienced some improvements, which increased its capacity to function as a credible enforcement actor and, hence, enhanced its legitimacy.[17] Bo Rothstein and Jan Teorell argue that these reforms were necessary in order to make the anticorruption efforts a half century later effective. If the number of appeal cases regarding different kinds of official malfeasance is taken as a valid indicator of corruption, it would seem that the years around the turn of the eighteenth century constituted a nadir in terms of corrupt practices, with the periods before and after much more affected by corruption.[18] Yet the overall number of cases is quite low, and particularly so for more serious offences such as embezzlement, forgery and fraud. Although there is quite a bit of debate on how to assess Sweden in the early-nineteenth century, Teorell and Rothstein still consider Sweden corrupt in that period, sometimes even systemically so.[19]

Along with the loss of Finland, the revolution of 1809 put an end to royal absolutism and replaced it with a more modern, semi-democratic form of constitutional power-sharing between the king and the four-estate diet. As such, it has been viewed as a critical juncture at which a big push for reforms took place.[20] In the records of the deliberations of the four-estate diet on the new constitution—which was drafted shortly after the coup—there is nothing that suggests that administrative improvements were deemed necessary, however.[21] This starkly contrasts with the general pattern in Europe, where administrative reforms typically were driven by an urge to curb corruption.[22] In fact, it would take some thirty years before a more comprehensive process was set in motion, which does not indicate any particular urgency or haste in solving serious and potentially "lethal" problems. The fact that the newly elected crown prince, Jean Baptiste Bernadotte (Karl XIV Johan), a French general, quickly proved to be a skillful military strategist as well as diplomat, who helped restore Sweden's international reputation,[23] may explain why no major reforms were launched for the next couple of decades. But it also indicates that even though the system may not have been perceived as flawless, it was not in so terrible a shape that it called for immediate actions.

In contrast, Knut Wichman claims that, as late as the 1830s, Sweden was a country with:

> [A] strong, partly absolutist monarchy, a weak and divided four-estate parliament, which only assembled every five years, a nobility and civil service, which the middle

> class and common people found repressive, a frequently mismanaged judiciary system, [and] a poor and to great extent ignorant people pacified by alcohol.[24]

Moreover, common people continued frequently to complain about dishonest, incompetent and corrupt public officials during the first decades of the nineteenth century,[25] and members of above all the Burghers' and Peasants' estate in the diet are repeatedly said to have held a deep mistrust for the civil servants.[26]

Three decades later, Sweden was a very different country according to Wichman, whose account is also in line with Rothstein's. The latter argues that a large number of crucial pieces of legislation were adopted during a thirty-year period starting in 1840, which was effective in gradually reducing the level of corruption and malfeasance towards the end of that period.[27]

This timeline is also supported by Anders Sundell, who shows that the major breakthrough in terms of professionalization (measured as the proportion of public officials with more than one job) occurred between 1866 and 1881 and that nepotism (measured as the probability that two randomly drawn persons will have the same surname between and within offices) decreased dramatically between 1895 and 1910.[28] In another study Sundell shows that the *sportler* system, by which public officials were paid directly by users for specific services (and which could at least be considered as conducive to corrupt behavior), was incrementally phased out during the mid-nineteenth century.[29] Previous research thus suggests that Sweden was hardly rid of corruption until well into the second half of the nineteenth century, although it had considerably improved in these respects by the end of the century.

METHODOLOGY AND SOURCES

It is not an easy thing to estimate the extent of corruption historically, since systematic data on valid indicators is usually in very scarce supply. Without denying the merits of such indicators used in the studies discussed in the previous section, they still raise some concerns in terms of validity. The frequency of court proceedings may be affected by the efficiency of the court system and higher numbers of conviction may thus be unrelated to increasing levels of corruption and vice versa. Likewise, to use surnames as an indicator of nepotism is to fail to take into account the strong likelihood that relatives may very well be employed in the same agencies without their having benefited from any nepotistic procedures for their appointment. It is, on the contrary, quite reasonable that sons should follow in their fathers' footsteps and that they should turn out to be, for various reasons, highly qualified for the position. Moreover, individuals with identical surnames may not be relatives.

The research strategy followed in this chapter is less systematic and more qualitative. Its main weakness is that the absence of specific information is also taken as evidence of the absence of the phenomenon as such. To be more concrete, I have chosen to study how some important contemporary actors themselves regarded the situation that they were in the midst of and highly affected by.

One particularly useful set of sources in this respect consists of the records connected to a large scale investigation on the Regulation of the Public Administrative System in Sweden, which was initiated in 1819.[30] Two key texts here are, first, the official report of the parliamentary committee that was formed in 1822 with the purpose of scrutinizing the investigative report and coming up with concrete proposals to be debated and voted on by the four estates in the diet and, second, an alternative report from a dissenting member of the committee. These extensive texts comprise over four-hundred pages, covering the whole public administrative system at both central and local levels. Ultimately they aimed at identifying the problems and recommend solutions to them; therefore, it seems reasonable to assume that a dysfunctional and corrupt system would be criticized in the report. There are circumstances under which such information may be suppressed, of course, but considering the fact that Sweden at that time had recently lost one third of its territory (Finland) to Russia, deposed its king, adopted a new and much more democratic constitution and resurrected the previously abolished Freedom of Information Act, it would be unlikely that anyone in the top echelons would benefit from withholding such potentially damaging information. (All the more so at a time when the country's very existence was threatened by Russia and Denmark's plan to divide its territory between them). Moreover, the fact that the report was scrutinized by a parliamentary commission, made up of representatives from all four estates (including the peasants) makes it even less likely that information about, for instance, the situation of the rural population would be distorted. As such, these committee members must have been well informed about these matters and would hardly have accepted that malfunctions or direct abuses against their estate brothers be swept under the carpet. The alternative and slightly dissenting report was written by one of the leading opposition members of the noble estate, August von Hartmansdorff, which makes it highly improbable that he should be biased in favor of the king and the government. In sum, although a lack of information about corruption and systemic malpractices may be considered a poor indicator of the actual state of affairs, it is highly likely that the report would broadly reflect the type and extent of the problems afflicting the Swedish public administrative system at this time.

I have also used a number of ancillary sources, some of which are very extensive in their coverage. These were produced by three distinct institutional milieus. First, the newly established position of justice ombudsman (*Justitieombudsmannen*, JO) in 1809, whose task it was to scrutinize the entire public administrative system on behalf of the diet and report on deficiencies and even prosecute individual civil servants if the accusations were grave enough. An extensive report on the JO-office was published in 1935,[31] based primarily on the annual reports submitted to the diet. It is thus an extremely valuable compilation, providing further insight into exactly the sort of issues that concern us here. I discuss some of the caveats regarding this source below.

The second source consists of another important control function the diet had at its disposal: the audit,[32] which was given a broader mandate in 1809 to scrutinize the financial records of all state agencies, ministries and colleagues. Auditors did not

have the power to prosecute and were only able to recommend that the king press charges against wrongdoers. Since the audit reports were made public, however, it was a far from toothless institution and it is therefore also highly relevant to this study.

Finally, I decided to include a non-governmental actor in my study, namely the press, which gained importance in this period in Sweden as a scrutinizer and critic of public affairs, with relatively high exposure. The Press Freedom Acts of 1766 and 1812 were prerequisites for a reasonably free press to flourish. An analysis of the content of the major Stockholm newspapers during the 1820s, with a focus on their critiques of the political system in a broad sense has been recently published.[33] These press sources are more anecdotal than the records of administrative practice, since the press rarely has either the capacity or the ambition to cover issues in their entirety, focusing rather on single, and possibly at the time exceptional, stories. Nevertheless, it should be considered a valuable complement to the other sources, not least as it is the only one that gives us an external representation of Swedish public administration.

THE INVESTIGATIVE COMMITTEE

The issue of administrative reforms was raised by the diet in the immediate aftermath of the adoption of the new constitution.[34] The loss of Finland was actually part of the stated reason for the proposal, but not in the sense suggested by Rothstein and Teorell.[35] The argument was not one of correcting past mistakes to avoid situations where the country's sovereignty was at stake, but to reduce the costs of civil service, since Sweden had now become considerably smaller (see, in this connection, Chapter 13 by Mette Frisk Jensen in this volume). The response from government in July 1809 also clearly indicates that even though state bureaucracy had operated well in the past, it should be able to function properly with fewer but better paid civil servants. Enhanced efficiency was sought, but there is nothing to suggest that the system had been overly corrupt or mismanaged before; quite the contrary.

In 1819 a Royal Investigative Committee was formed, but by this point priorities had shifted from cost reduction to the adoption of a more appropriate organization of domestic affairs, with the purpose of gaining efficiency in terms of speedy execution, a more unified organization and precision and orderliness in public administrative procedures. Given the sense of these directives, it is fair to assume that the most egregious abuses would at least not have gone unnoticed by either the Commission or the parliamentary committee, which was to scrutinize the Commission's findings and propose concrete legislative changes.

However, there is hardly anything in the resulting two hundred page document that points to widespread corruption or even deliberate mismanagement by civil servants. The main problems concerning the Committee were that "they are too many, poorly and unequally paid, not sufficiently encouraged and that the exams that they have to take when entering in the service of the state are not relevant."[36] It is thus implied, at best, that lack of decent salaries may result in civil servants having to seek

several positions in order to make ends meet, which could be harmful to the system. The blame is not placed on civil servants, however, but on a system that forces them to act in that way. To take another example, when arguing for a compulsory and relevant civil servant education, the report does not portray civil servants as ignorant and incompetent, but as the innocent victims of a poorly developed educational system. This means one of two things: that either the Committee tried its best to avoid offending people or, as is more likely, that it did not in fact consider civil servants to be deliberately corrupt, stupid or lazy. Furthermore, the section describing administrative problems is very short, only four pages long, which is puzzling given that the opening sentence of the report states that "when scrutinizing the current organization of the Public Administrative system, the Committee has found that the deficiencies and shortcomings have been many and great."[37]

The major problems according to the Committee were, first, the absence of cohesiveness in the administration—regarding, for example, the exact boundaries between different agencies, which resulted in inefficiencies such as redundant work, procedural inconsistencies when different agencies dealt with similar issues and a lack of specialization—and, second, the shortcomings in the education, promotion and remuneration of civil servants. Regarding the former problem, the main proposal of the Committee was to relieve public agencies from all matters that had any judicial components and to let the court system deal with these exclusively. The reasons for this were mainly to uphold the rule of law and preserve judicial integrity by not letting civil servants without proper education deal with these matters. Specialization and competence were thus stressed as key elements by the Committee and a large part of the report is devoted to this issue.

The report itself does not dwell at length upon problems, the emphasis being instead on how to improve public administration. The overall impression one gets from the report is that of a highly competent group of individuals who devoted a considerable amount of time to the preparation of a detailed plan for the complete reorganization of Swedish bureaucracy. Every single agency is discussed in terms of its organization, functions and remits, and concrete proposals are made about the optimal number of civil servants required, their education and their salaries. What is striking about the report is that it contains certain features that Max Weber, almost one hundred years later, would consider the cornerstone of a modern, well oiled, non-corrupt bureaucracy. As corruption and official malfeasances are not discussed in the report, I will instead focus on some examples of those "Weberian" recommendations made by the Committee members, which seem to challenge the application to Sweden of the traditional periodization of the pre/modern divide.

Hierarchical organization with fixed and well-defined jurisdiction, governed by written rules

The main proposal along these lines was to replace the old collegial system, where the agency boards collectively made decisions, with a ministerial system where the agencies would be led by appointed executive managers who would ultimately

make decisions and account for them. In terms of defining the areas of activity, I have already mentioned the detailed proposals for the organization of each and every public agency at state, regional as well as local levels.

Meritocratic recruitment and proper education for specific tasks

This was one of the main bones of contention during the eighteenth century and the beginning of the nineteenth century. Even though the Constitution of 1719 stated that most official appointments should be made on the basis of merit (not estate or family ties), the nobility was clearly favored in public appointments. The fact that the king tended to favor the nobility is not discussed in the report. This favoritism is discussed at length, however, by the Committee's dissenting voice, von Hartmansdorff, who, despite his noble status, fiercely criticized the fact that a career in the army, where the nobility was particularly favored, was a free ticket into the civil service, thereby circumventing the merit system.

As for meritocracy, the focus is clearly on educational aspects, and the Committee is highly critical of the poor quality of the education available at the time and the relevance of the subjects required for highly qualified offices. Indirectly, therefore, the Commission addresses the issue and, at least implicitly, demands that only relevant skills should matter.

Secure job and salary, with expectations of promotion based on merit and seniority

This matter is dealt with in great detail—particularly the question of salaries, which the Committee in many cases considers to be insufficient to support a family. The fact that remuneration for the same jobs was so variable that subordinates could earn more than their superiors is also criticized. This situation, it is claimed, forced civil servants to try to obtain several positions, with the result being that not enough time was devoted to each of their duties. The lack of proper pensions is also a cause for concern as it is seen to promote the illegal accord system, by which officeholders sold their positions upon retirement as a kind of pension system. Again, the Committee does not blame civil servants for abusing the system in that way, but rather calls for substantially higher salaries and the introduction of a proper pension system. There are also detailed suggestions concerning the grounds and procedures for firing a civil servant and it is argued that such decisions should be made by the courts. It is suggested, moreover, that promotion be based on merit and seniority.

Impartiality in the handling of cases

This specific criterion is mentioned only in passing by the Committee, but criticism is leveled at the habit different agencies had of dealing with similar matters, which could lead to a lack of impartiality or equal treatment as identical cases were dealt with differently depending on which agencies that handled them.

The conclusion from this section is quite clear. The essence of what was later to be called Weberianism was certainly not unknown to Swedish policy makers in the early-nineteenth century. The report from the Parliamentary Committee offers a catalogue of Weberian-style features and they are also discussed and justified in the same way that Weber did a century later. What is also noticeable, and potentially very important for understanding the process by which Sweden modernized, is the almost complete absence of references to instances of official malfeasance, let alone systemic corruption. Most problems that were identified were attributed to a lack of just practices and the more legally dubious actions of certain civil servants mentioned is typically dismissed as being the result of economic necessity, for which flaws in the system, rather than intentional wrongdoing or greed, were to be blamed.

JUSTICE (OR PARLIAMENTARY) OMBUDSMAN AND STATE AUDIT

The parliamentary scrutiny of public affairs was strengthened by the new constitution of 1809.[38] One of the more important changes in this respect was arguably the establishment of a JO (justice or parliamentary ombudsman) whose task it was to "ensure that judges and civil servants followed the laws and to prosecute those who, due to injustice, partiality or for any other reasons, break the laws or fail to fulfill their obligations."[39] The exact motives for establishing the new office are not clear since no records of its activity have survived, but there seems to have existed a deep distrust of the courts and of civil servants, who were regularly accused by the burgeoning pamphlet literature of being corrupt, partial, unjust, arbitrary and slow. The monitoring of their activities was therefore highly desired among some groups in the diet, above all the clergy and the burghers.

Even though the resources at the JO's disposal to monitor the whole Swedish civil service were limited, the overall evaluations of its officers' performances are generally positive. As early as 1815, the Constitutional Committee considered that the institution worked very well and had had positive effects on the civil service. It is also clear that JO officers did not regard the civil service corps as particularly corrupt. On the contrary, the first JO praised civil servants on several occasions for being generally competent, honest and efficient, claiming that exceptions to that rule should really be seen as nothing more than that. Subsequent JO officers echoed these opinions.

Moreover, the types of official malpractice that were discovered were in the vast majority of cases not particularly serious and seldom driven by bad intentions; rather, they were the result of a lack of attention and efficiency, which resulted in protracted bureaucratic procedures, especially in courts. The initial suspicion when the JO was created that only low-ranking civil servants would be targeted by the inspections and punished for wrongdoing thus turned out to be unfounded. In a number of exceptional cases, several top civil servants, such as mayors and county governors (*landshövding*), were prosecuted and convicted to long prison sentences for fraud and embezzlement, among other violations. It is obvious, therefore, that grave abuses and offenses would not go unpunished if detected.

There were still a few practices in the legal gray zone, however, that were widespread and which the JO seems to have had some difficulties correcting, due to a lack of concrete evidence. One of those practices was the county governors' inclination to hand out fines for alleged minor offences, which sometimes were not accurate, whilst another had to do with the fees that civil servants had the right to demand for producing documents or for processing certain cases, but for which they often overcharged their clients. When abused, both practices seem to fall under the category of petty corruption. This "civil servant arbitrariness" (*ämbets-mannagodtycke*) is probably part of the reason why a widespread mistrust of civil servants continued to exist among some groups during this time.

The first of these problems was mainly done away with in 1830 when the county governors' offices were forced to submit all decisions to the JO within a month of their adoption. The second problem remained, however, as the fees continued to be unregulated and the boundary between what was legal and what was not was therefore difficult to establish. For these reasons, accusations of abuse were thus often disputed. The conclusion I draw from this account is in line with what I have argued above; namely, that neither grand nor petty corruption were perceived as major problems, although they were not unheard of. The account provides a slightly less positive and problem-free view of the behavior of public officials, as the evidence for both concrete malfeasance and public perceptions of such behavior is quite abundant. On the positive side again, it seems that some of the most serious problems were gradually done away with and that things improved during this fifty-year period.

The state audit was, in contrast to the JO, not a new institution by 1809, but rather a continuation of a similar institution that had come into existence during the second half of the eighteenth century and which was seen, by and large, as ineffective. We do not know why the state audit was revived, but a likely motivation was again the skepticism and suspicion towards civil servants and the idea that effective auditing of all state agencies would make it harder to defraud the state's finances without being noticed. Since the financial administrative system in 1809 was in quite a chaotic state, lacking both uniformity and transparency, the first task was to make it auditable and it took several years before the system became somewhat effective.

Some controversies arose concerning the scope of the audit, with its most ardent supporters arguing that the whole public administration should be included, whereas others argued for a more limited role. During the 1820s the former side won without too much conflict, but the result nevertheless implied that the power division between the king and the diet had started to tilt in favor of the latter.

The auditors—in total twenty-four; six from each estate—could not prosecute officials and civil servants themselves. Such procedures were the prerogative of the king and were initiated upon request from the diet. The auditors could make inspection visits to the agencies, but primarily they relied on the report that the Agency for Public Management (*Statskontoret*) submitted, which contained all relevant information about the financial, legal and administrative situation of the agencies, together with all relevant supporting documents. The audit reports were in turn submitted to the diet, but they very rarely caused any debate, which can be reasonably interpreted as an indication of the smooth functioning of this very important control function.

In terms of the content of the audit reports, the majority of issues concerned minor objections, which were usually corrected, often without a parliamentary decision. This again indicates that major and systematic types of intentional malfeasance were rare. It should, however, be pointed out that systematic studies of the revision reports are still lacking and it is therefore difficult to make a conclusive assessment of the overall state of the public administrative system based on this particular source. One former state auditor declared that the main benefit of the audit was that everybody knew that it existed and carried out this work well; implying that it had mainly a preventive function as a credible actor with sanctioning powers.

THE PRESS

Freedom of the press and thus the absence of censorship are prerequisites for critical newspapers to appear.[40] Already by 1766 the Press Freedom Act had been adopted. It was then revoked during Gustavian absolutism, but reinstated in 1812. As the press at times could be fiercely critical of the elite, the king tried to impose censorship and from time to time had the papers shut down, even if only to see them reappear under a slightly different name. Hence, the press played an important role in monitoring official authorities from quite early on. The 1830s have usually been considered as the decade during which the modern press started to make itself heard, but Adamson shows convincingly that even a decade earlier some Stockholm-based newspapers were systematically scrutinizing civil servants at both the national and the local levels, thereby informing public opinion about their decisions.

The portrayal of civil servants that emerges from the press of this period is far less rosy than that painted in the investigative report. The administrative system was said to have been deteriorating for some two hundred years and to be in need of a complete overhaul as it was ridden with favoritism, arbitrariness and lack of impartiality. Ordinary people's lack of trust in the civil service is also frequently stated. Around 1820, the general public seemed to have a decidedly negative opinion about the functioning of local and regional administrations, as several scandals occurred at this time involving some of the highest officials in the land; namely, the county governors. The press was, however, active in bringing information about these affairs to the general public's knowledge and may have contributed to the sharp downturn in the number of such scandals that we observe only a few years later. Another reason for the quick decrease in such scandals was most likely the harsh sentences that were handed out to those found guilty of official misconduct. The image of a quickly improved situation during a crucial decade after the early 1820s seems also to be confirmed when we look at the problem of corruption through the lens of the press.

To conclude this section, one can argue that the analysis of newspapers basically confirms the main findings detailed above: an absence of systematic corruption, but still a number of major and (mostly) minor abuses significant enough to create distrust of civil servants among large segments of the population and the political establishment.

CONCLUSION

From the perspective of anticorruption, Sweden already had a relatively well-functioning bureaucracy by the early-nineteenth century, even though it was deemed to be in need of major improvements. This challenges the claims made by earlier scholars that the state apparatus was perceived as utterly corrupt; a view that would have underlain a major push for reforms in the aftermath of the revolution and the adoption of the new constitution in 1809. Instead, the push for reforms seems rather to have sprung from the incoherencies and inconsistencies of the administrative system—that is, from practical rather than moral considerations. But although these issues had already been discussed in 1809, and increasingly so during the following decade, not much was achieved in practice until the early 1840s, when new legislation was adopted. In this sense, Sweden was different from other European countries, where explicit anticorruption reforms were debated and adopted around the turn of the eighteenth century (see Chapter 11 by Engels). The context within which the reform initiatives were taken and also the main motives behind them, also differ from, for example, those of neighboring Denmark, which at this time had an absolutist regime, with a strong wish to strengthen its legitimacy. It thus would appear that there is more than one "path to Denmark."

A number of new instruments for monitoring the civil service were introduced with the new constitution of 1809, and they seem to have significantly improved the system. The impression one gets is not of a very strong urgency to reform, since things worked relatively well and the problems, to a large extent, disappeared. The problems identified and the solutions proposed clearly revolved around the need to create a more efficient central government, not the need to fight supposedly endemic corruption. Crucially, these problems very rarely involved intentional malfeasance—such as fraud, bribery, embezzlement and so on—but rather unintentional mistakes and unfortunate, but explainable, behavior, resulting from deficiencies in the bureaucratic organization.

The seemingly widespread and systematic abuse connected with administrative fees and arbitrary fines at the regional level appears marginal if we consider the bigger picture of Swedish public administration. One can only conclude, therefore, that Sweden at this time was not a systematically or endemically corrupt country, but rather one in need of efficiency-enhancing reforms, with certain incentives being used to improve the performance of civil servants. In the light of such a favorable point of departure, the later success of Weberian bureaucratization in Sweden seems hardly surprising.

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17

State, Family and Anticorruption Practices in the Late Ottoman Empire

Iris Agmon

During the "long nineteenth century" the Ottoman government launched a series of profound reforms aiming at centralizing and modernizing the state administration and bolstering the rule of the imperial government over its vast territories.[1] The reforms in the legal sphere constituted an important aspect of this broad project, including a sweeping reorganization of the office of the Chief Mufti (*Şeyhülislam*). In 1851, the government established a new department for supervising the management of property inherited by orphans throughout the empire (*Emval-i Eytam Nezareti*). The move was propelled by suspicion of fraud at the office of the Chief Military Judge (*Kadıasker*). The new department was authorized to manage the financial assets of orphans,[2] and in 1852 it announced the founding of the Orphan Funds (*Emval-i Eytam Sandıkları*), issuing a set of regulations for their operation. The funds were to be established in the provincial centres across the empire with the objective of handling property inherited by orphans (sg. *yetim*—a minor child whose father had passed away).[3]

The funds were established gradually all over the empire. They functioned until the end of the empire and, like many other institutions established during the reforms, they were subject to modifications through new regulations issued every so often.[4] These administrative modifications resulted from routine feedback by provincial officials and monitoring by the imperial centre. The funds operated in proximity to the local *şeriat* (A. *shari'a*, Islamic law) courts, which were the judicial forums in charge of inheritance issues. Both the court records and the regulations of the Orphan Funds point to a tight cooperation between the two institutions. The rules of the Orphan Funds did not change family laws concerning the division of inheritance, the appointment of orphans' guardians and executors or the rights and obligations of these appointees.[5] But guardians of orphans and executors of wills were now required to deposit the money inherited by their protégés at the Orphan Funds and register other assets the orphans inherited once the process of registration and division of the inheritance was completed in court. The funds then became responsible for managing orphans' individual accounts, handling tasks such as lending their money, collecting their debts and interest, allocating allowances to the orphans and collecting taxes and commissions on behalf of the

Treasury. The funds saw to the assets of the orphans until they reached adulthood and were capable of handling their affairs on their own.

Before the establishment of the Orphan Funds, the management of orphans' assets was the business of the orphans' guardians, who were in most cases their agnate relatives. The local judges in the *şeriat* courts were responsible for the supervision of the guardians' conduct with the objective of safeguarding the orphans' property rights. However, the *şeriat* courts were typically reactive courts. Registration and division of inheritance (or any other legal proceeding) at the court were not mandatory procedures. Therefore, the effectiveness of judges in protecting orphans' property rights in various locations throughout the empire was uneven, if not (sometimes) entirely absent.[6] The establishment of the Orphan Funds meant that the property of orphans was much less accessible to their relatives. From the point of view of the state, these deposits became a source of income; the funds were used for moneylending, collection of interest on behalf of the orphans and as a source of tax revenue.

The establishment of the Orphan Funds was one among several markers of the overall transformation of the Ottoman state and its efforts to assume control of social interactions that were previously considered irrelevant to state administration. By setting foot in the arena of the family through the administration of orphans' properties (among other means), Ottoman authorities created a linkage between the private sphere of the family and the public sphere of the state. In the case of the Orphan Funds, it meant that private capital—hitherto handled exclusively by family members—was literally removed from the latter and placed under the management of state officials in line with state rules. Consequently, the free access of family members to that money was blocked. In situations where they wanted to use the money that their orphaned relatives had inherited, they had to borrow it from the local Orphan Fund, under the loan terms dictated by the state, like any other person. Management of immovable properties of orphaned relatives was also monitored by the local Orphan Fund. At the same time, however, the new institutions potentially exposed those assets to abuse by state officials throughout the empire.

The requirement to transfer orphans' property from their families to the state-run Orphan Funds raises several questions about late Ottoman anticorruption measures and their implications for the Orphan Funds. Anticorruption in itself was not new to Ottoman bureaucracy. The goal of preventing misconduct by officials, albeit within a rather different type of state, was rooted in early modern Ottoman political culture. In the nineteenth century, however, the profound modernizing reforms, the unprecedented growth of the state apparatus and the adoption of a "rule of law" discourse (particularly by the judiciary) turned corruption into a pressing issue. The new penal codes and numerous administrative regulations promulgated in that period defined a variety of offences and penalties for abuse of authority and public resources by state officials, thereby introducing an expanded vocabulary of corruption and its prevention.[7] The transformation of the judicial system also introduced a wide range of new legal proceedings, adequate procedures and disciplinary measures turning the anticorruption vocabulary into actions.

Three sets of intertwined questions will guide the following discussion. First, what anticorruption methods were used to prevent abuse of authority and resources by the officials of the Orphan Funds? Was the attitude towards transgressing officials who administered the funds exceptional, due to the fact that they dealt with private money and property (or for other reasons)? In other words, what insights may be gained from looking at the funds as a test case for the anticorruption approach of the Ottoman reformers as a whole?

Second, by managing orphans' property through the funds, the state administration entered into the private sphere of the family. State officials became supervisors of guardians and executors for orphans, thereby modifying the authority of guardians within the family. What was the nature of state involvement in the family sphere? To what extent did the management of orphans' property by state officials blur the boundaries that had previously separated the family from the state and the private from the public spheres?

Finally, in the nineteenth century, the Ottoman bureaucratic elite devoted substantial efforts to reshaping the Ottoman state and turning it into a modern state. The new institution of the Orphan Funds was meant to replace previous arrangements considered by the reformers to be incoherent and prone to misconduct, with strict empire-wide regulations that exhibited the modernization spirit. The approach of the reformers in the context of an anticorruption campaign will be discussed here, with consideration given to the question of continuity with past practices. The historiography on both the early modern and the modern Ottoman Empire is fraught with descriptions of corruption. This raises the question of whether more historical evidence about corruption indicates a growth of corruption or an increased effort to eliminate it.

Administrative reforms were not a new phenomenon in the history of the Ottoman Empire. In fact, much like in Europe (see Chapter 12 by Knights in this volume), the concept of reform was part and parcel of Ottoman political culture. Bureaucratic experience that had been accumulated during centuries of imperial administration served the Ottoman ruling elite when they joined the first wave of globalization in the nineteenth century. New ideas about the nature of the state and the rationalization of its administration emerged in Europe, to a large extent as part of colonial experiences, and were then circulated all over the globe (including in Western Europe itself, where, despite what some may claim, state modernization was an uneven process). I argue that although they were part of the global trend of state modernization, Ottoman anticorruption notions and methods did not signify a complete break from early-modern perceptions of anticorruption.

Continuity with Ottoman political culture as a whole was a salient feature of these modernization reforms, demonstrating both Ottoman attitudes towards reform as a solution to political crises and the conviction of nineteenth-century reformers in their project of administrative reform in particular. The traditional historiography, which presents the reforms as mere lip service to Europe and a superficial imitation of European models,[8] has been successfully challenged. Therefore, I claim that although the Orphan Funds exhibited a considerable degree of

innovativeness, they also signified some continuation of past practices. Yet, given the fact that the reforms, as a whole, and the Orphan Funds in particular, are discussed here from the perspective of anticorruption, the state of research on anticorruption in the Ottoman Empire must be first added to the equation. While the following is only a preliminary discussion of this issue,[9] I maintain that "corruption" stands in Ottoman historiography like an elephant in the living room, carrying a symbolic Orientalist burden. It is true that historians have often discussed corruption; but, until it is systematically historicized, unapologetically and free from modernistic anachronisms, it will continue to overshadow the historiography of the Ottoman Empire.

TERMINOLOGY AND HISTORICAL CONTEXT

A discussion on anti/corruption in any polity, let alone the Ottoman Empire, requires some engagement with terminology. The term corruption is prone to ambiguity by definition. To begin with, it possesses a strong negative moral connotation without referring to any concrete action or behavior. In modern public discourses, corruption is frequently used to signify abuse of power, authority, official positions and public resources. Criminalization of such behaviors forms a major aspect of modern criminal and administrative law. However, corruption is rarely used literally to describe specific offences. To be effective, statutes must define specific illicit behaviors in the clearest possible way. Hence, when dealing with offences associated with corruption, legislators tend to avoid the term corruption as it creates a normative framework for those offences, preferring more concrete definitions instead.

The terminological problem does not end here, however. The meaning of corruption has varied from one culture to another. Moreover, these different cultural meanings have changed substantially throughout history or, rather, across histories. Originally, the term corruption was rooted in the history of Western Europe, in association with an ideal conception of the state and its operation. Hence, in addition to the inherent analytic vagueness of the term, it is predisposed to be used in a Eurocentric, Orientalist manner. The Ottoman terminology used to describe corruption and corrupt behavior, for instance, does not carry the connotation of complete break or collapse inherent to the original Latin term. Ottoman terms like *fesad, suistimal* and *yolsuzluk* (literally, being pathless) denote a wide range of behaviors: misconduct, abuse of office, irregularity and straightforward evil, stressing immoral behavior. They highlight the negative spiritual implications represented by corruption and its role in bad government, rather than the systemic catastrophe hinted at by the original term corruption.

The different meanings of those Ottoman terms were embedded in the ruling methods and notions of justice that were shaped in the Ottoman Empire throughout its existence. To better understand the historical context of these terms, and their significance for the questions raised in this paper, a brief discussion of two issues is in order: first, early modern Ottoman notions of good government in the

context of interrelations between rulers and ruled; and, second, the study of anticorruption in the seventeenth, eighteenth and nineteenth centuries.

As a patrimonial state, the dynasty and the reigning sultan were the embodiment of the Ottoman state.[10] The Islamic identity of the dynasty provided a major idiom in the state's treatment of abuse of power. Yet the Ottoman political culture was an amalgam of several other ruling traditions, including pre- and non-Islamic ones, such as ancient Near Eastern notions of state and Byzantine and Persian political cultures. A prominent concept the Ottomans inherited from earlier empires in the region was the Circle of Justice: "a concept of social justice based on interdependence between rulers and ruled."[11] According to the principles of this paradigm, it was the sultan's basic obligation to his "flock" (*reaya*)—the Ottoman subjects (including non-Muslims living under his rule)—to make sure that they were treated justly, protecting them from oppression by his officials. This construction of good government was based on a pragmatic ideology that rendered fair treatment of the peasantry as a prerequisite for imperial prosperity and stability. A unique feature of this ideology was its economic basis and its link with justice.

As Darling notes, "[f]or the Ottomans, the Circle of Justice was not a mere literary curiosity but a foundational element in the empire's ideology and a key to their transformation."[12] As part of this approach, the Ottoman sultans maintained an empire-wide petitioning system that remained active until the very end of the empire (see also Chapter 4 by Van Berkel in this volume).[13] Ottoman subjects were allowed to complain to the Sultan about any misconduct, neglect or abusive behavior by judges, governors, tax collectors, military officers and other officials. Such complaints were taken seriously by Ottoman sultans, and occasionally officials were penalized as a result of misconduct.[14] In addition to the impact played by the Circle of Justice, which obviously varied from one sultan to the other, sultans and their elites had other reasons to discipline officials. Unlike the *reaya*, who were obligated to pay taxes, Ottoman officials and other privileged figures (*askeri*)—whether the sultan's slaves or freeborn[15]—owed their positions and promotions to the sultan. Symbolically, the sultan owned the treasury of the state and its lands.[16] In principle, therefore, punishment of officials guilty of misconduct depended on the sultan's decision in each case.

Over time, the Ottoman state became a world empire. This process was characterized by territorial expansion and the emergence of a sophisticated and institutionalized administration, which increased in complexity after the conquest of the vast territories of the Arab provinces in the early-sixteenth century. Rules about misconduct and abuse of power were an important part of this institutionalization. As demonstrated by a group of economic and socio-legal historians who have explored the Ottoman economy of crime in the early modern period, the sultans and their senior officials developed a system of fines and other measures in the fifteenth and sixteenth centuries aimed at reducing the temptation of corruption and disciplining those officials who transgressed.[17] This system resorted to a mixture of Byzantine, Seljuq and Persian principles, regardless of their conformity with the *şeriat* punishment rules. Anticorruption methods focused on fines but also included rules and customs for the appointment of officials and the division of

responsibilities.[18] As will be shown shortly, in the nineteenth century, under entirely different historical circumstances, statutes and regulations played a significant role in the effort to prevent corruption by state officials.

In the seventeenth and eighteenth centuries, however, historical circumstances changed and so did the logic and considerations behind anticorruption methods. Historians have defined this period as an epoch of decentralization. Roughly up until the 1980s, the changing relations between the Ottoman capital and the provincial elites during the early modern period were typically depicted by the conventional historiography of the Ottoman Empire as indications of political decline and disintegration of the state. The growing political power of provincial elites from the late sixteenth century was explained in terms of overall weakness of the state and a collapse of the main ruling institutions, the army, the bureaucracy and the Islamic learned establishment.

This broad perspective is known as the Decline Paradigm.[19] Since roughly the mid-1980s, however, this accepted wisdom has been profoundly revisited by a new generation of Ottomanists, inspired by the Peripheralization and Dependency theories, the critique of the Orientalist paradigm and the New Social History. Consequently, several revisionist provincial histories and studies on Ottoman state institutions in the seventeenth and eighteenth century were published around the turn of the twenty-first century.[20] While these studies shed new light on the structural changes that the early modern empire underwent and challenged the ahistoric notion of continuous decline, they do not sufficiently clarify and historicize the concept of Ottoman "decentralization." In this respect, the issue of anticorruption is an illuminating case in point.

Two issues need to be highlighted in this regard. The first concerns conceptualization. The successful deconstruction of the paradigm of four hundred years of Ottoman decline by revisionist studies notwithstanding, the depiction of the seventeenth and eighteenth centuries as a period of decentralization has remained somewhat obscure. In a way, "decentralization" replaced "decline" when discussing these two centuries.[21]

This interpretative uncertainty concerning the concept of decentralization is linked to the second issue: historicizing corruption. Corruption has been often mentioned by historians in relation to decentralization (and the nineteenth century reforms as well). In a way, corruption has become a signifier of decentralization.[22] Historians have been well aware of the inherent difficulty of studying the history of corruption, for by its very nature corruption leaves little historical evidence. Therefore, accurately evaluating the scope of corruption in any given time and space is almost impossible. Moreover, in the Ottoman context, the limited evidence for corruption that does surface is frequently inscribed in normative sources; in petitions against injustice or in records of legal proceedings. Such evidence poses an interpretative obstacle. What do we make of periods that present an increase in the number of complaints about corruption or instances of disciplinary action? Is it indicative of mounting corruption? Or is it, perhaps, the opposite: namely, concrete evidence of the determination of rulers to fight corruption (bearing in mind that corruption cannot be totally eradicated in any case)?[23]

While these methodological problems have been raised by historians, another feature of historicizing corruption has been insufficiently treated; namely, the terminology of corruption and its changing meanings and contexts. Bribery (*rüşvet*), for instance, has often been mentioned as a widespread practice in the Ottoman Empire, leading foreign observers and some historians, as noted above, to conclude that Ottoman officials, and the judiciary in particular, were totally corrupt. However, the meaning of offering and/or receiving money and valuable objects or services has been culturally conditioned. Favors and services were exchanged, but not every such exchange was a case of abuse of power or bad government. An etiquette and a culture of gifts were an important aspect of sociopolitical interrelations in the early modern Ottoman Empire (and in many other early modern societies; see the chapters in this volume by Claire Taylor, G. W. Bernard and Ovidiu Olar). Ottoman contemporaries often had difficulties differentiating between the meanings of these terms and identifying the nuances of gift-related practices.[24] For historians, that task is even harder. Yet understanding the terminology of corruption and its changing meanings over time is crucial for historicizing corruption, particularly in the context of the Ottoman Empire. As Christoph Herzog points out, "Ottoman corruption . . . is quasi omnipresent in contemporary European sources, e.g., in travelogues or consular records."[25] These sources should not be ignored; not just, as Herzog noted, because of insufficient sources on corruption in general, but rather because of the challenge they still pose to historians when problematizing corruption (or, for that matter, decentralization) as an Orientalist marker of Ottoman political culture.

THE ORPHAN FUNDS AND ANTICORRUPTION

While the concept of reform was not a new notion in Ottoman political imagination, the nineteenth-century reforms were by far the biggest and most radical ones. Guided by immediate Ottoman interests and circumstances, they constituted a project shared by several consecutive generations of reformers aimed at centralizing and rationalizing the administration of the state. Administrative centralization was, however, not merely about placing more power with state institutions. It was also about creating a transparent hierarchy and a chain of accountability of state employees, enabling government to monitor their conduct on a regular basis. Misconduct and abuse of state authority were deemed serious offences, particularly when judges and other legal staff were involved. The Ottoman Penal Code of 1858 dedicated specific chapters to such offences, to be enforced by the *Nizamiye* criminal courts (the new judicial forums established during the reforms).[26] Furthermore, records of court cases of legal staff indicted for misconduct and abuse of authority were published in the official legal journal (*Ceride-i Mehakim*) as a didactic device in the service of professionalization.[27] Cases of dismissal of *şer'i* judges due to abuse of authority were documented in their personal dossiers kept at the office of the Chief Mufti.[28] These and other similar practices that advanced the

individual accountability of office holders exhibited the reformers' commitment to the rule of law.

Similar to state modernizers everywhere, Ottoman reformers saw regulations and procedures as the main instrument for promoting bureaucratic rationalization and work routines for state officials. The emphasis on elaborate procedure was particularly typical of these legal reforms, demonstrating the conviction of reformers that adequate procedures formed a precondition for instilling the principle of the rule of law. Anticorruption measures were an essential part of this principle. Thus, beyond their function in establishing order and advancing rationalization of the administration, the development of codified procedures also served as an anticorruption measure.

With regard to the Orphan Funds, this function of the new procedures stands out particularly in the third set of regulations (1906). The second set of regulations (1870) added new features to the work of the Orphan Funds that had been prescribed in the first regulations (1852). The third set, in contrast, was much broader and systematic, describing in much more detail the prevailing procedures while also elaborating on them considerably. In this way, the third set of regulations created indirect restrictions intended to preempt misconduct at the Orphan Funds.

To what extent did these rules deal with the possibility of misconduct in the management of orphans' accounts? By what means was such misconduct preempted? Who was considered especially prone to such behavior? The various regulations concerning the management of the Orphan Funds focused on procedures and providing clear definitions of the various stages in the process of handling the inherited property at the funds. This modus operandi began with the death of a father to minor children and ended with the transfer of the inherited property from the Orphan Funds to the former orphans in question (the term "orphan" implied legal minority, hence it was no longer applicable once legal maturity was attained). As time went by, these procedural rules became more and more detailed and nuanced, whilst the list of various officials involved in the process grew and the division of labor among them was more accurately defined.

In terms of preventing improper handling of orphans' property, the regulations reveal several underlying trends. First, substantial procedural attention was dedicated to sensitive stages in the process, such as the distribution and registration of the inheritance, the handling of loans made from the orphans' accounts, the closure of accounts and the transfer of their contents to their owners. In all these stages, money had to flow in or out of the Orphan Funds, exposing the account in question to potential misconduct. Second, the regulations for the Orphan Funds rarely included references to criminal law as a disciplinary means;[29] when criminal offences were mentioned, the punishments involved were mostly monetary. Finally, the main steps taken to preempt fraud were close inspection (for instance, periodical reports signed by a number of officials) and a clear identification of which officials were permitted access to orphans' money and which were denied.

These rules did not apply to the family members of orphans. Their obligation to register the inheritance and transfer the orphans' share to the Orphan Funds was not regulated directly. The responsibility of ensuring that these duties were

carried out was placed instead on semi-official public and social figures at the level of the community and the neighborhood, such as *imams* and *muhtar*s of city quarters or villages, as well as local leaders of non-Muslim communities. They were required, for instance, to regularly inform the authorities of the relevant death cases, and they were liable to fines if they failed to do so.[30] The fact that the government engaged these local figures is interesting, because Ottoman reformers tried to limit the involvement of intermediaries between the government and members of local communities. One of the aims of the reforms was to establish direct relations with, and control over, the population—turning "subjects" into "citizens." Yet the central government did not eliminate the provincial mediators altogether; rather it absorbed many of them into the state apparatus.

As far as the leaders of non-Muslim communities were concerned, the government had an additional motivation for restricting their authority. Over the course of the nineteenth century, European powers benefited from several political and economic crises within the Ottoman Empire. These circumstances enabled the European powers to put pressure on the Ottoman government while interfering with various economic, social and religious affairs within the empire. As part of this process, various European states offered legal protection to Ottoman non-Muslims. The Ottoman government, therefore, was keen to deal with these challenges to its sovereignty. The leaders of these communities were key figures in this struggle.

At the same time, however, relying on local intermediaries was a feasible deep-rooted practice and hence a reasonable choice; particularly since it came with legal sanctions. This choice was apparently meant to resolve the problem created by the lack of an efficient administrative infrastructure able to force individual family members to comply with the rules of the Orphan Funds. Thus, assigning new responsibilities with regard to the Orphan Funds to local notables demonstrates the continuation of early modern patterns, as well as the Ottoman reformers' efforts to transform certain power groups and involve them in the reforms; disciplining them rather than eliminating their social functions altogether.

Court records and administrative correspondence concerning orphans' properties provide an idea of the implementation of the new regulations and the impact of the Orphan Funds on everyday life in various places and under different circumstances. The *şeriat* courts were responsible for the registration and division of inheritances that involved orphaned heirs. They also addressed issues related to loans taken from the funds and several other technical issues. These practices demonstrate the close relations that existed between the *şeriat* courts and local Orphan Funds. Criminal cases, however, did not remain under the jurisdiction of the *şeriat* court after the establishment of the *nizamiye* criminal court system in the 1860s. In contrast to the plentiful *şeriat* courts records available to historians, it is still not entirely clear whether *nizamiye* court records survived, and if so, where they are kept. A brief survey of the court cases published by the Ministry of Justice in the official legal journal did not reveal any lawsuit against directors or other officials of Orphan Funds.[31] However, given the fact that the journal contained only cases that had been reviewed as part of an appeal process, this finding does not necessarily indicate that such proceedings did not take place. Indeed, considering the evidence

that reveals the scope of punishment for judicial staff guilty of misconduct and the overall effort that was put into disciplining Ottoman officialdom, there is no reason to assume that the officials serving at the Orphan Funds were exempt from scrutiny by the central authorities.

Administrative correspondence provides additional information about the enforcement of regulations against misconduct at the Orphan Funds and other issues pertaining to the management of these institutions. These documents reveal a wide range of administrative and practical issues concerning the work of the Funds. Three types of administrative files provide insight into problems of misconduct. The first includes correspondence about directors of various Orphan Funds who had been indicted. These officials were referred to as "former directors"—an indication that they had been dismissed as a result of their transgression.[32] It should be noted that several cases of indicted directors of Orphan Funds were mentioned in administrative documents from the first years of the twentieth century. It was possibly no mere coincidence that the most comprehensive set of regulations for the management of the Funds was issued a couple of years later, in 1906. This evidence does not necessarily mean that there was an increase in the scope of misconduct by directors of Orphan Funds during these years, however. It is more likely that special attention was given to the handling of such cases during these years, prompting the central administration to publish an elaborate set of regulations.

The second kind of cases mentions petitions sent by ordinary people to state offices complaining about abuse of authority by officials. Some of these petitions referred to direct abuse of orphans' property by personnel of the Orphan Funds and other officials.[33] In addition to testifying to such claims of corruption, these cases demonstrate the resilience of the old practice of petitioning. Subjects of the empire used this course of action until the end of the empire as a means of drawing the attention of the state administration. This was yet another mechanism that helped central government keep track of its officials' conduct. Finally, the third type of administrative files contains information about various issues that emanated from the role of the funds as a source for loans.[34]

What insights may be gained from these initial findings about the anticorruption methods employed with regard to the Orphan Funds? When compared to the judiciary, Ottoman reformers did not perceive the personnel of the Orphan Funds as a target for special anticorruption measures. It is true that the Orphan Funds belonged to a department at the Office of the Chief Mufti—one of the two ministries in charge of the legal system. However, professionally, the funds did not deal with legal issues and their personnel did not necessarily comprise professional jurists. Moreover, the possible difference in the intensity of anticorruption enforcement between the judiciary and the officials of the Orphan Funds does not mean that anticorruption was taken less seriously with regard to the latter. As far as the central authorities were concerned, the officials of the Orphan Funds belonged to the general category of officialdom. As such, improving of the administrative regulations of the funds, by emphasizing transparency and review, was a means of preventing misconduct. In addition, within the internal hierarchy of the Orphan

Funds, some senior officials—namely directors of Orphan Funds who broke the rules—were treated with a firm hand. They faced charges, were brought to trial at criminal courts and were punished and dismissed from office if found guilty.[35]

A second group that attracted the attention of the Ottoman administration was that of local leaders who were expected to provide relevant state institutions with daily information about local deaths, and ensuring in this way the proper registration and division of inheritances that involved orphans. They were mentioned in the official regulations as liable to pay fines if they failed to fulfill their duty. The extent to which these penalties were implemented remains unclear at the moment. However, given the objectives of the present discussion, the important point to emphasize here is that this sort of accountability—and the punishment associated to it—was not demanded of the orphan's family but of semi-official figures. In other words, whereas registration of inheritance was the legal obligation of the family in question, reformers preferred to avoid direct intervention in the family. They did not hold orphan's family members accountable for failing to fulfill their obligation and, as far as my investigation has revealed, until the very end of the empire, they did not consider abuse of orphan property rights by relatives the business of the state.

To sum up, questions of anticorruption concerning the management of the Orphan Funds were approached as follows: legal claims of individuals against other individuals concerning orphans' property or other issues pertaining to the guardianship of orphans were decided, as in the past, at the *şeriat* court (as with other civil disputes). The responsibility for carrying out the initial measures when creating an orphan's account at a local Orphan Fund was placed on local semi-official leaders. They were liable to be punished for failing to do so. In this regard, such failure was depicted as misconduct. The other responsibilities rested with the personnel of the Orphan Funds—mainly their directors. Their conduct was monitored according to detailed procedures that dictated the division of labor among various clerks, submission of reports to officials of higher ranks and, in case of suspicion of misconduct, dismissal and criminal indictment. In addition to these administrative tools for monitoring officials of the Orphan Funds, the authorities also received complaints from individuals against officials through the format of petitions (*arzuhal*), thereby continuing a pre-reform practice.

CONCLUSION

Two types of anticorruption measures were developed by the Ottoman reformers in the nineteenth century: strict, codified procedures that defined good government and were meant to ward off misconduct in office and criminal proceedings against officials suspected of misconduct. Both types were typical of the spirit of the Ottoman reform project. They were a sign of the transformation of the state and expressed the reformers' belief in the crucial role of state officials in the realization of the grand design of modernization. Officialdom was responsible for turning

administrative procedures into daily routines, always aware of the existence of a strong criminal system whose jurisdiction included state officials.

Focusing on these anticorruption methods through the prism of the Orphan Funds brings to light the continuity between the reform project and old Ottoman notions of anticorruption. It is true that the reforms of the nineteenth century brought about new perceptions of crime in general, but the attentiveness of central authorities to the conduct of state officials was not a new development. Monitoring and punishing officials for abuse of power and injustice towards the sultan's subjects was deep-rooted in Ottoman political culture. The centrality of modern procedures to the reforms notwithstanding, traditional procedures for the appointment of officials and the monitoring of their work with the aim of preventing misconduct were also part of that political culture. These notions merged with modern perceptions, while new rules and procedures shaped the anticorruption approach that was employed at the Orphan Funds.

In this regard, the Orphan Funds were not exceptional. As shown by several recent studies in socio-legal and administrative history, Ottoman reforms were shaped by a unique mixture of prevailing Ottoman practices and new ideas borrowed mostly from West European models. They were also reshaped through a continuous process of trial and error, adapted to the changing realities of the empire. Yet, given the fact that the Orphan Funds were a novelty and that their main activity involved direct access to orphans' capital and assets, how can one explain the standard approach adapted towards officials concerning anticorruption? This question is highlighted by the severity of the approach to misconduct among the judiciary, and the fact that the Orphan Funds worked closely with the *şeriat* courts.

The Orphan Funds, as an empire-wide institutional network, were indeed a new system developed during the reforms. It represented an innovative approach on the part of the Ottoman bureaucratic elite towards not only the private sphere of the family, but also towards the state in terms of its role in reshaping the entire landscape of Ottoman society. At the same time, continuity was remarkably evident in the preservation of the boundaries between state and family as well. Regardless of the direct intervention of the state in the family, the means used by the state to accomplish this end did not render existing practices obsolete. Reformers took over the management of orphans' assets in as much as it served the interests of the state and its financial needs, whilst still using the prevailing administrative infrastructure. In this regard, they apparently depicted the Orphan Funds like any other reformed institutions, old or new. Legally, family members remained private individuals and their responsibility to comply with the procedures of the Orphan Funds did not change this status.

Continuity, however, is not the opposite of change; it can be the most significant feature of change, particularly at times of major transformations. While the Ottoman reformers aimed at centralizing the state, they continued to rely on local community leaders for the registration of new orphans' accounts. However, by making these leaders liable to penalties if they failed to fulfill their duties, the reformers co-opted them into the new state apparatus. At the same time, the

conduct of officials at the Orphan Funds was monitored more systematically as time went by through anticorruption procedures and disciplinary means. The process of centralization and anticorruption efforts continued in the Ottoman state until the dissolution of the empire. In spite of numerous obstacles, the nineteenth-century Ottoman Empire was a centralized state both in comparison to other nineteenth century empires and to the early modern Ottoman state. Was it more or less corrupt compared to contemporary empires and to itself in the seventeenth and eighteenth centuries? It is both impossible and unnecessary to answer this question, for as demonstrated in this chapter, corruption is far from a technical or administrative issue.

In addition to the inherent difficulties in uncovering corruption in different times and places, Ottoman definitions and state discourse on corruption were substantially transformed during the nineteenth century—illustrating the dilemma of knowing whether more complaints about corruption testify to widespread corruption or to the significance attributed to its elimination. In the case of the Ottoman Empire, the difficulties stem also from the Eurocentric suppositions intrinsic to the discussion on the history of anti/corruption. As demonstrated briefly earlier, the historiography on the Ottoman Empire has evolved through complex relations with European depictions of the Ottoman state. While certain historians of the Ottoman Empire have uncritically internalized Eurocentric perceptions of Ottoman corruption, centralization and decentralization, others have continued to look for an emic reconstruction of early modern decentralization and of the changing contexts of anti/corruption. Hopefully, by looking at these questions through the prism of the Orphan Funds, this chapter will contribute to the latter trend.

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PART V

MODERN AND CONTEMPORARY HISTORY

18

Corruption and the Ethical Standards of British Public Life

National Debates and Local Administration, 1880–1914

James Moore

Commentators have often seen the 1883 Corrupt and Illegal Practices Act as a watershed in British public life.[1] The Act was a comprehensive attempt to eliminate bribery, treating and other corrupt practices from elections and local party politics. Although the Act had some limitations, contemporaries viewed the initiative as a major improvement in reducing fraud and malpractice.[2] It was also the basis of British electoral law for more than a century. The Act came after a long period in which Radicals had sought to restrict the corrupting effects of government and private patronage networks on political life.[3] Yet while the 1883 statute largely targeted corrupt practices in parliamentary and local elections, it did not address other forms of corruption at local and national level. Public and parliamentary opinion seemed confident that other legislative changes, including the creation of the secret ballot, the abolition of many government sinecures and the extension of the franchise, had successfully cleansed and reformed the British political system. As early as 1860 many felt that the most common forms of malpractice had disappeared, with governments no longer able to use government and official patronage to influence Parliament or command loyalty.[4] There was also general confidence in the probity of local authorities, not least because of the achievements of many local authorities in promoting better public health and investing heavily in popular social infrastructure, including public parks, libraries and art galleries.

Yet this optimism about the quality of British governance soon proved to be misplaced. The last two decades of the nineteenth century saw increasing debate about new forms of corruption at national and local level. With it came new arguments about how corruption should be tackled and what anticorruption strategies would be necessary to restore confidence in the wider political system. While traditional "modernization" narratives tend to emphasize the role of the central state and national law-making in the elimination of corrupt practices, in Britain, changes in political culture at local level were arguably just as important. The legislative responses of the central state to newly-discovered forms of corruption were often slow. It was not until 1889, for instance, that legislation was introduced to formally outlaw bribery and secret commissions in local government

contracts and even this was largely in reaction to specific problems in London. A key difficulty was that corruption took many forms. Some of the forms of corruption that had emerged were simply associated with poor project management, poor accounting procedures and individuals abusing their position for financial gain. These forms proved easier to deal with than those that had become systemic parts of political or business negotiations.

Corruption that formed part of the negotiation processes was particularly problematic for two reasons. First, it was often deeply embedded in everyday social practice and performed a specific role in facilitating the successful conduct of business. Second, key actors did not necessarily agree that these systemic actions were morally questionable. This was particularly the case in processes where favors were rewarded; there was no straightforward agreement about what constituted a bribe and what constituted a legal financial commission. Yet what was remarkable in Britain was the willingness of political elites to expose political corruption within their ranks, even when it threatened to undermine elite authority. Increasingly bitter partisan competition between and within political parties provided the environment that favored both the increasingly exposure of corruption and, eventually, its gradual suppression.

NEW FORMS OF POLITICAL CORRUPTION AT NATIONAL LEVEL

New forms of corruption appeared in different ways but many were associated with the specific political changes that took place after the extension of the franchise in 1867 and the introduction of the secret ballot in 1872. These forms of political modernization should have reduced the potential for corruption; arguably they abolished some forms of corruption but created the conditions for other forms to emerge (a pattern also stressed in Chapter 11 by Jens Ivo Engels in this volume). These reforms created the need for new forms of mass party organization, including a permanent network of registration agents and supporting party infrastructure. These were incorporated into the National Union of Conservative and Constitutional Associations, founded in 1867, and the National Liberal Federation, founded in 1877.[5]

These institutions fostered greater partisan competition and, in turn, resulted in a rising number of contested by-elections, raising costs further.[6] As the financial needs of parties grew, some political administrators saw the possibility of trading political titles and "honors" in return for donations to subsidize campaigning and organizational work. At national level, many of the new concerns about corruption were associated with the questionable relationship between political parties and the honors system. The costs associated with setting up more new local party organizations in 1884, following the redistribution of Parliamentary constituencies, and two general elections in 1885 and 1886 drained political accounts and appear to have encouraged major parties to look to the political honors system as a way of attracting financial support. Hanham's work as long ago as 1960 revealed the

degree to which both major parties were prepared to sell government honors, and even places in the House of Lords, to those willing to make substantial donations to central or local party funds.[7] The period saw the emergence of individuals such as Sir William Marriott and Sir Alexander Acland-Hood, who openly touted for business on behalf of political leaders.

This form of corruption was not limited to the major parties. The Liberal Unionist party, formed in 1886 as a breakaway from the Liberal party, was also active in the sale of honors, sometimes even to those who had not been previously affiliated to their party.[8] It was able to do so primarily because the Conservative party, by then in government, wished to cement a strong relationship with the breakaway Liberal group and prevent any possibility of the two Liberal groups reuniting.[9] The minor parties appear to have maintained tighter codes of discipline for their elected members, partly because of concerns about corruption and partly because they felt their elected members should be more accountable. The Independent Labour party had rules which made it clear they saw their MPs more as delegates than representatives and this probably forced the latter to accept a much greater degree of scrutiny.[10] However, new rules and codes of practice were only partially successful in changing overall standards of behavior. Even the Irish Nationalists, who officially had a strict code against the corrupt distribution of honors, appear to have used public positions to gain petty government positions and offices for favored supporters. In 1906, party leader John Redmond attempted to stamp out these practices but McConnel's recent work suggests that they continued up to the First World War. Only Sinn Fein completely boycotted systems of government patronage.[11]

Corruption was not limited to government and party patronage networks. The relationship between business and government in the Edwardian period also raised questions about the close commercial relationships that existed between major government contractors and government ministers. The Butler Commission of 1905 condemned the system of government contracting that existed at the time of the Boer War, with large vested interests, including ship-owners and major financial magnates, apparently making huge profits at the nation's expense. The scandal certainly did not help the struggling Conservative government that fell from office following the general election of the same year. However, it was not long before the new Liberal government were also involved in contracting scandals of their own.

The Marconi scandal was particularly damaging as it was suggested that senior cabinet ministers, including the prime minister H. H. Asquith, were prepared to use their knowledge of government contracts to engage in what would now be termed "insider dealing."[12] It also revealed the difficulties of taking successful anticorruption enforcement action against miscreants when senior politicians were involved and when the reputation of an entire government was at stake. The parliamentary select committee's investigation into the incident accepted that ministers had indeed bought shares in a Marconi subsidiary company at a time when government contracts were about to be awarded. However, the Liberals on the committee found no fault with the actions of their ministers, while the

Conservatives found that the Liberal minsters had acted with great impropriety. The consequence was that no formal change in procedure was adopted.

Perhaps the real impact of the scandal was on public opinion. Although the government did not fall, or come close to falling, it may have increased public skepticism about the conduct of public representatives and encouraged greater press scrutiny. G.K. Chesterton, whose brother Cecil help break the scandal, later argued that "the ordinary English citizen lost his invincible ignorance; or, in ordinary language, his innocence" as a consequence of the scandal.[13] This may be true but the impact of changing public opinion seems to have taken some time to have an effect on the behavior of senior politicians. The Marconi affair was the most famous scandal of its time but, as G.R. Searle has shown, it was only one of a number of incidents that provoked Parliamentary questions about the system of contracting in key government departments.[14] Alongside contracting scandals, the Edwardian era also saw a rapid growth of pressure groups and professional lobbyists trying to influence central and local government. While much of this activity was legitimate, increasingly questions were raised about the way such organizations exercised influence, often channeling funds to specific political campaigns to circumvent the clauses of the 1883 Act designed to impose strict limits on how much money could be spent to promote local Parliamentary candidatures. Campaigns by pressure groups were not covered by the Act, raising concerns that some groups were exercising undue influence over some local MPs, especially those who had limited financial means.[15]

The apparently rising tide of complaints about political malpractice does seem to support Moisey Ostrogorsky's famous contention that the development of political parties in Britain showed a tendency towards "machine politics" already seen in the United States, with patronage networks becoming an apparently inescapable factor of modern mass politics.[16] The fact that the British Parliament struggled to deal with corruption problems at national level might lead one to assume that corruption at local level also remained largely unchallenged. However, one should not assume that national and local politics necessarily functioned in the same way or that political imperatives and cultures at national and local level were identical. Indeed, it will be argued here that local councils and local political parties were often much more effective in tackling what were regarded as corrupt practices than their counterparts at national level.

This relative success was due to a number of factors. Public scrutiny of local government was increasingly intimate and intense. As towns and cities grew, local political elites became increasingly fragmented, with leaders often unwilling to conceal the wrongdoing of their fellow councillors. Political rivals within parties were often keen to expose wrongdoing as part of a broader political strategy to gain control of party machines. Strong and experienced local civil servants acted as public watchdogs, limiting the executive autonomy of elected members and aldermen. Finally, rising local taxation meant local electorates were very hostile to those seemingly wasting money on patronage or corrupt practices. Despite the importance of this topic, until recently, local political corruption in Britain has received little attention, beyond a few interesting individual case studies.

The remainder of the chapter will consider how city governments dealt with problems of corrupt practices and how attitudes changed to such an extent that business practices formerly regarded as acceptable gradually came to be regarded as corrupt. Only by examining the changing nature of local government activity and the rise of new political movements can one fully understand how a new political culture emerged that fundamentally questioned former governing practices.

THE ORIGINS OF LOCAL ANTICORRUPTION LEGISLATION

Public figures at local level were the first to face explicit anticorruption statutes, preventing those who held public positions profiting from the power they held over the locality. Early-eighteenth-century legislation banned Freemen on the governing body of the City of London from undertaking private commercial contracts with the Corporation. An Act of 1773 prevented improvement commissioners in Richmond from having a financial stake in the building or operation of a new bridge.[17] Legislation in 1782 made it an offence for overseers of poor law institutions and churchwardens to contract for or supply goods paid for by public funds.[18] It is probably impossible to assess how effective this legislation was but there is more than anecdotal evidence to suggest the restrictions were not universally respected. The activities of figures such as Joseph Merceron in the London parish of Bethnal Green suggest that the American city boss of legend really did have parallels in Britain.[19] Gradually, however, reformers began to bring other public bodies, and some semi-public bodies, within anticorruption legislation. For example, by 1824 members of Turnpike Trusts had also been prohibited from contracting with or supplying goods or labor for activities paid for from finance held under their control. Yet, as the recent book *Corruption in Urban Politics and Society* by James Moore and John Smith has shown, corruption around public contracting continued to be a problematic question throughout the nineteenth and early-twentieth century.[20]

British historians often view the 1832 Great Reform Act as an important step in Britain's road to liberal democracy and there is a tendency to see franchise extension as improving public scrutiny over local and national elites.[21] Much of the campaign for franchise extension and redistribution of parliamentary seats was expressed in opposition to the corrupt tendencies of the existing electoral system—with the "rotten boroughs" controlled by one patron seen as absurd in a system where major industrial towns such as Manchester and Birmingham were completely unrepresented. Yet it is questionable whether the parliamentary enfranchisement of the new urban boroughs improved the public scrutiny of local affairs. The most significant piece of reform legislation of the 1830s was not the 1832 Great Reform Act, but rather the 1835 Municipal Corporations Act, which facilitated the creation of non-sectarian elected local government in all major towns and cities.

It was these institutions that would, in practical terms, be responsible for tackling the fundamental social and economic problems that came with mass

industrialization and urbanization.[22] By 1860, they would be responsible for planning new estates, laying sewers, providing water supplies, opening gasworks, policing streets, building libraries and laying out parks. By 1900, they would be providing education, tackling unemployment, managing public transport and even building new publicly-owned homes. The rapid growth of the local state gave local authorities great financial power and those who held power over municipal contracts were responsible for vast budgets. By the end of the century public corporations were often the largest single purchasers of horse fodder, coke and building materials in the city. Their planning powers also meant they had major influence over estates and land speculation.[23]

The issue of "municipal trading"—using one's position on a public authority to secure contracts or preferential treatment in contracting—was a problem throughout the nineteenth century and Parliament's legislative efforts to deal with the problem met with only limited success. The 1835 Municipal Corporation Act maintained the restriction imposed by previous anticorruption legislation by disqualifying those who held:

> [A]ny Office or Place of Profit, other than that of Mayor, in the Gift or Disposal of the Council of such Borough, or during such time as he shall have directly or indirectly, by himself or his Partner, any Share or Interest in any contract or Employment with, by, or on behalf of such Council.[24]

Similar disqualification provisions were later extended to county councils via the 1888 Local Government Act and to districts and parishes through the 1894 Act. Yet the legislation was widely ignored. A survey of British urban histories suggest most major towns suffered a "municipal trading" scandal at some point. Although it is difficult to measure the volume of the corruption due to evidential problems, local case studies suggest that corruption became more visible as the nineteenth century progressed. From the 1880s onwards, several major authorities, including Manchester and Salford, saw cases of "municipal trading" become public knowledge, resulting in the resignations of senior local politicians and committees.

DISCOVERING "MUNICIPAL TRADING" AND LOCAL MALPRACTICE

The reasons "municipal trading" faced greater scrutiny in this period is linked to two key processes. First, increasing party political competition in local government had a profound effect on the public scrutiny of local authority operations. Before 1880 it was common for a large number of municipal council seats to be uncontested. However, with the foundation of more organized local party organization, stimulated by the formation of more effective national party structures in the 1870s and an electoral redistribution of parliamentary seats in 1884, this position quickly changed. After 1885 it was common for most municipal council seats to be contested, even in one-party boroughs such as Leicester, traditionally dominated by the Liberal party. In some places the development of local party organizations

even encouraged fiercer competition within political parties. In Manchester it was often Liberals who were most active in exposing the misdemeanors of their own Liberal leadership. Their motivations seem to have been straightforward: a desire to remove a right-wing leadership and an aspiration to create a local party more representative of progressive, grass-roots opinion.[25] From 1892, party competition intensified even further, with the formation of the socialist Independent Labour Party, which sought to fight all seats in working-class districts, and often focused their campaigns on the alleged wasteful expenditure and corruption of the old parties.

These structural changes in the nature of local parties came at the same time as a rapid growth in the popular and scurrilous local press. This "new press," fighting for mass circulation in a highly competitive market, were much more willing to provide a platform for critics of the local establishment and to publish stories exposing local wrongdoing. Such was the popularity of this form of publishing that auditors began to publish excruciating details of the excesses of councillors in local newspapers. One of the most well-known campaigners, Joseph Scott, revealed that one authority had spent £875 of public money on wine for members in a single year, while a single council committee had managed to consume an almost unbelievable 3,500 cigars at public expense.[26] This "new press," willing to expose scandals, became the main tool of anticorruption political campaigners in this period.[27]

A second factor was also important in the increasing visibility of corruption scandals at local level. The functional development of local authorities provided increased opportunities for corrupt practices, especially as those authorities were often dependent on a small group of local leaders to provide managerial expertise. As local government took on greater responsibilities for local services, and became more technocratic in nature, councils needed specialist knowledge to operate effectively. To organize a complex budget required men of considerable financial acumen. Thus it is little surprising that the leading businessmen of a town graduated to its finance committee and controlled its key projects and functions. Similarly, major urban improvement projects needed the knowledge and experience of architects, builders and sanitation engineers—and the best way to obtain that experience was to put such men onto the committees responsible for the implementation of those projects. Even in the case of libraries and art galleries, the men chosen for such committees tended to be those with private and commercial interests in the "trade."

The potential for what today would be regarded as conflicts of interests was, of course, huge and, as Joseph Scott revealed for Manchester, it was common for alderman and councillors to award contracts to their own private businesses or those in which they had an interest.[28] Some sought to explain this practice on the ground that they were the only business locally that could supply goods or expertise at such a local cost. In some cases this was probably true. For example, when Charles Rowley, of the Manchester Art Gallery Committee, gave a contract to his family firm to supply picture frames, it seems unlikely he made very much money from the transaction. However, many were straightforwardly unrepentant and saw no conflict in such action. Wealthy businessmen on local authorities claimed that

precisely because they were "large ratepayers" or "large employers of labour" their financial interests were also those of the town. After all, if the town wasted money, they, as major taxpayers, would be disproportionately affected.[29]

The problem of local corruption was compounded by weak and undeveloped managerial practices at the heart of local authorities. At the same time as the functions of councils grew, the checks and balances that were supposed to operate within the corporate systems of local administration were gradually eroded. Committees often began to operate as semi-autonomous businesses, issuing an annual report to the full council but otherwise working almost completely unsupervised. While full council meetings were held in public and minutes published, committees met in private and there was no automatic right of public access. Many large local authorities—most notably Manchester and Birmingham—were dominated for long periods by one party control and party machines attempted to limit competition for key committee positions. In many authorities senior appointments were based on length of service and internal party elections for senior positions was very rare.

There was an unwritten rule that committee members should be loyal to their committee chairman. This had the effect of limiting the committee members' power of scrutiny over their chairman, as well as giving the chairman the authority of a chief executive officer. This problem was further compounded by the failure of full council meetings to scrutinize the work of committees and, in particular, contracting practice (although they were officially responsible for approving their decisions). Only when the activities of a committee threatened to bring the whole local authority into disrepute would council leaders or backbench groups intervene. By the time committee malpractice had become serious enough to warrant wider investigation, often serious maladministration or corruption had occurred. The corruption scandals revealed in late Victorian Manchester and Edwardian Wolverhampton had a common root cause; namely, the ineptitude of committee chairman and officials and the failure of other councillors to question and scrutinize committee proceedings.[30] The major corruption scandal in Victorian Salford was caused by similar structural weaknesses, although in this case it was the failure of committee members to scrutinize the behavior of a local civil servant that allowed bribery to become a systemic part of the council's trading practices.[31]

As the powers of local government expanded so did the potential for corruption—especially when the new powers given to local government related to a particularly contentious area of public policy or required local government to act as arbiter between conflicting economic interests. The 1872 Licensing Act is a key case in point.[32] It gave local police forces an increased role in the detection of offences related to the licensing trade. City police forces were, of course, controlled by the Watch Committee of the local council. Representatives of the licensing trade increasingly sought influence in local authorities to protect their businesses. Brewer Stephen Chesters Thompson gained the title of "King of Ardwick" because of his local empire of public houses in East Manchester.[33] He also developed a formidable local political machine, becoming leader of the Conservative group on Manchester City Council, a leading figure in Manchester City Football Club and

a parliamentary power-broker helping future Conservative party leader A. J. Balfour to become the local MP.[34]

In nearby Liverpool, Andrew Barclay Walker developed a similar influence in local politics, although his strategy involved making large donations to local causes (most famously the Walker Art Gallery that became Liverpool's main public gallery of art). Walker's gift of an art gallery to the city was not appreciated by his Liberal opponents, who accused him of using the gift as a barefaced attempt to buy influence in the city. This led to vociferous criticism from Liberal and Temperance campaigners and even a boycott of the gallery. However, Walker's strategy seems to have worked as in less than five years he became Lord Mayor of Liverpool and was awarded a knighthood by the Conservative government, despite having undertaken little public work beyond making influence-seeking donations.[35]

Even small towns were not exempt from the influence of the licensing trade. In some places, such as the hosiery town of Hinckley in Leicestershire, members of the licensing trade formed their own political party and stood as "Licensed Victuallers." Brewers and publicans cooperated in most towns to resist the efforts of temperance campaigners to toughen the policing of the Act. At best, the licensing trade could be said to have a conflict of interest in having such an influence in the policing of its own industry. At worse, the trade openly tried to corrupt the political process. The Bannister scandals in East Manchester—where a local police superintendent was accused of colluding with local publicans and brothel-keepers in a protection racket—not only undermined the authority of the local police, but also brought the whole system of local police administration into question.[36]

The expansion of local government powers did not, of course, always come with passing of national statutes. Private Acts were often used to provide local urban authorities with additional powers to tackle particular local problems or extend local infrastructure. These projects often presented great opportunities for what amounted to "insider trading" in land that was about to be developed. It is difficult to believe, for example, that members of the Corporation of Preston who pressed ahead with the almost ludicrously expensive "Port of Preston" scheme in the 1890s did not have some financial interest in pushing up local land values—even if doing so greatly increased the Corporation's debt and local rates.

In other cases the evidence is even more clear-cut. Councillor Arthur Wakerley of Leicester made no secret of the fact that he supported an extension of the borough's boundaries in the 1880s to include Leicester's suburban districts—districts in which he, as an architect and developer, had considerable financial interests.[37] Shortly before the borough's extension plans were made public he bought up a large amount of suburban land in the districts to be incorporated and, naturally, benefited considerably from the subsequent rise in land values that came with incorporation. He then used his position on the council to advocate the expansion of municipal utilities to "his" suburbs—moves which would again increase the value of his own land. While it was possible to clamp down to some degree on the question of "municipal trading," the question of land speculation and "insider trading" was barely even considered an area worthy of action.

Such speculation was systemic and widely regarded as a legitimate business practice in the world of real estate.

PARLIAMENTARY ACTION AGAINST LOCAL CORRUPTION

In 1889 Parliament passed a Public Bodies Corrupt Practices Act in response to growing concern about corruption in local authorities.[38] The legislation sought to restrict "municipal trading" and tightened restrictions on councillors and public officials contracting—on behalf of their authorities—with companies in which they owned shares. Offenders faced permanent disqualification. The legislation was partly a response to local municipal trading scandals but was primarily designed to clarify the law in certain areas and to standardize regulatory processes that could already be found in some private Acts that governed individual local authorities.

The Act had only limited success and some of the new rules proved to be unworkable. The rise of public and private limited companies in the second half of the nineteenth century meant that many of the local businessmen who constituted the majority of councillors and alderman had shareholdings in a wide variety of companies that might commonly contract with their corporations.[39] The localized nature of urban share capital markets meant that it was almost inevitable that leading local businessmen would supply the capital to the major enterprises of their town, many of whom would have long-standing contracts with local government. The increasingly complicated nature of business structures made it difficult for the press and public to trace the commercial interests of public officials and leaders. Moreover rigid interpretations of the law had the potential to cause problems for smaller local authorities who were often faced with only a small number of local contractors for specialist tasks. The growth of limited liability companies in the second half of the nineteenth century and the associated complex array of subsidiary and holding companies meant that members of a typical local authority might themselves not know which companies' shares were represented in their personal portfolio. If every member of a local authority who was a shareholder in a company which contracted with that authority were to be disqualified, very many senior local businessmen would have, in all probability, been forced out of office. Given that there were very few examples of council members resigning due to this restriction, it seems the law was widely ignored. However, the new law did clearly establish what was morally unacceptable, and, as a consequence, the most blatant forms of "municipal trading" seem to have declined.

Gradually, the local corruption statutes, amended in 1916, became more complicated and involved. In order to make the legislation workable, a number of exceptions were grafted on to it and ultimately a figure of fifty pounds was fixed as the maximum value allowed for an individual contract before disqualification took place under municipal trading law. In 1926 the confused nature of the law and the weaknesses of its provisions was highlighted in *Lapish v Braithwaite*, where it was

held that an alderman who was a shareholder and managing director of a company which held contracts with the alderman's own corporation was not disqualified.[40] Eventually the Onslow Commission on Local Government led to a change in the law extending restriction to all directors, employees and shareholder of companies, while fundamentally changing the nature of the prohibition.[41] The 1933 Local Government Act only disqualified members from taking part or voting on matters on which they had a personal financial interest.[42]

The difficulties local authorities had in managing corruption were reflected in the failure of the criminal law to keep up with the changing nature of business practice and complexity of contracting. It was not until 1889 that bribery of officials and secret commissions were rendered illegal by statute. This law, however, only included public bodies and could be circumvented through private agents. Gradually the business community itself became uneasy about the nature of some commercial practices, especially after the London Chamber of Commerce's 1898 investigations into secret commission-taking and bribery. The reports of the London Chamber eventually led Lord Russell, the Lord Chief Justice, to introduce an Illicit Secret Commissions Bill, which aimed to extend the 1889 Act's prohibitions across private business transactions. It says much about the endemic nature of commission-taking that, despite the advocacy of the country's leading legal official, Parliament blocked the plans. It was left to the reforming Liberal government of 1906 to introduce a more modest proposal, with more limited prohibitions, in the Queen's Speech of that year.[43] This action by government may have been more a reaction to the collapse of the real estate market on 1904/5 that any general concern about ethics in business and public life and, while more research is required, there is little to indicate it produced a major change in business practices.

CONCLUSIONS

The examples provided in this chapter present a number of important conclusions for the history of anticorruption in Britain. First, corruption continued to be a major political issue at national and local level, long after the apparent end of "Old Corruption" and the electoral reforms within the Corrupt and Illegal Practices Act of 1883. Second, the intensification of party competition and the growth of formal party organization did not have a straightforward impact on corruption. Although the 1883 Act largely eliminated corruption directly connected with elections, Parliament was slower to deal with other forms of corruption at national level, especially those associated with government contracts and patronage networks. In Westminster, the growth of political party organizations demanded new sources of regular finance and seems to have encouraged the growth of abuses, particularly the sales of government honors in return for political donations.

Locally, however, the picture is more complicated. Corruption associated with public contracts was a systemic problem in some authorities and, in cities such as Manchester and Salford, it was only in the late 1880s that strong local anti-corruption movements began to challenge certain municipal practices and change

the culture of local authorities. Weak local administrative structures were poorly prepared for expansion of the local state in the latter half of the nineteenth century. The growth of municipal activities and commercial contracting provided a buoyant market for scarce technical skills and extensive opportunities for individual municipal leaders to exploit public office for personal advantage.[44] Secretive municipal cultures of work and old bonds of community meant that questionable activity often went unchallenged. Governing elites did not always regard the exploitation of public office for private gain as morally questionable, and often only reluctantly changed their views when challenged by reformers.

However, in the 1870s and 1880s, local political cultures changed as party machines changed.[45] The democratization of local party organization encouraged local activists to expose the worst forms of abuse and accusations and revelations of corruption became a way of removing established local party leaders. This led to greater local scrutiny of financial affairs and the behavior of public officials at a time when local tax burdens were increasing and when local tax rises were becoming a potent political issue. Local scandals led to Parliament tightening the law on bribery and commission-taking. Yet, somewhat ironically, Parliament failed to enforce a similar regulatory regime on the contracting processes and honors system of central government. At national level, scrutiny was weaker and the increasing costs of party competition and party organization seem to have fueled corrupt practices.

Finally, it is important to recognize that the development of anticorruption movements must be viewed within the wider public ethics of the period and, in particular, the morally questionable nature of parts of British commercial life. Bribery, corruption and secret commissions continued to be part of the regular practice of some businesses until the First World War and, with many businessmen in Parliament, government was not immune to commercial cultures that had a less rigorous view of what constituted corrupt activities. Contracting scandals continued, but the very fact they became scandals suggests that at least some British politicians were more willing to expose abuse and turn it into a political issue. It also suggests that, especially after a number of well-known scandals, public opinion took an increasingly critical view of abuses of political power for personal gain. It may be that this change in public opinion and local political cultures, rather than formal legislative action or political leadership, was the most important factor in reducing incidences of corruption by the middle part of the twentieth century. More research on the changing cultural practices in business and the wider processes of public opinion formation could be very productive in explaining the rise of anticorruption initiatives, and the apparent reduction in corruption scandals, in the early years of the twentieth century.

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Lockheed (1977) and Flick (1981–1986)

Anticorruption as a Pragmatic Practice in the Netherlands and Germany

Ronald Kroeze

The Netherlands and Germany are known for having high constraints and low opportunities for corruption, and are often studied as examples of a successful anticorruption culture.[1] However, these countries have experienced serious corruption scandals in the past few decades, such as the Lockheed (1977) and Flick (1981–86) affairs.[2] Lockheed and Flick are both examples of what Michael Johnston has called Influence Market corruption: "Influence Market corruption revolves around the use of wealth to seek influence within strong political and administrative institutions—often, with politicians putting their own access out for rent."[3] Corruption in this instance concerns "the *details* of policy—whether a program will be funded, a contract awarded, a group declared exempt from a tax, or the rules for a program changed," as a result of bribes, political donations and non-financial rewards.[4]

In the historiography of anticorruption, some have concentrated on "Big Bang" changes and the existence of modern anticorruption laws and certain political and institutional conditions, such as democracy, to explain the relative absence of corruption in different countries.[5] Others have emphasized that the corruption scandals in these countries are examples of wavering anticorruption policies that neither resulted in serious prosecutions nor led to real institutional change. Some have also stressed that the existence of corruption in these countries—in Germany, for example—is often denied or at least perceived as an exception; a sign that Western Europeans believe in the myth of living in corruption-free modern countries.[6] Recently, researchers have stressed that the creation and existence of this myth itself should be understood as a result of modern efforts to eliminate corruption once and for all (see Chapter 11 by Jens Ivo Engels in this volume).[7] How can we escape from this vicious circle?

Instead of (1) concentrating on "Big Bang" explanations, (2) treating corruption as an exception or (3) reinforcing modern myths, my purpose is to find out how political institutions in a modern democratic context *have* dealt with corruption in an historical reality, under real, practical constraints, rather than how they *should* have dealt with it according to theoretical principles.[8] In order to explain the

problems involved in anticorruption research, I will start by giving an account of how thinking about anticorruption and how research methodology in this field have changed in recent decades. In the second and third sections, I will examine in detail the two case studies that form the backbone of this chapter: the Lockheed affair in the Netherlands in the late 1970s and the Flick affair in Germany in the 1980s. Although the cases were not suppressed (they each caused public dismay and political investigations), it turns out that in both countries neither those found guilty of corruption were not severely prosecuted, as one might expect from a supposedly well-performing countries. Nor was the corruption that occurred considered a failure of the system, nor did it result in institutional reform. Anticorruption in supposedly well-performing countries seems therefore to be a balancing act between publicly scandalizing corruption—as a form of moral punishment and self-cleaning—and finding a solution to close a case that is acceptable for all the major parties involved—in order to upkeep overall political support for the system. In other words, rather than prioritizing idealism or treating the anticorruption culture of the Netherlands and Germany as an inevitable consequence of, respectively, a strict Calvinist morale or a Weberian bureaucracy, I pay attention to some pragmatic, less evident and less appealing features (on anticorruption as a balancing act see also Chapter 14 by Kennedy and Kroeze).

ANTICORRUPTION: A CULTURAL, POLITICAL AND HISTORICAL ISSUE

Anticorruption has been the object of renewed attention since the 1970s, in part thanks to new scandals such as the Lockheed affair, in which the bribes made by representatives of the US aircraft company Lockheed to foreign public officials in exchange for lucrative orders were exposed. As a consequence, the US government approved the Foreign Corrupt Practices Act (FCPA) in 1977, which defined as corruption the cross-border bribing of foreign officials.[9] The FCPA exemplified the rise of a liberal-economic and legal interpretation of anticorruption, according to which corruption is understood as the misuse of public office or goods by calculating individuals, resulting in economic inefficiency and a distrust of institutions. As individuals are driven by self-interest and base their decisions on a cost-benefit analysis, so the reasoning goes, opportunities for misuse are created by state bureaucracies with a monopoly on public goods and by the absence of criminal laws to punish individuals for corruption.[10]

This diagnosis also claims that in order to be effective, anticorruption policies must support the liberalization of politics and the economy. This interpretation of anti/corruption was expounded in the 1980s by political economists such as Susan Rose-Ackerman and Robert Klitgaard,[11] and became the dominant view in the 1990s among many policy makers. This so-called "Washington consensus", dominant in the 1990s and early 2000s,[12] treated corruption "mostly as bribery, and as both effect and cause of incomplete, uneven, or ineffective economic liberalization,

with the state judged primarily in terms of the extent to which it aids or impedes market processes," as Johnston has put it.[13]

Although the American government was eager to create a level playing field in regulatory matters and has tried to convince other countries to adopt the FCPA since its inception, it was mainly the ideological consensus of the 1990s that led to the promulgation of laws comparable to the American FCPA.[14] International treaties that criminalized bribery were drafted by the World Bank, the International Monetary Fund and the United Nations. Furthermore, civil society organizations such as Transparency International (TI) addressed the problem of international bribery and developed anticorruption toolkits with policy recommendations and grids of analysis.[15] European countries and European institutions began to take the problem of controlling corruption more seriously as European corporations became more involved in international corruption due to the rise in global trade.[16] In Germany between 1999 and 2002, and under pressure from the US government and NGOs such as TI, international bribery was prohibited and criminalized by law.[17] Dutch authorities have long turned a blind eye on the bribing of foreigners by their national companies, but this too has been changing in recent years. The prosecution of the Dutch firm SBM Offshore is a case in point. SBM was prosecuted for violating articles 177 and 178 of the Criminal Code (which forbids the bribing of officials and non-officials from other countries) for the bribes it had paid to salesmen and public officials in Brazil, Equatorial Guinea and Angola in exchange for contracts in the oil industry. In 2014, the Dutch public prosecutor argued that "those payments constitute the indictable offences of bribery in the public and the private sector as well as forgery." SBM was forced to agree to an out-of-court settlement and pay $240 million, a record fine in Dutch history.[18]

In addition to the criminalization of such acts, a broader understanding of anticorruption as a form of good governance began to develop, receiving particular attention in the past two decades. In concrete terms, good governance in this sense means the promotion of decision-making and policy-implementation processes that are characterized by, among other values, efficiency, transparency, accountability and democratic participation, which require not only a free market but also a capable government, democratic politics and the rule of law.[19] This shift towards good governance was in fact a shift towards values and institutions as well as a political and cultural understanding of anticorruption.[20] It made researchers more interested in the history of the values and institutions of countries that are today relatively non-corrupt, according to rankings such as TI's Corruption Perception Index (CPI); begging the question of "how Denmark became Denmark?" and how other countries might follow that same path.[21]

Finally, the (re)discovery of past and present corruption in supposedly corruption-free Western countries since the Watergate and Lockheed affairs in the 1970s, and especially after 2000, has further complicated approaches to anti-corruption.[22] It would seem by now that what is understood by being relatively corruption-free is actually the result of the elimination of certain practices, the silencing of other forms of corruption and an understanding of corruption as a past or foreign problem—itself part of a process of modernization (see the chapters in

this volume by Jens Ivo Engels, James Kennedy and Ronald Kroeze, and James Moore). Without offering a full summary of recent trends, it seems fair to conclude that the limits to and the controls of corruption are diverse. We should not only study how to legally prevent certain economic dealings (rent seeking, bribery, etc.), but also treat anticorruption as a certain kind of political behavior—and a problem of Western culture too—and do so informed by knowledge of the historical development of the political culture of individual countries.

LOCKHEED: CORRUPTION AND ANTICORRUPTION IN DUTCH POLITICS

The Lockheed affair in the Netherlands can shed some light on the development of a specific attitude to, as well as state policies on corruption in supposedly corruption-free countries. The Lockheed affair came to light as a result of the investigations by a US committee led by senator Frank Church, which had originally concentrated on the Watergate scandal. The committee discovered that American firms had bribed foreign officials in order to secure contracts and that Lockheed had been bribing officials since the 1950s, having spent a total of $229 million.[23] The immediate repercussions of this scandal in the Netherlands essentially had to do with the question of whether Prince Bernhard, the husband of Queen Juliana, had accepted bribes from Lockheed to promote the purchase of Lockheed aircrafts by the Dutch government. But the implications of the scandal were much broader. Overall, Lockheed was described as a shock for the Dutch, because it showed that modern Netherlands was involved in a big international scandal, at the epicenter of which was no less a figure than Prince Bernhard—inspector-general of the Dutch Army, representative of Dutch businesses abroad and beloved by many Dutch citizens for his role in World War II as a resistance leader. It quickly became clear that whether or not a national and constitutional crisis was averted depended on how the Lockheed affair was handled. What would happen if Prince Bernhard were formally prosecuted and found guilty of bribery? Would he go to jail? Would Queen Juliana resign and would Crown Princess Beatrix abdicate the throne, as they threatened to do if Bernhard were prosecuted? Would this not only end the monarchy in the Netherlands but also result in a clash between opponents and supporters of Prince Bernhard, in a period when Dutch politics was already severely polarized?[24]

On 13 February 1976, the Dutch government—a five-party coalition led by the outspoken social-democratic prime minister Joop Den Uyl—decided to establish a non-political investigative committee, consisting of three respected investigators. This "committee of three" was ordered to verify the accusations that had been made before the Church Committee, determine if criminal behavior could be deduced from those accusations and present its conclusions to the government as quickly as possible.[25]

A few months later the committee finalized its report, concluding that Bernard had received or asked for gifts in relation to the promotion of business transactions

in the interest of Lockheed on three separate occasions. The first occurred between 1960 and 1962. Lockheed had plans to give Prince Bernhard a plane (a Lockheed JetStar) to smooth the purchase by the Dutch government of prototypes of the Starfighter jet. However, it changed its mind and decided to give Bernhard a gift of $1 million instead, which was transferred through intermediaries and in instalments to secret Swiss bank accounts registered to a relative of Bernhard's mother, Colonel Pantchoulidzew. Bernard, however, declared that he had never received the money and suggested that his name was mentioned as an administrative cover-up for buying off a discontented Lockheed salesman. The committee did not find any evidence to substantiate this claim and concluded that Bernard's story was "highly unlikely."[26] However, it could not prove that Bernhard had indeed received or used the sum.[27]

With regard to the second gift-giving occasion, the committee argued that in 1968 Lockheed had offered Bernhard $500,000 to prevent the Dutch government from buying the French marine aircraft Dassault-Breguet Atlantique instead of the Lockheed P-3 Orion. Although the entire purchase was aborted and the letters proved that the offer was declined by Bernhard, the committee blamed Bernhard for the fact that the letters made clear that he had shown no moral qualms about the proposition.[28]

Third, the committee concluded that Lockheed gave the Prince a $1 million commission for his efforts regarding the purchase of P-3 Orion aircrafts by the Dutch government in 1974. This was the most serious accusation and was based on a letter written by Bernhard himself to Lockheed. In this so-called begging letter, Bernhard complained about the fact that he would only receive $1 million instead of the $4–6 million that had been promised to him earlier. During the interrogation by the committee, the Prince explained that he could not remember having written such a letter; only that he had transferred $1 million to the World Wildlife Fund (WWF), of which he was a benefactor. Maybe things had been mixed up? The committee, however, did not find any evidence that the money had been asked on behalf of the WWF or that he had indeed donated to the organization, but it was also unable to prove that Bernhard had received that enormous sum. There was only some evidence that $100,000 had been given to Bernhard, but no other records were found and Bernhard denied having received a single penny.[29]

Overall the committee's report was not favorable to Bernhard. The committee concluded that the "relationship between the Prince and Lockheed had developed in the wrong direction" and had become "unclean."[30] The Prince had been too "light-hearted" and his representative and advisory activities had not been unselfish. Although Bernhard stated that he was never influenced by Lockheed, the committee made it clear that his independence was undermined by asking for or accepting gifts, thus clouding his judgment and tainting his service to the country.[31] In a second general conclusion, the committee argued that Lockheed was an isolated incident: overall the Dutch government's procedure for purchasing military material was sufficiently transparent and no structural changes or new rules were deemed necessary. The committee only raised questions about the way military contractors

did business, because their aggressive sales methods posed risks. However, this was a question beyond their scope or that of the Dutch government.[32]

No Compelling Reasons to Prosecute

On 12 August 1976, the committee finished its report and handed it to the cabinet of prime minister Den Uyl. The cabinet had to decide whether or not they accepted the conclusions and, if they did, what the consequences would be. In an article published in *NRC Handelsblad* on 12 March 1976, C. F. Rüter, a respected Law professor, warned that Bernhard's offences must not be regarded "as if some internal fire regulations had not been followed" and pleaded for the judicial prosecution of Bernhard for non-administrative and administrative bribery according to Dutch criminal law.[33] Although media coverage highlighted the shock Bernhard's dealings with Lockheed had caused, newspapers received many open letters of support for the Prince.[34]

In cabinet meetings there was support for the committee's conclusions but the issue of what to do next was given grave consideration. Social-democratic ministers in particular, who were in general more critical of the monarchy and the arms industry and had a strong dislike for Prince Bernhard's right-wing opinions as well as his perceived arrogance, wanted to take harsh measures. Some called for his prosecution, but prime minister Den Uyl and the Justice minister Dries van Agt, of the Catholic party KVP, argued that that would be legally problematic and could pave the way for a constitutional crisis. All cabinet members therefore agreed not to prosecute Bernhard. As the cabinet's declaration stated, a "criminal investigation and especially a prosecution could have a serious consequence for the position of the head of state [Queen Juliana] . . . A consequence which has to be accepted . . . when there would be compelling reasons to do so." In other words, Bernhard had made mistakes and had to bear the consequences, but the stability of the monarchy and the absence of compelling reasons for letting the Lockheed affair develop into a fully-fledged constitutional crisis made the government decide not to prosecute Bernhard. Bernhard himself had to resign from his official roles and agree explicitly with the committee's conclusions in a letter that would be read aloud by the prime minister in parliament.

Against this background of indignation, fierce criticism, public support for Bernhard as well as doubts about the legal and constitutional consequences of his actions, the committee's conclusions and the government's declaration were discussed in parliament on 30 August 1976. After prime minister Den Uyl had introduced and defended the conclusions and read aloud Bernhard's letter, it was parliament's turn to react. The first member of parliament to do so was Hans Wiegel, the leader of the right-wing liberal opposition party VVD. He was a clear opponent of the cabinet and of Den Uyl in particular, but he fully agreed with him in this matter: "My party has also come to the conclusion after studying the available material that there is no compelling reason for preferring legal prosecution over its constitutional consequences."[35]

Ed van Thijn, the social-democratic leader in parliament, who represented the party that was most in favor of prosecuting Bernhard, evoked the public outrage. The report of the committee "had caused a shock because nobody had expected that a member of the Royal House would discredit the reputation of our incorruptible [*onkreukbare*] government. One must prevent this reputation, which rightly exists in the Netherlands, from being further undermined by this affair." Luckily, much had been done to prevent that from happening again in the future, by publishing the committee's findings and the resignation of Bernhard from a great number of official roles.[36] Van Thijn did not ask for further steps and he continued by declaring that "[t]he incorruptibility of and trust in Dutch officials . . . is not affected or undermined."[37] Van Thijn regarded the Dutch system as sufficiently solid and the publication of the report and Bernhard's punishment as an effective measure.

Finally, Frans Andriessen, the leader of the Catholic party KVP, likewise stressed the public's shock because many thought that "something like this would not be possible. Apparently it is." Andriessen was positive about the way in which the Lockheed affair was being handled by the Dutch government, especially because Lockheed was publicly discussed: "Transparency is the cornerstone of our democracy, even when it is painful to be transparent; even when it is painful for the Royal family and thereby in particular for our democracy." Andriessen carried on and gave an implicit explanation of how this approach strengthened anticorruption:

> Just as merits are honored, so must inflicted harm be criticized . . . Our parliamentary democracy under the House of Orange should be able to cope with and can cope with criticism and loyalty, consequences and respect and condemnation and dedication.[38]

For Andriessen, Lockheed was a lesson in how a constitutional monarchy and parliamentary democracy could deal with corruption.

The smaller parties in the Dutch parliament also supported the government and saw the benefits of the decisions that had been taken. B. de Gaay-Fortman, of the progressive PPR party, stressed that the thoroughness of the investigation had evaporated any doubts and made a criminal investigation unnecessary. In doing so, the Netherlands had shown how democracies should deal with corruption, paraphrasing the conclusion of the French newspaper *Le Monde*.[39]

Willem Aantjes of the Christian party ARP applauded the prime minister for his openness and supported the government's decision. Only the small Pacifist Socialist Party (PSP) did not agree with the government. According to their leader in parliament, B. van der Lek, not prosecuting Bernhard was a sign of injustice and inequality before the law. Why would everyone else be prosecuted for asking and accepting bribes but not a prince? He proposed to start a prosecution but his proposal did not receive any support.[40]

After all parties had reacted, the cabinet made its final plea. Vice prime minister and Justice minister Van Agt (KVP) mentioned that Bernhard's acts could possibly represent criminal offences under articles 362 and 363 of the Dutch criminal law on passive bribery (officials that accept bribes). However, for Van Agt, transparency about the conclusions of the report rather than prosecution was a form of effective

prevention of corruption. Prime minister Den Uyl, in his final plea, also applauded the cabinet and parliament for their transparent treatment of the Lockheed scandal. The Netherlands, it was suggested, would even come out of this period reinforced.[41] For cabinet and parliament, the Netherlands passed this particular exam because it had been transparent and denounced corruption, but also because it had placed, according to the cabinet, constitutional integrity above prosecution for prosecution's sake.

Briefly, the consequences of the Lockheed affair were that Prince Bernhard was removed from his office as inspector-general of the Dutch army and his role as official representative of several Dutch companies. Moreover, the cabinet forbade him from wearing his military uniform in public in the future.[42] And Bernhard, at least on paper, admitted to his wrongdoings and made a public apology. The enforced moral shame did have an effect. In 2004, looking back on the affair in an interview for the newspaper *de Volkskrant*, Bernhard said that he had not suffered, but that he had been very angry about his own stupidity. The symbolic prohibition from wearing his uniform proved especially hurtful.[43]

Den Uyl was generally applauded for his solution in the weeks after August 1976, but as the years went by skepticism rose. Journalist Hans Hofland, who wrote a famous book (*Tegels Lichten*) about various scandals and cover-ups in the 1970s, made a very negative assessment of the outcome of the affair: an example of "how equality before the law is not taken seriously."[44] Jerome Levinson, an advisor to senator Frank Church of the Church committee, was very surprised when he found out that Bernhard was not convicted. According to Levinson, the Netherlands was too traumatized and too shocked; the country thought Church had gone too far and considered it too painful to prosecute its beloved Prince. Levinson gave voice to a legally driven view that was characteristic of the American anticorruption culture of his time. In his 1984 book *Bribes*, John Noonan saw the committee's report as a mixture of opinions and an example that the Dutch establishment had great difficulty in accepting the shame the Prince had brought on himself and the country.[45]

The Dutch historian Gerard Aalders, who wrote a book on Lockheed, concluded: "Publicity as a replacement for punishment," that is how the Dutch have dealt with the Lockheed scandal.[46] But Aalders also saw some results. The Lockheed affair showed that publicly and morally tainted persons were ostracized, since Bernhard had been forced to resign from many lucrative positions, even beyond those specified by the government—for example, his chair of the prestigious Bilderberg conference and his guardianship of the WWF. Furthermore, the FCPA was established as a direct result of the Lockheed affair, which in turn led to the establishment in 1999 of the OECD Convention on Combatting Bribery of Foreign Public Officials, followed by a European Union framework against corruption. Ratification of international treaties also forced the Dutch government to change the law: since 2001, article 178a of the Criminal Code makes it a crime to bribe Dutch officials abroad or for Dutch citizens to bribe foreigners—and these provisions were made even more stringent in 2015.[47]

In general, it becomes clear that judicial prosecution was rejected for reasons of political and constitutional stability, that moral punishment was an alternative form

of punishment and that the transparent treatment of the scandal was itself considered an example of a healthy anticorruption culture as well as a form of punishment and prevention at the same time.

THE FLICK AFFAIR: CORRUPTION AND ANTICORRUPTION IN GERMAN POLITICS

That supposedly corruption-free countries deal differently with corruption than one might expect also becomes clear with the Flick affair. In 1981 *Der Spiegel* journalist Dirk Koch published an exposé claiming that several politicians had received money from the German industrial conglomerate Flick; namely, Finance Minister Hans Matthöfer of the social-democratic SPD and Economy Ministers Otto Graf Lambsdorff and Hans Friderichs of the liberal FDP.[48] Shortly afterwards, leading politicians of the christian-democratic CDU such as Helmut Kohl were also mentioned in connection with the affair. These rumors were based on the discovery of a list in a safe after an investigation into Flick's administration. The list had been drawn up by Flick's accountant Rudolf Diehl (hence the expression "Diehl-list") and contained abbreviations, each preceded by a sum of money and a date. The abbreviations could easily be identified with the names of German politicians and the dates seemed to suggest the moment the money was transferred to them. Had these politicians been bribed? And if so, for what reason? According to the German criminal code (*Strafgesetzbuch;* StGB), articles 331 and 333, accepting gifts (*Vorteilsannahme*) and providing them (*Vorteilsgewährung*), as well as, following articles 332 and 334, committing bribery (*Bestechung*) and accepting bribes (*Bestechlichkeit*), constituted illegal practices.[49] On the basis of this, the public prosecutor in Bonn launched an investigation.[50] In the following years influential press organizations such as *Der Spiegel* and the *Süddeutsche Zeitung* published articles about the Flick affair. Respected German personalities such as the renowned writer Heinrich Böll spoke of "Bargeld-Porno," referring to the large amounts of bar money accepted by politicians and given by Flick inside envelopes and shoeboxes.[51]

The main questions raised by this affair were whether Flick, in the person of CEO Eberhard von Brauchitsch and his assistants, had illegally given millions to high officials and parties and whether those gifts were intended to secure a tax exemption from the government. Flick had sold shares in Daimler-Benz in the 1970s for DM 1,935 billion. The sale had caused public debate from the beginning. At first Flick had planned to sell the shares to the Shah of Persia but, after the intervention of the SPD-FDP government, decided to sell the shares to Deutsche Bank. Thereafter the discussion, especially within the SPD, turned to the question of whether Flick should be allowed the tax benefit it asked for under §6b of the income tax law (*Einkommensteuergesetz*; EstG) and §4 of the foreign investments law (*Auslandinvestitionsgesetz*; AIG).

These laws had been introduced in 1964 to stimulate investments at a time when German economic growth was flagging (Germany experienced a serious

decline of growth in 1966/67) and had become more important when Germany experienced a recession after the oil crisis of 1973. If the tax exemption were provided, it would save Flick hundreds of millions of D-Mark.[52] Tax benefits under these laws were kept secret from parliament following a secrecy act (*Steuergeheimnis*) and could be granted by the Ministry of Economy, headed by Friderichs (FDP) and later by Lambsdorff (FDP), supervised by the Finance Ministry, headed by Hans Apel (SPD) and later Matthöfer (SPD). This state of affairs prevented the German parliament from interfering in the granting of tax exemptions, but the SPD was so unhappy about exempting Flick that it asked the government to reconsider it, for three reasons in particular. First, because the laws had originally been intended to help small firms, even though large conglomerates could not be barred from benefiting from them. Second, Flick had a bad reputation; the family had supported the Nazi regime in the 1930s and was one of the richest families in Germany, which posed the problem of knowing to what extent the family would profit privately from the deal and how admissible that was.[53] Third, Flick would partly use the money to invest abroad, so it was doubtful whether it would contribute to revitalizing the German economy, which was the primary goal of the law.

Much more than this was at stake, however. The Flick affair ignited a moral and ideologically-driven debate about what was an acceptable use of several economic laws in the political and economic context of the moment, which in itself was seen as a test of the health of Germany's political-economic system, thirty-five years after the end of the Nazi regime. Politicians from the left, especially some independent voices within the SPD, were very skeptical about how the law was profitably used by businesses. Moreover, journalists and some politicians, especially those in the newly established Green Party, accused the suspected ministers of hypocrisy (*Doppelmoral*). If the Diehl-list was in fact what it seemed to be, then it was obvious that the politicians implicated in the affair had neither followed the law—which demanded transparency about gifts above a certain value—nor lived up to the rules of their own party—which forbade the acceptance of secret gifts. Their actions were in sharp contrast with the pleas for moral renewal made by CDU leader Helmut Kohl during the campaign for the 1982 elections and restated when he became *Bundeskanzler* that same year.

Politicians were also accused of immorality as they had at first tried to cover up the accusations and avoid prosecution by asking for a formal pardon for all politicians involved, and had been originally opposed to and tried to block a parliamentary investigation. Therefore, the Flick affair was for many a sign of the perverted German political-economic system, in which big business and political parties had merged, and the leading parties SPD, CDU and FDP seemed willing to sell their souls for money. Historians later argued that Flick exemplified "Parteiverdrossenheit"—the crisis of party democracy—and that the affair lent credence to the "erosion of citizens' trust in the political parties."[54] Or as Edgar Wolfrum summarized it: Flick was a "dirty party finance affair that confirmed the undesirable public image of the corrupt relationship between politics and business which itself contributed to 'Parteienverdrossenheit.'"[55]

A Parliamentary Investigation to Protect "Our Democracy"

As the affair unfolded, more difficult questions were raised. Had Germany become a "Bribed Republic" ("*gekaufte Republik*") as *Der Spiegel* journalists Hans Werner Kilz and Joachim Preuß stated in their 1984 book of the same title?[56] Politicians too raised serious issues. The Green Party, a political newcomer that had entered German parliament for the first time after the 1982 elections partly due to its successful campaign to clean German party politics, put Flick on the parliamentary agenda. Otto Schilly of the Green Party, one of the most critical members of parliament, was very clear: as long as there was no transparency, citizens' trust in the institutions of the parliamentary-democracy would be further harmed.[57]

Although Schilly's attempt to establish an investigation committee was not supported, it prompted the SPD to make its own proposal, which should be seen as an example of the use of an anticorruption measure—in this case starting a political investigation—against the background of political rivalry and newcomers entering the political arena (also identified in many other contributions in this volume).[58] Dieter Spöri, the SPD member of parliament who defended the SPD proposal to hold an investigation during the plenary debate in May 1983, mentioned the other reasons why an investigation was necessary. In the first place, the scandal was about the legality of the tax exemption offered to Flick by the German government, so there should be clarity about the rules for receiving such an exemption. The question also arose as to whether parliament could effectively use its right to assess the budget—"das Königsrecht des Parlaments"—when there was secrecy about tax exemptions. Finally, parliament had to investigate this scandal because it raised doubts about "the foundations of our democracy."[59] The affair caused public distrust, and "if we want to avoid further distrust, parliament has to support the investigation and do everything it can to, according to our understanding, uncover bad influences on a healthy democratic culture."[60] The investigation was therefore about German political culture and "our democracy."[61] Although the CDU/CSU and FDP had accused Schilly of agitation (*Stimmungsmache*) and stressed—quite naturally, being on the right of the political spectrum in terms of economic policy—that tax exemptions for large companies were acceptable and that they were not eager to reevaluate the *Steuergeheimnis*, they did believe things had gone wrong and that an investigation was required on grounds of democratic health. They consequently supported the SPD proposal to establish an investigation committee in 1983.

In March 1985, after eighty-five meetings and 321 hours of hearings during which forty-nine witnesses were interrogated, the parliamentary investigation came to a close and, in February 1986, the final report was published and debated in parliament.[62] Readers of the report were warned by the members of the committee[63] not to have very high expectations about their eventual recommendations regarding criminal prosecution: "An investigative committee is not a law court."[64] This is why many have been skeptical about the report. According to some, it neither contained real judgments nor introduced important formal-legal changes.[65] Johnston has concluded that after the Flick affair was uncovered, "legal repercussions were few."[66] Others stressed that the private funding of parties was not banned and would in fact

produce new scandals in the 1990s (e.g. the Kohl scandal in 1999).[67] However, it also shows the various aspects of anticorruption: some had expected legal convictions of accused individuals, others a ban on party funding. At the same time, a third group wished for more moral awareness and soul-searching on the part of the involved politicians and a fourth group hoped for a ban on any form of influence by big companies on politics.

It would be giving a one-sided account of this affair if only the disappointments with its outcome were stressed. In the first place, because contemporaries also stressed the importance of the fact that the Flick system was after all uncovered, and indeed openly denounced, when evidence surfaced that millions of D-Marks had been paid by Flick to the three German parties—DM15 million to CDU/CSU, DM6,5 million to FDP and DM4,3 million to SPD. Part of this money was given to the parties after being laundered via a Catholic organization in Speyer. This "Speyer route" was also uncovered and dismantled.[68] Second, the Flick affair brought about concrete changes, such as sharper rules for party funding—in the future, gifts above DM20,000 would have to be reported—and parliament was given greater powers to carry out inquiries and make government more accountable. (And in fact, no new bribery and illegal party financing scandals have emerged in Germany since the Kohl affair of 1999). Third, even though Friderichs, Lambsdorff and von Brauchitsch were not prosecuted for bribery, Lambsdorf had to resign from his office and all three were convicted for tax evasion.[69] Von Brauchitsch in particular, who was sentenced to two years in jail and a fine of DM500,000, became a *Symbolfigur* of corruption and ended his career in disgrace.[70] Here, like in the Lockheed scandal, some of the actors were (mainly) morally punished.

Finally, the importance of scandalization and the political investigation and debate it caused should not be underestimated. For contemporaries, the open and transparent treatment of the Flick scandal was a victory over forces that tried to silence the case and, in that sense, a form of anticorruption itself. Therefore, we might conclude that scandals, debates and investigations that are linked to a corruption affair seem to play a vital role in maintaining good government in supposedly corruption-free countries; they make explicit what is immoral and often implicit; they reflect changing attitudes to ideas and practices in a changing context.[71] In other words, public scandals in these countries do have consequences: they show that certain forms of corruption, under specific circumstances, are not covered up; that once it is discovered it is publicly denounced by a considerable group; that it is presented by many as a serious danger for the system instead of an incident only; and that it can be officially investigated and accompanied by a political discussion about what good government *should* be. Corruption scandals seem, therefore, not only failures but also means of communication and cleansing rituals in the context of a democracy.[72]

CONCLUSION

Informed by recent trends in the research on anticorruption, this chapter tried to show that effective anticorruption in countries renowned for their best practices

means neither the absence of large corruption scandals nor that anticorruption can be reduced to anti-bribery laws or pivotal improvements when it comes to concrete measures, judicial prosecution or institutional change after corruption is discovered.

Strikingly, the Lockheed and Flick affairs were not silenced but intensely discussed and considered a shock by politicians, the media and those accused. The scandals were treated as serious issues in the light of the political history, the political context of the moment and the self-perception of both countries: the development and meaning of the constitutional monarchy in the Netherlands and parliamentary democracy and the role of the political parties in Germany, against the background of the World War II.

For current attempts to improve anticorruption in supposedly well-performing or underperforming countries, we could derive from these two cases evidence that corruption scandals can be seen as cleansing rituals. The words used to condemn corruption, as well as the moderate measures taken afterwards, helped to safeguard the legal, political and constitutional state of affairs according to contemporaries. The corruption scandals did not bring the entire system to the brink of disaster but did play a role in the ongoing cleaning and maintenance of the system. Therefore, to understand the history of corruption control in countries that have an image of being relatively free of corruption one needs to take into account a pragmatic anticorruption culture as much as the existence of strict anti-bribery laws, modern liberal-democratic institutions and historical turning points. These insights might also be used to reconsider current policy proposals that often urge supposedly underperforming countries to radically change their institutional setting, take harsh measures and increase the prosecution of those who are found guilty of corruption because that it is what the better performing countries are doing. Historical reality, however, seems more complicated than this.

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20

Corruption in an Anticorruption State?

East Germany under Communist Rule

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Translated by Kirsten Petrak-Jones

The communist parties that came to power in Eastern Europe after the Second World War claimed that corruption did not exist under the socialism they had created; it was regarded as a phenomenon of capitalist society over which they had triumphed. The leadership of the SED (*Sozialistische Einheitspartei Deutschlands*)—the ruling party in East Germany/the German Democratic Republic (GDR)—also shared this belief, citing the Russian revolutionary leader Lenin in the process. In his eyes, corruption was just part of the parasitic and rotten form of capitalism that characterized imperialism; indeed, for him, bourgeois society was itself corrupt. The implicit assumption was that corruption would disappear with the end of imperialism "as the last stage of capitalism."[1] Despite the continued and widespread practice of bribery in Soviet Russia, as admitted by Lenin himself,[2] these ideas provided the basis for the corresponding model within those countries that fell under Soviet domination after the Second World War. This was particularly true of the GDR.

The legitimizing aim of Soviet-style socialism as an alternative to the market economy was the achievement of the greatest possible degree of equality and social justice. This was to be the basis for a new "socialist man." On the basis of this assumption, the socialist state was required—as announced at an SED Party Conference at the end of the 1950s—to help "its citizens through persuasion but if necessary by means of the law as well to overcome and put aside the way of life of the capitalist-era—hypocritically-veiled naked egoism, the petty interest for private property, moral indifference, gangster practices and roughness of heart."[3] Even in the mid-seventies, the new SED program still claimed: "Behaviour as reflected in egoism and greed, bourgeois conformism or striving to acquire wealth at the expense of society are alien to socialist society."[4] Clearly such public statements—which scrupulously avoided the term corruption—were necessary because the notion of the "new man" failed to become reality. Nonetheless, the premise that socialism ruled out corruption for systemic reasons remained dominant. So in contrast to capitalism, this socialism was readily conceived of and presented as an incorruptible society.

Accordingly, corruption in one's own country was a far-reaching taboo. The mass media denounced corruption as well as the abuse of power or office only in Western countries.[5] Cases of corruption and their prosecution within the GDR were rarely reported and then mainly only in regional newspapers. This seems to have occurred only when power considerations made it tactically appropriate and the scale of the crimes were substantial. That said, only corrupt practices at lower levels were involved. The aim was also to prevent the further spread of corruption. At the same time, cases of corruption and measures of prevention were discussed within the inner circle of the Party, government and monitoring institutions.

Not until the SED regime began to collapse in the autumn of 1989 did GDR journalists report on the misuse of office on the part of state, trade union and party officials.[6] A scandal was mainly seen to be one of moral transgression. As the coverage of the topic grew, so the indignation increased. Institutions of the former regime then seized upon the topic too. The East German Parliament set up a committee of inquiry and preliminary proceedings commenced under public prosecution. But this was primarily a move to maintain their own legitimacy. Within a few weeks, reports and investigations began on Wandlitz, the woodland housing compound for members of the SED-Politburo. While the estate itself was well known, its privileges were still shrouded in mystery and rumor.[7] But media reports about Wandlitz were only a reflection of what the general public had already discussed. Once the privileges of Wandlitz had emerged, other cases of power misuse and corruption came before the public eye, as the erosion of SED power was accelerated by public indignation. A similar phenomenon had been seen almost ten years earlier in Poland where the mentality of "helping-oneself-to-funds" found within the party elite and down to middle levels caused resentment and thus promoted the rise of the independent trade union Solidarity.[8] In the last year of the GDR and after the reunion, public prosecution proceedings led to thirty-nine court cases against fifty-three leading GDR functionaries, including Erich Honecker.[9]

Starting from the structural characteristics of the political and economic system under socialism, the following chapter examines where corruption occurred and why—despite the official picture—corruption did in fact take place. The second part of this chapter then focuses on aspects of the historical development of corruption and the fight against it in the GDR.

OPPORTUNITIES FOR CORRUPTION UNDER SOCIALISM

To quote a generally accepted standard definition, corruption involves the gaining of private advantage through the misuse of public office.[10] The following is thus based on a broad definition of corruption that includes bribery and venality, personal enrichment in office, embezzlement and the mixing of official and private business as well as patronage and nepotism. Such a definition assumes a distinction between private and public spheres. Although this was principally true of socialism, the domination of the "people's property" in public life and in trade and industry

meant there was a tendency for this distinction to become blurred. The curious legal construction of people's property—which was in fact state property—led to a loss of unambiguity in the legal title: the right of disposal by the party and state bureaucracy conflicted in formal terms with the possibility that each individual had a claim to part of the people's property. Indeed, anyone in a responsible position in industry was also in public office. This ambiguity furthered a decline in public moral standards, aided and abetted corruption and, in consequence, led to chronic mismanagement.

It is precisely for this reason that the Criminal Code of the GDR—despite the basic assumption that society was free of corruption—imposed some severe punishments on various forms of corruption.[11] Given, however, that the judiciary was not independent from the political system, criminal prosecution was always a question of political appropriateness. This system did not, after all, include any other independent instances of control or indeed a political separation of powers, as these could have ultimately undermined the power of the party. Its centralist rule was one of the fundamental characteristics of Soviet-style socialism, alongside the domination of state-ownership of the means of production, the centrally planned economy and the ideology of Marxism-Leninism, as was established in the GDR at the end of the 1940s and early 1950s.

The institutional order of this system was extremely hierarchical and comprised two pillars, which had overlapping and sometimes conflicting responsibilities and were interconnected at the top in terms of personnel: the merged state bureaucracy and the SED party apparatus. Yet resolutions made by the party leadership had to be accepted by the state authorities. Justification was provided by the SED's claim of having exclusive knowledge of the path to be taken. The economic rights of disposal were highly centralized, from the central authorities through the middle levels of hierarchy, down to enterprise level.

From an analytical point of view the phenomena of corruption were mainly linked to three elements of this institutional setting: the principle of *nomenklatura* for appointments to leading positions; the vertical process of negotiation involved in the drawing up of plans and the allocation of resources; and the horizontal process of exchange both between enterprises as well as between citizens and providers of goods and services within the gray market.

First, the principle of *nomenklatura* in particular provided the basis for a form of state corruption from "above"; this was the principle behind the appointment of leading positions within the party apparatus and state hierarchy, including leading positions within the state economy. In this process each position had to be confirmed by the next higher level. Here the SED leadership was the decisive factor and its leader, the First or General Secretary, effectively had the final word. From the top, *nomenklatura* lists were developed from one level down to the next, recording positions to be filled and the designated applicants (the "cadres"). These included all areas of society and were linked to one another, interlocked between party and state apparatus, revolving around the SED leadership.[12] In this way, personnel dependencies were practically institutionalized. Each higher level of authority granted privileges to the holder of positions under the *nomenklatura* system.

Of course, other systems also provide their executives with bonuses, but such benefits became particularly explosive within a society supposedly characterized by egalitarian aims, as well as real shortages of various goods and services. Not every privilege can be subsumed under corruption, but once privileges overstep the mark regarded as a normal incentive within the historical and cultural terms of a particular system, it can be viewed as a form of bribery from above. At the same time, these privileges were supposed to guarantee the loyalty of the cadres developed by the *nomenklatura* system, which created corrupting dependencies. The highest leadership level granted itself such advantages as well without allowing any controls. Moreover, bribery from below was a possibility in order to reach a higher position accompanied by greater benefits and privileges, along with potential additional illegal income.[13]

Within the system of *nomenklatura*, corruption from above brought various norms into conflict with one another. Patronage within this system contradicted the vision of the new man, free of corrupting behavior, and of the greatest possible equality. Moreover, while legal norms against embezzlement did exist, these were not applied to the system of privileges. Hence, a similar practice to the Third Reich's emerged in which certain institutions did not feel bound to the law.[14] These competing norms were a further reason why public communication on corruption had to be suppressed—made possible by the fact that the SED regimented and directed media publicity. Nevertheless, this form of patronage remained a continual subject of everyday discussion, as already illustrated by the rumors about Wandlitz.

Second, in formal terms, the plan was the most important instrument for the distribution of resources. In order to draw up a plan, central office first worked out guideline figures. These were repeatedly divided up via the middle level down to enterprise level and were thus defined more and more precisely. Enterprises devised a suggestion for the plan, stating the level of performance to be achieved and the input required on the basis of the guideline figures from above. The suggestions for the plan made at enterprise level were summed up by the individual levels of hierarchy up to central office and at every level coordination was attempted. The highest planning instance then had the task of balancing the various domestic and foreign demands and possibilities as well as political aims. Depending on how well the plan was fulfilled, enterprises and their top management were rewarded with bonuses and investment funds, so they were, at least formally speaking, motivated to fulfill the task. For this reason, enterprises and their top management were keen to obtain the lowest possible plan targets and a high allocation of resources. In this situation, each subordinate structural unit down to enterprise level was involved in a process of negotiation or agreement with the next level up about the level of performance to be achieved and the available input, over which the economic units in practice competed.

The peculiarities of this vertical process of negotiation made the likelihood of corruption high. Those responsible for setting targets within the plan and distributing goods in a situation of excessive demand could soon become subject to bribery. The subordinate branch managers and enterprises sometimes had consumer goods or services, such as holidays, at their disposal and these may have been

of interest for representatives of the next superior level in the hierarchy. These could be used in order to secure precise low performance targets and the greatest amount of input. At this point, however, an analytical distinction between individual corruption and organizational-level corruption is necessary: the former type of corruption brought individual benefit and the latter served the enterprise or other organizational units.[15] This explains why the former was also described as disloyal corruption while the latter was a loyal form.[16] In practice, however, both could be linked. The following chapter focuses only on activities directly linked to individual corruption for reasons of practicability.

Third, the gaps in the plan and the hidden reserves of the flexible plans presented the factories and their management with scope to cover deficits in the allocation of raw materials and other supplies independently—that is, outside of the plan. An unintended network of exchange developed spontaneously between enterprises, independent of central administration and predominately a barter economy. Admittedly, the transaction costs for the enterprises and their representatives were high and these could also display aspects of corruption. But the marginal utility usually gained in this way—above all in the detailed provision of suitable input of the right type and quality—was obviously greater than that formulated by the plan. In this manner, enterprises guaranteed the fulfillment of the plan and operated rationally. In terms of the overall economy, this gray market was not insignificant for the functioning of the system. Central institutions essentially tolerated this practice as it also recognized its functionality. It provides evidence of the existence and achievements of partial economic self-logic.[17] But the fact that the way the system actually functioned also made the infiltration of its own formal rules necessary is symptomatic of its inefficiency.

These unofficially organized processes of exchange between enterprises as well as the securing of scarce goods and services through the general public provided many starting points for corrupt behavior. The initiation of the relevant contacts in this gray market between those responsible in various enterprises may have been linked to personal advantage, gifts or money. The spectrum observed here was very broad, ranging from mutual favors, known as *Blat* in Russia, to bribery; and the transition was fluid. The former, referred to in GDR jargon as "connections" (*Beziehungen*), had on the one hand positive connotations insofar as these were embedded in interpersonal relations involving friendship, relatives or acquaintances and this was why there was a tendency to tolerate them. On the other hand, there were also negative connotations insofar as public resources were used for private advantage, which was thought to be quite questionable in moral terms.[18] So not all transactions within the gray market were linked to corruption. This was only the case if the favors exchanged between partners were not equal and if the exchange only came about for this reason. The situation described at enterprise level had a parallel for citizens too: under the conditions of shortage, people also obtained scarce goods and secured services by using connections, right down to bribing those responsible for their distribution or sale.

Ultimately, each potentially corrupt individual had to balance the costs in terms of possible prosecution and the benefit in terms of potential increase in private

income or access to scarce goods. In this context, penalties were rather mild or did not have to be feared while benefits could be relatively high. Within this social environment, both the country's elite and its citizens solved their own problems with corruption (although the transition from socially embedded connections to bribery in its criminal form was very gradual). As in the case of the Third Reich,[19] a distinction can be made here between combated, tolerated, institutionalized and officially promoted corruption. This also meant that the fight against corruption remained half-hearted.

HISTORICAL FORMS OF CORRUPTION IN EAST GERMANY

The phenomenon of and approach to corruption in the GDR can be divided into three broad periods: the phase of the new system's establishment between the late 1940s and the 1950s, the era of economic reform in the 1960s and the period of decline during the 1970s and 1980s.

After the end of the Second World War and under the looming specter of the emerging Cold War, the Soviets and German communists established a Soviet-style socialism by the early 1950s, without this being the original intention.[20] Measures first designed for denazification, and as a reaction to practical necessities—such as the expropriation of Nazi and war criminals—provided the basis for this system. In the case of expropriation, political and economic aims commonly overlapped with "vindictiveness, corruption, incompetence, administrative chaos and the diverging interests of the various levels of decision-making."[21] Due to "wider kinship groups and family ties through marriage," as claimed by a critical report in November 1947, (allegedly) incriminated companies were not expropriated.[22] On the other hand, some companies were sequestrated because the designated trustee had close connections to the sequestration committee. Unofficially, there was also some talk of position hunters (for example, in January 1946 within the provincial administration of Saxony-Anhalt). Such cases have been documented for the entire Soviet occupation zone.[23] To what degree these cases actually involved corruption is difficult to say on the basis of current research and just as little can be said about the success of attempts to combat the practice. It seems probable that in individual cases people acquired positions in this way and that they were themselves later subject to or the promoters of corrupting practices.

In the immediate postwar period, bartering was also extremely widespread given the general scarcity of goods.[24] Private companies as well as the People-Owned Enterprises (VEB) and state authorities were involved and the practice was probably linked to a substantial degree of individual corruption. Partly to combat this, the Central Commission for State Control (ZKK) was set up in May 1948. This was essentially an instrument with which to reduce that part of the economy still in private hands. For this purpose the accusation of corruption was instrumentalized.[25] In the late 1940s and early 1950s, a number of show trials took place, spectacularly stage-managed by the ZKK on the instructions of high-ranking SED

leaders involving criminal action under economic law. These events were supposed to "anchor themselves in people's consciousness, forge paths of remembrance and thus have a tradition-building effect."[26] The first case was the "textile black-marketeering process" of Glauchau-Meerane at the end of 1948. Here private companies were accused of having used bribery to get the local authorities to agree to their business in the first place. Clearly these criminal proceedings were also supposed to link the concept of corruption to capitalism and private enterprise, while superficially the aim was the defamation of private business. Consequently, in 1947 an internal report already declared a ruthless fight against corruption and embezzlement in the state's own enterprises to be a special case, while acknowledging their existence.[27]

At the same time as corruption was being attributed to private business in particular and capitalism in general within public discourse, the SED leadership and the state apparatus they dominated created one of the pillars for corruption under socialism. Beginning in 1947, the cadres policy under the *nomenklatura* system was gradually set up and extended into nearly all areas of the society. By 1960–61 it had essentially taken on its final form.[28] It was linked to organized nepotism, as similarly identified by Frank Bajohr for the formative phase of the Third Reich.[29] Nevertheless, the privileges linked to this system have yet to be examined. It is known that in the immediate postwar period many artists and intellectuals, technical experts and scientists, as well as party and state officials, received special food parcels (*Pajoks*) from the Soviet occupation forces. Later on these preferential services were codified within individual contracts for economic functionaries as well as for scientists and technical experts who were regarded as irreplaceable. These contracts did not only secure income at an exceptionally high level; they also provided access to scarce goods and to Western literature. Special provisions were included too, such as the allocation of living space or the future education of children. In such cases, however, it was clear to those receiving the preferential treatment that they would do well to keep their privileges secret.[30] This was a form of systematic corruption of elites believed to be necessary to the benefit of the new system. It involved, particularly prior to 1945, qualified and especially indispensable individuals (so by no means all representatives of one professional group). The connection between these privileges and the possibility of fleeing to the Federal Republic, which existed until 1961, should not be underestimated. It was thus also a bonus for good behavior and was still maintained after 1961, albeit in a different form.

Until now the relationship of these privileges with those granted to party and state functionaries at various levels under the system of *nomenklatura* has not been examined. Of course, the SED leadership itself already had exceptional access to many scarce goods in the 1940s and 1950s. It can however be assumed that privileges enjoyed by the SED leadership did not only increase in absolute terms over time but also in relation to the general standard of living. Once the foundations of the new system were linked to the practice of corruption, systematic conditions for state corruption were then established and further expanded. While the extent of the barter economy or of the gray market declined in the

1950s compared to the 1940s, it never disappeared. Neither did the corruption it was linked to, although detailed information on its extent is lacking.

In order to gain control over economic problems, the SED leadership initiated an economic reform in 1963.[31] In contrast to before the reform, profits became the key guideline according to which the performance of enterprises and their high-ranking management staff were to be evaluated. As the reform was introduced gradually, old and new mechanisms existed side-by-side for a long period of time. In 1965 this led to exorbitant profit increases in some enterprises and branches that were out of all proportion to the performance growth of these economic units. In this situation, the principal aim of getting enterprises to become profit-minded was questioned especially by opponents of the reform and, unofficially at least, there was also talk of bribery and corruption. The reformers then strove to combat the tendency to distort and vulgarize the material incentives known as economic leverage. They regarded it as morally unacceptable that an attempt was being made to use bribery to encourage cooperation between enterprises or to secure supplies. As a leading reformer emphasized: "This so-called lever appeals to immoral instincts which are related to the profit-seeking to a great extent and must be stopped for this reason."[32] Similar comments were made by Günter Mittag, head of economic affairs within the SED leadership, in August 1965: "We are tackling fiercely—in this case deliberately using administrative means too—the phenomena of bribing cooperating enterprises with sums of money and then even declaring this practice to be a 'new economic system.'"[33] Eventually, the person in charge of the whole of industry even felt the need to personally issue an order that strictly forbade this practice.[34] This suggests that it was quite widespread.

So here procedures were openly mentioned which had probably already been customary in at least some individual cases prior to the reform. That said, the newly demanded profit orientation seems to have then provided a further impulse. Under the reform regulations, this corruption was neither just a part of the vertical process of bargaining involved in the drawing up of the plan, nor only part of the horizontal gray market. Rather, it represented the lubricant for the emergence of a hybrid form of coordination.[35] This seems to be a defining characteristic of the reform period. However, it is remarkable that even during the reform itself, this terminology was shifted into the vicinity of the capitalist goal of profit seeking. In fundamental terms, the taboo on corruption was upheld during the reform. That it was broken in 1965 was most probably due to the reformers' desire to suppress undesirable excesses of profit orientation. Choosing drastic expressions that were otherwise taboo, an attempt was made to prevent the entire reform from falling into disrepute.

The practice some enterprises engaged in of using their bonus funds to bribe non-company employees—for instance by means of the "so-called 'expense allowance for the procurement of materials'"[36]—was already unofficially castigated by as early as the 1960s. It remained, nonetheless, quite frequent in the 1970s and 1980s. For example in 1978, the Central Office for Investment in Sporting Facilities (*Zentrale Investitionsbüro Sportbauten*) agreed with the enterprises involved receiving a "completion bonus" for the building of detached houses, which represented

roughly eight percent of projected building costs.[37] These practices were also part of corruption in the context of the gray market. Particularly for the 1970s and 1980s, the literature provides a wealth of examples for these informal relations as contemporaries' memory of that period was still vivid.[38] For example, a waterworks outfit is said to have supplied a sand manufacturer with high-quality beer and items of folk art from the Erzgebirge in order to acquire quartz sand in the required quality.[39] Citizens behaved in a similar way too: in order to obtain scarce consumer goods or services, those individuals or authorities responsible for distributing or selling these items were offered bribes. This was just as true of highly desired foods as it was of books and cars, driving licenses or holidays on the Baltic coast. Given the general housing shortage it was inevitable that the housing authorities also experienced palm-greasing.[40]

However, corruption at enterprise or factory level to secure supplies was more important. This is exemplified by one well-documented case from the seventies.[41] Here,

> [L]eading functionaries, including general directors, as well as directors and technical directors had instigated or tolerated since 1973 that People-Owned Enterprises had used high-quality industrial goods, such as for example spirits in especially designed bottles, clocks, coffee and dinner services, cognac sets, lead crystal, cutlery sets, leather goods, barbeques, vacuum cleaners, radios, binoculars, electric manicure and kitchen appliances, textiles, NSW [from the West] cosmetics, shavers etc. for the purpose of bribery, to gain supplies and services from other enterprises.

The acquisition of these goods was disguised by declaring them as "miscellaneous office supplies," which was only possible because of the "mostly totally exaggerated figure set for office supplies under the plan." Moreover, many employees in these enterprises also lined their own pockets. The prosecution especially condemned the fact that these goods were often scarce goods that were thus not available to the general public (of course this was why they were valuable as a means of bribery). It was significant however that the prosecuting authorities identified the private commercial firm Keltz & Meiners KG Berlin as the driving force behind these practices.[42] It was claimed that when making purchase offers, this company had directed the attention of employees in state enterprises to the possibilities for camouflaging such transactions and had thus broken any remaining reservations on their part. Upon the release of the report, fifty-two employees were definitively sentenced. In addition, the firm was transformed into the "Fachgeschäft Bürobedarf des Versorgungskontors Papier und Bürobedarf." As was noted in the report, this probably meant that it came under state control.

Putting aside the validity of these accusations, they corresponded to the dominant discourse that the driving force behind the corruption was seen by the prosecution to be a private firm. This case also demonstrates how networks of these *connections* expanded. As the GDR declined, the scarcity of supplies became more pronounced from the late 1970s in terms of both resources and subcontracting at enterprise level as well as of consumer goods for citizens, which in turn led to

an expansion of the gray market.[43] The increasing significance of the latter at enterprise level was most probably linked to growing corruption. Statements made by contemporaries support this conclusion, even if they seem exaggerated:

> During the 1970s the omnipresent corruption already grew to immeasurable proportions. Its rampant metastasis was everywhere. Even the authorities themselves were not free of it. A bit of "West money" in the form of a ten Deutsch mark banknote and a packet of "Jacobs Krönung" [a well-known West German coffee brand] opened up many possibilities. And the widespread phenomenon of "organizing" grew within enterprises too and there was no longer any awareness of wrongdoing.[44]

While in most cases citizens strove to fulfill legitimate consumer needs in this way, the primary aim at the enterprise level was to guarantee production and the fulfillment of the plan, albeit while still fulfilling the individual material interests of those responsible. Confronted by ever-growing shortages, the breach of formal rules also created informal rules that made this behavior seem legitimate. Some justification for this form of everyday corruption was also found in the state corruption represented by the system of *nomenklatura*. In this sense the two developed a symbiotic relationship.

The link between these two forms of corrupt practices was provided by the advantages enjoyed by mid-level and lower management within political and economic institutions by virtue of their positions. These could not be hidden from employees lower down the scale and, consequently, from the general public. These posts were not all part of the *nomenklatura* system, but in a smaller way the practice was similar. During the 1970s and 1980s, the already relatively high extraordinary income of some managers and technicians was increased by additional payments. Another kind of corruption involved the preferential sales of cars to senior staff at various levels (while ordinary citizens had waiting times of up to fifteen years). One quarter of produced and imported cars were distributed in this way.[45] Aside from these forms of privilege and corruption, which were more or less sanctioned by the state, there appears to have been an increase in the illegal abuse of individual posts across the lower and middle levels in the 1970s and 1980s. For example, the directors of a housing office used resources and building workers for personal purposes,[46] which—as already mentioned above—was also a reaction to the ambiguity of the legal title of people's property.

During the 1970s and 1980s, the SED leadership became increasingly unscrupulous in the exploitation of their own position. They assumed that the people had been sufficiently served by the significantly expanded consumer and welfare policy introduced under SED chief Honecker. Under his leadership too, the *nomenklatura* system developed even more into a system of patronage than had been the case under his predecessor. Our knowledge of practices at the highest leadership levels during the 1970s and 1980s is relatively good due to the aforementioned court cases. These cases involved four facets: privileged supplies to the Politburo housing compound of Wandlitz, the procurement and improvement of living space, hunting grounds as well as other privileges.[47]

The Politburo woodland housing compound near Wandlitz was developed at the beginning of the 1960s and consisted of twenty-three houses for members of the

SED leadership. Although these houses were relatively spacious, they were otherwise rather modest. However, no less than 650 employees worked on the estate who were meant to anticipate every wish of the SED leadership, and the shop on the estate also sold goods from the West at low prices. For the average GDR citizen, the latter were either totally out of reach or only available at significantly higher prices. Those entitled to shop on the woodland estate were able to benefit from annual savings at a cash value of roughly 64,102 GDR-Marks per head in the 1980s, while the average yearly income of full-time workers reached 15,732 GDR-Marks in 1989.[48]

Apart from this benefit, leading SED members also exploited their position in order to access cheaper housing or indeed housing at no cost at all, and to carry out home improvements. In most cases, this involved buying a house owned by the state or by the party at a price well below value—a fact all those involved in the process were also aware of. This procedure was practiced by all manner of party officials right down to the regional level. A further aspect of government corruption involved the privileged provision and costly maintenance of private hunting grounds according to the owners' wishes. This practice spread down to the regional level as well. Over and above these aspects, top SED leaders also enjoyed further privileges that cannot be dealt with in detail here. In sum, it can be concluded that the opportunities for abusing power, inherent to the system, were exploited to different degrees by those involved.

Overall, the *Bolsche Vita* enjoyed by the SED leadership was rather modest when compared to leaderships in other countries and represented only a relatively small burden for the economy. Yet set against the background of the vision propagated by the regime itself and general living standards at this time, it appeared to be inappropriate and an abuse of power.

CONCLUSION

According to the official line, corruption was a phenomenon of the capitalist West. As a result, when it nonetheless emerged under socialism, it was linked to private firms or entrenched individual character traits. This narrative was already established in the immediate postwar period and was later reproduced again and again as cases of corruption were uncovered. In spite of this, possibilities for corruption were detected within the systemic structure of socialism in three main contexts.

First, the system of *nomenklatura* promoted the abuse of office as well as bribery. The latter was intended to guarantee loyalty and simultaneously represented a bonus for compliant behavior. In the GDR these forms of corruption were present from the beginning and were officially promoted or tolerated in most cases. Second, within the vertical process of negotiation involved in the drawing up of plans and distribution of resources, corruption could play a part in the attempts of those at subordinate levels to improve their situation; however, this form of corruption was—as far as we know—of little significance. And third, opportunities for corruption were found in connection to the gray market within the planned economy.

In the GDR, corruption was used to gain access to necessary resources of all types—consumer goods and other services—both at enterprise level and by the general public. This was a practice that seems to have increased during the phase of decline and it was broadly tolerated. However, once this practice and its dimensions became public, it was then combated as well. The degree of toleration was often determined by a discretionary decision, which is explained by the fact that, seen in terms of the system, this form of corruption also fulfilled a function. It had, moreover, a stabilizing effect on the sociopolitical and socio-economic system.

Little can be said about the extent of corruption from a comparative perspective. One point can however be made: if we look at comparable political systems like the Soviet Union or Poland, we can see that corruption had a stronger role there than in the GDR. This suggests that systemic structures can only provide a limited explanation and that questions of long-term historical, and especially cultural, influences and patterns must be examined too. That said, corruption under socialism was both a product of the institutional weakness of the system and a means of maintaining macro-economic stability.[49] Even so, the allocation of resources achieved in this way was not optimal. In this sense, functional dysfunctionalities have been identified.[50] The fight against corruption was accordingly characterized by ambivalence: despite the aim of establishing an alternative social system free of corruption, it could not be denied that this phenomenon continued to exist. Yet active measures to combat corruption were only undertaken insofar as, and as long as, this did not jeopardize the system itself and those in power. This also indicates that premodern forms of corruption and of combatting corruption emerged within the socialist system too—on this distinction see Chapter 11 by Jens Ivo Engels in this volume. Such premodern forms of corruption, moreover, were also apparent in the patronage linked to the system of *nomenklatura* and in the practical blurring of the line between private and public ownership through the legal construction of the "people's property." This link to the premodern era was already formulated during the collapse of the socialist system and was severely contested at the time.[51] In either case, this was an expression of a further ambivalence inherent to the system: it had been launched with the promise of radical modernization, yet, even in the case of corruption and the fight against it, this was, at best, a promise only partially kept.

Afterword

Michael Johnston

Most of us like to believe that we live in special times amid unprecedented developments. So too with corruption: as we read of new scandals and scoundrels, it is tempting to believe that ethical standards in politics and government are plumbing new depths. Many who lament today's corruption cling to a kind of misplaced nostalgia, claiming that there was a time in the recent past (when this time was we are never told, although "twenty years ago" or "when I was a kid" are popular guesses) when honesty was the norm, ethical standards were taken seriously and powerful people and groups played by the same rules as the rest of us. Implicit in this view, in turn, is the notion that corruption is some kind of deviance or exceptional event—something that "happens to" a community or society—and that with the proper tools and determination it can be "tackled" and eradicated.

The errors of that view are easily demonstrated by even a cursory look at political history. But there are at least two other major fallacies in the ways we commonly understand corruption problems. One is to assume that the standards against which we judge political actors, and the key ideas and distinctions on which those judgments depend (e.g. principles of ethics and justice, accountability and clear distinctions between public and private domains), are more or less permanent aspects of the political landscape, and have been with us since . . . well, again, we are not told when.

The second fallacy is to assume that thanks to modern conceptions of "good governance" and the role of the state (largely as that of a neutral referee in a complex social arena), and because of technological innovations (including the inevitable invocation of social media), we have now got anticorruption figured out—even though little thought is usually given to exactly what that underlying idea means. Those contemporary innovations, along with scrutiny by the news media and an engaged citizenry (both of which these days show disturbing indications of being uninterested in the details of politics and government, but never mind that) and high-level proclamations of "zero tolerance," have the potential to usher us into a new era of clean, transparent, accountable government run according to "best practices," if only we can summon up sufficient "political will." Affluent Western democracies will embody that fine new dispensation, it is generally assumed, and can show the way ahead for poorer and less-enlightened societies. Such self-confidence seems able to coexist with remarkable ease with perceptions of

contemporary corruption run amok, as witnessed by the contemporary political malaise in many democratic systems.

All right, let's be fair: few if any people and groups literally espouse all of those ideas. Still, our views of corruption tend to be remarkably ahistorical, bounded by the experience of affluent Euro-American countries, and set against uninformed and broadly stereotypical images of life elsewhere and in other times. The seductive notion of a fall from grace—that government really was better "back then"—has seemingly exempted us from having to specify what would be better than the *status quo*, other than "no corruption." The goals and virtues of anticorruption, as well as what it might take to move in that direction in sustained ways, need far more thought and discussion.

It is for those reasons and more that the chapters in this volume are welcome and deserve a wide audience. We need not just to know more about past cases of corruption, important as that is, but also to understand the genealogy and evolution of key ideas, as well as the intensely political struggles that have driven those processes—and continue to do so today. Rather than longing for some highly ethical past, we need to recall that politics has most often been really nasty business: power flowed to whoever swung the biggest stick, and accountability and fairness were ideas with little meaning. In light of such a past we might well wonder, not why we have the corruption we do today, but rather *why there isn't a great deal more of it*—and how it was that corruption-control ideas that strike us as normal and natural actually came into being. There is no valid and reliable way to measure corruption today, much less arrive at trend lines over time, but clearly the arc of our ethical expectations (if not, of course, the reality in all cases) has bent toward greater accountability and fairness. That by itself is a remarkable development; how did it come to pass? And is it really the culmination of a longer linear process of "progress" or—more likely—the reversals and disruptions that have taken place in this time?

Corruption, at least in contemporary debate, is often seen as a direct mortal threat to the state. At one high-level conference after another speakers fall back on cancer metaphors and other invocations of dreaded disease, in the process of course tapping into assumptions that we live in unusually corrupt times or at least have arrived at some sort of crisis. Lost in that sort of discussion, but illuminated in several of the chapters in this volume, is the fact that both corruption and struggles against it have at times been integral to the *building* of modern, legitimate states: England's constitutional settlement of 1688–9, and the constitutional monarchy that grew out of it, owed much to parliamentary resistance to royal patronage. America's first transcontinental railroad, a critical link in national integration, was built by a classic elite cartel that played fast and loose with federal financial support. A generation later, reform alternatives to machine-style local government began to put whole layers of American government on a recognizably modern footing. In contemporary China, extensive corruption has coexisted with robust economic growth for nearly forty years. It may be that the Chinese system is levitating, temporarily, on an epochal scale, but could we also be seeing the rise of non-Weberian notions of accountability based on both traditional norms of personal relationships and the immense pool of rewards that growth has produced? In other

instances corruption has not so much undermined governance and institutions as become integrated into them, persisting in a kind of symbiosis with other aspects of government in part because it allows important figures and interests to avoid confronting other challenges of managing societies—if only for a time. Soviet-style economies were so thoroughly corrupt that in many ways no one knew what was actually being produced and consumed, yet corrupt gains arguably bought enough elite support and bureaucratic complicity to enable the system to keep ticking, in its shambolic fashion, for decades.

Such an argument is not deployed in these chapters to revive the old "functionalist" views of corruption—that it may be ugly and illegal but it is, on the whole, beneficial—but rather to explore the ways corruption and reform raise fundamental questions about any political order. Who is to rule whom, by what right, using what means, within what limits and subject to what countervailing forces? Working out even temporary settlements to those questions is intensely complex and contentious political business. In analogous ways, reform—too often seen as just a law-enforcement and deterrence problem, or as striking the correct balance of incentives—must be viewed in the context of state-building and of working out answers or provisional settlements regarding those questions. In that sense, it is worth remembering Francis Fukuyama's injunction that while restraining power is a critical challenge, we must be equally worried about how it should be used. The full complexity of those issues, and the kinds of results we ought to expect as we try to deal with them, are best understood over the long term and across a wide variety of societies.

The richly comparative perspective provided in this volume identifies a variety of larger questions that are all too often ignored. One is the qualitative variation among kinds of corruption, or of corruption problems: rather than ranking societies on a one-dimensional numerical scale, what do we see when we look at contrasts in kind reflecting longer-term influences? In my 2014 book *Corruption, Contention and Reform*,[1] I argued that such inquiry points to four major syndromes of corruption, each marked by distinctive causes and implications for societies as a whole; others, I hope, will refine that scheme and redefine the major categories. Another variable is the pace of change: where corruption has apparently been addressed with some success, has there been a gradual linear process of adding one reform after another, or was it a matter of sharp, discontinuous changes? Or has there been a gradual accretion of developments, be they institutional improvements or accumulating grievances, which has enabled rapid change when a precipitating event or personality comes to the fore? Understanding those possibilities, and the likelihood that change scenarios will differ depending upon the setting, or upon the varieties of corruption in question, is not only an important historical and theoretical challenge but is of the essence for would-be reformers too. The required analysis clearly transcends cross-sectional comparisons of socio-economic characteristics of societies and of types of reform tactics and strategies. Indeed, it ought to draw our attention back to older debates about types of regimes and their moral claims.

That sort of back-to-the-future intellectual challenge can only be beneficial to the study of corruption and to the process of devising better reforms. Our narrow,

often technocratic modern models of "good governance" appeal to our fascination with technology and economic development—and, it might be added, with ourselves—but they can also cut anticorruption efforts and concepts off from their political roots and from essential sources of energy and force. Insulating government from politics, as if that were possible, has been a touchstone for many reformers since the late nineteenth century; but this volume shows that where actions against corruption—or even just efforts to define various behaviors as corrupt—have been effective, they have been supported by a range of political interests and groups with something at stake.[2]

To follow this technocratic path of reform may well be to play into the hands of those—usually business elites and the wealthy—most able to disguise their own interests in the symbols of better government and the common good. The culmination of those trends might well be the sorts of legal corruption—exploitative connections between wealth and power (such as corporate rents and tax breaks created by obscure features of legislation) or the political clout wielded by wealthy individuals making large but fully legal political contributions—that nonetheless enjoy the protection of laws, institutions and elite opinion (seen in many liberal "influence market" societies today). Many of those societies receive positive scores on corruption indices, yet—for reasons that would not surprise many historians—face an increasingly estranged citizenry. Fully understanding that turn of events may well bring a number of classical ideas about corruption—notably that of corruption as a collective state of being, rather than as a discrete category of individuals and actions—back into focus.

Indeed, one result of looking carefully at the cases analyzed here is—or should be—a strong dose of humility. As the introductory chapter to this volume reminds us:

> [A]nticorruption and good government tend to be equated with the historical development of democracy, accountability, transparency in public affairs, effective Weberian-style bureaucracy and the rule of law, all emblematic aspects of countries that are consistently ranked among the least corrupt in the world. While it is easy to see why it should appeal to policy makers, this hypothesis has struck most historians involved in this volume as either circular or at least teleological, resting as it does on a view of capitalist, democratic nation-states as the epitome of history and thus engaged in a selective, frequently anachronistic interpretation of often complex and ambiguous data.[3]

At the very least, these chapters remind us that those attributes of modernity *came from somewhere,* that they reflect the circumstances, preferences and choices that gave them life, and that therefore they cannot be treated as natural or purely logical in themselves (much less, as the end point of some long-term sequence of "progress"). Often, as I have noted in my own work, the characteristics that apparently successful societies share today—a middle class, policies of transparency, high-quality bureaucracies and courts, a free press, etc.—are not necessarily the things that enabled them to succeed in the first place. A look back at those factors is much more likely to reveal bitter contention than administrative innovation or the origins of any good-governance consensus.

Many more generalizations of these sorts come of mind, and the value of the studies gathered here is to remind us that all of them are risky and open to numerous exceptions. The sort of humility noted above should extend to reformers, citizens and contemporary leaders as well. We, as fallible humans, are not new, and our times are not necessarily exceptional ones; what we are trying to do has been tried, along with many other things, in other times and places and in other ways. We have not found uniquely persuasive answers. We would be well-served if we were to look to the past, as well as to other parts of the world, with the more modest goal of learning how to ask, and seek answers for, better questions.

Endnotes

INTRODUCTION

1. For a recent discussion about measuring and ranking corruption, see Paul M. Heywood, "Measuring Corruption. Perspectives, Critiques and Limits," in *Routledge Handbook of Political Corruption*, ed. Paul M. Heywood (New York: Routledge, 2015), 137–53.
2. Jens Ivo Engels, *Die Geschichte der Korruption. Von der Frühen Neuzeit bis ins 20. Jahrhundert* (Frankfurt: S. Fischer, 2014); Olivier Dard, Jens Ivo Engels, Andreas Fahrmeir and Frédéric Monier eds., *Scandales et corruption à l'époque contemporaine* (Paris: Armand Colin, 2014); Ronald Kroeze, Toon Kerkhoff and Sara Corni, eds., "Corruption and the Rise of Modern Politics", special issue of the *Journal of Modern European History* 11 (2013); Alexander Nützenadel, "Korruption aus historischer Perspektive," in *Was ist Korruption?*, ed. Peter Graeff and John Grieger (Baden Baden: Nomos, 2012), 79–92; Jens Ivo Engels, Andreas Fahrmeir and Alexander Nützenadel, eds., *Geld—Geschenke—Politik. Korruption im neuzeitlichen Europa* (Munich: Oldenbourg, 2009); Pieter Wagenaar, James Kennedy, Mark R. Rutgers and Joris van Eijnatten eds., "The Genesis of Public Value Systems", Special issue, *Public Voices* 10 (2008).
3. Michael Johnston, "The Search For Definitions: The Vitality of Politics and the Issue of Corruption," *International Social Science Journal* 149 (1996): 321–36. It is, according to Yan Sun and Michael Johnston, "the most widely used definition in the English language literature": "Does Democracy Check Corruption?" *Comparative Politics* 42 (2009): 1–19 at 2. On its applicability to historical research see Toon Kerkhoff, Ronald Kroeze and Pieter Wagenaar, "Corruption and the Rise of Modern Politics in Europe in the Eighteenth and Nineteenth Centuries: A Comparison between France, the Netherlands, Germany and England—Introduction," *Journal of Modern European History* 11 (2013): 19–30.
4. Samuel P. Huntington, "Modernization and Corruption" [1968], In Arnold J. Heidenheimer, Michael Johnston and Victor T. LeVine, eds., *Political Corruption. A Handbook* (New Brunswick: Transaction, 1989): 377–88.
5. Lant Princhett and Michael Woolcock, "Solutions When the Solution is the Problem: Arraying the Disarray in Development," *World Development* 32 (2003): 191–212. Although the authors frame "Denmark" as an "ideal" and they are aware of some of the problems related to this solution, especially that "skipping straight to Weber" does not work and that "one size does not fit all," their main objective, still, is to find an answer to the question "What is the best way to get to 'Denmark?" (p. 204).
6. Francis Fukuyama, *The Origins of Political Order. From Prehuman Times to the French Revolution* (New York: Farrar, Straus and Giroux, 2011), 14–19; Daron Acemoğlu and James A. Robinson, *Why nations fail. The origins of power prosperity and poverty* (London: Profile, 2012); Alina Mungiu-Pippidi, "Becoming Denmark: Historical Designs of Corruption Control," *Social Research* 80 (2013): 1259–86; Bo Rothstein and Jan Teorell, "Getting to Sweden, Part II: Breaking with Corruption in the Nineteenth Century," *Scandinavian Political Studies* 38 (2015): 238–54; Michael Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (Cambridge: Cambridge University Press, 2006).
7. Alina Mungiu-Pippidi, ed., *Controlling Corruption in Europe. The Anticorruption Report*, vol. 1 (Opladen: Barbara Budrich Publishers, 2013); Mette Frisk Jensen, "The Question

of How Denmark Got to Be Denmark: Establishing Rule of Law and Fighting Corruption in the State of Denmark 1660–1900," *QoG Working Paper Series* 6 (2014): 1–26. Available online at: http://www.qog.pol.gu.se/digitalAssets/1484/1484489_2014_06_frisk-jensen.pdf [accessed June 24, 2017]; Denmark is the least corrupt country in the world according to Transparency International's 2014 Corruption Perception Index.

8. Among those who have participated in this debate see: Engels, *Die Geschichte der Korruption*; Kroeze, Kerkhoff and Corni, eds., *Corruption and the Rise of Modern Politics*; Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (Basingstoke: Palgrave Macmillan, 2014).
9. Buchan and Hill, *An Intellectual History of Political Corruption*.
10. The conference was organized by ANTICORRP's Work Package 2 ("The History of Corruption in Comparative Perspective"), led by the University of Amsterdam. "Anticorruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption" (ANTICORRP) is a large-scale research project funded by the European Commission's Seventh Framework Program (FP7), started in March 2012 and concluded in February 2017. Comprising twenty research groups from fifteen EU countries and coordinated by the Quality of Government Institute at the University of Gothenburg, ANTICORRP's main goal is to investigate the factors that promote or hinder the development of effective anticorruption policies. To that end, it brings together scholars from the fields of political science, government studies, finance, economics, developments studies, media studies, law, anthropology and history. For more information, visit http://www.anticorrp.eu.
11. Within different historiographies, sub-periods of intensive change have been presented as periods of decisive change and modernization: for instance, the *Sattelzeit* (1750–1850) in Germany and the "long nineteenth century" (1770–1914) in Britain.
12. André Vitória and Ronald Kroeze, "Privilege in the Twenty-First Century: The Threat of Offshore Finance to Democratic Cohesion," *History & Policy*, May 9, 2016. Available online at: http://www.historyandpolicy.org/opinion-articles/articles/privilege-in-the-twenty-first-century [accessed January 17, 2017].

CHAPTER 1

1. A total of 6,000 mercenaries, 5,000 talents, and thirty warships. Diodorus, *Library of History, Volume VIII: Books 16.66–17,* 17.108.6–8, trans. C. Bradford Welles, Loeb Classical Library 422 (Cambridge, MA: Harvard University Press, 1963).
2. Plutarch, *Lives, Volume II: Themistocles and Camillus. Aristides and Cato Major. Cimon and Lucullus*, 842 ff., trans. Bernadotte Perrin, Loeb Classical Library 47 (Cambridge, MA: Harvard University Press, 1914).
3. Embassies were sent by leading Macedonians immediately demanding Harpalos be handed over and the silver returned, but the Athenians seem to have been waiting to deal with Alexander directly. Ian Worthington, *A Historical Commentary on Dinarchus: Rhetoric and Conspiracy in Later Fourth-Century Athens* (Ann Arbor: University of Michigan Press, 1992), 45–6, argues that they were, in effect, holding out, at the same time fearing retribution from the much stronger Macedonian king whilst ostensibly keeping track of a traitor (albeit one who had a large army, considerable financial resources and an axe to grind). Harpalos had also been awarded honorary Athenian citizenship which meant that handing him over created a moral quandary for the Athenians. See Hypereides, *Minor Attic Orators, Volume II: Lycurgus. Dinarchus.*

Demades. Hyperides, 5.8–9, trans. J. O. Burtt, Loeb Classical Library 395 (Cambridge, MA: Harvard University Press, 1954) [henceforth Hyperides].

4. Plutarch, *Lives,* 846c; Dinarchos, *Minor Attic Orators*, trans. Burtt, 1.1 [henceforth: Dinarchos].
5. Dinarchos 1 and Hyperides 5 (which is fragmentary) were delivered against Demosthenes (and are referred to throughout this paper); Dinarchos 2 and 3 were delivered against two of the other defendants.
6. Worthington, *A Historical Commentary on Dinarchus,* 46–7, argues that the Assembly discussing the Harpalos affair would have been full. Demosthenes himself played a leading role in this decision.
7. Approximately sixty speeches survive which were written by, or attributed in antiquity to, Demosthenes. He is, therefore, the most prominent public figure of his generation for historians today.
8. What they took bribes to do is never made explicit and is subject of debate. See David Whitehead, *Hypereides: The Forensic Speeches. Introduction, Translation and Commentary* (Oxford: Oxford University Press, 2000), 360, n. 251, 400–2; Worthington, *A Historical Commentary on Dinarchus*, 65; Ernst Badian, "Harpalus," *Journal of Hellenic Studies* 81 (1961): 16–43 at 37–40. Demosthenes' defense seems to rest on the argument that he took the money, but took it for the public good rather than for personal gain (Hyperides 5.13), but these are words put into his mouth by his opponents.
9. F. D. Harvey, "Dona Ferentes: Some Aspects of Bribery in Greek Politics," in *Crux: Essays Presented to G.E.M. de Ste Croix on His 75th Birthday*, ed. Paul Cartledge and F.D. Harvey (London and Exeter: Imprint Academic, 1985), 76–117.
10. Claire Taylor, "Bribery in Athenian Politics. Part II: Ancient Reactions and Perceptions," *Greece and Rome* 48 (2001): 154–72 at 160–2.
11. Hyperides 5.24–5.
12. Harvey, "Dona Ferentes," 108–11 calls this the "Hyperides principle"; but see S. H. Wankel, "'The Hypereides Principle?' Bermerkungen zur Korruption in Athen," *Zeitschrift für Papyrologie und Epigraphik* 85 (1991): 34–6 for reservations.
13. On Dinarchos, see: Worthington, *A Historical Commentary on Dinarchus*, 7–10.
14. Dinarchos 1.4. See also 1.13: he has accepted bribes "against his country . . . and against the demos" (also 1.60); 1.15: "[Demosthenes] enriched [himself] at the city's expense" (also 1.29, 47 67); 1.40, 46, 54: he has taken bribes "against you."
15. Josiah Ober, *Mass and Elite in Democratic Athens: Rhetoric, Ideology, and the Power of the People* (Princeton: Princeton University Press, 1989).
16. Kellam Conover, "Rethinking Anti-Corruption Reforms: The View from Ancient Athens," *Buffalo Law Review* 62 (2014): 69–117.
17. Dinarchos 1.10, 18, 26, 34. Similar accusations are also found in Aeschines 2.23, 3.58, 66, 81–2, 91–4, 103, 163 etc., a trial from 330 in which Demosthenes' character is assassinated. In this speech alone there are over forty accusations of Demosthenes' corruption by various sources. See Taylor, "Bribery in Athenian Politics. Part II," 172, n. 49.
18. Lynette G. Mitchell, *Greeks Bearing Gifts: The Public Use of Private Relationships in the Greek World, 435–323 BC* (London: Routledge, 1997).
19. Claire Taylor, "Bribery in Athenian Politics. Part I: Accusations, Allegations and Slander," *Greece and Rome* 48 (2001): 53–66; Taylor, "Bribery in Athenian Politics. Part II."
20. Dinarchos 1.41–4.

21. Barry Strauss, "The Cultural Significance of Bribery and Embezzlement in Athenian Politics. The Evidence of the Period 403–386 B.C," *The Ancient World* 11 (1985): 67–74.
22. See Lysias 28, trans. W. R. M. Lamb, Loeb Classical Library 244 (Cambridge, MA: Harvard University Press, 1930): Ergokles' wealth is used as proof of his venality.
23. Hyperides 5.25–6.
24. The text is lacunose at this point, but his examples include a man who claimed a welfare payment of five drachmas on behalf of his son whilst he was out of the city, another appears to have stolen a pick or spade from a *palaistra* (athletics training ground); the point is that these are petty crimes. Whitehead, *Hypereides*, 440–6 discusses the textual problems.
25. Historians assume that "tenning" involved some kind of manipulation of the selection procedure based on the prior allocation of jurors to a specific courtroom. See D. M. MacDowell, "Athenian Laws about Bribery," *Revue Internationale des Droits de l'Antiquité* 30 (1983): 57–78 at 63–8; Harvey, "Dona Ferentes," 88–9. However, procedures were changed during the fourth century to make this more difficult, as shown here.
26. Aristotle, *Athenian Constitution* 27.4–5, trans. H. Rackham, Loeb Classical Library 285 (Cambridge, MA: Harvard University Press, 1935); Old Oligarch 3.7, in [Pseudo-] Xenophon, *Constitution of the Athenians*, trans. E. C. Marchant and G. W. Bowersock, Loeb Classical Library 183 (Cambridge, MA: Harvard University Press, 1925).
27. There may also be a link between the prosecution of Kimon at his *euthyne* (post-office scrutiny) by Pericles and the subsequent development of large juries: Kimon had earlier been charged with bribery by Pericles (Plutarch, *Kimon*, 14.2–3, in Plutarch, *Lives, Volume II*) and their rivalry forms an essential backdrop to the development of jury pay (Aristotle, *Athenian Constitution,* 27).
28. Taylor, "Bribery in Athenian Politics. Part II," 156.
29. Isocrates, *Against Euthynus,* 21.5, trans. La Rue Van Hook, Loeb Classical Library 373 (Cambridge, MA: Harvard University Press, 1945); Demosthenes, *Orations,* 29.22, in *Volume IV: Orations 27–40: Private Cases*, trans. A. T. Murray, Loeb Classical Library 318 (Cambridge, MA: Harvard University Press, 1936). On paying off the prosecutor so that accusations never made it to court see Aeschines, 2.148, trans. C. D. Adams, Loeb Classical Library 106 (Cambridge, MA: Harvard University Press, 1919).
30. Robin Osborne, "Vexatious Litigation in Classical Athens: Sykophancy and the Sykophant," in *Nomos: Essays in Athenian Law, Politics and Society*, ed. Paul Cartledge, Paul Millett and Stephen C. Todd (Cambridge: Cambridge University Press, 1990), 83–102.
31. Taylor, "Bribery in Athenian Politics. Part II," 157–8.
32. This is an astonishingly high number given the relative paucity of evidence. Conover, "Bribery in Classical Athens," 21, collating Ryszard Kulesza, *Die Bestechung im Politischen Leben Athens im 5. und 4. Jahrhundert v. Chr.* (Konstanz: Universitätsverlag Konstanz, 1995); Taylor, "Bribery in Athenian Politics. Part II."
33. MacDowell, "Athenian Laws about Bribery," 78; Harvey, "Dona Ferentes," 95–6.
34. Taylor, "Bribery in Athenian Politics. Part II," 154–5; MacDowell, "Athenian Laws about Bribery"; Conover, "Rethinking Anti-Corruption Reforms," 116–17.
35. There is debate about the role of the *apophasis* in the Harpalos case: Demosthenes himself suggested this procedure, because (as Worthington, *A Historical Commentary on Dinarchus*, 357–62 argues) he was on good terms with the council that carried it out

and wanted to avoid an impeachment trial. We do not know of it being used in any other corruption case however. *Eisangelia* was the more common procedure, and although this charge usually is aimed at the prominent, it might not always be (if Hyperides 3.3 is to be believed). On treason as the main charge, with bribery and/or embezzlement attached to this, see Hyperides 3.1–2; and Taylor, "Bribery in Athenian Politics. Part II."

36. Taylor, "Bribery in Athenian Politics. Part I," 61–4; Conover, "Rethinking Anti-Corruption Reforms," 109.
37. Aristotle, *Athenian Constitution*, 54.2; Dinarchos 1.60, 2.17; Hyperides 5.24.
38. Hyperides 3.1–2.
39. Isocrates, *Against Euthynus*, 8.50; Aeschines, *Speeches*, 1.86–7. See MacDowell, "Athenian Laws about Bribery," 67–8.
40. For example, Pamphilos of Keiriadai, a general who was prosecuted for embezzlement, had his property confiscated and fined, and still owed five talents to the city on his death: Demosthenes 40.22. Further: J. K. Davies, *Athenian Propertied Families, 600–300 BC* (Oxford: Clarendon Press, 1971), 365; Virginia Hunter, "Policing Public Debtors in Classical Athens," *Phoenix* 54 (2000): 21–38.
41. On the shame of bribery: Lysias 21.23–4.
42. Conover, "Rethinking Anti-Corruption Reforms."
43. Claire Taylor, "From the Whole Citizen Body? The Sociology of Election and Lot in the Athenian Democracy," *Hesperia* 76 (2007): 323–45; Elizabeth Kosmetatou, "Tyche's Force: Lottery and Chance in Greek Government," in *A Companion to Ancient Greek Government*, ed. Hans Beck (Oxford: Blackwell, 2013), 235–51.
44. Aristotle, *Athenian Constitution*, 63–9, P. J. Rhodes, *A Commentary on the Aristotelian "Athenaion Politeia"* (Oxford: Oxford University Press, 1993).
45. Aristotle, *Athenian Constitution*, 27.5.
46. Conover, "Rethinking Anti-Corruption Reforms."
47. Yuzuru Hashiba, "Athenian Bribery Reconsidered: Some Legal Aspects," *The Cambridge Classical Journal* 52 (2006): 62–80.
48. Alina Mungiu-Pippidi, "Controlling Corruption Through Collective Action," *Journal of Democracy* 24 (2013): 101–15 at 106–7; Anna Persson, Bo Rothstein and Jan Teorell, "Why Anticorruption Reforms Fail: Systemic Corruption as a Collective Action Problem," *Governance: An International Journal of Policy Administration and Institutions* 26 (2013): 449–71.
49. Aeschines 2.23, 3.58, 66, 81–2, 91–4, 103, 163 etc. See Taylor, "Bribery in Athenian Politics. Part II," 172, n. 49.
50. Harvey, "Dona Ferentes," 110.
51. Harvey, "Dona Ferentes."
52. Ober, *Mass and Elite in Democratic Athens*.
53. MacDowell, "Athenian Laws about Bribery."
54. Aristotle, *Politics*, trans. H. Rackham, Loeb Classical Library 264 (Cambridge, MA: Harvard University Press, 1932), 1281a40–b10.
55. Aristotle, *Politics*, 1286a32–36. See Jeremy Waldron, "The Wisdom of the Multitude: Some Reflections on Book 3, Chapter 11 of Aristotle's *Politics*," *Political Theory* 23 (1995): 563–84; Josiah Ober, *Democracy and Knowledge: Innovation and Learning in Classical Athens* (Princeton, NJ: Princeton University Press, 2010); Josiah Ober, "Democracy's Wisdom: An Aristotelian Middle Way for Collective Judgment," *The American Political Science Review* 107 (2013): 104–22, *pace* Daniela Cammack,

"Aristotle on the Virtue of the Multitude," *Political Theory* 41 (2013): 175–202; Melissa Lane, "Claims to Rule: The Case of the Multitude," in *The Cambridge Companion to Aristotle's Politics*, ed. Marguerite Deslauriers and Pierre Destree (Cambridge: Cambridge University Press, 2013), 247–74.

56. Hélène Landemore, *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many* (Princeton: Princeton University Press, 2013), 62 *pace* Lane, "Claims to Rule," 263–4.
57. Melissa Schwartzberg, "Shouts, Murmurs and Votes: Acclamation and Aggregation in Ancient Greece," *Journal of Political Philosophy* 18 (2010): 448–68.
58. Dinarchos 1.4, 8; Hyperides 5.8–12.
59. Schwartzberg, "Shouts, Murmurs and Votes," 457–62.
60. Aristotle, *Art of Rhetoric*, 1354b29–1355a1, trans. J. H. Freese, Loeb Classical Library 193 (Cambridge, MA: Harvard University Press, 1926).
61. For example, the elusive case of the Hellenotamiai, a board of treasurers selected from the wealthiest in Athens to administer the funds from Empire, who were put to death sometime before 414 (Antiphon, 5.69 in *Minor Attic Orators, Volume I: Antiphon, Andocides,* trans. K. J. Maidment, Loeb Classical Library 308 (Cambridge, MA: Harvard University Press, 1941). Nothing is known about this case aside from what Antiphon tells us: the entire board, except for one man, were executed before the facts of the case were properly discovered and they were found to be innocent. This episode has been used to demonstrate the poor behavior of the demos, but it also highlights the tensions between individual and collective judgment.
62. Hélène Landemore, "Deliberation, Cognitive Diversity, and Democratic Inclusiveness: An Epistemic Argument for the Random Selection of Representatives," *Synthese* 190 (2012): 1209–31; Landemore, *Democratic Reason*.
63. Ronald A. Knox, "So Mischievous a Beaste: The Athenian Demos and its Treatment of its Politicians," *Greece and Rome* 32 (1985): 132–61; Ober, *Mass and Elite in Democratic Athens*.
64. On the shortcomings of experts and the dangers of epistocracy: Ober, *Democracy and Knowledge*, 90–7.
65. Hyperides 5.6: The Areopagos has produced "all the reports in the same manner. All the accused are treated the same." This statement therefore has more force than Whitehead's reading of "procedural similarities" (*Hypereides*, 383).
66. Worthington, *A Historical Commentary*, 63–5, who describes the trial as "a political facade" (p. 32).
67. Conover, "Rethinking Anti-Corruption Reforms," 100.
68. Conover, "Rethinking Anti-Corruption Reforms," 103–6.
69. Conover, "Rethinking Anti-Corruption Reforms," 110–11; in general: Adriaan Lanni, "Social Norms in the Courts of Ancient Athens," *Journal of Legal Analysis* 1 (2009): 691–736.
70. Yann Allard-Tremblay, "Political Corruption as Deformities of Truth," Les ateliers de l'éthique 9 (2014): 28–49 at 39.

CHAPTER 2

1. Sall. *Cat.,* 3–5, 7–13, 5.11. 28.4 and *Jug.* 4.1–9, 8.2, 35.10, 41–2 = Sallust, *The War with Catiline. The War with Jugurtha*, ed. John T. Ramsey, trans. J. C. Rolfe, Loeb Classical Library 116 (Cambridge, MA: Harvard University Press, 2013); Pol., 6.57.5–9

= Polybius, *The Histories, Vol. I-VI*, trans. W. R. Paton, rev. F. W. Walbank and Christian Habicht, fragments ed. and trans. S. Douglas Olson, Loeb Classical Library 128, 137–8 and 159–61 (Cambridge, MA: Harvard University Press, 2010–12). Luc., 1.160–83 = Lucan, *The Civil War (Pharsalia)*, trans J. D. Duff, Loeb Classical Library 220 (Cambridge, MA: Harvard University Press, 1928); Flor., 1.47 = Florus, *Epitome of Roman History*, trans. E. S. Forster, Loeb Classical Library 231 (Cambridge, MA: Harvard University Press, 1929). See A. W. Lintott, "Lucan and the History of the Civil War." *The Classical Quarterly* 21 (1971): 488–505; Lintott, "Imperial Expansion and Moral Decline in the Roman Republic," *Historia* 21 (1972): 626–38.

2. See, for example, Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (Basingstoke: Palgrave Macmillan, 2014). On the Roman Republican context, see Cristina Rosillo López, *La corruption à la fin de la république romaine (IIe-Ier s. av. J.-C.): aspects politiques et financiers*, Historia Einzelschriften 200 (Wiesbaden: Franz Steiner Verlag, 2010).
3. Luciano Perelli, *La corruzione a Roma* (Turin BUR 1994).; Rosillo López, *La corruption*.
4. A notable exception to this trend is Catharine Edwards, *The Politics of Immorality* (Cambridge: Cambridge University Press, 1993).
5. *Thesaurus linguae Latinae* (Leipzig: G. B. Teubner, 1900-), 4:1065–7.
6. On *mores* see Augustine, Saint, Bishop of Hippo, *Enchiridion ad Laurentium*, 14.4, Corpus Christianorum, Series Latina 46 (Opera Aurelii Augustini, XIII, 2) (Turnhout: Brepols, 1969); on *pecunia* see Tac., *Ann*., 2.55 = Tacitus, *Annals, Voll. I-III*, trans. Clifford H. Moore and John Jackson, Loeb Classical Library 249 (Cambridge, MA: Harvard University Press, 1931–37).
7. See Malcolm Schofield, "Cicero's definition of *res publica*," in *Cicero the Philosopher: Twelve Papers*, ed. Jonathan Powell (Oxford, Clarendon Press, 1995), 63–83 = *Saving the City. Philosopher-Kings and other Classical Paradigms* (London and New York: Routledge, 1999), 178–229. For a full discussion of the notion of popular sovereignty in Cicero see Valentina Arena, "Popular sovereignty in the late Roman republic: Cicero and the will of the people," in *Popular Sovereignty in Historical Perspective*, ed. Richard Bourke and Quentin Skinner (Cambridge: Cambridge University Press, 2016), 73–95.
8. *Comm. Pet.*, 26 = Cicero, *Letters to Quintus and Brutus. Letter Fragments. Letter to Octavian. Invectives. Handbook of Electioneering*, ed. and trans. D. R. Shackleton Bailey, Loeb Classical Library 462 (Cambridge, MA: Harvard University Press, 2002), and Cic. *Inv.*, 2.168 = Cicero, *On Invention. The Best Kind of Orator. Topics*, trans. H. M. Hubbell, Loeb Classical Library 386 (Cambridge, MA: Harvard University Press, 1949); Caes. *b.c.*, 1.22.3 = Caesar, *Civil War,* ed. and trans. Cynthia Damon, Loeb Classical Library 39 (Cambridge, MA: Harvard University Press, 2016); Sen. *Benef.*, 2.18.5 = Seneca, *Moral Essays, Volume III: De Beneficiis*, trans. John W. Basore, Loeb Classical Library 310 (Cambridge, MA: Harvard University Press, 1935). See also Plaut. *Persa*, 762 = Plautus, *The Merchant. The Braggart Soldier. The Ghost. The Persian*, ed. and trans. Wolfgang de Melo, Loeb Classical Library 163 (Cambridge, MA: Harvard University Press, 2011); Caes. *b.c.,* 1.23.3; Sen. *Benef.*, 5.20.6.
9. Cic. *off.*, 3.5.24 and 3.51–3 = Cicero, *On Duties*, trans. Walter Miller, Loeb Classical Library 30 (Cambridge, MA: Harvard University Press, 1913).
10. On potential conflicts on the magistrate's interpretation of the common good, see Cic. *dom.*, 10.27 = Cicero, *Pro Archia. Post Reditum in Senatu. Post Reditum ad Quirites. De*

Domo Sua. De Haruspicum Responsis. Pro Plancio, trans. N. H. Watts, Loeb Classical Library 158 (Cambridge, MA: Harvard University Press, 1923); Cic. *prov. cons.*, 1.1, 8.18 = Cicero, *Pro Caelio. De Provinciis Consularibus. Pro Balbo*, trans. R. Gardner, Loeb Classical Library 447 (Cambridge, MA: Harvard University Press, 1958); Cic. *post red. Quir.*, 9.23 = Cicero, *Pro Archia . . . Post Reditum ad Quirites,* trans. Watts.

11. This interpretative scheme seems widely adopted in sociological studies, see for example, Johann Graf Lambsdorff, *The Institutional Economics of Corruption and Reform: Theory, Evidence and Policy* (Cambridge: Cambridge University Press, 2007). For a review of the issue see Donatella della Porta and Alberto Vannucci, "Political Corruption," in *Wiley-Blackwell Companion to Political Sociology*, ed. Edwin Amenta, Kate Nash, and Alan Scott (New York: Wiley & Sons, 2012), 130–44.
12. Della Porta and Vannucci, "Political Corruption," 132.
13. Paul, *Sententiae*, 19.2, in *Iurisprudentia Anteiustiniana*, ed. E. Seckel and B. Kübler after Ph. E. Huschke, 2 vols. (Leipzig: Teubner, 1911–27).
14. On the censors see Jaakko Suolahti, *The Roman Censors: A Study on Social Structure* (Helsinki: Suomalainen Tiedeakatemia, 1963); A. E. Astin, "The Censorship of the Roman Republic: Frequency and Regularity," *Historia* 31 (1982): 174–87; Astin, "Regimen Morum," *The Journal of Roman Studies* 78 (1988): 14–34; and most recently Guido Clemente, "I censori e il senato. I mores e la legge," *Athenaeum* 104 (2016): 446–500.
15. Zon., 7.19 = Joannes Zonaras, *Epitome historiarum, cum Caroli Ducangii suisque annotationibus*, ed. Ludwig Dindorf, 6 vols. (Leipzig: Teubner, 1868–75). Cf. Cic. *Cluent.*, 121 = Cicero, *Pro Lege Manilia. Pro Caecina. Pro Cluentio. Pro Rabirio Perduellionis Reo*, trans. H. Grose Hodge, Loeb Classical Library 198 (Cambridge, MA: Harvard University Press, 1927).
16. Plaut. *Trinum.*, 1028–45 = Plautus, *Stichus. Trinummus. Truculentus. Tale of a Travelling Bag. Fragments*, ed. and trans. Wolfgang de Melo, Loeb Classical Library 328 (Cambridge, MA: Harvard University Press, 2013); Cic. *Rhet. ad Her.*, 3.3.4 = Cicero, *Rhetorica ad Herennium*, trans. Harry Caplan, Loeb Classical Library 403 (Cambridge, MA: Harvard University Press, 1954); Cic. *prov. cons.*, 46 = Cicero, *Pro Caelio . . . De Provinciis Consularibus*, trans. Gardner; Cic. *Inv.*, 2.162 = Cicero, *On Invention,* trans. Hubbell; Serv. *ad Aen.*, 7.601 = *Servii Grammatici qui fervntvr in Vergilii carmina commentarii*, ed. G. Thilo and H. Hagen, 3 vols. (Leipzig: B. G. Teubner, 1923–27); Ulpian, *Regulae*, 1.4, in *Iurisprudentia Anteiustiniana*, ed. Seckel and Kübler. For discussion on the *mos* see Maurizio Bettini, "Mos, Mores, and Mos Mairoum: The Invention of Morality in Roman Culture," in *The Ears of Hermes: Communication, Images, and Identity in the Classical World*, ed. Maurizio Bettini (Columbus, OH: Ohio State University Press, 2011), 87–130; and Valentina Arena, "Informal norms, Values, and Social Control in the Roman Participatory Context," in *A Companion to Greek Democracy and the Roman Republic*, ed. Dean Hammer (Chichester: John Wiley and Sons, 2015), 217–38.
17. Cic. *leg.*, 46–7 = Cicero, *On the Republic. On the Laws*, trans. Clinton W. Keyes, Loeb Classical Library 213 (Cambridge, MA: Harvard University Press, 1928).
18. On Clodius' law see Asc. *Pis.*, 8 = Asconius, *Orationum Ciceronis quinque enarratio. Commentaries on speeches of Cicero*, trans. R. G. Lewis, rev. Jill Harries (Oxford: Oxford University Press, 2006); cf. *Sch. Bob.*, 132 St = *Scholia in Ciceronis Orationes Bobiensia*, ed. P. Hildebrandt, Bibliotheca Scriptorum Graecorum et Romanourum Teubneriana (Stuttgart: B. G. Teubner, 1971) and Dio Cass., 38.13 = Dio Cassius, *Roman History, Voll. I–IX*, trans. Earnest Cary and Herbert B. Foster, Loeb Classical Library 32, 37, 53,

66, 82–3 and 175–7 (Cambridge, MA: Harvard University Press, 1914–27). See also Jeffrey Tatum, "The Lex Clodia de censoria notione," *Classical Philology* 85 (1990): 34–43; Tatum, *The Patrician Tribune: Publius Clodius Pulcher* (Chapel Hill, NC, and London: University of North Carolina Press, 1999), 133–5. For this interpretation of the law see Clemente, "I censori e il senato."

19. Jochen Bleicken, *Lex publica: Gesetz und Recht in der römischen Republik* (Berlin and New York: De Gruyter, 1975), 387–93; and Arena, "Informal Norms, Values, and Social Control."
20. On the Gracchan law see Michael H. Crawford, ed., *Roman Statutes* (London: Institute of Classical Studies, 1996), I, 67, 87 and 100. On the *lex Cassia*: Asc., 78C = Asconius, *Orationum Ciceronis quinque enarratio*, ed. Lewis.
21. On these preventive measures see Rosillo López, *La corruption*, 107–14.
22. On the connection between *ambitus*, *repetundarum* and sumptuary legislation see Lorenzo Fascione, *Crimen e quaestio ambitus nell'età repubblicana* (Milan: A. Giuffrè, 1984); and Rafael Chenoll Alfaro, *Soborno y elecciones en la Republica Romana* (Málaga: Universidad de Málaga, 1984). On sumptuary laws see more recently Emanuela Zanda, *Fighting Hydra-Like Luxury. Sumptuary Regulation in the Roman Republic* (Bristol: Bristol Classical Press, 2011); on *repentundis* Andrew W. Lintott, "The leges de repetundis and associate measures under the Republic," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Romanistische Abteilung* 98 (1981): 162–212. On *ambitus*, see Jerzy Linderski, "Buying the vote: Electoral Corruption in the Late Republic," *Ancient World* 11 (1985): 87–94, reprinted in *Roman Questions. Selected Papers* (Stuttgart: Franz Steiner Verlag, 1995).
23. For a full list of se measures see Linderski, "Buying the vote", 107–14. On the first *lex de ambitu* (dated to 432 BC): Liv., 4.25.13–4 = Livy, *History of Rome*. Vols. I–XIV, trans. B. O. Foster, Frank Gardner Moore, Evan T. Sage, Alfred C. Schlesinger, index by Russel M. Geer, Loeb Classical Library, 114, 133, 172, 191, 233, 295, 301, 313, 332, 355, 367, 381, 396, 404 (Cambridge, MA: Harvard University Press, 1919–59); Isid. Or., 19.24.6 = *The etymologies of Isidore of Seville*, translated with introduction and notes by S. A. Barney, W. J. Lewis, J. A. Beach, O. Berghof (Cambridge: Cambridge University Press, 2006); on the second, the *lex Poetelia* of 358 BC, Liv., 7.5.12, and cf. 9.6.22 = Livy, *History of Rome*, trans. Foster et al.
24. Contra Erich S. Gruen, *The Last Generation of the Roman Republic* (Berkeley, CA: University of California Press, 1974), 121–61.
25. Linderski, "Buying the vote," 92.
26. Cic. *Brut.*, 106 = Cicero, *Brutus. Orator*, trans. G. L. Hendrickson and H. M. Hubbell, Loeb Classical Library 342 (Cambridge, MA: Harvard University Press, 1939).
27. Dion. Hal., 2.10 ff. = Dionysius of Halicarnassus, *Roman Antiquities,* Vols. I–VII, trans. Earnest Cary, Loeb Classical Library 319, 347, 357, 364, 372, 378 and 388 (Cambridge, MA: Harvard University Press, 1937–50) on the mutual obligations of clients and patrons. On the issue of *clientela* and Roman elections, see the excellent contributions by Peter A. Brunt, "Clientela," in *The Fall of the Roman Republic and Related Essays* (Oxford: Clarendon Press, 1988), 382–442; and Alexander Yakobson, *Elections and Electioneering in Rome. A Study in the Political System of the Late Republic* (Stuttgart: Franz Steiner Verlag, 1999), with also insightful views on the role of anti-bribery laws. See also Valentina Arena, *Libertas and the Practice of Politics in the Late Roman Republic* (Cambridge: Cambridge University Press, 2012), 56–61.
28. Yakobson, *Elections and Electioneering in Rome*, 141. Cf. Cic. *Cluent.*, 75 = Cicero, *Pro Lege Manilia . . . Pro Cluentio*, trans. Grose Hodge. See Andrew W. Lintott, "Electoral

bribery in the Roman Republic," *The Journal of Roman Studies* 80 (1990): 1–16, for a similar view. In Chapters 3 and 4 of his 1999 book *Elections and Electioneering*, Yakobson also shows that citizens of the lower census classes were most likely involved in the voting of the *comitia centuriata*.

29. For the issue of the date see Plut. *Mar.*, 5 = Plutarch, *Lives, Volume V: Agesilaus and Pompey. Pelopidas and Marcellus*, trans. Bernadotte Perrin, Loeb Classical Library 87 (Cambridge, MA: Harvard University Press, 1917).
30. See Michael C. Alexander, "How Many Roman Senators Were Ever Prosecuted?: The Evidence from the Late Republic," *Phoenix* 47 (1993): 238–55, for a statistical analysis. See also Andrew M. Riggsby, *Crime and community in Ciceronian Rome* (Austin, TX: University of Texas Press, 1999), who emphasizes the issue of administrative centralization.
31. Christopher J. Dart, *The Social War, 91 to 88 BCE: A History of the Italian Insurgency against the Roman Republic* (London and New York: Routledge, 2014).
32. Timothy P. Wiseman, "The census in the first century BC," *The Journal of Roman Studies* 59 (1969): 59–75 at 65–6 and 70. On the working of the census more generally, see now Luuk de Ligt, *Peasants, Citizens and Soldiers: Studies in the Demographic History of Roman Italy 225 BC-AD 100* (Cambridge: Cambridge University Press, 2012).
33. For a recent revision of the nature of the wealth of elites in Rome, see Annalisa Marzano, *Roman Villas in Central Italy: a Social and Economic History* (Leiden: Brill, 2007).
34. For a different reading of these laws, see David Daube, *Roman Law. Linguistic, Social and Philosophical Aspects* (Edinburgh: Edinburgh University Press, 1969), 117–28: anti-bribery legislation aimed at protecting those who did not wish to comply with social rules and expectations.
35. On the displacement of impoverished citizens, see Alessandro Launaro, *Peasants and Slaves. The Rural Population of Roman Italy (200 BC to AD 100)* (Cambridge: Cambridge University Press, 2011).
36. Cic. *off.*, 2.21 = Cicero, *On Duties*, trans. Miller. On a similar list at 2.22, see Andrew R. Dyck, *A Commentary on Cicero,* De officiis (Ann Arbor, MI: The University of Michigan, 1996), 387–90.
37. Cic. *off.*, 1.21–2 = Cicero, *On Duties*, trans. Miller; on different forms of liberality, see Cic. *off*, 2.52–8.
38. Cic. *off*, 1.124. Cf. Cic. *Mur.*, 6 = Cicero, *In Catilinam 1–4. Pro Murena. Pro Sulla. Pro Flacco*, trans. C. Macdonald, Loeb Classical Library 324 (Cambridge, MA: Harvard University Press, 1976); Tac. *Agr.*, 9.3 = Tacitus, *Agricola. Germania. Dialogue on Oratory*, trans. M. Hutton and W. Peterson, rev. R. M. Ogilvie, E. H. Warmington and Michael Winterbottom, Loeb Classical Library 35 (Cambridge, MA: Harvard University Press, 1914). On *fides* as an essential attribute of a magistrate, see Gérard Freyburger, *Fides: étude sémantique et religieuse depuis les origines jusqu'à l'époque augustéenne* (Paris: Les Belles Lettres, 1986), 209–12.
39. Cic. *off.*, 2.33–4 = Cicero, *On Duties*, trans. Miller. On *iustitia*, see E. M. Atkins, "'Domina et Regina Virtutum': Justice and Societas in 'De Officiis,'" *Phronesis* 35 (1990): 258–89. Cf. Cic. *off.*, 1.89, on magistrates imparting punishment by virtue of *aequitas* and not *iracundia*.
40. Ter. *Eun.*, 885 and 1039 = Terence, *The Woman of Andros. The Self-Tormentor. The Eunuch*, ed. and trans. John Barsby, Loeb Classical Library 22 (Cambridge, MA: Harvard University Press, 2001); Gell., 5.13.2; 20.1.39–40 = Gellius, *Attic Nights,*

Voll. I–III, trans. J. C. Rolfe, Loeb Classical Library 195, 200 and 212 (Cambridge, MA: Harvard University Press, 1927).

41. Brunt, "Clientela," and Yakobson, *Elections and Electioneering in Rome*, show how elections were not predetermined by this kind of relations.
42. Cic. *off.*, 1.42–60 = Cicero, *On Duties*, trans. Miller. On the distinction between *liberalitas*, and *largitio see* Dyck, *A Commentary on Cicero*, De officiis, 156. Cf.; Cic. *Mur.*, 70–3 = Cicero, *In Catilinam . . . Pro Murena*, trans. Macdonald; Cic. *Planc.*, 44–8 = Cicero, *Pro Archia . . . Pro Plancio*, trans. Watts; Cic. *Att.*, 16.13 = Cicero, *Letters to Atticus, Voll. I-IV*, 16.13, ed. and trans. D. R. Shackleton Bailey, Loeb Classical Library 7, 8, 97 and 491 (Cambridge, MA: Harvard University Press, 1999); Cic. *off.*, 2.52–64 = Cicero, *On Duties*, trans. Miller; *Comm. Pet.*, 5.15–9, 8.30, 11.33–4, 44 = Cicero, *Letters to Quintus and Brutus . . .*, ed. Shackleton Bailey; and *Res Gest.*, 8.5 = Velleius Paterculus, *Compendium of Roman History. Res Gestae Divi Augusti*, trans. Frederick W. Shipley, Loeb Classical Library 152 (Cambridge, MA: Harvard University Press, 1924).
43. Cic. *Att.*, 1.16.13 [SB 16] = Cicero, *Letters to Atticus*, ed. Shackleton Bailey. Lintott, "Electoral Bribery in the Roman Republic," Fascione, *Crimen e quaestio ambitus*, and Jean-Louis Ferrary, "La legislation 'de ambitu', de Sulla à Auguste," in *Ivris vincvla: studi in onore di Mario Talamanca* (Naples: Jovene, 2001), 159–98, all read *tribubus* rather than *tribulibus*, which makes the citizens of one tribe, rather than all tribes, the recipient of the due payment.
44. Although the dispute around the authorship of these *Epistulae* is still on-going, scholarly consensus currently gravitates towards the rejection of Sallust as their author. For a new dissenting voice see Iris Samotta, *Das Vorbild der Vergangenheit. Geschichtsbild und Reformvorschläge bei Cicero und Sallust* (Stuttgart: Franz Steiner, 2009). For a review of the issue, see Federico Santangelo, "Authoritative Forgeries: Late Republican History Re-told in Pseudo-Sallust," *Histos* 6 (2012): 27–51. For the present discussion, the issue is of marginal relevance as the document is here considered for its value as an attestation of Roman anticorruption discourse, which holds true regardless of the issue of authorship.
45. Ps.-Sall. *Ep.*, 2.3.1, 4.5 = Sallust, *Fragments of the Histories. Letters to Caesar*, ed. and trans. John T. Ramsey, Loeb Classical Library 522 (Cambridge, MA: Harvard University Press, 2015).
46. Ps.-Sall. *Ep.*, 2.5.3. On the imprecision of the language adopted by the author see Hugh Last, "On the Sallustian Suasoriae," *The Classical Quarterly* 17 (1923): 87–100.
47. Ps.-Sall. *Ep.*, 2.4.5.
48. Ps.-Sall. *Ep.*, 2.5.3.
49. Ps.-Sall. *Ep.*, 2.10.6.
50. Ps.-Sall. *Ep.*, 2.10.8. On the Pseudo Sallust's political thought, see now Samotta, *Das Vorbild der Vergangenheit*. Specifically on its reform of the *comitia centuriata*, see Valentina Arena, "Roman Reflections on Voting Practices," in *Cultures of Voting in Pre-Modern Europe*, ed. Serena Ferente, Miles Pattenden, Lovro Kunčević (forthcoming).
51. On the notion of *bonum publicum* and *utilitas communis*, see Roberto Scevola, *Utilitas Publica* (Padua: Cedam, 2012), 363–77.
52. It seems a move against the *Lex Aurelia* of 70 BC, which prescribed that the wealthiest members of the three *ordines* had to be enrolled with absolute preference and was only slightly modified by the *lex Pompeia de iudiciis* of 55 BC. On the *lex Aurelia*, see Cic. *Phil.*, 1.20 = Cicero, *Philippics 1–6*, ed. and trans. D. R. Shackleton Bailey, rev. John T. Ramsey and Gesine Manuwald, Loeb Classical Library 189 (Cambridge, MA:

Harvard University Press, 2010); Asc., 67C = Asconius, *Orationum Ciceronis quinque enarratio*, ed. Lewis; *Sch. Bob.*, 91C = *Scholia in Ciceronis Orationes Bobiensia*, ed. Hildebrandt; Liv. *Per.*, 97 = Livy, *History of Rome*, trans. Foster et al.; and Plut. *Pomp.*, 22.3 = Plutarch, *Lives, Volume V*, trans. Perrin. On the *lex Pompeia*, see Cic. *Pis.*, 94 = Cicero, *Pro Milone. In Pisonem. Pro Scauro. Pro Fonteio. Pro Rabirio Postumo. Pro Marcello. Pro Ligario. Pro Rege Deiotaro*, trans. N. H. Watts, Loeb Classical Library 252 (Cambridge, MA: Harvard University Press, 1931); Cic. *Phil.*, 1.8.20 = Cicero, *Philippics 1–6*, ed. Shackleton Bailey; Asc., 16C = Asconius, *Orationum Ciceronis quinque enarratio*, ed. Lewis. Cf.; and Cic. *De orat.*, 1.226 = Cicero, *On the Orator: Books 1–2*, trans. E. W. Sutton, H. Rackham, Loeb Classical Library 348 (Cambridge, MA: Harvard University Press, 1942). For a review of these laws, see Ana Maria Suárez Piñeiro, "Las 'leges iudiciariae' ante la crisis de la República Romana (133-44 a. C.)," *Latomus* 59 (2000): 253–75.

53. Liv., 24.7.12 = Livy, *History of Rome*, trans. Foster et al.; Cic. *Phil.*, 2.82 = Cicero, *Philippics 1–6*, ed. Shackleton Bailey. For a treatment of this reform, see Arena, "Roman Reflections on Voting Practices."
54. On the abrogation of the law and its history throughout the Republic, the most complete treatment is still Claude Nicolet, ""Confusio suffragiorum": A propos d'une réforme électorale de Caius Gracchus," *Mélanges d'archéologie et d'histoire. Antiquité* 71 (1959): 145–210.
55. Lily Ross Taylor, *Roman Voting Assemblies from the Hannibalic War to the Dictatorship of Caesar* (Ann Arbor, MI: University of Michigan Press, 1966), 91. On the *centuria praerogativa* and its role in securing success, see Cic. *Plan.*, 49 = Cicero, *Pro Archia . . . Pro Plancio*, trans. Watts. For its consideration as *omen comitiorum* see Cic. *Div.*, 1.103, 2.83 = Cicero, *On Old Age. On Friendship. On Divination*, trans. W. A. Falconer, Loeb Classical Library 154 (Cambridge, MA: Harvard University Press, 1923); cf. Cic. *Mur.,* 38 = Cicero, *In Catilinam . . . Pro Murena*, trans. Macdonald; on its importance see Cic. *Q. fr.*, 2.14.4 = Cicero, *Letters to Quintus and Brutus . . .*, ed. Shackleton Bailey; and Plut. *Cat. Min.*, 42 = Plutarch, *Lives, Volume VIII: Sertorius and Eumenes. Phocion and Cato the Younger*, trans. Bernadotte Perrin, Loeb Classical Library 100 (Cambridge, MA: Harvard University Press, 1919). Its result was so important that it was at times contested: Liv., 24.9, 26.22, 27.6 = Livy, *History of Rome*, ed. Foster et al., with discussion in Ayalet H. Lushkov, *Magistracy and the Historiography of the Roman Republic. Politics in Prose* (Cambridge: Cambridge University Press, 2015), 115–18. It is not entirely clear in what way C. Gracchus' reform relates to the one perhaps proposed by Sulpicius Rufus in 63 BC: Cic. *Mur.*, 47 = Cicero, *In Catilinam . . . Pro Murena*, trans. Macdonald, on which more recently Dyck, *A Commentary on Cicero,* De officiis.
56. Cf. Cic. *Att.*, 4.15.7 = Cicero, *Letters to Atticus*, ed. Shackleton Bailey. On the value of *dignitas*, see Jean Hellegouarc'h, *Le vocabulaire latin des relations et des partis politiques sous la République* (Paris: Les Belles Lettres, 1963), 388–415; and Viktor Pöschl, *Der Begriff der Würde im antiken Rom und später* (Heidelberg: Carl Winter, 1989).
57. On the sources of the Pseudo Sallust, see M. Chonet, *Les lettres de Salluste à César* (Paris: Les Belles Lettres, 1950), 59 ff.; and Paolo Cugusi, ed., *C. Sallusti Crispi. Epistulae ad Caesarem. Introduzione, testo critico e commento*, Annali delle Facoltà di Lettere, Filosofia e Magistero della Università di Cagliari 31 (Cagliari: Università di Cagliari, 1968), 33–40.
58. Cic. *rep.*, 5.1 = Cicero, *On the Republic*, trans. Keyes: after citing Ennius, Cicero comments that "ancestral morality provided outstanding men, and great men preserved

the morality of old and the institutions of our ancestors. But our own time, having inherited the commonwealth like a wonderful picture that had faded over time, not only has failed to renew its original colours, but has not even taken the trouble to preserve at least its shape and outline."

59. Pol., 18.35.1–2 (with interesting parallels in Liv., 36.6.7 = Livy, *History of Rome*, ed. Foster et al.; Plut. *Cat. mai.*, 19.3 = Plutarch, *Lives, Volume II: Themistocles and Camillus. Aristides and Cato Major. Cimon and Lucullus*, trans. Bernadotte Perrin, Loeb Classical Library 47 (Cambridge, MA: Harvard University Press, 1914), 31.25.3 = Polybius, *The Histories, Vol. I-VI*, trans. Paton. Cf. Pol., 6.56.1–4. Arthur M. Eckstein, *Moral Vision in the Histories of Polybius* (Berkeley, CA: University of California Press, 1995), 70–82 and 194–36; and Frank W. Walbank, "The Idea of Decline in Polybius," in *Niedergang: Studien zu einem geschichtlichen Thema*, ed. S. Koselleck and P. Widmer (Stuttgart: Franz Steiner Verlag, 1980), 41–58, reprinted in F. W. Walbank, *Polybius, Rome and the Hellenistic World* (Cambridge: Cambridge University Press, 2002), 191–211. See also Mary F. Williams, "Polybius on wealth, bribery, and the downfall of constitutions," *The Ancient History Bulletin* 14 (2001): 131–48.
60. Paul, *Sententiae*, in *Iurisprudentia Anteiustiniana*, ed. Seckel and Kübler; Diocletian, C. 12.62.3 = *Codex Iustinianus*, in *Corpus Iuris Civilis*, vol. 2, ed. Paul Krueger, 10th ed. (Berlin: apud Weidmannos, 1929).
61. Crawford, *Roman Statutes*, 93.
62. Riggsby, *Crime and Community*.
63. See, for example, Perelli, *La corruzione a Roma*; and Linderski, "Buying the vote."

CHAPTER 3

1. There is continued disagreement over whether the events in the mid-third century CE should be termed a "crisis." See Christian Witschel, *Krise-Rezession-Stagnation? Der Westen des römischen Reiches im 3. Jahrhundert n. Chr.* (Frankfurt: Clauss, 1999), who emphasizes a slow transition rather than a pan-imperial crisis. Also see Wolf Liebeschuetz, "Was There a Crisis of the Third Century?" in *Crisis and the Roman Empire: Proceedings of the Seventh Workshop of the International Network Impact of Empire (Nijmegen, June 20–4, 2006)*, ed. Olivier Hekster, Gerda de Kleijn and Daniëlle Slootes (Leiden: Brill, 2007), 11–20. For contemporary literary perceptions of a "crisis" in the third century CE, see Géza Alföldy, "The Crisis of the Third Century as Seen By Contemporaries," *Greek, Roman and Byzantine Studies* 15 (1974): 89–111.
2. The modern titling of the period as the "Dominate" is meant to stand in contrast to the prior Principate, since Diocletian began to use the titles of "*dominus et deus*" on his coinage (as Aurelian and Carus had) and to approach rule like that of a Persian or Hellenistic king rather than as a *princeps* in the way that Augustus had fashioned his style of rule.
3. Lactantius, *De mortibus persecutorum* (Turnhout: Brepols, 2010). "*avaritia*."
4. As noted by Christopher Kelly, *Ruling the Later Roman Empire* (Cambridge: Harvard University, 2006), 4. Kelly states that the term "corruption" is itself judgmental and oftentimes simply means an "abuse."
5. Jill Harries, *Law and Empire in Late Antiquity* (Cambridge, UK: Cambridge University Press, 1999), 5.

6. Christopher Kelly, "Emperors, Government, and Bureaucracy," in *The Cambridge Ancient History XIII,* ed. Averil Cameron and Peter Garnsey (Cambridge: Cambridge University Press, 1998), 177.
7. Jill Harries, "Constructing the Judge: Judicial accountability and the culture of criticism in Late Antiquity," in *Constructing Identities in Late Antiquity,* ed. Richard Miles (London: Routledge, 1999), 214–33.
8. William Harris provides a salient reminder that despite the Tetrarchic focus on writing and its evident culture of documentation, this development does not mean there was subsequently a "regular cycle" of paperwork uniformly occurring within the Empire. See William Harris, *Ancient Literacy* (Cambridge: Harvard University Press, 1991), 291.
9. Angelo Segrè, "Studies in the Byzantine Economy: Iugatio and Capitatio," *Traditio* 3 (1945): 101–27; A. H. M. Jones, "Capitatio and Iugatio," *The Journal of Roman Studies* 47 (1957): 88–94.
10. Lact. *De mort. pers.* 23; Sextus Aurelius Victor, *Liber De Caesaribus of Sextus Aurelius Victor* (Liverpool: University of Liverpool, 1994). See especially Hartmut Ziche, "Making Late Roman Taxpayers Pay: Imperial government strategies and practice," in *Violence in Late Antiquity. Perceptions and Practices*, ed. Harold A. Drake (Aldershot: Ashgate, 2006), 127–36.
11. Ziche, "Making Late Roman Taxpayers Pay," 126.
12. Averil Cameron, *The Later Roman Empire, AD 284–430* (Cambridge: Cambridge University Press, 1993), 110. As Dominic Rathbone has argued persuasively, the antecedents of the late Roman colonate lay in part within Egyptian tax-collectivities, rather than being a simple innovation of Diocletian; see Dominic Rathbone, "The Ancient Economy and Graeco-Roman Egypt," in *The Ancient Economy,* ed. Walter Scheidel and Sitta von Reden (New York: Routledge, 2002), 163.
13. Part of the papyrological archive of the Fayum family of Aurelius Isidorus (*P. Cair. Isid.*= Isidorus, Arthur E. R. Boak, and Herbert Chayyim Youtie, *The archive of Aurelius Isidorus in the Egyptian Museum, Cairo, and the University of Michigan* (P. Cair. Isidor.) (Ann Arbor: University of Michigan, 1960).) dates to the early fourth century (314 CE) and is particularly illustrative of this. See, for instance, his petition in his position as a *tesserarius* of Karanis who oversaw the sending of supplies and the collection of taxes for the village, complaining about illegal exactions (*P. Cair. Isid.* 73).
14. *P. Cairo Isid.* 1= *SB*= *Sammelbuch griechischer Urkunden aus Ägypten* 5 (Wiesbaden: Harrassowitz, 1955).: *Ἀρίστιος Ὀ[πτ]ᾶτος ὁ διασημότ[ατ]ος ἔπαρχος Αἰγύπ -του [λέ]γει·: γνόντε[ς οἱ] προνοητικώτατοι Αὐτοκράτορε[ς ἡμῶ]ν Διοκλητι[αν]ὸς καὶ Μαξιμιανὸς οἱ Σεβαστο[ὶ] καὶ Κωνστάντιος καὶ Μαξιμιανὸς οἱ ἐπιφανέστατοι Καί -σαρ[ε]ς....νε.. ὡς ἔτυχεν τὰς ἐπιβολὰς τῶν δημοσίων εἰσφορῶν γίγνεσθαι ὥς τινας μὲν κου[φ]ίζεσθ[α]ι ἄλλους δὲ βαρῖσθαι(*), τὴν κακίστην ταύτην καὶ ὀλέθριον συνήθειαν ἐκκόψαι ὑπὲρ τοῦ [συμ]φέροντος τῶν ἑαυτῶν ἐπαρχειωτῶν(*) τύπον τε σωτήριον δοῦναι καθ' ὃν δέοι τὰς εἰ[σφο]ρὰς γίγνεσθαι κατηξίωσαν . . . ἀ[ν]αμιμν[ήσ]κονται δὲ καὶ οἱ πρακτῆρες ἑκάστου εἴδους πάσῃ δυνάμι(*) παραφυλάττειν· [εἰ] γάρ τις παραβὰς ὀφθείη κεφαλῇ κινδυνεύσι(*) . . .* (trans. Allan Chester Johnson, F. C. Bourne, Clyde Pharr and P. R. Coleman-Norton, *Ancient Roman statutes: a translation with introduction, commentary, glossary, and index* (Austin: University of Texas, 1961).
15. Lact. *De mort. pers*. 23.2.
16. Juvenal, and A. E. Housman, *D. Iunii Iuvenalis Saturae* (Cantabrigiae: Typis Academiae, 1938).
17. Harries' critique of the influential corruption model proposed by MacMullen is evident in her earlier review of his book; see Jill Harries, "Corruption and the Decline of Rome by Ramsay MacMullen," *The International History Review* 11.2 (May, 1989): 320–2.

For the culture of knowledge organization and the archival "aesthetic" that developed in Late Antiquity, see Scott F. Johnson, *Literary Territories: Cartographical Thinking in Late Antiquity* (Oxford: Oxford University Press, 2016), 11–12.

18. Neither codex survives today, apart from a few parchment pieces within the *Fragmenta Londiniensia Anteiustiniana*. The codes were formed by a private initiative, but may have been influenced by Diocletian and are largely pieced together from later late antique legal works such as the *Justinianic Code*. See Simon Corcoran, "The *Gregorianus* and *Hermogenianus* Assembled and Shattered," *Mélanges de l'École française de Rome—Antiquité* 125 (2013): 285–304.
19. As Ramsay MacMullen notes, "Certainly the ambition to plan their world possessed the Tetrarchs" (*Corruption and the Decline of Rome*, 170).
20. The first statute on *repetundae* or *pecuniae repetundae* seems to be the *lex Calpurnia* proposed by the tribune Lucius Calpurnius Piso in 149 BCE.
21. *The Theodosian code and novels, and the Sirmondian constitutions*, trans. Clyde Pharr, Theresa Sherrer Davidson and Mary Brown Pharr (Union, N.J.: Lawbook Exchange, 2001).; Justinian, Institutiones Justiniani.
22. *The Theodosian Code*, trans. Clyde Pharr.
23. Ulpian, *The Digest of Justinian*, trans. Alan Watson (Philadelphia: University of Pennsylvania, 1998). Although there is uncertainty as to whether this is a law of Julius Caesar or Augustus, it appears to be a legislative product of the Augustan era.
24. *CTh*. 9.10.1. Property confiscation and the stigma of *infamia* were the suggested penalties under the law (cf. *Dig*. 48.7). See Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015), 197.
25. *Dig*. 48.13.1–14. According to the jurist Ulpian (*Dig*. 48.13.3), the original penalty for *peculatus* had been a type of banishment called "interdiction of water and fire" but was by his time (the late second to early third century CE), downgraded to deportation. The jurist also notes that convicts lost both their rights and their property.
26. =*Codex Justinianus*. 9.28.1. The law dates to 415 CE, but cites the Julian law on *peculatus* as precedent (cf. *CJ*. 10.6.1–2). Also note Justinian's later take on it. Just. *Inst*. 4.18.9.
27. See Sarah E. Bond, *Trade and Taboo: Disreputable Professions in the Roman Mediterranean* (Ann Arbor: University of Michigan Press, 2016), 21–58.
28. *CTh.* 1.16.7.
29. Julia Hillner, e-mail message to author (January 13, 2017). Those without status, such as *infames* and slaves, had been the ones previously viewed as vulnerable to this type of corporal punishment. To have it inflicted on judges was a rather shocking development.
30. *CJ*. 12.61.4: "*Curialibus et navicullariis omnibusque corporibus ita subveniri volumus, ut nihil apparitoribus universorum iudicum liceat, quod ad praedam provinciarum pertinet.*" In the later Roman Empire, a *iudex* meant any imperial official with any power (e.g. *CJ* 1.45.2 is a decree that refers to the provincial governor as an *iudex*). See Bond, *Trade and Taboo*, 54.
31. Tertullian, *De Fuga in Persecutione*. See Gianfranco Purpura, "I curiosi e la schola agentum in rebus," *Annali de Seminario Annali del Seminario Giuridico dell' università di Palermo* 34 (1973): 165–275. Christopher Fuhrmann, *Policing the Roman Empire: Soldiers, Administration, and Public Order* (Oxford: Oxford University Press, 2012), 221. The *curiosi* referred to by Tertullian are likely *frumentarii*, but this cannot be guaranteed.
32. *The Scriptores Historiae Augustae*, trans. David Magie (Cambridge, Mass: Harvard University, 1921).
33. Aur. Vict. *De caes.* 39.44. "*Neque minore studio pacis officia vincta legibus aequissimis ac remoto pestilenti frumentariorum genere, quorum nunc agentes rerum simillimi sunt.*" Victor was a consular governor of Pannonia Secunda and later served the prestigious post of urban prefect of Rome in 388/9 CE.

34. *CTh*. 6.35.3. Christopher Kelly, "Bureaucracy and Government," in *The Cambridge Companion to the Age of Constantine,* ed. Noel E. Lenski (Cambridge: Cambridge University Press, rev. 2012), 188. For the numerous collected laws pertaining to the *agentes in rebus,* see *CTh*. 6.27 and *CJ* 12.20.
35. For the *cursus publicus*, see Anne Kolb, *Transport und Nachrichtentransfer im Römischen Reich* (Berlin: Akademie Verlag, 2000).
36. *CJ* 12.20.4.
37. *CTh.* 6.27.5.
38. Kelly, *Ruling the Later Roman Empire,* 206.
39. *CTh.* 6.29.1.
40. Libanius, *Selected Works: in two volumes. 1, the Julianic orations*, trans. Albert F. Norman, Loeb Classical Library 451 (Cambridge, Mass: Harvard University, 1987). "*. . . ὥσθ' οἱ κωλυταὶ τῶν ἀδικημάτων αὐτοὶ τοὺς ἀδικοῦντας ἔσωζον κυσὶν ἐοικότες συμπράττουσι τοῖς λύκοις. διὰ ταῦτα ἴσον ἦν θησαυρῷ τε ἐντυχεῖν καὶ τούτων μετασχεῖν τῶν μετάλλων. ὁ γὰρ ἥκων Ἶρος ἐν βραχεῖ χρόνῳ Καλλίας*." Also note earlier mentions in Lib. *Or.* 135–6. trans. Norman.
41. Raymond Van Dam provided this estimate based on demographic estimates originally made by Bruce Frier for the early Principate; see Raymond Van Dam, "Bishops and Clerics During the Fourth Century: Numbers and their implications," in *Episcopal Elections in Late Antiquity,* ed. Johan Leemans, Peter Van Nuffelen, Shawn W. J. Keough and Carla Nicolaye (Boston: De Gruyter, 2011), 227–9. See Bruce W. Frier, "Demography," in *The Cambridge Ancient History, Volume XI,* ed. Alan K. Bowman, Peter Garnsey, and Dominic Rathbone (Cambridge: Cambridge University Press, 2000), 811–16.
42. *CTh.* 6.27.23.
43. The emperor Septimius Severus' last words as reported by the historian Dio Cassius were: "Be harmonious, pay the soldiers, and scorn all other men" (77.15.2).
44. Jean Lafaurie, "Réformes monétaires d'Aurélien et de Dioclétien," *Revue Numismatique* 6.17 (1975): 73–138; Kenneth W. Harl, "Marks of Value on Tetrarchic Nummi and Diocletian's Monetary Policy," *Phoenix* 39.3 (1985): 263–70 and *Coinage in the Roman Economy*, *300 B.C. to A.D. 700* (Baltimore: Johns Hopkins University Press, 1996), 149–50.
45. Miriam J. Groen-Vallinga and Laurens E. Tacoma, "The Value of Labour: Diocletian's Price Edict," in *Work, Labour, and Professions in the Roman World,* ed. Koenraad Verboven and Christian Laes (Leiden: Brill, 2016), 123.
46. Simon Corcoran, *The Empire of the Tetrarchs: Imperial Pronouncements and Government, AD 284–324* (Oxford: Clarendon, rev. 2000), 205–33.
47. Jinyu Liu, *Collegia Centonariorum: The Guilds of Textile Dealers in the Roman West* (Leiden: Brill, 2009), 118. Simon James, "The *Fabricae*: State arms factories of the later Roman Empire," in *Military Equipment and the Identity of Roman Soldiers,* ed. J. C. Coulston (Oxford: BAR, 1988), 257–331.
48. For the *monetarii* that worked within the mint, see Sarah E. Bond, "Currency and Control: Mint workers in the later Roman Empire," in *Work, Labour, and Professions in the Roman World,* ed. Koenraad Verboven and Christian Laes (Leiden: Brill, 2016), 227–45.
49. Free-born women who married weavers became bound to the lowly condition of their husbands in *CTh.* 10.20.3= *CJ* 11.8.3 (365 CE). Purple dye makers were denied civic honors and confined to lowly status in *CTh.* 10.20.14= *CJ* 11.8.11 (424), *CTh.* 10.20.17= *CJ* 11.8.15 (427).

50. *CTh.* 14.4.2. For the *collegium suariorum* outside the law codes, see *Corpus inscriptionum Latinarum*. Vol. 6 : *Inscriptiones urbis Romae Latinae*, ed. Theodor Mommsen (Berolini: Reimer, 1876). Book XIV of the *Theodosian Code* is predominated by the laws concerning compulsory *collegia.*
51. S. J. B. Barnish, "Pigs, Plebeians and Potentes: Rome's Economic Hinterland, C. 350–600 A.D.," *Papers of the British School at Rome* 55 (1987): 157–85.
52. *CTh.* 14.4.
53. See A. H. M. Jones, "The Caste System in the Later Roman Empire," *Eirene* 8 (1970): 79–96; For a counter to this argument see Alexander Skinner, "Political Mobility in the Later Roman Empire," *Past & Present* 218 (2013): 17–53.
54. *CTh.* 9.45.3.
55. *CTh.* 9.27.3=*CJ* 9.27.1: *Idem aaa. Matroniano duci et praesidi Sardiniae. Ut unius poena metus possit esse multorum, natalem quondam ducem sub custodia protectorum ad provinciam quam nudaverat ire praecipimus . . . in quadruplum invitus exsolvat.* See Daniëlle Slootjes, *The Governor and His Subjects in the Later Roman Empire* (Leiden: Brill, 2006), 65.
56. Siegfried Lauffer, Diokletians Preisedikt, Texte und Kommentare 4 (Berlin: De Gruyter, 1971) 93, Praef.10: " . . . *Quis enim adeo obtumsi pectoris et a sensu humanitatis extorris/est, qui ignorare possit, immo non senserit in venalibus rebus, quae/ vel in mercimoniis aguntur vel diurna urbium conversatione trac/tantur, in tantum se licentiam difusisse pretiorum, ut effrenata/ livido rapiendi nec rerum copia nec annorum ubertatibus mitigaretur*? . . . " See Elsa Rose Graser, "Appendix: The Edict of Diocletian on Maximum Prices," in *An Economic Survey of Ancient Rome V: Rome and Italy of the Empire*, ed. Tenney Frank (Baltimore: Johns Hopkins University Press, 1940), 305–421.
57. On venality in the late Empire, see Paul Veyne, "Clientèle et corruption au service de l'État: la vénalité des offices dans le Bas-Empire romain," *Annales ESC* 36.3 (1981): 339–60.
58. Ramsay MacMullen, *Corruption and the Decline of Rome* (New Haven: Yale University Press, 1988), 122–48. Also note Kelly, *Ruling the Later Roman Empire,* 138–85.
59. During the late Roman Republic, there had been a focused effort to identify and remedy the corruption engaged in by provincial governors through the use of law (e.g. the *lex Sempronia de provinciis consularibus* of 123 or 122 BCE). Tried by Cicero in 70 BCE, Verres is perhaps the most infamous example of the rapacious governor, but such practices continued into the Empire, as seen in the writings of Pliny the Younger. See P. A. Brunt, "Charges of Provincial Maladministration Under the Early Principate," *Historia* 10 (1961): 189–227; Rex Winsbury, *Pliny the Younger: A Life in Roman Letters* (London: Bloomsbury, 2014), 73–90.
60. MacMullen, *Corruption and the Decline of Rome*, 1988.
61. For critiques, see Christopher Kelly, "Emperors, Government, and Bureaucracy," in *Cambridge Ancient History XIII,* ed. Averil Cameron and Peter Garnsey (Cambridge: Cambridge University Press, 1998), 175–80; Jill Harries, *Law and Empire in Late Antiquity*, 5; Sean Lafferty, "The Law," *A Companion to Ostrogothic Italy*, ed. Jonathan J. Arnold, Shane Bjornlie, and Kristina Sessa (Leiden: Brill, 2016), 164.
62. Jill Harries, "Constructing the Judge," 221.

CHAPTER 4

1. On the theory of good governance, see, for example: Leonard Binder, "Al-Ghazālī's Theory of Islamic Government," *The Muslim World* 45 (1955): 229–41; Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge:

Cambridge University Press, 2001); Patricia Crone, *God's Rule. Government and Islam. Six centuries of Medieval Islamic Political Thought* (New York: Columbia University Press, 2004); Linda T. Darling, *A History of Social Justice and Political Power in the Middle East: The Circle of Justice from Mesopotamia to Globalization* (London and New York: Routledge, 2013); Paul Heck, *The Construction of Knowledge in Islamic Civilization. Qudāma b. Ja'far and his* Kitāb al-Kharāj wa-Ṣinā'at al-Kitāba (Leiden: Brill, 2002); Ann Lambton, "Justice in the Medieval Persian Theory of Kingship," *Studia Islamica* 17 (1962): 91–119; Ann Lambton, *State and Government in Medieval Islam* (Oxford and New York: Oxford University Press, 1981); Louise Marlow, *Hierarchy and Egalitarianism in Islamic Thought* (Cambridge: Cambridge University Press, 1997); Louise Marlow, "Advice and Advice Literature," in *Encyclopaedia of Islam* III, ed. Kate Fleet et al.; Franz Rosenthal, "Gifts and Bribes: The Muslim View," *Proceedings of the American Philosophical Society* 108 (1964): 135–44; Emile Tyan, *Histoire de l'organisation judiciaire en pays d'Islam*, 2 vols. (Paris: Sirey, 1938–1943). There are no specialized studies on anticorruption measures, but there are studies on specific institutions that dealt with corrupt practices. See for example: Henry Frederick Amedroz, "The Maẓālim Jurisdiction in the Aḥkam Sulṭaniyya of Mawardi," *Journal of the Royal Asiatic Society* (1911): 635–74; Maaike van Berkel, "Embezzlement and Reimbursement: Disciplining Officials in 'Abbāsid Baghdad (8th–10th centuries A.D.)'," *International Journal of Public Administration* 34 (2011): 712–19; Maaike van Berkel, "Abbasid *Mazālim* between Theory and Practice," *Bulletin des d'études orientales* 63 (2015): 229–42; Albrecht Fues, "*Ẓulm* by *Maẓālim*? About the Political Implications of the Use of *Maẓālim* Jurisdiction by the Mamluk Sultans," *Mamluk Studies Review* 13 (2009): 121–47; Geoffrey Khan, "The Historical Development of the Structure of Medieval Arabic Petitions," *Bulletin of the School of Oriental and African Studies* (1990): 8–30; Bernadette Martel-Thoumian, *Les civils et l'administration dans l'état militaire Mamlūk (IXe/XVe siècle)* (Damascus: Institut français de Damas, 1991); Jørgen Nielsen, *Secular Justice in an Islamic State:* Maẓālim *under Bahrī Mamlūks 662/1264–789/1387* (Istanbul: Nederlands Historisch-Archeologisch Instituut, 1985); Nasser O. Rabbat, "The Ideological Significance of the Dār al-'Adl in the Medieval Islamic Orient," *International Journal of Middle East Studies* 27 (1995): 3–28; Lucian Reinfandt, "Local Judicial Authorities in Umayyad Egypt (41–132/661–750)," *Bulletin des d'études orientales* 63 (2015): 127–46.

2. On the functioning of the archives of Baghdad, see Maaike van Berkel, "Reconstructing Archival Practices in Abbasid Baghdad," *Journal of Abbasid Studies* 1 (2014): 7–22.
3. Lists of scribes from the time of Muḥammad onwards are found in narrative sources, especially in chancery manuals. See, for example, 'Abdallāh al-Baghdādī, *Kitāb al-kuttāb*, in Dominique Sourdel, "Le 'Livre des secrétaires' de 'Abd Allāh al-Baghdādī," *Bulletin d'études orientales* 14 (1952–54): 138–41; Ibn 'Abd Rabbih, *al-'Iqd al-farīd*, ed. Mufīd Muḥammad Qamīḥa, 3rd ed., 9 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1987), 4:246–52; Al-Qalqashandī, *ṣubḥ al-a'shā fī Ṣinā'at al-inshā'*, ed. Muḥammad Ḥusayn Shams al-Dīn (Beirut: Dār al-Fikr, 1987), 1:125–7.
4. Al-Jahshiyārī, *Kitāb al-wuzarā' wa-l-kuttāb*, ed. Muṣṭafā al-Saqqā, Ibrāhīm al-Ibyārī, and 'Abd al-Ḥafīẓ Shalabī (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1938; repr. 1980), 16.
5. See, for example, the classification by Qudāma b. Ja'far (d. 948) in his "Book of the Land Tax and Craft of Writing". Qudāma's classification is the first systematic account of the administrative structure. Recent research has demonstrated that Qudāma was also the first author within the administrative genre to arrange his material on bureaucratic

practice according to impersonal, organisational criteria, viz. the administrative bureaus (*dīwāns*), their tasks and their written records, rather than according to the person of the scribe and the skills required of him. Qudāma did not intend to register changes in administrative practices, but his list provides an extraordinarily clear insight into the various areas of administrative writing of his time and the extent of the specializations within these areas. Qudāma b. Ja'far, *Kitāb al-kharāj wa-ṣinā'at al-kitāba*, ed. Muḥammad Ḥusayn al-Zubaydī (Baghdad: Dār al-Rashīd lil-Nashr, 1981). For a thorough analysis of Qudāma's work, see Heck, *Construction of Knowledge*, 26–93.

6. Al-Khwārizmī, *Mafātiḥ al-'ulūm*, ed. Jawdat Fakhr al-Dīn (Beirut: Dār al-Manāhil, 1991), 84; Qudāma b. Ja'far, *al-Kharāj*, 37–8; Ibn Wahb, *al-Burhān fī wujūh al-bayān*, ed. Aḥmad Maṭlūb and Khadīja al-Ḥadīthī (Baghdad: Jāmi'at Baghdād, 1967), 315–51.
7. See, for example, Miskawayh, *Kitāb tajārib al-umam*, ed. Henry Frederick Amedroz and David Samuel Margoliouth, trans. David Samuel Margoliouth, 4 vols. (Oxford: Basil Blackwel, 1920–21), 1:119, 140, 152, 226; al-Tanūkhī, *Nishwār al-muḥāḍara wa-akhbār al-mudhākara*, ed. 'Abbūd al-Shājī, 8 vols. (Beirut: Dār al-Ṣādir, 1971–73), 8:54–5. See also, Maaike van Berkel, "Accountants and Men of Letters. Status and Position of Civil Servants in Early Tenth Century Baghdad" (PhD diss., University of Amsterdam, 2003).
8. On the Buyids, also called Buwayhids, see John J. Donohue, *The Buwayhid Dynasty in Iraq 334H./945 to 403H./1012. Shaping Institutions for the Future* (Leiden and Boston: Brill, 2003).
9. See on the *iqṭā'* and its dissimilarities from the European fief, Claude Cahen, "'Iḳṭā'," in *Encyclopaedia of Islam II*, 12 vols. (Leiden: Brill, 1991), 3:1088–91.
10. Miskawayh, *Tajārib*, 2:96.
11. Miskawayh, *Tajārib*, 2:96.
12. Donohue, *Buwayhid Dynasty*, 162.
13. Nizām al-Mulk, *The Book of Government or Rules for Kings. The Siyar al-muluk* or *Siyasat-nama of Nizam al-Mulk*, trans. Hubert Darke (London and New York: Routledge, 2002), 63–4.
14. Bernard Lewis, "Ẓulm," in *Encyclopaedia of Islam II*, 12 vols. (Leiden: Brill, 2002), 11:567–9.
15. *Rashwa* was also vocalized as *rishwa* and *rushwa*. Another term used for bribes is *marāfiq*, sing. *marfiq*.
16. For the location of this *ḥadīth*, see A. J. Wensinck et al., eds., *Concordance et indices de la tradition musulmane*, 8 vols. in 4 (Leiden: Brill, 1936–88), 2:262a. The go-between is only occasionally included (Rosenthal, "Gifts and Bribes," 135, n. 4).
17. Miskawayh, *Tajārib*, 1:28.
18. Miskawayh, *Tajārib*, 1:27.
19. Miskawayh, *Tajārib*, 1:27.
20. Miskawayh, *Tajārib*, 1:27. The translation of this quotation is by Amedroz and D. Margoliouth with minor adjustments in wording and transliteration.
21. Nizām al-Mulk, *The Book of Government*, 32. The translation of this quotation is by Hubert Darke with minor adjustments in wording and transliteration.
22. Hilāl Al-Ṣābiʾ, *Tuḥfat al-umarā' fī ta' rīkh al-wuzarā'*, ed. Henry Frederick Amedroz (Beirut: n.p., 1904), 117.
23. Miskawayh, *Tajārib*, 1:104, 138–9.
24. Miskawayh, *Tajārib*, 1:142.
25. See, for example, Miskawayh, *Tajārib*, 1:13.
26. Ann Lambton, "The Internal Structure of the Saljuq Empire," in *The Cambridge History of Iran*, ed. J.A. Boyle, vol. 5 (Cambridge: Cambridge University Press, 1968), 203–82 at 223.

27. For a detailed reconstruction of *maẓālim* practices under the Abbasids. See, van Berkel, "Abbāsid *Maẓālim*."
28. al-Ṣābiʾ, *al-Wuzarāʾ*, 107.
29. Al-Māwardī, *al-Aḥkām al-sulṭāniyya* (Beirut: Dār al-Kutub al-ʿIlmiyya, [ca. 1980]) 97–119. See also Amedroz, "The Maẓālim Jurisdiction"; and Darling, *A History of Social Justice*, 79–80.
30. Donohue, *Buwayhid Dynasty*, 143 and n. 73.
31. Darling, *A History of Social Justice*, 89.
32. Nizām al-Mulk, *The Book of Government*, 13–14. The translation of this quotation is by Hubert Darke with minor adjustments in wording and transliteration.
33. Heribert Horst, *Die Staatsverwaltung der Grosselǧūqen und Ḫōrazmšāhs (1038–1231). Eine Untersuchung nach Urkundenformularen der Zeit* (Wiesbaden: Franz Steiner Verlag, 1964), 92–3; Lambton, "The Internal Structure of the Saljuq Empire," 227–8; Darling, *A History of Social Justice*, 94–5.
34. For the first half of the twelfth century the model documents from administrative manuals (especially *ʿAtabat al-kataba*) could be very useful. See, for example, Horst, *Die Staatsverwaltung der Grosselǧūqen*, who translated some of these documents. See also Ann Lambton, "The Administration of Sanjar's Empire as Illustrated in the ʿAtabat al-Kataba'," *Bulletin of the School of Oriental and African Studies* 20 (1957): 367–88.
35. Frede Løkkegaard, *Islamic Taxation in the Classical Period* (Copenhagen: Brahner & Korch, 1950), 162.
36. For a detailed description of these procedures, see Maaike van Berkel, "The Vizier and the Harem Stewardess. Mediation in a Discharge Case at the Court of Caliph al-Muqtadir," in *Abbāsid Studies: Occasional Papers of the School of Abbāsid Studies*, ed J. Nawas (Leuven: Peeters, 2010), 303–18.
37. Miskawayh, *Tajārib*, 1:239.
38. Alfred F. von Kremer, *Ueber das Einnahmebudget des Abbasiden-Reiches* (Vienna: C. Gerold's sohn, 1887), 38. See also al-Ṣābiʾ, *al-Wuzarāʾ*, 21–7.
39. For the Buyids, see Miskawayh, *Tajārib*, 2:185–6 and Donohue, *Buwayhid Dynasty*, 138 and n. 44; For the Seljuqs, see Lambton, "The Internal Structure of the Saljuq Empire," 250–1.
40. For the Buyids, see, for example, Miskawayh, *Tajārib*, 2:287–9.
41. Lambton, *Seljuq Empire*, 251–2.
42. Løkkegaard, *Islamic Taxation*, 148–9.
43. See, for example, Qudāma, *Kharāj*, 55, Miskwayh, *Tajārib*, 1:5–6, 57, 152, 226–7, 244; and al-Ṣābiʾ, *al-Wuzarāʾ*, 66, 181–4, 261, 271, 353.
44. Al-Ṣābiʾ, *al-Wuzarāʾ*, 182–4.
45. Miskwayh, *Tajārib*, 2:266.
46. See, for example, Miskwayh, *Tajārib*, 1:141.
47. Muḥammad b. ʿAbd al-Khāliq al-Mayhanī, in Lambton, "The Internal Structure of the Saljuq Empire," 258–9.

CHAPTER 5

1. *Recueil des historiens des Gaules et de la France. Tome XXIV: Les enquêtes administratives du règne de saint Louis et la Chronique de l'Anonyme de Béthune*, ed. Léopold Delisle (Paris: Imprimerie nationale, 1904), 327 (223).
2. Philippe de Beaumanoir, *Coutumes de Beauvaisis*, ed. Amédée Salmon, 2 vols. (Paris: A. Picard et fils, 1899–1900), 2:144–5.

3. Beaumanoir, *Coutumes*, 2:145.
4. *Ordonnances des rois de France de la troisième race*, ed. E. Laurière et al., 21 vols. (Paris: Imprimerie nationale, 1723–1849), 1:68–9 [henceforth *ORF*].
5. Gerald Harriss, "Political Society and the Growth of Government in Late Medieval England," *Past & Present* 138 (1993): 28–57.
6. John Watts, *The Making of Polities. Europe, 1300–1500* (Cambridge: Cambridge University Press, 2009).
7. On the development in the twelfth and thirteenth centuries of an ethics of office based on accountability, see John Sabapathy, *Officers and Accountability in Medieval England 1170–1300* (Oxford: Oxford University Press, 2014); Frédérique Lachaud, *L'Éthique du pouvoir au Moyen Âge. L'office dans la culture politique (Angleterre, vers 1150-vers 1330)* (Paris: Garnier, 2010).
8. *Actes du Parlement de Paris. Première série: de l'an 1254 à l'an 1328*, ed. E. Boutaric (Paris: Plon, 1863–7), no. 6605.
9. English examples: *Statutes of the Realm*, ed. A. Luders et al., 11 vols. (London: Record Commission, 1810–28), 2:589 (1495), 654 (1503–4) [henceforth *SR*], in this context; *Year Books* (Vulgate) (8 Hen. VI) 12 (no. 30) [henceforth *YB*]; *YB* (14 Hen. VII) 29–31 (no. 4) (1499). I could not find examples of the use of the word corruption in Portuguese sources for the period 1250–1500.
10. See Chapter 6 by John Watts for a fuller description of forms of corruption in later medieval England.
11. *Ordenações Afonsinas,* 5 vols. (Lisbon: Fundação Calouste Gulbenkian, 1984), 5:119 [henceforth *OA*].
12. Watts, *The Making of Polities*, 68–98.
13. E.g. France: *ORF* 1:68–69, 364–65, 3:388, 4:412, 6:443, 7:708, 12:164–65, 187–88, 14:305; *L'Ordonnance cabochienne (26–27 mai 1413)*, ed. Alfred Coville (Paris: A. Picard, 1891), 100–1, 146–9 [henceforth *OC*]. England: R. F. Treharne and I. J. Sanders, eds., *Documents of the Baronial Movement of Reform and Rebellion, 1258–1267* (Oxford: Oxford University Press, 1973), 106–9; *SR* 1:304, 2:37, 229. Portugal: *Livro das Leis e Posturas* (Lisbon: Universidade de Lisboa/Faculdade de Direito, 1971), 184–5, 215, 437–9 [henceforth *LLP*]; *Ordenações Del-Rei Dom Duarte*, ed. Martim de Albuquerque and Eduardo Borges Nunes (Lisbon: Fundação Calouste Gulbenkian, 1988), 191 [henceforth *ODD*]; *OA* 1:138–9, 2:314, 4:217; *Chancelaria de D. Pedro I (1357–1367)*, ed. A. H. de Oliveira Marques (Lisbon: INIC, 1984), 203–4 (505).
14. E.g. England: *SR* 1:139–40, 283, 346, 389, 2:4, 77, 171, 333. France: *ORF* 1:359–63, 3:389, 6:89, 302–5, 7:240–1, 12:166; *OC* 102–3. Portugal: *ODD* 366; *OA* 1:116–50, 3:448–51; Arquivo Nacional da Torre do Tombo [henceforth ANTT], Chancelaria de D. Afonso III, liv. 3, fol. 119r. *Chancelaria de D. Pedro I*, 344–7.
15. E.g. England: *SR* 1:69, 197–98, 272, 352. France: *ORF* 1:703–6, 713, 2:281–2, 3:389, 437, 4:131–2, 411, 7:240–2, 256–64, 12:44–5. Portugal: *LLP* 63–70; *ODD* 365, 465, 478, 496; *Chancelarias Portuguesas: D. Afonso IV (1340–1344). Volume III*, ed. A. H. de Oliveira Marques and Teresa Ferreira Rodrigues (Lisbon: INIC, 1992), 219–20, 266, 316–17.
16. *SR* 1:49; *ORF* 1:71, 713–14, 4:411–12, 7:256–64, 14:308–9; *OA* 4:216–18; *Cortes Portuguesas: Reinado de D. Afonso IV (1325–1357)*, ed. A. H. de Oliveira Marques and Nuno José Pizarro Dias (Lisbon: INIC, 1982), 81–2 (70); *Cortes Portuguesas: Reinado de D. Fernando I (1367–1383). Volume I*, ed. A. H. de Oliveira Marques and Nuno José Pizarro Dias (Lisbon: INIC, 1990), 26; Armindo de Sousa, *As cortes de Leiria-Santarém de 1433* (Porto: Centro de História da Universidade do Porto, 1982), 123.

17. See Gérard Sivéry, "La rémunération des agents des rois de France," *Revue historique de droit français et étranger* 58 (1980): 587–607.
18. *ORF* 1:75.
19. *ORF* 12:449–50.
20. *ORF* 12:166.
21. See Chapter 7 by Guy Geltner, but also Chapter 4 by Maaike van Berkel.
22. *OA* 1:149, 150–4.
23. Philippe de Mézières, *Le Songe du Vieil Pelerin*, ed. G. W. Coopland, 2 vols. (Cambridge: Cambridge University Press, 1969), 2:57–8, 339–41.
24. *ORF* 12:187, 210–11; *OA* 5:365–6; *OA* 1:43–7.
25. *ORF* 1:359, 581–2, 591, 2:394–5, 3:681.
26. F. W. Maitland, *The Constitutional History of England* (Cambridge: Cambridge University Press, 1919), 20–2.
27. Caroline Burt, *Edward I and the Governance of England, 1272–1307* (Cambridge: Cambridge University Press, 2013), 85–6.
28. Romain Telliez, "*Per potentiam officii"—Les officiers devant la justice dans le Royaume de France au XIV^e siècle* (Paris: Honoré Champion, 2005), 173–207, 403–10.
29. Claude Gauvard, "Ordonnance de réforme et pouvoir législatif en France au XIV^e siècle (1303–1413)," in *Renaissance du pouvoir législatif et genèse de l'Etat*, ed. André Gouron and Albert Rigaudière (Montpellier: Société d'histoire du droit et des institutions des anciens pays de droit écrit, 1988), 89–98.
30. John R. L. Maddicott, *Law and Lordship: Royal Justices as Retainers in Thirteenth- and Fourteenth-Century England*, Past & Present Supplement 4 (Oxford: Past & Present Society, 1978); W. Mark Ormrod, "The Peasants' Revolt and the Government of England," *Journal of British Studies* 29 (1990): 1–30.
31. *SR* 1:261–2, 2:58, 62–3, 146, 187, 140–1, 578–79; *The Parliament Rolls of Medieval England*, ed. Chris Given-Wilson et al., 16 vols. (Woodbridge: Boydell Press, 2005), 4:197–8, 5:264, 327, 7:73–4, 11:298–9.
32. *SR* 2:55, 77, 88, 142, 149–50, 162, 168, 228, 288.
33. *ODD* 190–3, 285–93, 304, 310–15; *LLP* 52–7, 63–70, 79,184–5, 215.
34. *LLP* 327–8; *ODD* 351–2, 469–75, 478–9, 481–9, 540–2; *OA* 2:312–15, 317–29, 3:380–1, 5:289; ANTT, Chancelaria de D. João I, liv. 5, fols. 5v, 50v–52r.
35. *OA* 1:155–64, 405–21, 422–66, 473–520; Sousa, *As cortes*, 121 (29)—cf. *OA* 1:436.
36. "The Dimensions of Politics," in *The McFarlane Legacy: Studies in Late Medieval Politics and Society*, ed. R. H. Britnell and A. J. Pollard (Stroud: A. Sutton, 1995), 1–20 at 2.
37. John R. Maddicott, "Edward I and the Lessons of Baronial Reform: Local Government, 1258–80," in *Thirteenth-Century England I: Proceedings of the Newcastle upon Tyne Conference, 1985*, ed. Peter R. Coss and Simon D. Lloyd (Woodbridge: Boydell Press, 1986), 1–30; Burt, *Edward I*, 83–146.
38. William Chester Jordan, *Louis IX and the Challenge of the Crusade: A Study in Rulership* (Princeton, NJ: Princeton University Press, 1979), 78–9, 122–30; Marie Dejoux, *Les enquêtes de Saint Louis. Gouverner et sauver son âme* (Paris: PUF, 2014), 353–65.
39. Elizabeth A. R. Brown, "*Unctus ad executionem justitie*: Philippe le Bel, Boniface VIII et la grande ordonnance pour la réforme du royaume (du 18 mars 1303)," in *Le Roi fontaine de justice. Pouvoir justicier et pouvoir royal au Moyen Âge et à la Renaissance*, ed. Silvère Menegaldo and Bernard Ribémont (Paris: Klincksieck, 2012), 145–68.
40. *L'Oeuvre oratoire française de Jean Courtecuisse*, ed. G. Di Stefano (Turin: Giappichelli, 1969), 281.

41. See Paul A. Brand, "Edward I and the Judges: the 'State Trials' of 1289–93," in *Thirteenth-Century England I,* 31–40 at 38–9; N. M. Fryde, "Edward III's removal of his judges, 1340–1," *Bulletin of the Institute of Historical Research* 48 (1975): 149–61.
42. Gwilym Dodd, "Corruption in the Fourteenth-Century English State," *International Journal of Public Administration* 34 (2011): 720–30 at 726–7.
43. Françoise Autrand, *Charles VI. La folie du roi* (Paris: Fayard, 1986), 189–213.
44. John Watts, "The Pressure of the Public on Later Medieval Politics," in *The Fifteenth Century IV. Political Culture in Late Medieval Britain*, ed. Linda Clark and Christine Carpenter (Woodbridge: The Boydell Press, 2004), 159–80; Bernard Guenée, *L'Opinion publique à la fin du Moyen Âge d'après la "Chronique de Charles VI" du Religieux de Saint-Denis* (Paris: Perrin, 2002).
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46. *Chroniques de Saint-Denis*, 695–6.
47. J. S. Roskell, *The Impeachment of Michael de la Pole, Earl of Suffolk, in 1386 in the Context of the Reign of Richard II* (Manchester: Manchester University Press, 1984), 113–48, 155–69, 172–81, 185–96.
48. Roskell, *The impeachment of Michael de la Pole*, 197.
49. See Clementine Oliver, *Parliament and Political Pamphleteering in Fourteenth-Century England* (York: York Medieval Press, 2010), 84–116 at 91–2, where a strong point is made about Parliament's interest in publicly disseminating details about the impeachment process and the constitution of the reform commission.
50. Alfred Coville, *Les Cabochiens et l'ordonnance de 1413* (Paris: Hachette, 1888), vii.
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52. *OC* 99–101, 104, 113–14, 133–4, 148–51.
53. *OC* 98–9.
54. *OC* 116–17.
55. *OC* 128–9.
56. *OC* 138–9, 143.
57. *OC* 105–6.
58. *ORF* 1:362.
59. Roland Delachenal, "Journal des États Généraux réunis à Paris au mois d'Octobre 1356," *Nouvelle revue de droit français et étranger* 24 (1900): 431–4.
60. "Guerre civile et changements du personnel administratif dans le royaume de France de 1400 à 1418: l'exemple des baillis et sénéchaux," *Francia* 6 (1978): 151–218.
61. Coville, *Les Cabochiens*, 376–82.
62. [Michel Pintoin], *Chronique du religieux de Saint-Denys: contenant le règne de Charles VI, de 1380 à 1422*, ed. Louis Bellaguet, 6 vols. (Paris: Imprimerie de Crapelet, 1839–52) 5:155.
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Descimon and Alain Guerreau (Paris: Éditions de la Maison des sciences de l'homme, 1996), 51–67; P. S. Lewis, "The Pensioners of Louis XI," in *Essays in Later Medieval French History* (London: The Hambledon Press, 1985), 91–104; Gareth Prosser, "'Decayed Feudalism' and 'Royal Clienteles': Royal Office and Magnate Service in the Fifteenth Century," in *War, Government and Power in Late Medieval France*, ed. Christopher Allmand (Liverpool: Liverpool University Press, 2000), 175–89.

64. Romain Telliez, "Officiers et fermiers des aides devant la justice royale (fin du XIV^{e}-début du XV^{e} siècle," in *L'impôt au Moyen Âge: L'impôt public et le prélèvement seigneurial, fin XII^{e}-début XVI^{e} siècle. III—Les techniques* (Paris: Comité pour l'histoire économique et financière de la France, 2002), 827–59.
65. Dodd, "Corruption," 721–5.
66. Maurice Rey, *Le domaine du roi et les finances extraordinaires sous Charles VI, 1388–1413* (Paris: Imprimerie nationale, 1965), 380–1.
67. Telliez, *Les officiers devant la justice*, 477.
68. Werner Paravicini, "Administrateurs professionnels et princes dilettantes: Remarques sur un problème de sociologie administrative à la fin du moyen âge," in *Histoire comparée de l'administration (IV^{e}-XVIII^{e} siècles)*, ed. Werner Paravicini and Karl Ferdinand Werner, Beihefte der Francia 9 (Munich: Artemis Verlag, 1980), 168–81.

CHAPTER 6

1. William Marx, ed., *An English Chronicle, 1377–1461: A New Edition* (Woodbridge: Boydell Press, 2003), 78; Margaret L. Kekewich, Colin Richmond, Anne F. Sutton, Livia Visser-Fuchs and John L. Watts, *The Politics of Fifteenth-Century England: John Vale's Book* (Stroud: Alan Sutton Publishing, 1995), 209, 187, 204.
2. James D. Gairdner, ed., *The Paston Letters*, vol. 1 (London: Chatto and Windus, 1904), 97.
3. Rosemary E. Horrox, ed., "Henry VI: Parliament of November 1459, Text and Translation," in *The Parliament Rolls of Medieval England*, ed. Chris Given-Wilson, Paul Brand, Seymour Phillips, Mark Ormrod, Geoffrey Martin, Anne Curry and Rosemary Horrox (Leicester: Scholarly Digital Editions, 2005), items 7, 9 and 8, respectively. Available online at: http://www.sd-editions.com/PROME [henceforth *PROME*] [Accessed: January 25, 2016].
4. See for example *Middle English Dictionary*, s.v. "corrupcioun". Available online at: http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED9845 [Accessed: January 29, 2016].
5. See for example Carl J. Friedrich, "Corruption Concepts in Historical Perspective," in *Political Corruption: Concepts and Contexts (3rd ed.)*, ed. Arnold J. Heidenheimer and Michael Johnston, (New Brunswick, NJ: Transaction Publishers, 2002), 15–23 at 15: the "core meaning" of corruption involves the "deviant behavior" of a "responsible functionary or office holder," with a motivation of "private gain at public expense." See also Robert Harris, *Political Corruption in and Beyond the Nation State* (London: Routledge, 2003), 9.
6. Niels Grüne and Tom Tölle, "Corruption in the Ancien Régime: Systems-Theoretical Considerations on Normative Plurality," *Journal of Modern European History* 11 (2013): 31–51 at 31–2, 34.
7. Harris, *Political Corruption*, 3–4, 22.
8. Useful introductions are Gerald Harriss, "Political Society and the Growth of Government in Late Medieval England," *Past & Present* 138 (1993): 28–57; and Christine Carpenter, *The Wars of the Roses* (Cambridge: Cambridge University Press, 1997),

chs. 2–3. For a (somewhat moralistic) survey of the pan-European background, see Thomas N. Bisson, *The Crisis of the Twelfth Century: Power, Lordship and the Origins of European Government* (Princeton: Princeton University Press, 2008).

9. John Sabapathy, *Officers and Accountability in Medieval England, 1170–1300* (Oxford: Oxford University Press, 2014); Frédérique Lachaud, *L'Éthique du pouvoir au Moyen Âge. L'office dans la culture politique (Angleterre, vers 1150-vers 1330)* (Paris: Garnier, 2010); Christine Carpenter, "Law, Justice and Landowners in Late Medieval England," *Law and History Review* 1 (1983): 207–19; Paul R. Hyams, "Due Process versus the Maintenance of Order in European Law: the Contribution of the Ius Commune," in *The Moral World of the Law*, ed. Peter Coss (Cambridge: Cambridge University Press, 2000), 62–90 at 71.
10. James C. Holt, *Magna Carta*, 3rd ed. (Cambridge: Cambridge University Press, 2015), 50–4 and ch. 2 generally; Carpenter, *Wars of the Roses*, 61–2; John Watts, *Henry VI and the Politics of Kingship* (Cambridge: Cambridge University Press, 1996), 16–17, 38–9, 73–4, 79–80 and ch. 2 generally.
11. *The Governance of England: Otherwise called the difference between an absolute and a limited monarchy, by Sir John Fortescue*, ed. Charles Plummer (Oxford: Oxford University Press, 1885), 127.
12. Harriss, "Political Society," 34–42.
13. Harriss, "Political Society," 39–40, 42, 56–7; Gerald L. Harriss, *King, Parliament and Public Finance in England to 1369* (Oxford: Clarendon Press, 1975), esp. 509–17; John Watts, "The Commons in Medieval England," in *La légitimité implicite (vol. 2)*, ed. Jean-Philippe Genet, (Paris: Publications de la Sorbonne, 2015), 207–22.
14. See for example Carpenter, *Wars of the Roses*, 39–41; John Watts, "Usurpation in England: a Paradox of State Growth," in *Coups d'État à la Fin du Moyen Âge?*, ed. François Foronda, Jean-Philippe Genêt, José Manuel Nieto Soria and Casa de Velázquez (Madrid: Collection de la Casa de Velázquez, 2005), 115–30 esp. at 119–24; W. Mark Ormrod, *Political Life in Medieval England, 1300–1450* (Basingstoke: Macmillan Press, 1995), 71–83. For "accroaching", see Watts, *Henry VI*, 18.
15. John T. Noonan, *Bribes: An Intellectual History of a Moral Idea* (Berkeley, CA: University of California Press, 1984), xiii, chs. 1 and 8.
16. Christine Carpenter, *Locality and Polity: a Study of Warwickshire Landed Society, 1401–1499* (Cambridge: Cambridge University Press, 1992), ch. 9; Rosemary E. Horrox, *Richard III: A Study in Service* (Cambridge: Cambridge University Press, 1989), ch. 1.
17. For these points and the following ones, see Watts, *Henry VI*, ch. 2, esp. 15–16, 19–21, 23–30, 76–80; David Crouch, *The Birth of Nobility: Constructing Aristocracy in England and France, 900–1300* (Harlow: Pearson, 2005), 46–71; David Burnley, *Courtliness and Literature in Medieval England* (Harlow: Addison, Wesley, Longman, 1998), chs. 2, 4, 5; *The Governance of Kings and Princes: John Trevisa's Middle English Translation of the De Regimine Principum of Aegidius Romanus*, ed. David C. Fowler, Charles F. Briggs and Paul G. Remley (New York and London: Garland Publishing inc., 1997), esp. Book I, chapter 2, on the virtues, and Book III, chapter 2, part 29 on the superiority of the best king to the best law.
18. Compare the insights of Petra Heller, discussed by Grüne and Tölle, "Corruption in the Ancien Régime," 35–6, which emphasise the attribution of political responsibility to individuals, more than the tension between official norms and social hierarchy.
19. An older form of judicial abuse—official oppressiveness—is not considered here. For discussions, see Carpenter, "Law, Justice and Landowners," 217–18; Michael

Prestwich, *Plantagenet England, 1225–1360* (Oxford: Oxford University Press, 2005), 72–6.

20. "Livery" was the granting of distinctive clothing or badges, marked with the lord's symbols; "Retaining" involved the establishment of contractual ties of political and military service from gentlemen to lords.
21. *Governance of England*, ed. Plummer, 127–30.
22. Harriss, *King, Parliament and Public Finance*, 137–42 and ch. 7; Ormrod, *Political Life*, 71–2.
23. Joel T. Rosenthal, "The King's 'Wicked Advisers' and Medieval Baronial Rebellions," *Political Science Quarterly* 82 (1967): 595–618; Watts, *Henry VI*, 25–7, 40–2, 61–3.
24. "Attaint" was a legal action that could be used against corrupt juries; "embracery" was and is the crime of influencing juries.
25. For the actions of 1389–90 and after, see respectively, Robin L. Storey, "Liveries and Commissions of the Peace, 1388–90," in *The Reign of Richard II. Essays in Honour of May McKisack*, ed. F. R. H. Du Boulay and Caroline M. Barron (London: Athlone Press, 1971), 131–52; Michael A. Hicks, "The 1468 Statute of Livery," *Historical Research* 64 (1991): 15–28; Steven Gunn, *Early Tudor Government, 1485–1558* (Basingstoke: Macmillan Press, 1995), 81–2, 84–7, 99, 101–8.
26. Paul Brand, "Edward I and the Judges: the 'State Trials' of 1289–1293," in *Thirteenth-Century England I: Proceedings of the Newcastle upon Tyne Conference, 1985*, ed. Peter. R. Coss and Simon D. Lloyd (Woodbridge: Boydell Press, 1986), 31–40; John R. L. Maddicott, *Law and Lordship: Royal Justices as Retainers in Thirteenth- and Fourteenth-Century England*, Past & Present Supplement 4 (Oxford: Past & Present Society, 1978), 49–51; Edward Powell, *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford: Clarendon Press, 1989), chs. 6, 8, 10; Hicks, "1468 Statute"; Gunn, *Early Tudor Government*, 44–5, 54–6.
27. For outlines of these confrontations, see David Carpenter, *The Struggle for Mastery: Britain, 1066–1284* (London: Allen Lane, 2003), 343–4, 351–60, 369–70 [for the 1250s]; Harriss, *King, Parliament and Public Finance*, chs. 12 and 13 [for 1340–1]; Gerald Harriss, *Shaping the Nation: England, 1360–1461* (Oxford: Clarendon Press, 2005), 441–4, 450–88, 496–501, 617–49 [for 1376–1461]; Carpenter, *Wars of the Roses*, 172–6 [for 1469]; David Starkey, *The Reign of Henry VIII: Personalities and Politics* (London: Vintage, 2002), 27–30, 79–81, 98–9 and ch. 7 [for 1509–47].
28. Brand, "State Trials," 38; Harriss, *King, Parliament and Public Finance*, 283–7.
29. For Flambard, see C. Warren Hollister, *Henry I* (New Haven, CT, and London: Yale University Press, 2001), 116–17, 136, 140, 384.
30. Caroline Burt, *Edward I and the Governance of England, 1272–1307* (Cambridge: Cambridge University Press, 2013), 27–9, 32–4, 81–2, 85–90; Maddicott, *Law and Lordship*, 11–14, 19, 24.
31. Percy H. Winfield, *The History of Conspiracy and Abuse of Legal Procedure* (Cambridge: Cambridge University Press, 1921), 6–7, 13–14, 22–5, 26, 142–3, 144–5 and chs. 6 and 7, generally; Jonathan Rose, "The Law of Maintenance and the Obligations of Lordship," SSRN, 1–2. Available online at: http://ssrn.com/abstract=2262007 [Accessed: March 16, 2016]; Alan Harding, "The Origins of the Crime of Conspiracy," *Transactions of the Royal Historical Society* 33 (1983): 89–108 at 94–7.
32. Rose, "Law of Maintenance," 2, n. 3; Winfield, *History of Conspiracy*, ch. 6; Maddicott, *Law and Lordship*, 40–51, 60.
33. John M. W. Bean, *From Lord to Patron: Lordship in Late Medieval England* (Manchester: Manchester University Press, 1989), ch. 6; Dominic Luckett, "Crown Office and

Licensed Retinues in the Reign of Henry VII," in *Rulers and Ruled in Late Medieval England*, ed. Rowena E. Archer and Simon Walker (London: The Hambledon Press, 1995), 223–38 at 228–9.

34. Bertram P. Wolffe, *The Royal Demesne in English History* (London: George Allen and Unwin, 1971), 44–6, 77–9, 143–58, 197–9, 225.
35. *Paston Letters*, ed. Gairdner, 2:148.
36. Alfred L. Brown, *The Governance of Late Medieval England, 1272–1461* (London: Edward Arnold, 1989), 230.
37. Anne E. Curry, ed., "Henry VI: Parliament of September 1429, Text and Translation," in *PROME*, quotations from articles 4 and 5.
38. Maddicott, *Law and Lordship*, 60.
39. Sabapathy, *Officers and Accountability*, 23, 222 (and, on oaths, 16, 119, 129, 189, 251, 256–57); Conal Condren, *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006), 6–7, 25 and ch. 2 (for oaths, see 9, 233 and ch. 11); Christopher D. Fletcher, "Morality and Office in Late Medieval England and France," in *Fourteenth Century England V*, ed. Nigel Saul (Woodbridge: Boydell Press, 2008), 178–90 at 182, 186–7.
40. A good example appears in the famous treatise written by Henry VII's minister, Edmund Dudley, in 1509–10: "lett it be foresene that his grace may make his Justices of them that be well lernyd men and specially of good consciens, or els they wilbe corruptyd with meede or affection . . . and long . . . or [i.e. before] it shall be known to the Prince." From *The Tree of Commonwealth: a Treatise Written by Edmund Dudley*, ed. Dorothy M. Brodie (Cambridge: Cambridge University Press, 1948), 34.
41. "Many pepill shall ye wele governe, whyle that reyson governyth yow," as a fifteenth-century version of the *Secreta Secretorum* put it: Watts, *Henry VI*, 23, n. 52, and see 23–5 generally.
42. Fletcher, "Morality and Office," 186–7.
43. For these points, see the examples cited in Watts, *Henry VI*, 41 and 61, and also for example *Governance of England*, ed. Plummer, 146–7; *George Ashby's Poems*, ed. Mary Bateson, Early English Text Society, Extra series 76 (London: K. Paul, Trench, Trübner and co., 1899), 22 ("And paie youre men theire wages and dutee, / That thei may lyve withoute extorcion"—c. 1468); Curry, "Henry VI: Parliament of January 1437, Text and Translation," item 26 ("the more sufficient that men be of liflode . . . the more unlikly they are by corruption, brocage, or drede, to be treted or moeved to perjurie"); W. Mark Ormrod, ed., "Edward III: Parliament of April 1343, Text and Translation," in *PROME*, item 41 ("q'il pleise a nostre seignur le roi par son conseil ordeigner covenables gages pur les justices . . . "); *The Digby Poems*, ed. Helen Barr (Exeter: University of Exeter Press, 2009), 197, 204, 209 ("Let trouthe goon oute of cloos [go abroad freely], / That alle folk may here his playnt"—c.1400–15).
44. Watts, "Usurpation," esp. 119–22.
45. For Edward III, see Harriss, *King, Parliament and Public Finance*, 294–304; for Richard II, Henry IV and Henry VI, see Harriss, *Shaping the Nation*, 463–9, 498–506, 618–23.
46. Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo*, Routledge Classics ed. (London: Routledge, 2003), ch. 8, quotation at p. 170.
47. Condren, *Argument and Authority*, 6–7.
48. Chapter 8 by George Bernard makes these things clear.
49. Carpenter, "Law, Justice and Landowners," 216–18, 229.
50. Note the example from 1437 cited in n. 43, above, also *Governance of England*, ed. Plummer, 145 ("meanes off corrupcion" used to "move the lordes to parciallite"—c. 1470,

but possibly drafted in the 1440s or 50s) and an example of c. 1421, citing the danger that "the baronage [may] be corrupted agaynes" the king by "wickid counsaill": *Three Prose Versions of the Secreta Secretorum*, ed. Robert Steele, Early English Text Societ Extra Series 74 (London: K. Paul, Trench, Trübner and co., 1898), 210.

51. For these changes, see, generally, Gunn, *Early Tudor Government*, esp. chs. 1 and 3. Some of the associated ideological developments are discussed in John Watts, "'Common Weal' and 'Commonwealth': England's Monarchical Republic in the Making, c.1450–c.1530," in *The Languages of Political Society*, ed. A. Gamberini et al. (Rome: Viella, 2011), 147–63.
52. Michael Braddick, "The Early Modern English State and the Question of Differentiation, from 1550 to 1700," *Comparative studies in Society and History* 38 (1996): 92–111 at 98–9; Joel Hurstfield, "Political Corruption in Modern England: The Historian's Problem," *History* 52 (1967): 16–34 at 33.
53. Felicity Heal, *The Power of Gifts: Gift-Exchange in Early Modern England* (Oxford: Oxford University Press, 2014), 5, 12, 87–8, 182, 198.

CHAPTER 7

1. Chris Wickham, *Sleepwalking into a New World: The Emergence of Italian City Communes in the Twelfth Century* (Princeton, NJ: Princeton University Press, 2015).
2. Philip Jones, *The Italian City-State: From Commune to Signoria* (Oxford: Clarendon Press, 1997).
3. To some, the absence of *sindacato* procedures in the early-sixteenth century defined a tyranny. See Bartolomeo Cavalcanti, *Trattati sopra gli ottimi Reggimenti delle Repubbliche antiche e moderne* (Milan, 1805), 67.
4. Giovanni Botero (1544–1617), for instance, advocated spies: *Della Ragion di Stato*, I, xvii, ed. L. Firpo (Turin: UTET, 1948), 85. However, the main concern here was officials' loyalty to the prince, not the protection of citizens.
5. Moritz Isenmann, *Legalität und Herrschaftskontrolle (1200–1600): Eine vergeleichende Studie zum Syndikatsprozess: Florenz, Kastilien und Valencia* (Frankfurt: Klostermann, 2010), 21, somewhat mischaracterizes the state of Italian records in framing Florence as a uniquely well documented city-state, especially given that its records of practice postdate the year 1343, due to the destruction of the local archives that year; and that those for the period 1344–1381 cover between twenty-five and forty percent of audits. Moreover, for the fifty-one documented Florentine procedures, actual sentences are scarce (ibid., 213–14). Bologna, Lucca and, as well shall see, Perugia, have in this respect comparable audit records already from previous decades, but they remain mostly unstudied. Gianfranco Orlandelli, *Il sindacato del Podestà* (Bologna: Pátron, 1963) offers a reproduction, transcription and analysis of several documents attesting audit practices in late-twelfth- and early-thirteenth-century Bologna. On Lucca, see Susanne Lepsius, "Kontrolle von Amsträgern durch Schrift. Luccehser Notare und Richter im Syndikatsprozeß," in *Als die Welt in die Akten kam. Prozeßschriftgut im europäischen Mittelalter*, ed. Susanne Lepsius and Thomas Wetzstein (Frankfurt: Klostermann, 2008), 389–473. For Siena see Maria Assunta Ceppari Ridolfi, "Il sindacato degli ufficiali del Comune di Siena. Esempi per i secoli XIV e XV," in *Siena e il suo territorio nel Rinascimento*, ed. Mario Ascheri, vol. 3 (Siena: Il Leccio, 2000), 15–42; Ridolfi, "Il sindacato degli ufficiali del Comune di Siena nel Trecento," in *Scrivere il Medioevo: lo spazio, la santità, il cibo: un libro dedicato ad Odile Redon*, ed. Bruno Laurioux and

Laurence Mouilnier-Brogi (Rome: Viella, 2001), 77–95. For medieval Genoa, the subject of a rare monograph on sindication from its origins until the modern era, there remains a small synthetic register from 1363. See Riccardo Ferrante, *La difesa della legalità: i sindicatori della repubblica di Genova* (Turin: Giapichelli, 1995), 55, n. 140. And see, more broadly, Gino Masi, "Il sindcato delle magistrature comunali nel sec. XIV (con speciale riferimento a Firenze)," *Rivista Italiana per le Scienze Giuridiche* 5 (1930): 43–115, 331–411; and Marzia Lucchesi, "Giustizia e corruzione nel pensiero dei glossatori," *Rivista di Storia del Diritto Italiano* 64 (1991): 157–216.

6. *De non corrumpendo judicem*. "Si aliquis iudex steterit nostre regimine Civitatis, qui, pretio corruptus, fuerit repertus super aliqua . . . sententiam protulisse, officium amittat in perpetuum iudicandi, et bona sua secundum legitimas sanctiones omnia publicentur; et idem, in illo qui dat et in advocato qui eum induxerit ad hoc faciendum, modus similis observetur." "Statuto di Viterbo del MCCXXXVII–XXXVIII [fragment], CCXXV," in *Statuti della Provincia Romana*, ed. Vincenzo Federici (Rome: Istituto Storico Italiano, 1930), 54.
7. *De corrumpente Potestatem, vel eius familiam*. "Si invenerimus, et in inveniendo soliciti et intenti erimus, aliquem corripuisse, vel corrumpere velle vel voluisse, pecunia vel alio modo, nos, vel aliquem de iudicibus vel militibus nostris, vel aliquem alium de familia nostra, vel predictorum iudicum seu militem, per se vel per alium, ipsum puniemus et condempnabimus a libris decem usque in libris centum, inspecta qualitate negotii et persone." "Breve Pisani Communis . . . MCCLXXXVI," III, LXXI, in *Statuti inediti della Città di Pisa, dal XII al XIV secolo*, ed. Francesco Bonaini, 3 vols. (Florence: G. P. Vieusseux, 1854–70), 1:459.
8. *De puniendo Antianos recipientes munera*. "Si invenirimus [sic], et in inveniendo soliciti et intenti erimus, Antianos, vel aliquem ex Antianis qui pro tempore fuerint, recepisse aliquod donum, vel munus, vel aliquod pretium, vel aliquam aliam rem; vel conmedisse cum aliquo cive pisano, vel alio, qui coram eis occasione eorum officii aliquid facere haberet occasione dicti officii antianatus, ipsum de officio expellemus, et condampnabimus ipsum in avere et persona, prout nobis videbitur, inspecta qualitate criminis et persone; et eum de societate pisani populi expellemus, et publicabimus eum in publico parlamento. Et si invenirimus, et in inveniendo soliciti et intenti erimus, aliquem ex Antianis corruptum pecunia aliquid fecisse, vel consuluisse, seu fieri fecisse, quod sit contrarium vel nocivum Communi pisano, seu populo pisano, seu alicui persone; ipsum ad mortem condempnabimus, et ipsum mori faciemus. Et hoc Antianis exponemus, vel exponi faciemus." "Breve populis et campagniarum pisani communis an. MCCLXXXVI," LVIIII, in ibid. 1:583–4.
9. *De corruptione officialium*: "Item, cum multi de civitate Florentie consueverint intendere circa corruptione, corrumpendo pretio vel precibus rectores seu vicarios et Potestates civitatis Florentie et eorum familias, ordinatum est quod nulla persona de civitate vel districtu Florentie vel aliquis alius cuiuscunque condictionis sit, audeat vel presumat inducere vel velle inducere per se vel alium dominum Potestatem vel aliquem de sua familia vel berrovarios vel aliquem alium officialem Communis Florentie pretio vel precibus fraudolentibus vel alio modo, vel attemptet dare vel donare aliquid eisdem officialibus ut aliquid faciant vel commictant contra honorem domini Potestatis et Communis Florentie. Et si quis contra fecerit, puniatur in libris centum, et plus vel minus, ad voluntatem domini Potestatis, inspecta qualitate facti et condictione personarum facientium contra predicta et eorum qui predicto modo corrumpere voluerint. Et super hiis inquirendis possit procedi ad inquisitionem facendam ad voluntatem domini Potestatis." "Statuto del podestà dell'anno 1325,"

III, CCXV, in *Statuti della Repubblica Fiorentina*, ed. Romolo Caggese, rev. ed. Giuliano Pinto, Francesco Salvestrini and Andrea Zorzi, 2 vols. (Florence: Olschki, 1999), 2:7–8.

10. *Statuto del Comune di Montepulciano (1337)*, I, LX, ed. Ubaldo Morandi (Florence: Le Monnier, 1966), 334: "De pena corrumpensi offitialem et offitialis patientis se currumpi."
11. *De corruptione officialium*: "Si aliquem officialem vel rectorem causa alicuius processus aut litis vel questionis, sive causa civilis vel criminalis, que coram eo verteretur, corruperit vel attentaverit pecunia, mercede corrumpere aut dono, nulla pena puniatur. Et officialis corruptus in libris ducentis puniatur et statim de officio expellatur." *Lo Statuto della Città di Rieti dal secolo XIV al secolo XVI*, III, 41, ed. Maria Caprioli (Rome: Istituto Storico Italiano per il Medio Evo, 2008), 214.
12. Fritz Hertter, *Die Podestàliteratur Italiens im 12. und 13. Jahrhundert* (Leipzig: Teubner, 1910); David Napolitano, "The Profile and Code of Conduct of the Professional City Magistrate in Thirteenth-Century Italy" (PhD diss., University of Cambridge, 2014).
13. Andrea Zorzi, "Giovanni da Viterbo," in *Dizionario Biografico degli Italiani*, vol. 56 (2001). Available online at: http://www.treccani.it/enciclopedia/giovanni-da-viterbo_%28Dizionario-Biografico%29/ [accessed December 10, 2016].
14. John of Viterbo, *Liber de regimine civitatum*, XXV, ed. Gaetano Salvemini, Biblioteca Iuridica Medii Aevii, vol. 3 (Bologna: In aedibus successorum Monti, 1901), 215–80 at 226: "plene eruditos, scientes dictare et recte scribere, non corruptabiles, expertos et prudentes." See also CXV (259).
15. "Memini enim me vidisse et scivisse quamplures potestates et rectores maximum dedecus sustinuisse et incurisse, et etiam quosdam de regimine turpiter fuisse deiectus et expulsus, propter malitiam et commissas seu corruptelas et clandestinas pecunie et aliarum rerum extorsiones pravissimas iudicum et notariorum." Ibid., XXVI (226). On the notaries see also ibid., CXVII (260).
16. Brunetto Latini, *Li Livres dou Tresor*, III, 85, trans. Spurgeon Baldwin and Paul Barrette (New York: Garland, 1993), 366.
17. Ibid., 373.
18. John of Viterbo, *Liber de regimine civitatum*, LIV (233); CVI (255); CXVII (260); CXLIII (278).
19. On the city's medieval political history see Alberto Grohmann, *Città e territorio tra medioevo ed età moderna (Perugia, secc. XIII-XVI*), 2 vols. (Perugia: Volumnia Editrice, 1981); and John P. Grundman, *The Popolo at Perugia, 1139–1309* (Perugia: Deputazione di storia patria per l'Umbria, 1992).
20. *Statuto del comune di Perugia del 1279*, cc. 131–3, 136–42, ed. Severino Caprioli, 2 vols. (Perugia: Deputazione di Storia Patria per l'Umbria, 1996), 1:146–50, 155–60; *Statuto del comune e del popolo di Perugia del 1342 in volgare*, I, 15 and 20, ed. Mahmoud Salem Elsheikh, 3 vols. (Perugia: Deputazione di Storia Patria per l'Umbria, 2000), 1:65–74, 88–101.
21. *Statuto del comune di Perugia del 1279*, c. 131, ed. Caprioli, 1:147.
22. On the symbolism of corporal punishment, see G. Geltner, *Flogging Others: Corporal Punishment and Cultural Identity from Antiquity to the Present* (Amsterdam: Amsterdam University Press, 2014).
23. Archivo di Stato di Perugia [henceforth: ASPer], Il Maggior Sindaco Esecutore e Utile Conservatore del Comune di Perugia [henceforth: MS] 4, 1r-v (April 1332).
24. ASPer, MS 5, 3v (1335): "Contra quos omnes et quemlibet eorum ex nostro et nostre curie officio per inquisitionem processimus in eo et super eo quod loco et tempore in dicta inquisitione debuerit comisisse et fecisse furtum, baractariam, symoniam et lucra

illicita; et fecisse ea que facere non tenebantur et obvisisse ea que facere tenebantur contra formam statuti et ordinis commuis et populi perusii, nec assignasse nec restituisse quod assignare et resti[tui]re tenebantur . . . et plura alia."

25. Ibid.: "Quare facta contra eos et quemlibet eorum solempnia inquisitio et examinatio testium, et non repertos culpabiles de continenti in dicta inquisitioni. Revisa facta et calculata ratione eiroum et cuilibet eorum per racionatorem communis perusie prout hec et alia in actis curis et nostre curie et dicti communis."
26. Official misconduct cases never comprise more than a small minority of the cases pursued by the sindaco, especially once its jurisdiction was expanded in the 1340s. One partial exception to this dates to 1348, when more than half the cases (fifty-seven percent) were brought against individual officials. The other outlier in this sample is the year 1388, when some fifty-five rural communes were individually charged for neglect of duty. Although this can be broadly interpreted as a corruption charge, it is not evident if any specific person was being held responsible.
27. ASPer, MS 5, 6r–7r. The slow mills of justice could sometimes result in convictions. Lello Benvenuti, for instance, a tax collector for the commune in 1326, was forced ten years later to return just over seven *lire*. Ibid., 8r.
28. Massimo Vallerani, *Il sistema giudiziario del Comune di Perugia. Conflitti, reati e processi nella seconda metà del XIII secolo* (Perugia: Deputazione di Storia Patria per l'Umbria, 1991), 31–2; Vallerani, *Medieval Public Justice*, trans., Sarah Rubin Blanshei (Washington DC: Catholic University Press, 2012), 33–4, 156–7.
29. ASPer, MS 7, 19v, 20r (1336); 16 II, 3v (1386); 18, 35r–36r (1388).
30. David S. Chambers and Trevor Dean, *Clean Hands and Rough Justice: An Investigating Magistrate in Renaissance Italy* (Ann Arbor, MI: University of Michigan Press, 1997), 48–50.
31. Douglass North, John Joseph Wallis and Barry Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge: Cambridge University Press, 2009); Francis Fukuyama, *The Origins of Political Order. From Prehuman Times to the French Revolution* (New York: Farrar, Straus and Giroux, 2011).
32. Bo Rothstein and Jan Teorell, "Defining and Measuring Quality of Government," in *Good Government: The Relevance of Political Science*, ed. Sören Holmberg and Bo Rothstein (Cheltenham: Edward Elgar, 2012), 13–39; Chris Wickham, *Framing the Early Middle Ages: Europe and the Mediterranean, 400–800* (Oxford: Oxford University Press, 2005), 147.
33. ASPer, MS 9, 9r–10r (1347) is a partial exception, dealing as it does with one Giovanni di ser Fillippi di Pescia, resident of Perugia and formerly a *podestà*, on the city's behalf, of its subject town of Città di Castello between May and October 1346. Giovanni is accused of financial and other forms of mismanagement, culminating in his failure to appear properly for his own audit.
34. Victor Crescenzi, "Il sindaco degli ufficiali nei comuni medievali italiani," in *L'educazione giuridica, IV. Il pubblico funzionario: modelli storici e comparativi* (Perugia: Libreria Editrice Universitaria, 1981), 383–529.
35. Isenmann, *Legalität und Herrschaftskontrolle*, 3.
36. Noël Coulet, *Les visites pastorales* (Turnhout: Brepols, 1977); Jörg Oberste, *Visitation und Ordensorganisation. Formen sozialer Normierung, Kontrolle und Kommunikation bei Cisterziensern, Prämonstratensern und Cluniazensern (12.- frühes 14. Jahrhundert),* Vita regularis 2 (Münster: Lit, 1996); Oberste, "*Ut domorum status certior habeatur*. Cluniazensischer Reformalltag und administratives Schriftgut im 13. und 14.

Jh.," *Archiv für Kulturgeschichte* 76 (1994): 51–76; Oberste, "Normierung und Pragmatik des Schriftgebrauchs im cisterziensischen Visitationsverfahren bis zum beginnenden 14. Jahrhundert," *Historisches Jahrbuch* 114 (1994): 312–48; Oberste, *Die Dokumente der klösterlichen Visitationen*, Typologie des sources du Moyen Age occidental 80 (Turnhout: Brepols, 1999).

37. Serena Morelli, "'Ad extirpanda vitia': normative regia e sistemi di controllo sul funzionariato nella prima età angioiana," *Mélanges de l'Ecole francaise de Rome. Moyen Age* 109 (1997): 463–75; Robin L. Storey, "Liveries and Commissions of the Peace, 1388–90," in *The Reign of Richard II. Essays in Honour of May McKisack*, ed. F. R. H. Du Boulay and Caroline M. Barron (London: The Athlone Press, 1971), 131–52; Maaike van Berkel, "Embezzlement and Reimbursement. Disciplining Officials in 'Abbāsid Baghdad (8th-10th centuries A.D.)," *International Journal of Public Administration* 34 (2011): 712–19.
38. William Chester Jordan, "Anticorruption Campaigns in Thirteenth-Century Europe," *Journal of Medieval History* 35 (2009): 204–19; see also Pilar Azcárate Aguilar-Amat, "Un caso de corrupcion en la Navarra del siglo XIV: el processo contra el procurador real Jacques de Licras," *Hispania: Revista española de historia* 52 (1992): 33–57.
39. Andrea Zorzi, ed., *Tiranni e tirannide nel Trecento italiano* (Rome: Viella, 2013).
40. Jan Teurlings and Markus Stauff, "Introduction: The Transparency Issue," *Critical Studies = Critical Methodologies* 14 (2014): 3–8; Bruno Latour, *We Have Never Been Modern*, trans. Catherine Porter (Cambridge, MA: Harvard University Press, 1993).
41. John Sabapathy, *Officers and Accountability in Medieval England 1170–1300* (Oxford: Oxford University Press, 2014), 250.
42. Maurizio Viroli, *From Politics to Reason of State. The Acquisition and Transformation of the Language of Politics, 1250–1600* (Cambridge: Cambridge University Press, 1992), 92.
43. Monika Bauhr, "Need or Greed Corruption," in *Good Government*, ed. Holmberg and Rothstein, 68–86.

CHAPTER 8

1. G. W. Bernard, "The Rise of Sir William Compton, Early Tudor Courtier," *English Historical Review* 96 (1981): 754–7.
2. Mary L. Robertson, "Profit and Purpose in the Development of Thomas Cromwell's Landed Estates," *Journal of British Studies* 29 (1990): 317–46.
3. Michael Everett, *The Rise of Thomas Cromwell: Power and Politics in the Reign of Henry VIII* (New Haven, CT, and London: Yale University Press, 2015), 180–94.
4. Everett, *Rise of Thomas Cromwell*, 180–94.
5. Everett, *Rise of Thomas Cromwell*, 41, 272, nn. 261 and 262.
6. Geoffrey R. Elton, "How Corrupt was Thomas Cromwell?" *Historical Journal* 36 (1993): 905–8.
7. Felicity Heal, *The Power of Gifts: Gift-Exchange in Early Modern England* (Oxford: Oxford University Press, 2014), 197.
8. Everett, *Rise of Thomas Cromwell*, 41.
9. Everett, *Rise of Thomas Cromwell*, 189.
10. Everett, *Rise of Thomas Cromwell*, 184.
11. *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII*, ed. J. S. Brewer, J. Gairdner and R. H. Brodie, 21 vols. in 36 (London, 1862–1932), XIII i 471 (1).

12. Mark Knights, "Showing Corruption the Red Card," *Corruption, Now and Then* (blog), June 7, 2015. Accessed online at: http://blogs.warwick.ac.uk/historyofcorruption/entry/showing_corruption_the/ [26/05/17].
13. Joel Hurstfield, "Corruption and Reform under Edward VI and Mary: The Example of Wardship," *English Historical Review* 68 (1953): 22–36 at 25–28; reprinted in Hurstfield, *Freedom, Corruption and Government in Elizabethan England* (London: Jonathan Cape, 1973), 163–82 at 168–9.
14. John Sabapathy, *Officers and Accountability in Medieval England 1170–1300* (Oxford: Oxford University Press, 2014).
15. Thomas Hobbes, *Leviathan*, ed. Noel Malcolm, 3 vols. (Oxford: Oxford University Press, 2012), 3:434.
16. P. W. Lock, "Officeholders and Officeholding in Early Tudor England, c. 1520–1540" (PhD diss., University of Exeter, 1976) is a fine study.
17. G. W. Bernard, *The Late Medieval Church: Vitality and Vulnerability before the Break with Rome* (New Haven, CT, and London: Yale University Press, 2012), 28–32.
18. Peter Gwyn, *The King's Cardinal: The Rise and Fall of Thomas Wolsey* (London: Barrie and Jenkins, 1990), brings this out very forcefully. On pensions see Charles Giry-Deloison, "Money and early Tudor Diplomacy," *Medieval History* 3–4 (1993–94): 128–46.
19. J. M. Bourne, *Patronage and Society in Nineteenth-Century England* (London: Edward Arnold, 1986) is thought-provoking here.
20. Anthony King and Ivan Crewe, *The Blunders of our Governments* (London: Oneworld, 2013).
21. Patricia Crone, *Pre-Industrial Societies* (Oxford: Basil Blackwell, 1989), 32–3.
22. See for example the parliamentary debate over monopolies in 1601 and Queen Elizabeth's proclamation in response, most easily accessible in *English Historical Documents, V (A) 1558–1603*, ed. Ian W. Archer and F. Douglas Price (London: Routledge, 2011), nos. 419–20 (1102–117).
23. Heal, *The Power of Gifts,* 194.
24. Hurstfield, *Freedom, Corruption and Government,* 185–91, 319–20.
25. Menna Prestwich, *Cranfield: Politics and Profits under the Early Stuarts. The Career of Lionel Cranfield, Earl of Middlesex* (Oxford: Clarendon Press, 1966); cf. Hurstfield, *Freedom, Corruption and Government*, 183–96.
26. Neil Cuddy, "The Real, Attempted 'Tudor Revolution in Government': Salisbury's 1610 Great Contract," in *Authority and Consent in Tudor England: Essays Presented to C. S. L. Davies*, ed. G. W. Bernard and S. J. Gunn (Aldershot: Ashgate, 2002), 249–70.
27. There is one possible exception. In the sixteenth century successive monarchs notably increased the number of boroughs represented in parliament. Were MPs who sat for boroughs—with their usually restricted franchises—more easily nominated by the crown, and was the creation of new boroughs one of the ways in which the government sought to control the parliaments that it called to grant taxation? It is a plausible scenario—but it is very hard to document in detail. There does not seem to be any clear pattern in the creation of borough-seats. No contemporary explanations can be found so any attempt to discern motivation rests on inference. And it is hard to argue that in sixteenth century England monarchs had any great need to attempt to manipulate the House of Commons in such a way. Governments mostly succeeded in obtaining the legislation they sought, including the taxes they needed.

28. William Doyle, "Changing Notions of Public Corruption, c. 1770–c.1850," in *Corrupt Histories*, ed. Emmanuel Kreike and William C. Jordan (Rochester, NY: University of Rochester Press, 2005), 83–95. Niels Grüne and Tom Tölle, "Corruption in the Ancien Régime: Systems-Theoretical Considerations on Normative Plurality," *Journal of Modern European History* 11 (2013): 31–51, is weakened by treating England in the late-eighteenth century as normative, instead of as distinctly different from the preceding centuries.
29. Lewis B. Namier, *The Structure of Politics at the Accession of George III*, 2nd ed., repr. (London: Macmillan, 1965), 104.
30. It would be nice to be able to cite Edward Gibbon in support. His remark, in chapter twenty-one of the *Decline and Fall*, "Corruption, the most infallible symptom of constitutional liberty," cannot, alas, be read as praise of corruption. Gibbon's purpose is ironic: his words mean the opposite of what they say. He is set on showing how Emperor Constantine set about persecuting Athanasius and in particular extracting revenge for Athanasius's prolonged defiance. Corruption, Gibbon wrote, was successfully practised—honors, gifts and immunities were offered and accepted by bishops who condemned Athanasius at church councils. Gibbon was seeking to portray the church in a less than flattering light. He was not defending venality and corruption, he was not steeling himself to admit the uncongenial thought that ostensibly deplorable practices (from which, incidentally, he benefited) might be necessary. Namier was doing precisely that. Edward Gibbon, *The History of the Decline and Fall of the Roman Empire*, ed. David Womersley, vol. 1. (London: Allen Lane, 1994), ch. 21 (805 for quotation).
31. Růžena Volinová-Bernardová, *Pohled Zpět* (Prague: Akropolis, 2003), 47.

CHAPTER 9

1. Jean-Claude Waquet, *Corruption: Ethics and Power in Florence, 1600–1770* (University Park: Pennsylvania State Press, 1992), 1–2. Originally published in French, under the title, *De la Corruption. Morale et pouvoir à Florence aux XVIIe et XVIIIe siècles* (Paris: Fayard, 1984).
2. Jaume Vicens Vives, "Estructura administrativa estatal en los siglos XVI y XVII" (1960), in *Coyuntura economica y reformismo burgués* (Barcelona: Ariel, 1968), 135–6.
3. Horst Pietschmann, "Burocracia y corrupción en Hispanomérica colonial: una aproximación tentativa," *Nova Americana* 5 (1982), 11–37.
4. Colin M. MacClachlan, *Spain's Empire. The Role of Ideas in Institutional and Social Change* (Los Angeles: University of California Press, 1992), 37–8.
5. Alfonso Quiroz, *Corrupt Circles: A History of Unbound Graft in Peru* (Baltimore: Johns Hopkins University Press, 2008)—a study that covers over two centuries, from the mid-eighteenth century to 1990.
6. Antonio Feros, *Kingship and Favoritism in the Spain of Philip III* (Cambridge: Cambridge University Press, 2000); Santiago Martínez, *Rodrigo Calderón. La sombra del valido* (Madrid: Marcial Pons, 2009); José Manuel de Bernardo Ares, *Corrupción política y centralización administrativa: la Hacienda de Propios en la Córdoba de Carlos III* (Córdoba: Universidad de Córdoba, 1993); Santos Madrazo, *Estado débil y ladrones poderosos en la España del siglo XVIII. Historia de un peculado en el reinado de Felipe V* (Madrid: Catarata, 2000).

7. Alfredo Alvar, *El duque de Lerma. Una historia de corrupción en el Siglo de Oro* (Madrid: La esfera de los Libros, 2010).
8. In the last 10–15 years, many more studies of corruption in the early modern period have appeared—especially works covering the period since the latter years of the seventeenth century till the end of the eighteenth. Proof of this increasing interest in corruption during the early modern period can be seen in the planned publication of special issues by several important Spanish academic journals (*Tiempos Modernos* and *Revista Complutense de Historia de América*) and the organization of several international meetings. One of the first attempts to offer a comprehensive, even if still incomplete, general view of this topic has been recently published: Pilar Ponce Leiva and Francisco Andújar Castillo, ed., *Mérito, venalidad y corrupción en España y América. Siglos XVII y XVIII* (Valencia: Albatros, 2016).
9. Mary Lindemann, "Dirty Politics or 'harmonie'? Defining Corruption in Early Modern Amsterdam and Hamburg," *Journal of Social History* 45 (2012), 583–4.
10. Lindemann, "Dirty Politics or 'harmonie'?", 583–4. See also, Adriana Romeiro, "A corrupção na Época Moderna: conceitos e desafios metodológicos," *Revista Tempo* 21 (2015): 1–22. These questions, now applied to medieval Europe, in William Jordan, "Anti-corruption Campaigns in Thirteenth-Century Europe," *Journal of Medieval History* 35 (2009), 205–7.
11. Michel Bertrand, "Viejas preguntas, nuevos enfoques: la corrupción en la administración colonial española," in *El poder del dinero. Ventas de cargos y honores en el Antigo Régimen*, ed. Francisco Andújar Castillo and María del Mar Felices de la Fuente (Madrid: Biblioteca Nueva, 2011), 48–49.
12. Sebastián de Covarrubias Orozco, *Tesoro de la lengua castellana o española* (1611–1613), ed. Ignacio Arellano and Rafael Zafra (Madrid: Iberoamericana, 2006).
13. Real Academia Española, *Diccionario de Autoridades* (Madrid: RAH, 1726), vol. 2, "Corrumpir".
14. Giorgio Chittolini, "The 'Private,' the 'Public,' the State," *The Journal of Modern History*, 67, Supplement: *The Origins of the State in Italy, 1300–1600* (1995), 45–6.
15. Chittolini, "The 'Private,' the 'Public,' the State," 45–6.
16. Quentin Skinner, "From the state of princes to the person of the state," in *Visions of Politics. Volume 2: Renaissance Virtues* (Cambridge: Cambridge University Press, 2002), 378. For more on these topics in the early modern Iberian world see António Manuel Hespanha, *Vísperas del Leviatán; Instituciones y poder político (Portugal, siglo XVII)*, trans. Fernando Bouza (Madrid: Taurus, 1989); António Manuel Hespanha, *Como os juristas viam o mundo, 1550–1750* (Lisbon: CreateSpace, 2015), 68–71; Xavier Gil Pujol, "Las fuerzas del rey: la generación que leyó a Botero," in *Le forze del principe. Recursos, instrumentos y límites en la práctica del poder soberano en los territorios de la Monarquía Hispánica*, ed. M. Rizzo, J. J. Ruiz Ibáñez and G. Sabatini (Murcia: Universidad de Murcia, 2004), vol. 2, 969–1022.
17. For more on these concepts in Ancient Rome, see Chapter 2 by Valentina Arena.
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CHAPTER 10

1. The judicial archives of *ancien régime* France can be found in the B Series of the departmental archives, usually organized according to procedural criteria that make it very difficult to identify cases by charge. In order to list all the cases that reached court, one would have to search not only in the *intendance* records but also in the archives of the *Cour des Comptes, Aides et Finances* of Montpellier, which was competent in fiscal matters, and those of the *Parlement* of Toulouse, which heard the appeals from the *cours présidiales* and had a broader jurisdiction. The inadequate cataloguing of this enormous mass of records makes a more systematic study of corruption in French local administration impracticable for the time being.
2. That is, "arrêts du Conseil d'État qui attribuent à l'intendant le pouvoir de statuer sur diverses charges." See Eugène Thomas, *Inventaire-sommaire des archives départementales antérieures à 1790. Hérault. Archives civiles, série C*, vol. 1 (Montpellier: Ricard Frères, 1865), 197–241.
3. Archives départementales [henceforth: Arch. dép.] Hérault, respectively C 1304, C 1263–1269 and C 1310.
4. Such a small group of cases does not lend itself to statistical analysis. Its relevance is based on the fact that I am considering here all the cases judged by the *intendant*.
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6. See Ronan Chalmin, *Lumières et corruption* (Paris: Honoré Champion, 2010), 388; Maryvonne Vonach Génaux, "Corruption. Du discours sur la chute au discours sur l'abus dans la France moderne" (PhD diss., Université Paris 12, 2001), 370.
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12. Arch. dép. Hérault, C 1445, draft of the answer of the *intendant* Bernage de Saint-Maurice to the *contrôleur général* Orry, 10 December 1735.
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15. Arch. dép. Hérault, C 758–778, Templier case, 1698–1701.
16. Arch. dép. Hérault, C 1306.
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19. Arch. dép. Hérault, C 1189, *arrêt* of the Conseil d'État, 19 March 1726.
20. Arch. dép. Hérault, C 1312, *arrêt* of the Conseil d'État, 7 July 1752.
21. Arch. dép. Hérault, C 1118, *arrêt* of the Conseil d'État, 15 January 1677.
22. Arch. dép. Hérault, C 1182, *arrêt* of the Conseil d'État, 29 September 1722.
23. Arch. dép. Hérault, C 1189, *arrêt* of the Conseil d'État, 19 March 1726.
24. See, for example, the *intendant*'s order of 19 September 1724, written at the bottom of the *arrêt* of the Conseil d'État, 25 July 1724 (Arch. dép. Hérault, C 1184).
25. See, for example, the *intendant*'s order of 29 September 1752 (Arch. dép. Hérault, C 1312).
26. Arch. dép. Hérault, C 1312, *arrêt* of the Conseil d'État, 7 July 1752.
27. Arch. dép. Hérault, C 1189, Sirié's letter to the *intendant*, 6 January 1726.
28. Arch. dép. Hérault, C 1189, *président* Darène's letter to the *intendant*, "this Sunday morning," ca. 1726.
29. Arch. dép. Hérault, C 1276, bishop of Saint-Pons' letter to the *intendant*, undated.
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CHAPTER 11

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44. Zygmunt Bauman, *Modernity and Ambivalence* (Cambridge: Polity Press, 1991).
45. Peter Bratsis, "The Construction of Corruption, or Rules of Separation and Illusions of Purity in Bourgeois Societies," *Social Text* 21 (2003): 9–33; Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo*, Routledge Classics ed. (London: Routledge, 2003).
46. Niklas Luhmann, *Die Gesellschaft der Gesellschaft,* 2 vols. (Frankfurt: Suhrkamp, 2012).
47. Latour, *We have Never been Modern*.
48. Bauman, *Modernity and Ambivalence*.
49. Mette Frisk Jensen, "The Question of How Denmark Got to Be Denmark: Establishing Rule of Law and Fighting Corruption in the State of Denmark 1660–1900," *QoG Working Paper Series* 6 (2014): 1–26.
50. Christian Ebhardt, "In Search of a Political Office. Railway Directors and Electoral Corruption in Britain and France, 1820–1870," *Journal of Modern European History* 11 (2013): 72–87; Christian Ebhardt, *Interessenpolitik und Korruption. Personale Netzwerke und Korruptionsdebatten am Beispiel der Eisenbahnbranche in Großbritannien und Frankreich, 1830–1870* (Göttingen: Vandenhoeck & Ruprecht, 2015); Fritz Stern, *Gold und Eisen. Bismarck und sein Bankier Bleichröder* (Frankfurt: C.H. Beck, 1978); Pierre Lascoumes and Frédéric Audren, "La justice, le gendre et le scandale des

décorations. Aux origines du trafic d'influence," in *La fabrique de l'honneur. Les médailles et les décorations en France, XIXe–XXe siècles*, ed. Bruno Dumons and Gilles Pollet (Rennes: Presses Universitaires de Rennes, 2009), 119–42.

51. Cf. for instance, as only one of many examples, the informal coalition between liberal businessmen and business interest on the one hand and liberal republican politicians on the other in the 1870s, enabling the establishment of the Third French Republic against fierce resistance from conservative and monarchist forces. This coalition has been materialized in a thoroughly liberal economic policy and by the appointment of businessmen to the government: Jean Garrigues, *La République des hommes d'affaires (1870–1900)* (Paris: Aubier, 1997). The German unification of the 1870s, however, has been interpreted as a result of a coalition of liberal economic interest and authoritarian monarchist political structures: cf. Hans-Ulrich Wehler, *Deutsche Gesellschaftsgeschichte 3. Von der deutschen Doppelrevolution bis zum Beginn des Ersten Weltkriegs (1849–1914)* (Munich: C.H. Beck, 1996).
52. Engels, *Die Geschichte*.
53. Cf. Engels, "Vom vergeblichen Streben," 225.
54. Jens I. Engels and Anna Rothfuss, "Les usages de la politique du scandale. La SPD et les débats sur la corruption politique pendant le Kaiserreich 1873–1913," *Cahiers Jaurès* 209 (2013): 33–51.
55. Peter Eigen, *Das Netz der Korruption: Wie eine weltweite Bewegung gegen Bestechung kämpft* (Frankfurt: Campus-Verlag, 2003), 156.
56. Cf. Jens I. Engels, "Corruption as a Political Issue in Modern Societies: France, Great Britain and the United States in the Long 19th Century," *Public Voices* 10 (2008): 68–86.
57. Andreas Rödder, *21.0. Eine kurze Geschichte der Gegenwart* (Munich: C.H. Beck, 2015).
58. Ivan Krastev, *Shifting Obsessions. Three Essays on the Politics of Anticorruption* (Budapest: Central European University Press, 2004), 69–70.
59. On British anticorruption measures in history see Alan Doig, *Corruption and Misconduct in Contemporary British Politics* (Harmondsworth: Penguin Books, 1984). Take, as a comparable example, the regulations regarding French "pantouflage": Hervé Joly, "Le pantouflage des hauts fonctionnaires dans les entreprises privées françaises (19e–21e siècles). Évolution de la réglementation et des pratiques," in *Krumme Touren in der Wirtschaft. Zur Geschichte ethischen Fehlverhaltens und seiner Bekämpfung*, ed. Jens I. Engels et al. (Cologne: Böhlau, 2015), 157–74.
60. Alf Lüdtke, "Herrschaft als soziale Praxis," in *Herrschaft als soziale Praxis: Historische und sozial-anthropologische Studien*, ed. Alf Lüdtke (Göttingen: Vandenhoeck & Ruprecht, 1991), 9–63; Alf Lüdtke and Sheila Fitzpatrick, "Energizing the Everyday: On the Breaking and Making of Social Bonds in Nazism and Stalinism," in *Beyond Totalitarianism*, ed. Michael Geyer and Sheila Fitzpatrick (Cambridge: Cambridge University Press, 2009), 266–301.
61. Osrecki, "Fighting Corruption."

CHAPTER 12

1. The term "anticorruption" seems to have been first used in Britain in 1831 in a pejorative way to describe the ostentatious zeal of those seeking parliamentary reform, but more widely in 1836 when *The Times* attacked the "Anticorruption reformers" and "anticorruption Pharisees" among the Whigs, who "thrived on pretence of putting down

Tory corruption" using the issue as "the white linen that covers their rottenness." *The Newcastle Courant,* issue 8167, 6 August 1831, reporting a Commons debate on 27 July 1831 (though this term is not recorded in Hansard for that day); *The Times* 24 February 1836.

2. For a critique of Britain as corrupt see David Whyte, ed., *How Corrupt is Britain?* (London: Pluto Press, 2015).
3. This chapter is part of a larger AHRC-funded project to fill this historiographical gap.
4. Philip Harling, *The Waning of "Old Corruption": The Politics of Economical Reform in Britain, 1779–1846* (Oxford: Clarendon Press, 1996); Harling, "Parliament, the State, and 'Old Corruption': Conceptualising Reform, c.1790–1832," in *Rethinking the Age of Reform: Britain, 1780–1850*, ed. Arthur Burns and Joanna Innes (Cambridge: Cambridge University Press, 2003), 98–113; Harling, "Rethinking 'Old Corruption'," *Past & Present* 147 (1995): 127–58.
5. Philip Harling and Peter Mandler, "From 'Fiscal-Military' State to Laissez-Faire State, 1760–1850," *Journal of British Studies* 32 (1993): 44–70; William D. Rubinstein, "The End of 'Old Corruption' in Britain, 1780-1860," *Past & Present* 101 (1983): 55–86.
6. Peter J. Jupp, "The Landed Elite and Political Authority in Britain, ca. 1760–1850," *Journal of British Studies* 29 (1990): 53–79.
7. Douglass North, John Joseph Wallis and Barry Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge: Cambridge University Press, 2009).
8. North, Wallis and Weingast, *Violence and Social Orders*, 27.
9. Burns and Innes*, Rethinking the Age of Reform*.
10. Besides the contributions to this volume, see also Toon Kerkhoff, Ronald Kroeze and Pieter Wagenaar, "Corruption and the Rise of Modern Politics in Europe in the Eighteenth and Nineteenth Centuries: A Comparison between France, the Netherlands, Germany and England—Introduction ," *Journal of Modern European History* 11 (2013): 19–30.
11. I make the case for the earlier period in "Religion, Anti-popery and Corruption," in *Popular Culture and Political Agency in Early Modern England and Ireland. Essays in Honour of John Walter*, ed. Michael J. Braddick and Phil Withington (London: Boydell and Brewer, 2017).
12. Linda Levy Peck, *Court Patronage and Corruption in Early Stuart England* (London: Unwin, 1990).
13. Colin C. G. Tite, *Impeachment and Parliamentary Judicature in Early Stuart England*, University of London Historical Studies 37 (London: The Athlone Press, 1974); John T. Noonan, *Bribes: An Intellectual History of a Moral Idea* (Berkeley, CA: University of California Press, 1984), ch. 12; Nieves Mathews, *Francis Bacon: The History of a Character Assassination* (New Haven, CT: Yale University Press, 1996).
14. Jason Peacey, *Print and Public Politics in the English Revolution* (Cambridge: Cambrdge University Press, 2013).
15. G. E. Aylmer, *The King's Servants: The Civil Service of Charles I, 1625–42* (London: Routledge & Kegan Paul, 1974); Aylmer, *The State's Servants: The Civil Service of the English Republic 1649–60* (London: Routledge & Kegan Paul, 1973); Aylmer, *The Crown's Servants: Government and the Civil Service under Charles II, 1660–1685* (Oxford: Oxford University Press, 2002); Aylmer, "From Office-Holding to Civil Service: The Genesis of Modern Bureaucracy," *Transactions of the Royal Historical Society*, Fifth Series, 30 (1980): 91–108.

16. John Brewer, *The Sinews of Power. War, Money and the English State 1688–1783* (Cambridge, MA: Harvard University Press, 1988).
17. For a helpful overview see Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (Basingstoke: Palgrave Macmillan, 2014).
18. J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, NJ: Princeton University Press, 1975); J. G. A. Pocock, *Virtue, Commerce and History* (Cambridge: Cambridge University Press, 1985).
19. The *Oxford English Dictionary (OED)* gives the first use of "patriot" as 1577 and it seems to have been popularized in the first decade of the seventeenth century. For MPs as "Patriots" who were to "punish corruption" see James Howell, *Two discourses lately reviewv'd and enrich'd by the author* (London: Printed by Richard Heron, 1644), 5. *OED* gives the same year for the first use of patriots signifying "The specious and spurious pretences of our glorious Reformers." See John Maxwell, *Sacro-sancta Regum Majestas* (Oxford, 1644), 117. However, a link between patriotism and a pretense of reforming zeal was already apparent in Richard Montagu, *A Brief Censure* (Oxford, [1625?]), 19. The patriot discourse of corruption was particularly prevalent during the administration of Robert Walpole in the early eighteenth century. See also Hugh Cunningham, "The Language of Patriotism, 1750–1914," *History Workshop Journal* 12 (1981): 8–33.
20. David Wootton, "Liberty, Metaphor and Mechanism: 'Checks and Balances' and the Origins of Modern Constitutionalism," in *Liberty and American Experience in the Eighteenth Century*, ed. David Womersley (Indianapolis, IN: Liberty Fund, 2006), 209–74.
21. See, for example, *Portrait of Archbishop Laud and Mr Henry Burton* (1645), British Museum Images, Satires [henceforth BM Satires] 412; *The Political Vomit* (1742) BM Satires 2531; *Compleat Purge & Vomit. The Vision and Great Fright* (c.1770) BM Satires 4797; *The Sour Prospect before us, or the Ins throwing up* (1789), BM Satires 7500; *Sick of the property tax or ministerial influenza* (1816) BM Satires 12747.
22. Matthew Sutcliffe, *A Remonstrance* (London: Printed by George Bishop and Rafe Newberie, 1590), 14.
23. I have developed this argument further in "Religion, Anti-popery and Corruption."
24. The term "selfish" was in use by the early 1630s, and "self-interest" and "self-advancement" in the following decade. The Quaker Isaac Pennington's pamphlet *The Great and Sole Troubler of the Times* (London: Printed for J. M. for Giles Calvert, 1649), for example, makes frequent use of the word "self", including a remarkable diatribe against "Self-advancement, Self-interests, Self-ends, Self-designs" (24). "Self-indulging" was in use by 1671 and "self-restrained" by 1700. For histories of public/self-interest see Pierre Force, *Self-Interest before Adam Smith: A Genealogy of Economic Science* (Cambridge: Cambridge University Press, 2003); J. A. W. Gunn, *Politics and the Public Interest in the Seventeenth Century* (London: Routledge & Kegan Paul, 1969), ch. 5; Gunn, "Interest Will not Lie," *Journal of the History of Ideas* 29 (1968): 551–64; Joyce Appleby, *Economic Thought and Ideology in Seventeenth Century England* (Princeton, NJ: Princeton University Press, 1978), ch. 5; Steve Pincus, "Neither Machiavellian Moment nor Possessive Individualism: Commercial Society and the Defenders of the English Commonwealth," *American Historical Review* 103 (1998): 705–36.
25. John Jeffries Martin, *Myths of Renaissance Individualism* (Hampshire and New York: Palgrave/St. Martin's Press, 2004); Mark Knights, "Occasional Conformity and the Representation of Dissent: Hypocrisy, Sincerity, Moderation and Zeal," *Parliamentary*

History 24 (2005): 41–57; Lionel Trilling, *Sincerity and Authenticity* (Cambridge, MA: Harvard University Press, 1973).

26. Martin Ingram, "Reformation of Manners in Early Modern England," in *The Experience of Authority in Early Modern England*, ed. Paul Griffiths, Adam Fox and Steve Hindle (Basingstoke: Palgrave, 1996), 47–88; David Hayton, "Moral Reform and Country Politics in the Late Seventeenth-Century House of Commons," *Past & Present* 128 (1990): 48–91; Faramerz Dabhoiwala, "Sex and Societies for Moral Reform, 1688–1800," *Journal of British Studies* 46 (2007): 290–319; Joanna Innes, "'Reform' in English Public Life: The Fortunes of a Word," in *Rethinking the Age of Reform*, ed. Burns and Innes, 71–97; M. J. D. Roberts, *Making English Morals: Voluntary Association and Moral Reform in England, 1787–1886* (Cambridge: Cambridge University Press, 2004).
27. Christopher Howard, *Sir John York of Nidderdale* (London: Sheed & Ward, 1939), appendix.
28. T. Farquarson, *Truth in Pursuit of Wardle* (London: John Ebers, 1810).
29. Bodleian Library, MS Eng. Hist. 99, 2–3, Macartney to Burke, 30 August 1782.
30. In this respect the law embodied a widely ignored directive from the Company to its servants in 1765.
31. Brewer, *Sinews of Power*.
32. Robert Neild, *Public Corruption: The Dark Side of Social Evolution* (London: Anthem Press, 2002) suggests war was an important mechanism for reform.
33. Richard Cumberland, *The West Indian* (London: Printed for W. Griffin, 1771); Richard Clarke, *The Nabob or Asiatic Plunderers* (London, 1773); Samuel Foote, *The Nabob* (London: Printed by T. Sherlock, for T. Cadell, 1778); Henry Thompson, *The Intrigues of a Nabob* (n.p.: Printed for the author, 1780); Philip Lawson and Jim Phillips, "'Our Execrable Banditti': Perceptions of Nabobs in Mid-Eighteenth-Century Britain," *Albion* 16 (1984): 225–41; James Holzman, *The Nabobs in England: A Study of the Returned Anglo-Indian 1760–1785* (New York: Columbia University Press, 1926).
34. John Cannon ed., *The Letters of Junius* (Oxford: Oxford University Press, 1978).
35. Mark Knights, "Parliament, Print and Corruption in Later Stuart Britain," *Parliamentary History* 26 (2007): 49–61. See also Mathew Neufeld, "Parliament and Some Roots of Whistle Blowing during the Nine Years War," *Historical Journal* 57 (2014): 397–420.
36. Beinecke Library, Yale, OSB MSS 117 folders 2–5.
37. For sociological analyses of scandal see John Thompson, *Political Scandal. Power and Visibility in the Media Age* (Cambridge: Cambridge University Press, 2000); and Ari Adut, *On Scandal. Moral Disturbrances in Society, Politics and Art* (Cambridge: Cambridge University Press, 2008).
38. Mark Knights, "Samuel Pepys and Corruption," *Parliamentary History* 33 (2014): 19–35; Naomi Tadmor, *Family and Friends in Eighteenth-Century England* (Cambridge: Cambridge University Press, 2001), ch. 6; Mark Granovetter, "The Social Construction of Corruption," in *On Capitalism*, ed. Victor Nee and Richard Swedberg (Stanford: Stanford University Press, 2007), 152–72.
39. David Hawkes, *The Culture of Usury in Renaissance England* (Basingstoke: Palgrave, 2010); Laurence Fontaine, *The Moral Economy. Poverty, Credit and Trust in Early Modern Europe* (Cambridge: Cambridge University Press, 2014), ch. 7.
40. As stated previously, I have developed this argument further in "Religion, Anti-popery and Corruption."

41. Rex vs Bembridge 3 Doug. K B 32, [1783] Eng. Rep. 170 (1783); Colin Nicholls, Timothy Daniel, Alan Bacarese and John Hatchard, *Corruption and Misuse of Public Office* (Oxford: Oxford University Press, 2006), 66.
42. Aaron Graham, *Corruption, Party and Government in Britain 1702–1713* (Oxford: Oxford University Press, 2015) questions the relevance of "corruption" to describe the personal and partisan networks underpinning the state financing of war.
43. Anthony Bruce, *The Purchase System in the British Army, 1660–1871* (London: Royal Historical Society, 1980).
44. *Report of the Commissioners Appointed to Inquire into and State the Mode of Keeping the Official Accounts* (1829); Jacob Soll, *The Reckoning. Financial Accountability and the Making and Breaking of Nations* (New York: Basic Books, 2014).
45. For the evolution of bribery see James Lindgren, "The Theory, History and Practice of the Bribery-Extortion Distinction," *University of Pennsylvania Law Review* 141 (1993): 1695–740. Bribery only became a statutory offence under the terms of a series of acts known as the Prevention of Corruption Acts 1889–1916.
46. Thomas Hobbes, *Leviathan*, ed. Richard Tuck, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press), II, ch. 22, p. 155: "By Systems; I understand any numbers of men joined in one Interest, or one Businesse." System in the seventeenth century also came to mean a comprehensive treatment of a subject and set of principles or beliefs, both political and religious; and an organized scheme. Corruption was considered in all these ways. The literary scholar Kevin Gilmartin has also pointed to the importance of early-nineteenth century conceptualizations of corruption as a "system" that needed to be tackled across its many interlinking parts, an approach that raised the attack on corruption beyond that of individuals and provided the basis for a genuinely radical attack on the establishment: Kevin Gilmartin, *Print Politics: The Press and Radical Opposition in the Early Nineteenth Century* (Cambridge: Cambridge University Press, 1996).
47. Jason McElligott, "William Hone (1780–1842), Print Culture and the Nature of Radicalism," in *Varities of Seventeenth and Early Eighteenth Century English Radicalism in Context*, ed. Ariel Hessayon and David Finnegan (Farnham: Ashgate, 2011), 241–61.
48. The material is summarized in Michael J. Braddick, *State Formation in Early Modern England c. 1550–1700* (Cambridge: Cambridge University Press, 2000).
49. Phil Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge: Cambridge University Press, 2005).
50. I develop these points more fully in my forthcoming monograph for Oxford University Press.
51. Charles I, *His Majesties Answer to the Nineteen Propositions of Both Houses of Parliament* (Cambridge, 1642), 7, 10–11.
52. Henry Parker, *Observations upon some of His Majesties late answers and expresses* (London, 1642), 4–5, 8, 20.
53. *A remonstrance of many hundreds of wel-affected people in the county of Hertford* (London, 1654), 2.
54. George Raymond, *Honour and conscience call'd upon* (London, 1708), 9.
55. John Adams, "A Dissertation on the Canon and Feudal Law (1765)," in *The Political Writings of John Adams: Representative Selections,* ed. George Peek (Indianapolis, IN: Hackett Publishing Company, Indianapolis, 2003), 13.
56. *The Tryal of Thomas Earl of Macclesfield, in the House of Peers, for High Crimes and Misdemeanours* (London: Printed by S. Buckley, 1725), 229.

57. *An Appeal to the Public on behalf of Samuel Vaughan Esq* (London, 1770), 55.
58. *An Appeal to the Public on behalf of Samuel Vaughan Esq*, 59, 92.
59. Mark Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (Oxford: Oxford University Press, 2005).
60. Archibald Foord, "The Waning of 'The Influence of the Crown'," *The English Historical Review* 62 (1947): 484–507.
61. Miles Taylor, "John Bull And The Iconography Of Public Opinion In England c. 1712–1929," *Past & Present* 134 (1992): 93–128; Tamara Hunt, *Defining John Bull. Political Caricature and National Identity in Late Georgian England* (Aldershot: Ashgate, 2003); *John Bull's Mirror, or Corruption & Taxation Unmasked* (London: Printed for the people, and sold by J. Johnston, 1816); *John Bull's Constitutional Apple Pie and the Vermin of Corruption* (London: Fairburn, 1820).
62. *The Genius of Elections* (1807) BM Satires 10742; *John Bull and the Genius of Corruption* (1809), BM Satires 11332; *John Bull Reading the Extraordinary Red Book* (1816), BM Satires 12781.
63. *The Speeches of the Right Honourable Edmund Burke in the House of Commons and in Westminster Hall*, 4 vols. (Longman et al., 1816), 4:375.
64. Nicholas B. Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: Harvard University Press, 2006).
65. *The Champion of the People* (1784), BM Satires 6444.
66. Revelations 17: 3–4.

CHAPTER 13

1. Mette Frisk Jensen, "Korruption og embedsetik. Danske embedsmænds korruption i perioden 1800 til 1866" [Corruption and the Ethics of Public Office—Corruption amongst Danish Civil Servants during the Period 1800 to 1866] (PhD dissertation, Aalborg University, 2013).
2. Poul Johs Jørgensen, *Dansk Retshistorie. Retskildernes og Forfatningsrettens Historie indtil sidste Halvdel af det 17. Aarhundrede* (Copenhagen: Gads Forlag, 1947), 148–59; Ditlev Tamm, *Danske og Norske Lov i 300 år* (Copenhagen: Jurist og Økonomforbundets Forlag, 1983).
3. The law is Forordningen om Forbud paa Skienk og Gave at give og tage, 20 March 1676 and 23 October 1700.
4. The law is Forordningen Om Tyves og Utroe Tieneres Straf, 4 March 1690.
5. Kong Christian 5.s Danske Lov 1683, Om Dommere: 1-5-1.
6. Christian Larsen and Asbjørn Romvig Thomsen, *"Centraladministrationen generelt" Vor gunst tilforn. Kilder til dansk forvaltningshistorie, 1500–1750* (Copenhagen: Selskabet for Udgivelse af Kilder til Dansk Historie, 2007), 33–130; Thøger Nielsen, *Studier over ældre dansk formueretspraksis. Et Bidrag til dansk privatrets historie i tiden efter Chr. D. V's Danske Lov* (Aarhus: Gads Forlag, 1951), 310–33.
7. Michael Bregnsbo, and Kurt Villads Jensen, *Det danske imperium—storhed og fald* (Odense: Aschehoug, 2005).
8. Uffe Østergaard, "Martin Luther og dansk politisk kultur. Nationalkirke, luthersk reformation og dansk nationalisme," *Kritik* 195 (2010): 36–59; Tim Knudsen, "Tilblivelsen af den universalistiske velfærdsstat," in *Den nordiske protestantisme og velfærdsstaten*, ed. Tim Knudsen (Aarhus: Aarhus University Press, 2000), 20–64.

9. Gunner Lind, "Beyond the Fiscal-Military Road to State Formation: Civil Society, Collective Identities and the State in the Old Danish Monarchy, 1500–1850," *Balto-Scandia* 18 (2012): 1–11; Jan Glete, *War and the State in Early Modern Europe. Spain, the Dutch republic and Sweden as Fiscal-Military States, 1500–1660* (London: Routledge, 2002).
10. Lind, "Beyond the Fiscal-Military Road to State Formation"; Michael Bregnsbo, *Folk skriver til kongen. Supplikkerne og deres funktion i den dansk-norske enevælde i 1700-tallet. Et kildestudie i Danske Kancellis supplikprotokoller* (Copenhagen: Selskabet for Udgivelse af Kilder til Dansk Historie, 1997), 17–22.
11. Initially a study was undertaken of cases of maladministration by civil servants in the secular part of the royal administration between 1736 and 1936. The aim was to trace exactly what officials had to do to be suspended from office and investigate the variety of crimes in which the royal servants allegedly engaged: see Frisk Jensen, "Korruption og embedsetik." It showed royal servants being accused of crimes of embezzlement, forgery, fraud and bribery. In the records of royal administration the term corruption is seldom used, and when it is, it tends to have a more general meaning, such as malpractice in relation to the administration. It has not been, and will never be, possible to trace systematically those historical cases of corruption that were not discovered at the time. So a basic starting point for this initial study was to single out the cases where public officials were relieved of their responsibilities on grounds of malfeasance. This was possible through a systematic reading of the short biographies of the several thousand men who graduated in law from the University of Copenhagen in the years between 1736 and 1936. Since these graduates were the ones who primarily occupied the offices in the public administration from the end of the eighteenth century onwards, these biographies provided an insight into corruption in the period roughly between 1790 and 1936. The information obtained from this search has been combined with the examination of the registrars from the National Archives of Denmark (Rigsarkivet) and especially the surveys of material in the archive concerning the financial and legal administration. Another source of information has been the several published employment records from the civilian, secular, part of the administration. These records contain information about the employment of civil servants, which offices they held and, in many cases, also when and why their employment ended (death while in office, retirement, suspension due to misconduct etc.). The analysis of these records has also been supplemented by a systematic study of the official announcements by the administration published in Collegialtidende from 1798 to 1847, and in Departementstidende from 1848. This study identified more than two hundred cases of civil servants discharged on the grounds of misconduct in office and provided the basic information for the more detailed study of court cases in the years 1800–66.
12. Metioned as "den herskende kassemangel Epidemi" in a letter from Supreme Court Justice Michael Lange to the top official in the Danish Chancellery, præsident F. J. Kaas, 13 May 1824: Rigsarkivet, Privatarkiver. F. J. Kaas, no. 5825.
13. Frisk Jensen, "Korruption og embedsetik"; Frisk Jensen, "De for Embedsmanden trykkende Tider," in *Nordjylland under Englandskrigen 1807–1814*, ed. Erik S. Christensen and Knud Knudsen (Aalborg: Aalborg University Press, 2009), 319–42.
14. Hans Christian Wolter, *Adel og embede. Embedsfordeling og karrieremobilitet hos den dansk-norske adel 1588–1660*, Skrifter udgivet af det Historiske Institut ved Københavns Universitet 13 (Copenhagen: Danske historiske forening, 1982).
15. Uffe Østergaard, "De skandinaviske staters udvikling," *Politica* 40 (2008): 442–56.

16. Gunner Lind, "Den heroiske Tid? Administrationen under den tidlige enevælde 1660–1720," in *Dansk Forvaltningshistorie. Stat, forvaltning og samfund*, vol. 1. (Copenhagen: Jurist- og Økonomforbundets Forlag, 2000), 159–225.
17. Pasi Ihalainen and Karin Sennefelt, "General Introduction," in *Scandinavia in the Age of Revolution: Nordic Political Cultures, 1740–1820*, ed. Pasi Ihalainen, Michael Bregnsbo, Karin Sennefelt and Patrik Winton (Farnham: Ashgate, 2011), 1–13.
18. Erik Gøbel, *De styrede rigerne. Embedsmændene i den dansk-norske civile centraladministration, 1660–1814* (Odense: University Press of Southern Denmark, 2000), 103–7; Frank Jørgensen and Morten Westrup, *Dansk centraladministration i tiden indtil 1848* (Viborg: Dansk Historisk Fællesforening, 1982), 25–30.
19. Leon Jespersen, "Tiden 1596–1660: Mellem personlig kongemagt og bureaukrati," in *Dansk Forvaltningshistorie. Stat, forvaltning og samfund*, vol. 1 (Copenhagen: Jurist- og Økonomforbundets Forlag, 2000), 143–5.
20. Birgit Bjerre Jensen, *Udnævnelsesretten i enevældens magtpolitiske system 1660–1703* (Copenhagen: The Danish National Archive and Gads Forlag, 1987), 55–90, 129–31.
21. Bjerre Jensen, *Udnævnelsesretten*, 283–307.
22. Bjerre Jensen, *Udnævnelsesretten*, 296–304.
23. Rigsarkivet, Danske Kancelli, Embedseder A92, A95.
24. The law is Rangforordningen 25 May 1671, changed 11 February 1734.
25. Niels G. Bartholdy, "Adelsbegrebet under den ældre enevælde. Sammenhængen med privilegier og rang i tiden 1660-1730," *Historisk Tidsskrift* 12 (1971): 577–650; Tim Knudsen, *Fra Enevælde til Folkestyre—dansk demokratihistorie indtil 1973* (Copenhagen: Akademisk Forlag, 2006).
26. Kong Christian 5.s Danske Lov 1683, Om Supplikationer: 1-26-1, 2, 3, 4.
27. Bregnsbo, *Folk skriver til kongen*, 87–90.
28. Michael Bregnsbo, "Struensee and the Political Culture of Absolutism," in *Scandinavia in the Age of Revolution: Nordic Political Cultures, 1740–1820*, ed. Pasi Ihalainen, Michael Bregnsbo, Karin Sennefelt and Patrik Winton, 55–65; Lind, "Den heroiske Tid?, 213–19.
29. Jens Arup Seip, "Teorien om det opinionsstyrede Enevelde," *Norsk Historisk Tidsskrift* 38 (1958): 397–463; Lind, "Den heroiske Tid?", 213–16.
30. Charlotte Appel and Morten Fink, *Dansk skolehistorie, Da læreren holdt skole. Tiden før 1780* (Aarhus: Aarhus University Press, 2013), 185–201.
31. Birgit Løgstrup, "Københavns Universitet 1732–1788," in *Københavns Universitet 1479–1979*, ed. Svend Ellehøj (Copenhagen: Gads Forlag, 1991), 504–13; Grethe Iilsø, "Juridisk eksamen for ustuderede. Kollektiv biografi af 1. kandidatgeneration," *Personalhistorisk Tidsskrift* 105 (1985): 111–48 at 111–21.
32. Gøbel, *De styrede rigerne*, 133–57; Ole Feldbæk, "Vækst og reformer—dansk forvaltning 1720–1814," *Dansk Forvaltningshistorie*, 227–340 at 318–25; Pernille Ulla Knudsen, *Lovkyndighed & vederhæftighed. Sjællandske byfogeder 1682–1801* (Copenhagen: Jurist- og Økonomforbundets Forlag, 2001); Karl Peder Pedersen, *Enevældens amtmænd. Danske amtmænds rolle og funktion i enevældens forvaltning 1660–1848* (Copenhagen: Jurist- og Økonomforbundets Forlag, 1998), 374–6.
33. Sebastian Olden-Jørgensen, *Kun navnet er tilbage. En biografi om Peter Griffenfeld* (Copenhagen: Gads Forlag, 2000).
34. James Kennedy and Mette Frisk Jensen, "Fighting Corruption in Modernity: A Literature Review," ANTICORRP Publications, August 30, 2013. Available online at: http://anticorrp.eu/publications/fighting-corruption-in-modernity-a-literature-review/ [accessed December 12, 2016].
35. Frank Jørgensen, "De deputeredes embedsrejser, 1803–1830," *Arkiv* 3 (1969): 78–91.

36. Poul Erik Olsen, "Finansforvaltningen, 1814–1848," in *Dansk Forvaltningshistorie*, 405–30 at 417–24.
37. Ditlev Tamm, *Lærebog i dansk retshistorie* (Copenhagen: Jurist- og Økonomforbundets Forlag, 1989), 158–61, 184–90.
38. Feldbæk, "Vækst og reformer," in *Dansk Forvaltningshistorie*, 326–31.
39. Knudsen, "Tilblivelsen af den universalistiske velfærdsstat," 542–4; Knudsen, *Lovkyndighed & vederhæftighed*, 381–6.

CHAPTER 14

1. Francis Fukuyama, *The Origins of Political Order. From Prehuman Times to the French Revolution* (New York: Farrar, Straus and Giroux, 2011), 402–34. Fukuyama mentions the Dutch Republic in passing (334–5) and the Swiss confederation as "alternative republican pathways" to accountable government.
2. Michael Johnston, *Corruption, Contention and Reform. The Power of Deep Democratization* (Cambridge: Cambridge University Press, 2013), 4.
3. Johan Huizinga, "Nederland's geestesmerk," in *Geschiedwetenschap/hedendaagsche cultuur. Verzameld werk VII* (Haarlem: Tjeenk Willink & Zoon, 1950), 289. Available online at: http://www.dbnl.org/tekst/huiz003gesc03_01/huiz003gesc03_01_0020.php [last accessed June 23, 2017].
4. This study is partly based on historical research we undertook as part of ANTICORRP and on the material collected and studied for a NWO large research project on Dutch corruption between 1650 and 1950, which we completed in 2013. The latter project consisted of three dissertations: Michel Hoenderboom, "Scandal, Politics and Patronage: Corruption and Public Values in the Netherlands (1650–1747)," PhD Dissertation, Vrije Universiteit Amsterdam, 2013; Toon Kerkhoff, "Hidden Morals, Explicit Scandals. Public Values and Political Corruption in the Netherlands (1748–1813)," PhD Dissertation, Leiden University, 2013; Ronald Kroeze, *Een kwestie van politieke moraliteit. Politieke corruptieschandalen en goed bestuur in Nederland, 1848–1940* (Hilversum: Verloren, 2013). The project members focused on corruption scandals and worked with the concept of "public values" to study corruption. Public values are those values, often implicitly part of an abstract ideal of good government, that public officials are obliged to follow, because the law, the shop floor, intellectual authorities and or public opinion expects them to do so.
5. Bo Rothstein, "Anti-Corruption: A Big Bang Theory," *QoG Working Paper Series* 3 (2007). Available online at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1338614 [last accessed June 23, 2017].
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7. Jan de Vries and Ad van der Woude, *The First Modern Economy. Success, Failure and Perseverance of the Dutch Economy, 1500–1815* (Cambridge: Cambridge University Press, 1997).
8. For an overview, see Jacob Soll, *The Reckoning: Financial Accountability and the Rise and Fall of Nations* (New York: Basic Books, 2014), 70–86.
9. O. Gelderblom, ed., *The Political Economy of the Dutch Republic* (Farnham: Ashgate, 2009), especially Wantje Fritschy, "The Efficiency of Taxation in Holland," 55–84.
10. Jacob van Klaveren, "Corruption as a Historical Phenomenon," in *Political Corruption. A Handbook*, ed. Arnold J. Heidenheimer, Michael Johnston and Victor T. Levine (New Brunswick, NJ: Transaction Publishers, 1989), 83–94.

11. Remieg Aerts, "Civil Society or Democracy? A Dutch Paradox," *BMGN—Low Countries Historical Review* 125 (2010): 209–36 at 218.
12. Wilbert van Vree, *Nederland als vergaderland: Opkomst en verbreiding van een vergaderregime* (Amsterdam: Amsterdam University Press, 2008).
13. See Hoenderboom, "Scandal, Politics and Patronage," especially 45–7.
14. Luuc Kooijmans, *Onder regenten. De elite in een Hollandse stad: Hoorn, 1700–1780* (Amsterdam: Bataafsche Leeuw, 1985), 85; Maarten Prak, *The Dutch Republic in the Seventeenth Century* (Cambridge: Cambridge University Press, 2005), 4; see also his study on Leiden for a parallel account of city administration: *Gezeten burgers: de elite in een Hollandse stad: Leiden 1700–1780* (Amsterdam: De Bataafsche Leeuw, 1985); and Aukje Zondergeld-Hamer, *Een kwestie van goed bestuur: Twee eeuwen armenzorg in Weesp (1590–1822)* (Hilversum: Verloren, 2006).
15. For an overview, see J. P. De Monté ver Loren and J. E. Spruit, *Hoofdlijnen uit de ontwikkeling der rechterlijke organisatie in de Noordelijke Nederlanden tot de Bataafse omwenteling* (Deventer: Kluwer, 2000).
16. Willem Frijhoff and Marijke Spies, *1650: Bevochten Eendracht* (The Hague: SDU, 1999), 218 and 221.
17. See examples of this in Hoenderboom, "Scandal, Politics and Patronage"; Kerkhoff, "Hidden Morals."
18. Rudolf Dekker, "Corruptie en ambtelijke ethiek in historisch perspectief," *De Gids*, 149 (1986): 116–21 at 120; L. P. C. van den Bergh, "De baljuwen," *Het Nederlandsch Rijks-Archief* 1 (1857): 235–303.
19. Jeroen van Bockel, *Gevormde kaders: bureaucratische en professionele regulering van het werk van ambtenaren in de Republiek der Zeven Verenigde Nederlanden* (Delft: Eburon, 2009), 198–201.
20. Arjan Nobel, *Besturen op het Hollandse platteland: Cromstrijen 1550–1780* (Zutphen: Walburg Pers, 2012), 8–9; 69–82; 133.
21. M. W. van Boven, "Rechters en regenten. De benoemingen van de leden van de nieuwe rechterlijke macht in 1811," in *Tweehonderd jaar rechters*, ed. Maarten W. van Boven and Paul Brood (Hilversum: Verloren, 2011), full pp. at 187–8.
22. Nobel, *Besturen*, 15.
23. Marc Boone and Maarten Prak, "Ruler, Patricians and Burghers: the Great and Little Traditions of Urban Revolt in the Low Countries," in *A Miracle Mirrored: The Dutch Republic in European Perspective*, ed. Karel Davids and Jan Lucassen (Cambridge: Cambridge University Press, 1995), 99–134.
24. Philip S. Gorski, *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago: University of Chicago Press, 2003), 68–72.
25. See Carl J. Friedrich's association of suspicion of power with a Western Christian religious outlook, "Corruption Concepts in Historical Perspective," in *Political Corruption: Concepts and Contexts,* ed. Arnold J. Heidenheimer and Michael Johnston, 3rd ed. (New Brunswick, NJ: Transaction Publishers, 2002), 15–23 at 16.
26. Philip Harling, *The Waning of "Old Corruption." The Politics of Economical Reform in Britain, 1779–1846* (Oxford: Clarendon Press, 1996).
27. Kerkhoff, "Hidden Morals," 117–46, 148 and 178. Jens Ivo Engels sees this period in which Enlightenment thought dramatically reordered commitments in society and politics as an important transition period from premodern to modern ideas about corruption; Jens Ivo Engels, *Die Geschichte der Korruption. Von der Frühen Neuzeit bis ins 20. Jahrhundert* (Frankfurt: S. Fischer, 2014). See also his chapter in this volume.
28. Kerkhoff, "Hidden Morals," 117–46.

29. Wim Klooster, *Revolutions in the Atlantic World: A Comparative History* (New York: New York University Press, 2009).
30. Engels, *Die Geschichte der Korruption*, 174–9.
31. Kerkhoff, "Hidden Morals," 177–208.
32. R. E. de Bruin, "De uitvoering der Wetten en Orders van het Gouvernement. Lokaal bestuur tijdens het Koninkrijk Holland: de gemeente Utrecht," in *Nederland in Franse schaduw. Recht en bestuur in het Koninkrijk Holland (1806–1810)*, ed. J. Hallebeek and A.J.B. Sirks (Hilversum: Verloren, 2006), 165–200.
33. Eelke Sikkema, *Ambtelijke corruptie in het strafrecht* (Amsterdam: Boom Juridische Uitgevers, 2005), 84–5 and 110–12.
34. Herman Dierderiks, *In een land van justitie: Criminaliteit van vrouwen, soldaten en ambtenaren in de achttiende-eeuwse Republiek* (Hilversum: Verloren, 1992), 60–70.
35. William D. Rubinstein, "The End of 'Old Corruption' in Britain, 1780–1860," *Past & Present* 101 (1983): 55–86; Harling, *The Waning of 'Old Corruption'*.
36. Jeroen Koch*, Koning Willem I, 1772–1843* (Amsterdam: Boom, 2013), 367.
37. Kees Briët, *Het proces van Rijck van Prehn en Johannes Wilhelmus Winter. Een bijzondere zaak voor het Hooggrechtshof van Nederlands-Indië in 1820* (Hilversum: Verloren, 2012); M. Stekelenburg, *200 jaar werken bij de overheid, Boek 1: 1813–1940* (The Hague: SDU, 1999), 84–5. Newspaper searches for the early-nineteenth century focus typically on the arrest of local officials for embezzlement or bribery.
38. Ronald Kroeze, "Een typische Hollandse politicus? Floris Adriaan van Hall, Holland en politieke verandering in de jaren 1840," *Holland* 41 (2009): 14–34.
39. As cited in E. Poortinga, *De scheiding tussen publiek- en privaatrecht bij Johan Rudolph Thorbecke*, 1798–1872 (Nijmegen: Ars Aequi Libri, 1987), 108.
40. *Arnhemsche Courant*, 5 July 1840.
41. J. R. Thorbecke, *Historische schetsen*, 2nd ed. (The Hague: Martinus Nijhoff, 1872), 171.
42. As cited in Kroeze, *Een kwestie van politieke moraliteit*, 30.
43. "Brief Thorbecke aan de gouverneur van Friesland, 23-01-1850," in *De briefwisseling van Thorbecke*, ed. G. J. Hooykaas and F. J. P. Santegoets (The Hague: Martinus Nijhoff, 1975), 232.
44. Nico Randeraad, "Thorbecke en de maakbaarheid van het binnenlands bestuur," *Bestuurswetenschappen* 6 (1997): 344–59 at 350–2; P. G. van IJsselmuiden, *Binnenlandse Zaken en het ontstaan van de moderne bureaucratie in Nederland 1813–1940* (Kampen: Kok, 1988), 118, 119 and 193.
45. Kroeze, *Een kwestie van politieke moraliteit*, 189–248.
46. For the parallel see Fukuyama on Denmark: *The Origins of Political Order*, 434.
47. Van IJsselmuiden, *Binnenlandse Zaken en het ontstaan van de moderne bureaucratie,* 141; Kroeze, *Een kwestie van politieke moraliteit*, 132–88.
48. C. Te Lintum, *Een eeuw van vooruitgang, 1813–1913* (Zutphen: Thieme, 1913), 165.
49. Johan Huizinga, "Nederland's geestesmerk," 289.
50. Hendrikus J. Brasz and Willem F. Wertheim, *Corruptie* (Assen: Van Gorcum, 1961), 31. There were cartoons in magazines, and reports claimed that up to twenty percent of the civil servants were corrupt. Even a special investigator at the public prosecutors department was appointed. According to Brasz and Wertheim, the post-war corruption should be assigned to the moral disruption caused by the war and the growth of government (expenditures and tasks), for example in the housing and construction sector, that provided more opportunities for corruption.
51. Ronald Kroeze, "The Rediscovery of Corruption in Western Democracies," in *Corruption and Legitimacy: A Twenty-First Century Perspective*, ed. Jonathan Mendilow and Ilan Peleg (Lanham: Rowman & Littlefield Publishers, 2016), 21–40.

52. Toon Kerkhoff, Ronald Kroeze and Pieter Wagenaar, "Corruption and the Rise of Modern Politics in Europe in the Eighteenth and Nineteenth Centuries: A Comparison between France, the Netherlands, Germany and England—Introduction," in *Corruption and the Rise of Modern Politics*, ed. Ronald Kroeze, Toon Kerkhoff and Sara. Corni, special issue of *Journal for Modern European History* 11 (2013): 19–30.
53. F. P. Wagenaar and O. van der Meij, "Een schout in de fout? Fred Riggs' prismatische model toegepast op de zaak Van Banchem," *Tijdschrift voor sociale en economische geschiedenis* 2 (2005): 22–46.
54. For a discussion on the moral world of The Hague functionaries, see Paul Knevel, *Het Haagse Bureau. 17de-eeuse ambtenaren tussen staatsbelang en eigenbelang* (Amsterdam: Prometheus/Bert Bakker, 2001); for his treatment of Musch, see 123–44.
55. For a particularly detailed account of office-buying in the latter eighteenth century under stadhouder William V, when the system is sometimes thought to have been especially venal, see A. J. C. M. Gabriëls, *De heren als dienaren en de dienaar als heer: het stadhouderlijk stelsel in de tweede helft van de achttiende eeuw* (The Hague: Stichting Hollandse Historische Reeks, 1990).
56. Hoenderboom, "Scandal, Politics and Patronage," 69–87.
57. Chris Nierstrasz, *In the Shadow of the Company: The Dutch East India Company and its Servants in the Period of its Decline,1740–1796* (Leiden: Brill, 2012).
58. Koch, *Koning Willem I*, 341–409; Jeroen van Zanten, *Schielijk, Winzucht, Zwaarhoofd en Bedaard. Politieke discussie en oppositievorming 1813–1840* (Amsterdam: Wereldbibliotheek, 2004), 82–5; C. H. E. de Wit, *De strijd tussen aristocratie en democratie in Nederland, 1780–1848* (Heerlen: Winants, 1965), 347–78.
59. Jaco C. Schouwenaar, *Tussen Beurs en Binnenhof: J.W. van den Biesen en de politieke journalistiek van het Handelsblad (1828–1845)* (Amsterdam: Prometheus, 1999).
60. Hendrik Riemens, *Het amortisatie-syndicaat, een studie over de staatsfinancie n onder Willem I* (Amsterdam: H. J. Paris, 1935).
61. See for this polemic G. Groen van Prinsterer, *Aan de Kiezers*, *I-X* (The Hague, 1864–65) and Robert Fruin, *Politieke Moraliteit. Open brief van d. R. Fruin aan mr. G. Groen van Prinsterer* (Leiden, 1864).
62. Ronald Kroeze, "Political Corruption Scandals in the Netherlands: The Letters Affair of 1865," *Public Voices* 10 (2008): 25–43; Ron de Jong, *Van standspolitiek naar partijloyaliteit. Verkiezingen voor de Tweede Kamer 1848–1887* (Hilversum: Verloren, 1999).
63. Jan de Bruijn, *Het boetekleed ontsiert de man niet: Abraham Kuyper en de Lintjesaffaire (1909–1910)* (Amsterdam: Bert Bakker, 2005).
64. Ronald Kroeze, "Dutch Political Modernization and the Billiton Case (1882–1892). The Usefulness of a Neoclassical Contextual Approach to Corruption," in *Integration, Legitimation, Koruption. Politische Patronage in Früher Neuzeit und Moderne,* ed. Ronald G. Asch, Birgit Emich and Jens I. Engels (Frankfurt and New York: Peter Lang, 2011), 285–307.
65. The Dutch writer Multatuli wrote an exposé of such extortion in his novel *Max Havelaar* which when published in 1860 caused a furor in the Netherlands, playing a role in the abolition of the Culture System. The granting of a concession to the Billiton company to exploit tin caused a scandal that lasted, with interruptions, from 1882 until 1892. See Kroeze, *Een kwestie van politieke moraliteit*, 75–131.
66. *Nieuwe Rotterdamsche Courant*, 15 July 1918.
67. As cited in Kroeze, *Een kwestie van politieke moraliteit*, 173.
68. Fukuyama has argued that accountable government is important and necessarily tied to a strong state and rule of law. See Fukuyama, *The Origins of Political Order*; Johnston

has stressed the importance of democratization and social backing. See Johnston, *Corruption, Contention and Reform,* 186–219; Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (Cambridge: Cambridge University Press, 2006), 21. For an expression of the importance of a Weberian-style bureaucracy, see E. Etzioni-Halevy, "Exchanging Material Benefits for Political Support," in *Political Corruption: A Handbook*, ed. Arnold J. Heidenheimer, Michael Johnston and Victor T. LeVine (New Brunswick, NJ: Transaction Publishers, 1989), 287–304. For the typology of a modern bureaucracy, see Max Weber, *Wirtschaft und Gesellschaft*, vol. 1 (Tübingen: Mohr Siebeck, 1976), 126–31.

69. Prak, *The Dutch Republic in the Seventeenth Century*, 3–4.
70. J. C. N. Raadschelders, *Plaatselijke bestuurlijke ontwikkelingen, 1600–1980. Een historisch-bestuurskundig onderzoek in vier Noord-Hollandse gemeenten* (The Hague: VNG- Uitgeverij, 1990); A. van Braam, *De burgers-ambtenaren van Zaandam in de zeventiende en achttiende eeuw* (Wormerveer: Van Braam, 1999).
71. A. van Braam, "Bureaucratiseringsgraad van de plaatselijke bestuursorganisatie van Westzaandam ten tijde van de Republiek," *Tijdschrift voor geschiedenis* 90 (1977): 457–77.
72. Van Bockel, *Gevormde kaders.*
73. Michel Hoenderboom, "Scandal, Politics and Patronage," 115–44.
74. Nobel, *Besturen op het Hollandse platteland*.
75. Kooijmans, *Onder regenten*, 29–93. Nico Randeraad, "Ambtenaren in Nederland," *BMGN—Low Countries Historical Review* 109 (1994): 209–36.
76. Stekelenburg, *200 jaar werken bij de overheid, Boek 1: 1813–1940*; Randeraad, "Ambtenaren in Nederland."
77. Raadschelders, *Plaatselijke bestuurlijke ontwikkelingen 1600–1980*; Kroeze, *Een kwestie van politieke moraliteit,* 189–97.
78. Johnston, *Corruption, Contention and Reform*, 35.
79. Remieg Aerts, "Civil Society or Democracy?" 217.
80. Kooijmans, *Onder regenten*, 40–1; Hoenderboom, "Scandal, Politics and Patronage," 89–114.
81. Maarten Prak and Jan Luiten van Zanden, *Nederland en het poldermodel: Sociaal-economische geschiedenis van Nederland, 1000–2000* (Amsterdam: Bert Bakker, 2013), 191–7.
82. Maartje Janse, *De afschaffers. Publieke opinie, organisatie en politiek in Nederland, 1840–1880* (Amsterdam: Wereldbibliotheek, 2007), 27–71.
83. H. P. G. Quack, "Levensbericht J.T. Buys," in *Jaarboek van de Koninklijke Academie van Wetenschappen, 1893* (Amsterdam: KNAW, 1893), 11–36 at 13. Available online at: http://www.dwc.knaw.nl/DL/levensberichten/PE00004510.pdf [last accessed June 23, 2017].
84. Henk te Velde, "De domesticatie van democratie in Nederland. Democratie als strijdbegrip van de negentiende eeuw tot 1945," *BMGN—Low Countries Historical Review* 127 (2012): 3–27.
85. As cited in B. Manger and H. te Velde, *Thorbecke en de historie. Bijdragen tot de kennis van het Nederlands liberalisme* (Utrecht: HES, 1986), 10.
86. Jan Drentje, *Thorbecke. Een filosoof in de politiek* (Amsterdam: Boom, 2004); Alan S. Kahan, *Liberalism in nineteenth-century Europe*, *The Political Culture of Limited Suffrage* (Basingstoke: Palgrave Macmillan, 2003), 6–8.
87. James C. Scott, *Comparative Political Corruption* (Englewood Cliffs: Prentice Hall, 1972), 96.

88. Gert van Klinken, *Actieve burgers. Nederlanders en hun politieke partijen, 1870–1918* (Amsterdam: Wereldbibliotheek, 2003), 539–60.
89. Marcel Hoogenboom, *Standenstrijd en zekerheid: een geschiedenis van oude orde en sociale zorg in Nederland* (Amsterdam: Boom, 2004).
90. Ronald Kroeze and Annika Klein, "Governing the First World War in Germany and the Netherlands: Bureaucratism, Parliamentarism and Corruption Scandals," in *Corruption and the Rise of Modern Politics*, ed. Ronald Kroeze, Toon Kerkhoff and Sara Corni, special issue of *Journal of Modern European History* 11 (2013): 480–500.
91. Joseph A. Schumpeter, *Capitalism, Socialism and Democracy*, introduction by Richard Swedberg (London and New York: Routledge, 1976), 284–302.
92. Kroeze, *Een kwestie van politieke moraliteit*, 249–63.

CHAPTER 15

1. Cosmin Popa, "Către dictatura absurdului. Politica ideologică în anii de început ai regimului Ceaușescu" [Towards the Dictatorship of the Absurd. Ideological Policy in the First Years of Ceaușescu's Regime], in *Cuvintele puterii. Literatură, intelectuali şi ideologie în România comunistă* [The Words of the Establishment. Literature, Intellectuals and Ideology in Communist Romania], ed. Mioara Anton, Bogdan Crețu and Daniel Şandru (Iaşi: Institutul European, 2015), 81–104.
2. Vlad Georgescu, *Istoria ideilor politice românești, 1369–1878* [The History of Romanian Political Ideas, 1369–1878] (Munich: Jon Dumitru, 1987).
3. For a sound approach, see Radu Carp, Ioan Stanomir and Laurențiu Vlad, eds., *De la pravilă la constituție. O istorie a începuturilor constituționale românești* [From *Pravilă* to Constitution. A History of Romanian Constitutional Beginnings] (Bucharest: Nemira, 2002). For a rather unconvincing analysis, see Martin Mendelski and Alexander Libman, "Demand for Litigation in the Absence of Traditions of Rule of Law: An Example of Ottoman and Habsburg Legacies in Romania," *Constitutional Political Economy* 25 (2014): 177–206 at 177.
4. See Neagu Djuvara, *Les Pays Roumains entre Orient et Occident. Les Principautés danubiennes au début du XIX^e siècle* (Paris: Publications Orientalistes de France, 1989).
5. For a different approach, see Daniel Barbu, ed., *Firea românilor* [The Nature of the Romanians] (Bucharest: Nemira, 2000).
6. Mary Lucille Shay, *The Ottoman Empire from 1720 to 1734 as Revealed in Despatches of the Venetian Baili* (Westport, CT: Greenwood Press, 1978), 17.
7. For the connection between this long-lasting west-European perception and the myth of the "Ottoman decline" or similar paradigms, as well as for the Ottoman Empire as "one of the most sophisticated bureaucracies of its time," see Linda T. Darling, *Revenue-Raising and Legitimacy. Tax Collection and Finance Administration in the Ottoman Empire 1560–1660* (Leiden: Brill, 1996), 1–16. For further details and information about changes during the "long nineteenth century," see Chapter 17 by Iris Agmon in this volume.
8. The "dark legend" of the so-called Phanariot regime is, however, a creation of the nineteenth century, with even earlier roots. See Andrei Pippidi, *Hommes et idées à l'aube de l'âge moderne* (Paris and Bucharest: CNRS-Editura Academiei RSR, 1980), 341–50; Mihai Chioveanu, "The Constitutive Other: Topical and Tropical Phanariot in Modern Romania," *Studia Politica* 9 (2009): 213–27.

9. Daniel Barbu, *Bizanț contra Bizanț. Explorări în cultura politică românească* [Byzantium versus Byzantium: Explorations into the Romanian Political Culture] (Bucharest: Nemira, 2001), 86.
10. Violeta Barbu, "Furtișagul din visteria țării: de la justiția sumară la proces (Țara Românească, secolul al XVII-lea)," [The Theft from the Country's Treasury: from Basic Justice to Trial (Wallachia, Seventeenth Century)], pt. 1, *Revista Istorică* 15 (2004): 83–100; pt. 2, *Revista Istorică* 16 (2005): 143–52.
11. Oana Rizescu, "La professionnalisation de l'appareil juridique de l'État en Valachie au XVII[e] siècle: les équipes de 'boyards compteurs'," in *Entre justice et justiciables. Les auxiliaires de la justice du Moyen Âge au XX[e] siècle*, ed. Claire Dolan (Laval: Presses de l'Université Laval, 2005), 661–78; Rizescu, "Formes d'action et procédure selon la *loi du pays*. Le *răvaş* et la nomination des 'boyards jureurs' par le prince roumain au XVII[e] siècle," *Historical Yearbook* 3 (2006): 195–214; Rizescu, *Avant l'Etat-juge. Pratique juridique et construction politique en Valachie au XVII[e] siècle* (Bucharest: Notarom, 2009).
12. Andrei Pippidi, "The Development of an Administrative Class in South-East Europe," in *Ottomans Into Europeans: State and Institution Building in South-East Europe*, ed. Alina Mungiu-Pippidi and Wim van Meurs (London: Hurst, 2010), 111–33.
13. Manuel Guțan, *Transplant constituțional și constituționalism în România modernă 1802–1866* [Constitutional Transplant and Constitutionalism in Modern Romania 1802–1866] (Bucharest: Hamangiu, 2013).
14. Cristian Ploscaru, *Originile "partidei naționale" din Principatele Române* I. *Sub semnul "politicii boiereşti" (1774–1828)* [The Origins of the "National Party" of the Romanian Principalities I. Under the Sign of "Boyar Politics"] (Iaşi: Editura Universității "Alexandru Ioan Cuza", 2013).
15. Corruption in post-1866 Romania was better studied. See, for example, Silvia Marton, "'Faction'? 'Coterie'? 'Parti'? L'émergence des partis politiques roumains au XIX[e] siècle," in *L'Etat en France et en Roumanie aux XIX[e] et XX[e] siècles. Actes du colloque organisé au New Europe College—Institut d'études avancées les 26–27 février 2010*, ed. Silvia Marton, Anca Oroveanu and Florin Țurcanu (Bucharest: New Europe College, 2011), 85–138; Marton, "Patronage, représentation et élections en Roumanie de 1875 à 1914," in *Patronage et corruption politiques dans l'Europe contemporaine*, ed. Frédéric Monier, Olivier Dard and Jens Ivo Engels (Paris: Armand Colin, 2014), 141–66.
16. *Mémoires et projets de réforme dans les Principautés roumaines 1769–1830. Répertoires et textes inédits*, ed. Vlad Georgescu (Bucharest: AIESEE, 1970); *Mémoires et projets de réforme dans les Principautés roumaines 1831–1848. Répertoire et textes avec un supplément pour les années 1769–1830*, ed. Vlad Georgescu (Bucharest: AIESEE, 1972). See also Valeriu Șotropa, *Proiectele de constituție, programele de reforme și petițiile de drepturi din Țările Române în secolul al XVIII-lea și prima jumătate a secolului al XIX-lea* [The Projects of Constitution, the Programs of Reform and the Petitions of Rights in the Romanian Lands in the Eighteenth Century and in the First Half of the Nineteenth Century] (Bucharest: Editura Academiei RSR, 1976).
17. *Mémoires et projets 1831–1848*, ed. Georgescu, 69–70.
18. *Documenta Romaniæ Historica B. Țara Românească XXI (1626–1627)*, ed. Damaschin Mioc (Bucharest: Editura Academiei RSR, 1965), 96–100.
19. Dimitrie Cantemir, *Istoria ieroglifică* [Hieroglyphic History], ed. Ion Verdeş and P. P. Panaitescu (Bucharest: Minerva, 1983); Ariadna Camariano-Cioran, *Reprezentanța diplomatică a Moldovei la Constantinopol 30. VIII. 1741 – XII. 1742. Rapoarte inedite ale agenților lui Constantin Mavrocordat* [The Moldavian Diplomatic Agents in

Constantinople 30. VIII. 1741—XII. 1742. Unpublished Reports of Constantine Mavrocordatos' Agents] (Bucharest: Editura Academiei RSR, 1985).

20. One may use *Regulamentele Organice ale Moldovei şi Ţării Româneşti* [The Organic Regulations of Moldavia and Wallachia], ed. Paul Negulescu and George Alexianu, 2 vols. (Bucharest: Întreprinderile Eminescu S.A., 1944). For Moldavia, see *Regulamentul Organic al Moldovei* [The Organic Regulations of Moldavia], ed. Dumitru Vitcu, Gabriel Bădărău and Corneliu Istrati (Iaşi: Junimea, 2004).
21. Gheorghe Lazăr, "În umbra puterii. Negustori 'prieteni ai domniei' şi destinul lor (Ţara Românească, secolul al XVII-lea)" [In the Shadow of Power. Merchants "Friends of the Ruler" and their Destiny (Wallachia, Seventeenth Century)], in *Vocaţia istoriei. Prinos profesorului Şerban Papacostea* [In Honor of Professor Şerban Papacostea], ed. Ovidiu Cristea and Gheorghe Lazăr (Brăila: Istros, 2008), 605–34.
22. *Documenta Romaniæ Historica B. Ţara Românească XXI (1630–1632)*, ed. Damaschin Mioc (Bucharest: Editura Academiei RSR, 1965) [henceforth *DRH B*], XXI, 16, 18.
23. *DRH B*, 406–9.
24. Brian L. Davies, "The Politics of Give and Take: *Kormlenie* as Service Remuneration and Generalized Exchange, 1488-1726," in *Culture and Identity in Muscovy, 1359–1584*, ed. Anna Maria Kleimola and Gail D. Lenhoff (Moscow: IFZ-Grant, 1997), 39–67; Stephen Lovell, Alena V. Ledeneva and Andrei Rogacevskii, eds., *Bribery and Blat in Russia. Negociating Reciprocity from the Early Modern Period to the 1990s* (London and New York: Palgrave Macmillan, 2000); Nancy S. Kollmann, *Crime and Punishment in Early Modern Russia* (Cambridge: Cambridge University Press, 2012), 94 ff.
25. Andreea Iancu, "*Neştiutori*, *încăpăţânaţi* şi *vicleni* în căutarea *odihnei*. Procedura de recurs în Moldova şi Ţara Românească în timpul domnilor fanarioţi şi sub ocupaţie rusească." [*Ignorant*, *Stubborn* and *Shrewd* in Search of *Rest*. The Appeal in Moldavia and Wallachia during the Phanariots and the Russian Occupation], in *Istoria: utopie, amintire şi proiect de viitor. Studii de istorie oferite profesorului Andrei Pippidi la împlinirea a 65 de ani* [History: Utopia, Remembrance and Project for the Future. Historical Studies Offered to Professor Andrei Pippidi at His 65th Anniversary], ed. Radu G. Păun and Ovidiu Cristea (Iaşi: Editura Universităţii "Alexandru Ioan Cuza", 2013), 417–34.
26. Loukaris had in fact paid for his office, yet as the servant of a non-Christian ruler—the Ottoman sultan—he had to obey different rules and was thus acting legally; in spite of the current opinion of external observers, the synod of the Great Church had twice decided—in May 1484 and in June 1497—that it was not simony.
27. It is quite obvious from the text that bribe has an extremely negative connotation, as it "sullies" and "blinds" ("spurcându-ş mânile lor cu orbitoarea mită"). Violeta Barbu, Gheorghe Lazăr and Ovidiu Olar, "Reforma monastică a domnului Matei Basarab" [The Monastic Reform of Prince Matei Basarab], *Studii şi Materiale de Istorie Medie* 30 (2012): 9–54.
28. Nikos Panou, "Pre-Phanariot Satire in the Danubian Principalities: *To Ahouri* and Its Author," in *Donum natalicium digitaliter confectum Gregorio Nagy septuagenario a discipulis collegis familiaribus oblatum. A virtual birthday gift presented to Gregory Nagy on turning seventy by his students, colleagues, and friends*, Center for Hellenic Studies, Harvard University. Available online at: chs.harvard.edu/CHS/article/display/4646 [accessed April 30, 2015].
29. Theodor Codrescu, *Uricariul, sau colectiune de diferite acte care pot servi la istoria romanilor*, vol. I/1. Iaşi: Tipografia Buciumului Românu, 1871), 306–16.

30. Ioan Burlacu, *Mita (rüşvet-ul) în relaţiile româno-otomane (1400–1821)* [Bribery (rüşvet) in the Romanian-Ottoman Relations (1400–1821)] (Brăila: Istros, 2014).
31. Radu G. Păun, Radu G, "La circulation des pouvoirs dans les Pays Roumains au XVII[e] siècle. Repères pour un modèle théorique," *New Europe College Yearbook 1998–1999* (Bucharest: New Europe College, n.d.), 265–310.
32. Ion Bogdan and P.P. Panaitescu, eds., *Cronicile slavo-române din sec. XV–XVI* [The Fifteenth- and Sixteenth-Century Slavonic-Romanian Chronicles] (Bucharest: Editura Academiei RSR, 1959), 142, 148–9.
33. Camariano-Cioran, *Reprezentanţa diplomatică*, 75.
34. Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire. Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652–1744)* (Leiden: Brill, 2003), 99–115.
35. Virginia H. Aksan, "Ottoman Political Writing, 1768-1808," *International Journal of Middle East Studies* 25 (1993): 53–69.
36. *Documente turceşti privind istoria României I. 1455–1774* [Turkish Documents Concerning Romania's History I. 1455–1774], ed. Mustafa A. Mehmed (Bucharest: Editura Academiei RSR, 1976), 37–8.
37. Igor Kąkolewski, "Some Remarks on the Problem of Shaping of Early Modern State. Corrupt Practices in the Governments of European States," in *Idées politiques et mentalités entre l'Orient et l'Occident. Pologne et Pays Roumains au Moyen Age et à l'époque moderne*, ed. Janusz Żarnowski (Warsaw: Instytut Historii PAN, 2000), 79–90 at 87.
38. Ion Neculce, *Opere. Letopiseţul Ţării Moldovei şi O samă de cuvinte*, ed. Gabriel Ştrempel (Bucharest: Minerva, 1982), 757.
39. Cantemir, *Istoria ieroglifică*, 170–96.
40. *Condica lui Mavrocorda*, [The Register of Mavrocordat], ed. Corneliu Istrati, vol. 2 (Iaşi: Editura Universităţii "Alexandru Ioan Cuza", 2008), 690–2.
41. Valentin Al. Georgescu and Petre Strihan, *Judecata domnească în Ţara Românească şi Moldova (1611–1831)*, [Princely Justice in Wallachia and Moldavia (1611–1831)] vol. II/1–2 (Bucharest: Editura Academiei R. S. România, 1981).
42. Barbu, *Bizanţ contra Bizanţ*, 49–51; Daniel Barbu, "Etica ortodoxă şi 'spiritul' românesc," in Barbu, *Firea românilor*, 50–2.
43. Barbu, "Furtişagul."
44. Barbu, *Bizanţ contra Bizanţ*, 83–4; Barbu, "Etica ortodoxă," 60–1.
45. *Pravilniceasca condică (1780)* [The Register of Rules] (Bucharest: Editura Academiei RSR, 1957), 50 ff.
46. *Acte judiciare din Ţara Românească 1775–1781* [Juridical Documents from Wallachia 1775–1781], ed. Gheorghe Cronţ et al. (Bucharest: Editura Academiei RSR, 1973), 366.
47. *Acte judiciare*, 885.
48. Andrei Sora, "The History of Penal Law in Romania: Codification, Models and Normative Transfer (Mid-Eighteenth Century–1916)," in *Konflikt und Koexistenz. Die Rechtsordnungen Südosteuropas im 19. und 20. Jahrhundert. I. Rumänien, Bulgarien, Griechenland*, ed. Michael Stolleis, Gerd Bender and Jani Kirov (Frankfurt: Klostermann, 2015), 575–632. I agree therefore with Jens Ivo Engels when he argues in Chapter 11 of this volume that a change occured at the beginning of the nineteenth century; however, as I argue further on, I do not believe that this was a decisive break for the Romanian Principalities.
49. Fatma Müge Göçek, *Rise of the Bourgeoisie, Demise of the Empire. Ottoman Westernization and Social Change* (Oxford: Oxford University Press, 1996).

50. Alexander Bitis, *Russia and the Eastern Question. Army, Government and Society, 1815–1833* (Oxford: Oxford University Press, 2007); Ştefania Costache, "Westernization as Tool of Inter-Imperial Rivalry: Local Government in Wallachia between Ottoman Control and Russian Protection (1829–1848)," *New Europe College Yearbook 2011–2012* (Bucharest: New Europe College, n.d.), 53–92.
51. *Mémoires et projets 1769–1830*, ed. Georgescu, 150–64.
52. Stella Ghervas, *Réinventer la tradition. Alexandre Stourdza et l'Europe de la Sainte Alliance* (Paris: Honoré Champion, 2008).
53. Ioan C. Filitti, *Les Principautés Roumaines sous l'occupation russe (1828–1834). Le Règlement Organique. Étude de droit publique et d'histoire diplomatique* (Bucarest: Imprimerie de l'"Indépendance Roumaine", 1904); Filitti, *Opere alese* [Selected Works], ed. Georgeta Penelea-Filitti (Bucharest: Editura Eminescu, 1985).
54. Wallachian *Organic Regulations—Art*. 212.
55. **РГИА** (Russian State Historical Archives in St Petersburg)—*Fond* 958—*Opis* 1—*Delo* 627. "La justice en Valachie sera administrée: I. Par des tribunaux de districts qui connaîtront en première instance de toutes les affaires; civiles, de police correctionnelle et commerciale; II. Par deux divans judiciaires sis dans les villes de Bucarest et de Craïowa, et divisés chacun en deux sections dont l'une jugera sur appel les affaires civiles et l'autre les affaires criminelles; III. Par deux tribunaux de commerce établis dans les villes ci-dessus et jugeant sur appel les affaires commerciales; IV. Par un tribunal de police sous l'inspection de l'Aga dont la juridiction se bornera aux affaires de simple police dans la capitale; V. Par un Divan suprême ou haute Court d'appel jugeant toutes les affaires en dernier ressort."
56. Guţan, *Transplant constituţional*, 189.
57. Ioan Stanomir, "The Temptation of the West: the Romanian Constitutional Tradition," in *Moral, Legal and Political Values in Romanian Culture*, ed. Mihaela Czobor-Lupp and J. Stefan Lupp (Washington DC: The Council for Research in Values and Philosophy, 2002), 75–97 at 78–9; Stanomir, *Naşterea constituţiei. Limbaj şi drept în Principate până la 1866* [The Birth of the Constitution. Language and Law in the Principalities until 1866] (Bucharest: Nemira, 2004).
58. Ştefan Cazimir, *Alfabetul de tranziţie* [The Transition Alphabet] (Bucharest: Humanitas, 2006), 10: "Unde-s vremile acelea pă când odihnit şădeai, / Fără pravilă şi delle, toate ţi le isprăveai? / Împărţeai cu toţi frăţeşte şi ne-ncontenit curgea / Era, zău, nepreţuită pravila lui Caragea!"
59. Stanomir, "Temptation of the West," 79.
60. Mihai Chiper, *O societate în căutarea onoarei. Duel şi masculinitate în România (1859–1914)* [In Search of the Honor. Duel and Masculinity in Romania (1859–1914)] (Iaşi: Editura Universităţii "Alexandru Ioan Cuza", 2012), 21. For such persistancies, see Constanţa Vintilă-Ghiţulescu, *Evgheniţi, ciocoi, mojici. Despre obrazele primei modernităţi româneşti1750–1860* [*Evgheniţi, ciocoi, mojici.* On the Faces of the first Romanian Modernity 1750–1860] (Bucharest: Humanitas, 2013). For English examples, see Chapter 6 by John Watts in this volume.
61. For a similar conclusion, see Jean-Claude Waquet, *Corruption, Ethics and Power in Florence, 1600–1770* (University Park, PA: Pennsylvania State University Press, 1991). For the latest developments in the field, see Toon Kerkhoff, Ronald Kroeze and Pieter Wagenaar, "Corruption and the Rise of Modern Politics in Europe in the Eighteenth and Nineteenth Centuries: A Comparison between France, the Netherlands, Germany and England – Introduction," in *Corruption and the Rise of Modern Politics*, ed. Ronald Kroeze, Toon Kerkhoff and Sara Corni, special issue of the *Journal of Modern European History* 11 (2013), 19–30.

62. *Îndreptarea legii (1652)* [The Guide to the Law] (Bucharest: Editura Academiei RSR, 1962).
63. BAR (Library of the Romanian Academy in Bucharest) *Doc. Ist.* CLXXXI/99, CCCXCVI/7 and CCCXCVI/50; *Domnitorii şi suita domnească în epoca fanariotă. Documente din colecţiile Bibliotecii Academiei Române* [The Princes and the Princely Retinue in the Phanariot Period. Documents from the Collections of the Romanian Academy], ed. Gabriela Dumitrescu (Bucharest: Editura Excelenţă prin Cultură, 2015), 116–17, 166–7, 280–2.
64. *Codicele civil al Principatului Moldovei* [The Civil Code of Moldavia] (Iaşi, 1816–17).
65. See the excellent "OttPol. A History of Early Modern Ottoman Political Thought, 15th to Early 19th Centuries." Available online at: http://ottpol.ims.forth.gr/ [accessed June 22, 2017].
66. Fodor Pál, "State and Society, Crisis and Reform, in 15th–17th Century Ottoman Mirror for Princes," *Acta Orientalia Academiæ Scientiarum Hungaricæ* 40 (1986): 217–40; Douglas A. Howard, "Genre and Myth in the Ottoman Advice for Kings Literature," in *The Early Modern Ottomans. Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 137–66.
67. Radu G. Păun, "Some Observations on the Historical Origins of the 'Phanariot Phenomenon' in Moldavia and Wallachia," in *Greeks in Romania in the Nineteenth Century*, ed. Gelina Harlaftis and Radu Păun (Athens: Alpha Bank, 2013), 47–94; Păun, " 'Well-born of the Polis'. The Ottoman Conquest and the Reconstruction of the Greek Orthodox Elites under Ottoman Rule (15th–17th Centuries)," in *Türkenkriege und Adelskultur in Ostmitteleuropa vom 16.–18. Jahrhundert*, ed. Robert Born and Sabine Jagodzinski (Leipzig: Jan Thorbecke, 2014), 59–85.
68. Christine M. Philliou, *Biography of an Empire. Governing Ottomans in an Age of Revolution* (Berkeley and Los Angeles: University of California Press, 2011).
69. Susanne Schattenberg, *Die korrupte Provinz? Russische Beamte im 19. Jahrhundert* (Frankfurt: Campus, 2008).
70. Andreea Iancu, "Vers la synthèse d'un système pluriel de droit: initiatives législatives des princes phanariotes et pratiques juridiques en matière civile (Valachie et Moldavie, fin du XVIII[e]-début du XIX[e] siècle)," in *Konflikt und Koexistenz*, ed. Stolleis, Bender and Kirov, 403–58. For Donici, see *Manualul juridic (1814)* [Juridical Manual] (Bucharest: Editura Academiei RSR, 1959). For Fotino, see *Organizarea de stat a Ţării Româneşti (1765–1782): fragmente din proiectele de cod general sau manualele de legi redactate de Mihail Fotino în 1765 (cinci titluri), 1766 (opt titluri) şi 1777 (Cartea I)* [The State Organization of Wallachia (1765–1782): Fragments from the Projects for a General Code of Laws or the Legal Manuals drafted by Mihail Fotino in 1765 (five titles), 1766 (eight titles) and 1777 (Book I)], ed. Valentin Al. Georgescu and Emanuela Popescu-Mihuţ (Bucharest: Editura Academiei RSR, 1989).
71. Ion Ghica, *Scrisori către V. Alecsandri* [Letters to V. Alecsandri], ed. Constantin Mohanu (Bucharest: Albatros, 2001), 42. For Caragea as legislator, see *Legiuirea Caragea (1818)* [The Caragea Legal Code] (Bucharest: Editura Academiei RSR, 1955).
72. Aaron Graham, *Corruption, Party, and Government in Britain 1702–1713* (Oxford: Oxford University Press, 2015).

CHAPTER 16

1. Alm Mikael, "Kring märkesåret 1809: statskuppen, konstitutionen och riksspränginngen," *Historisk Tidskrift* 130 (2010): 53–64.

2. Corruption is usually referred to as abuse of public office for private gain, but in a historical context where practices, which today would be regarded as corrupt (for example, buying and selling offices and making informal payments), were, though problematic, still perfectly legal. Therefore, in this chapter, corruption is reserved to practices that were illegal also in the period under study, with other "malpractices" regarded as lack of Weberianism.
3. See for example Knut Wichman, *Karl XIV Johans regering och den liberala oppositionen under 1830-talets senare hälft* (Gothenburg: Aktiebolagets Pehrssons Förlag, 1927); Jan Teorell and Bo Rothstein, "Getting to Sweden, Part I: War and Malfeasance, 1720–1850," *Scandinavian Political Studies*, 38 (2015): 217–37.
4. As pointed out in the Introduction to this book, several (anti)corruption scholars view the establishment of a Weberian bureaucracy as crucial in eventually coming to terms with corruption (see also Mette Frisk Jensen's conclusions in Chapter 13 of this volume). The rational bureaucracy is, according to Weber, characterized by a hierarchical organization with fixed and well defined areas of activities, governed by written rules, meritocratic recruitment, proper education for specific tasks, secure job and salary, with expectations of promotion based on merit and seniority, impersonal handling of administrative business and specialization—implying that the job is full time and not combined with other employment. Several of these features rule out by definition some corrupt and semi-corrupt practices.
5. See for example Wichman, *Karl XIV Johans regering*; Bo Rothstein, "State Building and Capitalism: The Rise of the Swedish Bureaucracy," *Scandinavian Political Studies* 21 (1998): 287–306.
6. Mette Frisk Jensen, "Korruption og embedsetik. Danske embedsmænds korruption i perioden 1800 til 1866" [Corruption and the Ethics of Public Office—Corruption amongst Danish Civil Servants during the Period 1800 to 1866] (PhD dissertation, Aalborg University, 2013); Bo Rothstein, "Anticorruption: The Indirect 'Big Bang' Approach," *Review of International Political Economy* 18 (2011): 228–50; William D. Rubinstein, "The End of 'Old Corruption' in Britain, 1780–1860." *Past & Present* 101 (1983): 55–86; Anders Sundell, "Nepotism and Meritocracy," *QoG Working Paper Series* 16 (2014): 1–29 at 16; Seppo Tiihonen, ed., *The History of Corruption in Central Government* (Amsterdam: IOS Press, 2003).
7. See for example Maria Cavallin, *I kungens och folkets tjänst. Synen på den svenske ämbetsmannen 1750–1780* (Gothenburg: University of Gothenburg, 2006); Torbjörn Nilsson, "Ämbetsmannen i själva verket – rekrytering och avancemang i en moderniserad stat 1809-1880," *Score Rapportserie* 5 (2000): 1–36; Esbjörn Larsson, *Officerskåren i Sverige under 1700-talet. En studie kring tjänsteställning, avlöning och tjänsteköp* (Uppsala: Uppsala University, 2000); and Chapter 11 by Jens Ivo Engels in this volume.
8. See Nilsson, "Ämbetsmannen i själva verket."
9. Cavallin, *I kungens och folkets tjänst;* and Pasi Ihalainen and Karin Sennefelt, "General Introduction," in *Scandinavia in the Age of Revolution. Nordic Political Cultures, 1740–1820,* eds. Pasi Ihalainen, Michael Bregnsbo, Karin Sennefelt and Patrik Winton (Farnham: Ashgate, 2011), 1–16.
10. Ihalainen and Sennefelt, "General Introduction."
11. Anders Sundell, "Understanding Informal Payments in the Public Sector: Theory and Evidence from Nineteenth-Century Sweden," *Scandinavian Political Studies* 37 (2014): 95–122.

12. See for example Michael Roberts, *Sverige Under Frihetstiden 1719–1772* (Stockholm: Prisma Bokförlag, 2003).
13. See for example Kenneth Awebro, *Gustaf III räfst med ämbetsmännen 1772–1779. Aktionerna mot landshövdingarna och Göta hovrätt* (Uppsala: Uppsala University, 1977). On local administration see Pär Frohnert, *Kronans skatter och bondens börd. Den lokala förvaltningen och bönderna i Sverige 1719–1775* (Stockholm: Stockholms Universitet, 1993). On military promotion see Larsson, *Officerskåren i Sverige*. On the central administration see Peter Nordström, *Reformer och rationalisering. Kung, råd och förvaltning under tidig gustaviansk tid, 1772–1778,* Stockholm Studies in History 44 (Stockholm: Almqvist & Wiksell, 1991).
14. See Rothstein, "State Building and Capitalism," 303–4.
15. There seem to be some similarities with Denmark in this respect, in the sense that an authoritarian king takes steps to reduce corruption in order to strengthen the legitimacy of the new regime (see Chapter 13 by Mette Frisk Jensen in this volume). As also showed elsewhere in this volume, anticorruption reforms take place under different types of regimes and with different purposes (for an overview, see Chapter 11 by Engels in this volume).
16. Sten Carlsson, *Hattar och mössor, Ostindiska kompaniet. Den svenska historien* (Stockholm: Albert Bonniers Förlag, 1979), 218.
17. Bo Rothstein and Jan Teorell, "Getting to Sweden, Part II: Breaking with Corruption in the 19th Century," *Scandinavian Political Studies*, 38 (2015): 238–54.
18. Teorell and Rothstein, "Getting to Sweden, Part I," 227–32.
19. Teorell and Rothstein, "Getting to Sweden, Part I," 220.
20. Rothstein and Teorell, "Getting to Sweden."
21. See Anders Sundin, *1809. Statskuppen och regeringsformens tillkomst som tolkningsprocess*, Studia Historica Upsaliensia 227 (Uppsala: Acta Universitatis Upsaliensis, 2006).
22. See Chapter 11 by Jens Ivo Engels in this volume.
23. Wichman, *Karl XIV Johans regering,* 11.
24. Wichman, *Karl XIV Johans regering*, 14.
25. See Sundin, *1809*.
26. See for example Nils Alexanderson, "Justieombudsmannen," and Gunnar Hesslén, "Riksdagens revisorer," both in *Sveriges Riksdag. Historisk och statsvetenskaplig framställning,* ed. Nils Edén (Stockholm: Victors Pettersons bokindustriaktiebolag, 1935), 7–139 and 239–327, respectively.
27. Rothstein, "Anticorruption."
28. Sundell, "Nepotism and Meritocracy."
29. Sundell, "Understanding Informal Payments."
30. On the benefits and advantages of using parliamentary sources for this type of studies, see Pasi Ihalainen and Kari Palonen, "Parliamentary Sources in the Comparative Study of Conceptual History: Methodological Aspects and Illustrations of a Research Proposal," *Parliaments, Estates and Representation* 29 (2009): 17–34.
31. Alexandersson, "Justitieombundsmannen."
32. Hesslén, "Riksdagens revisorer."
33. Rolf Adamson, *Reformivriga tidningar och svårflörtad överhet. Stockholmspressen och den högre förvaltningen under 1820-talet* (Stockholm: Kungliga Vitterhetsakademien, 2014).
34. The following narrative is based on *Betänkande, rörande Reglering af Rikets Styrelse-Verk. Bihang till Samtlige Riks-Ståndens Protokoll, elfte samlingen 1823* [Report concerning the Regulation of the Public Administrative System in Sweden. Supplement to the Protocol for all estates], vol. 11 (Stockholm: Elmén och Granberg, J.P. Lindhs Enka,

F. B. Nestius, Z. Haggström, A. E. Ortman, samt å Ecksteinska och Marquardska Boktryckerierne, 1823–24), unless otherwise indicated.
35. Rothstein and Teorell, "Getting to Sweden."
36. *Betänkande, rörande Reglering af Rikets Styrelse-Verk*, 22.
37. *Betänkande, rörande Reglering af Rikets Styrelse-Verk*, 6.
38. The narrative in this section is primarily based on Alexandersson, "Justitieombudsmannen" (JO) and Hesslén, "Riksdagens revisorer" (audit), unless otherwise indicated.
39. Alexandersson, "JO", 37.
40. This section is primarily based on Adamson, *Reformivriga tidningar*, unless otherwise indicated.

CHAPTER 17

1. *Tanzimat*, the term used in historiography for the Ottoman reforms of the nineteenth century is somewhat confusing because conventionally it signifies the period that started in 1839 and ended with the accession of Abdülhamid II to the throne in 1876. Nevertheless, the reform project lasted until the demise of the empire. The expression "the long nineteenth century," in this context, is meant to stress the fact that, historically, the continuum of nineteenth century reforms lasted a century and a half, from the late-eighteenth century until the end of the Ottoman Empire (1923). In the following discussion, therefore, "the nineteenth century" refers to this entire period.
2. Prior to the establishment of the new department at the office of the Chief Mufti, the responsibility for dividing inheritances among heirs ensuring that orphans received their share had rested with the Chief Military Judge (*Kadıasker*) who was under the authority of the Chief Mufti: İlhami Yurdakul, *Osmanlı İlmiye Merkez Teşkilatı'nda Reform, 1826–1876* (Istanbul: İletişim Yayınları, 2008), 177–80.
3. *Düstur*, 1st ed., vol. 1 (Istanbul: The Imperial Printing House, 1873), 270–5. Legally, the family was a patrilineal unit. Therefore, the term "orphan" (*yetim*) referred to a minor child (boy or girl under the age of puberty) whose father—namely the child's natural guardian (*velî*) had died. Since the guardian could only be a male agnate relative of a minor child, the state of orphanhood was defined exclusively by the death of the father while the death of a minor's mother was irrelevant to this definition (a separate term covered the position of a child who lost both his/her parents). Minor children and other family dependents were the responsibility of their male agnate relatives: first, their father, and in case of his death, an adult brother, uncle or grandfather. The guardian was responsible for all their needs (livelihood, education, marriage), except for the routine caretaking while in their mother's custody (until the age of seven and nine for boys and girls, respectively).
4. The main regulations were promulgated in 1852, 1870 and 1906. See *Düstur*, 1: 270–5 (31 December 1851) and 276–81 (17 February 1870 and 15 February 1872); *Düstur*, 1st ed., vol. 8 (Ankara: The State Printing House, 1943), 515–48 (28 April 1906).
5. A father could appoint a guardian (*velî*) and an executor (*vasi*) beforehand to take care of the interests of his minor children. When no specific instructions existed or the father had left no will, the court appointed an executor. A male relative was the default, but occasionally a female relative (usually the orphan's mother) was appointed, or a local notable and public figure, like the judge himself. The executor was responsible for the management of the orphan's inheritance.
6. The Chief Military Judge, assisted by local judges and courts for division of inheritances (*Kismet Mahkemeleri*), was in charge of securing the property rights of orphans. These officials were located at the center of the empire. It is not clear to what extent practices for handling the property of orphans of the *Askeri* class (military officers, including

governors, senior officials, and other privileged persons) were widespread prior to the establishment of the funds: Yurdakul, *Osmanlı İlmiye Merkez Teşkilatı'nda Reform*, 177–8.

7. It was no coincidence that the first chapter of the first Ottoman penal code (1840) dedicated several sections to offences by state officials. Furthermore, a couple of years before the promulgation of this code, Sultan Mahmud II issued two decrees containing laws concerning corruption of state officials and judges. See Yüksel Çelik, "Tanzimat Devrinde Rüşvet-Hediye Ikilemi ve bu Alandakı Yolsuzlukları Önleme Çabları," *Türk Kültürü İncelemeleri Dergisi* 15 (2006): 25–64 at 42–3.
8. See, for example, H. A. R. Gibb and Harold Bowen, *Islamic Society and the West: A Study of the Impact of Western Civilization on Moslem Culture in the Near East*, vol. 1, parts 1–2, (London: Oxford University Press, 1950 and 1957).
9. I have discussed elsewhere the implications of the operation of the Orphan Funds for the construction of the family as a patrilineal family, particularly from the point of view of gender relations. See Iris Agmon, *Family and Court: Legal Culture and Modernity in Late Ottoman Palestine* (New York: Syracuse University Press, 2006), 147–67. In the present chapter I discuss some preliminary findings and thoughts on the Orphan Funds from a rather different perspective, namely that of corruption and the state.
10. The modern term for "state" in Turkish is *devlet*, meaning in Ottoman-Turkish both "dynasty" and "state" (the empire's title was *Devlet-i Aliyye-i Osmaniyye*—namely "the exalted Ottoman dynasty").
11. Linda T. Darling, *A History of Social Justice and Political Power in the Middle East: The Circle of Justice from Mesopotamia to Globalization* (London and New York: Routledge, 2013), 2.
12. Darling, *A History of Social Justice*, 127. The chapters dedicated to the Ottoman Empire in her book (127–82) demonstrate how the Circle of Justice was transformed and reconstituted in the Ottoman Empire throughout its long history, including most of the nineteenth century.
13. See Yuval Ben-Bassat, *Petitioning the Sultan: Protest and Justice in Late Ottoman Palestine* (London: I. B. Tauris, 2013).
14. See Michael Ursinus, *Grievance Administration (Şikayet) in an Ottoman Province: The Kaymakam of Rumelia's "Record Book of Complaints" of 1781–1783* (New York: Routledge, 2005); Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany, NY: State University of New York Press, 1994).
15. Until the nineteenth century, a significant portion of the Ottoman ruling elite consisted of slaves or manumitted slaves.
16. Practically, there was a distinction between the sultan's privy purse, which included capital and property, and the treasury of the state.
17. Metin M. Coşgel, Boğaç Ergene, Haggay Etkes and Thomas J. Miceli, "Crime and Punishment in Ottoman Times: Corruption and Fines," *Journal of Interdisciplinary History* 43 (2013): 353–76.
18. Coşgel et al., "Crime and Punishment," 360–8.
19. The Decline Paradigm constructed Ottoman history from the end of the reign of Sultan Suleiman ("The Magnificent"; d. 1566) until the dissolution of the Ottoman Empire following the First World War (1923) as one continuous process of decline.
20. Around the turn of the twenty first century, the Humanities and Social Sciences underwent broad methodological and epistemological shifts. In Ottoman history, the publication of Edward Said's *Orientalism* and the postcolonial neo-Marxian theories on the emergence of the World Capitalist System provided the main perspectives for

challenging the Decline Paradigm. Numerous fascinating studies are included in this revisionist literature. Since this topic goes well beyond the scope of the present chapter, I refer the readers to only one of those studies, which to my mind represents the achievements of the revisionist wave: Ariel Salzmann, "An Ancien Régime Revisited: 'Privatizatio' and Political Economy in the Eighteenth-Century Ottoman Empire," *Politics & Society* 21 (1993): 393–423. Salzmann explored the practice of farming out the rights of collection of the revenues of land estates during the eighteenth century—a practice that had been presented as a symbol of Ottoman decentralization. She demonstrated convincingly that this practice was actually a social and economic mechanism that facilitated upward social mobility among the provincial elite. Tax-farming and the administrative responsibilities that came with it signified a new division of labor between the central government and the provincial elites, which was better suited to deal with the circumstances of the period. In the nineteenth century, Ottoman reformers presented tax-farming as a symbol of bad government in their attempt to legitimize the centralizing reforms. This study is relevant to the present essay because it demonstrates how changing historical (and local) circumstances, and reading the evidence against the grain of contemporary historiography, may make a substantial difference. Tax-farming practices and decentralization were not necessarily evidence of weakness, decline, or corruption in different eras or places.

21. Few Ottomanists have tackled the concept of decentralization recently. Baki Tezcan characterizes the seventeenth- and eighteenth-century Ottoman Empire as a "limited monarchy," maintaining that this period represented a socio-political passage from the medieval patrimonialism of the fifteenth and sixteenth centuries to a global early modernity in the seventeenth and eighteenth centuries: Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (Cambridge: Cambridge University Press, 2010). By contrast, Coşgel and Ergene employ meticulous analyses of socio-economic data to argue that at least in the Anatolian province of Kastamonu, which they studied, the eighteenth century was an era of decline. See Metin M. Coşgel and Boğaç Ergene, *The Economics of Ottoman Justice: Trial and Settlement in a Sharia Court* (Cambridge: Cambridge University Press, 2016). It should be stressed that Coşgel and Ergene do not reproduce the historicist interpretation of Ottoman history, which was a typical feature of the declinist discourse. Their analysis does not rule out the recovery of the state in the nineteenth century—a chapter in Ottoman history that declinists either marginalized or represented as a superficial and failing "imitation of the West." Another recent study on the Ottoman legal system in the eighteenth century demonstrates the conceptual problem of decentralization. Like Tezcan, Fariba Zarinebaf compared trends in the treatment of crimes in Istanbul to those in Southern and Western Europe, concluding that the eighteenth century ought to be understood as a prelude to the modernization of criminal law in the nineteenth century: Fariba Zarinebaf, *Crime and Punishment in Istanbul, 1700–1800* (Berkeley: University of California Press, 2010). These are only a few examples of recent studies that deal with the same period from entirely different perspectives, addressing the question of Ottoman decentralization and sharing the challenge of unpacking this historiographic burden. Their contrasting conclusions about this period may be easily explained by the differences between their perspectives, units of analysis, research tools and other aspects of approach and method.
22. See, for example, Ahmet Mumcu, *Osmanlı Devleti'nde Rüşvet* (Ankara: Ankara University, Faculty of Law, 1969); Kemal Daşcıoğlu, "Osmalı döneminde rüşvet ve sahtekarlık suçları ve bunlara verilen cezalar üzerine bazı belgeler," *Sayıştay Dergisi* 59 (2005): 119–24.

23. Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave MacMillan, 2011), 131 and nn. 67 and 185. Thus, historians have reached contradictory conclusions in this regard. See Daşcıoğlu, "Osmalı döneminde rüşvet," 124. Haim Gerber took issue with Mumcu's description of widespread corruption in the seventeenth century and his interpretation of it as a marker of decline. Gerber's analysis of court records and complaint documents from seventeenth-century Bursa led him to a different conclusion about corruption in general and among judges in particular: see Haim Gerber, *State, Society, and Law in Islam*, 154–61. On disciplinary measures taken against the judiciary during the nineteenth century reforms as a means of internalization of the principle of the rule of law, see Rubin, *Ottoman Nizamiye Courts*, 113–32. Cengiz Kırlı has analyzed three criminal proceedings and punishments imposed on senior officials following the promulgation of the first Penal Code (1840). He has concluded that the trials and punishments were a tool for sending a message to senior officials who opposed the reforms rather than an expression of anticorruption action per se: see Cengiz Kırlı, *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi* (Istanbul: Verita, 2015).
24. This issue has been discussed by Çelik showing that the reformers of the nineteenth century made efforts to legally define the difference between lawful gifts and unlawful bribery.
25. Christoph Herzog, "Corruption and Limits of the State in the Ottoman Province of Baghdad during the Tanzimat," *MIT Electronic Journal of Middle East Studies* 3 (2003): 35–43 at 38. I do not share Herzog's general presupposition in this article about the failure of Ottoman modernization. The scope of the current chapter, however, does not allow further engagement with this issue.
26. Rubin, *Ottoman Nizamiye Courts*, 113–32. On the Penal Code as a means of reconstituting state authority and responsibility for maintaining public order, see Tobias Heinzelmann, "The Ruler's Monologue: The Rhetoric of the Ottoman Penal Code of 1858," *Die Welt Des Islam* 54 (2014): 292–321. On the codification movement, see Avi Rubin, "Modernity as a Code: The Ottoman Empire and the Global Movement of Codification," *Journal of the Economic and Social History of the Orient* 59 (2016): 828–56.
27. Rubin, *Ottoman Nizamiye Courts*, 8–14.
28. See, for example, Meşihat Arşivi [Archive of the Office of the Chief Mufti], Istanbul, *Sicill-i Ahval Dosyaları*, dos. 1095; *Sicill-i Ahval Defterleri*, 1/363.
29. To be sure, lack of reference to the normative criminal law does not mean that anticorruption criminal provisions were not enforced with regard to officials working at the Orphan Funds. By definition, criminal law was applicable to everyone. However, regulations sometimes included explicit reference to specific criminal clauses stating that they would be applied to specific officials if they failed to comply with certain instructions. Such references suggest that the authorities felt it was necessary to warn certain officials about disregarding specific instructions, or that they had learnt from previous experience that officials tended to neglect certain duties.
30. *Düstur*, 8: 523 (no. 114, art. 23–24).
31. I am grateful to my colleague, Avi Rubin, who analyzed the *nizamiye* cases published by the Ottoman Ministry of Justice in its journal, *Ceride-i Mehakim*, for his own study, and kindly provided me with this information.
32. See, for example, Başbakanlık Osmanlı Arşivi [Ottoman State Archive; henceforth BOA], Istanbul, DH.MKT. 868/69; DH.MKT. 956/24. These two files report on the indictment of two former directors of Orphan Funds in the early years of the twentieth century (1904–5), one was director at Ankara and the other at Damascus.

Both of them were tried for embezzlement and found guilty by a second instance court that was established as a special forum for trying senior state official subordinate to the government (*şura-i devlet istinaf mahkemesi*).

33. See, for example, BOA, Istanbul, BEO 166/12403; BEO 329/24605. The former petition was submitted in 1893 to the province of Kastamonu (in north Anatolia) by a rural gendarme who claimed as a former orphan that a government member had stolen money from his father's inheritance that had been kept at the Orphan Fund. The latter petition was submitted in the same year to *Meşihat* (the office of the Chief Mufti) by a group of people complaining about a chief clerk at a certain *şeriat* court and the director of the attached Orphan Fund, claiming that they had conspired to steal money from the fund and use it to appoint their sons to certain offices.
34. See, for example, BOA, Istanbul, A.}MKT.UM 506/16; A.}MKT.UM 546/75. The former file from the early 1860s deals with money borrowed from the Orphan Fund in Crete by a woman who died before paying her debt. It contains considerations by the treasury about the liquidation of the late borrower's mortgage. The latter file from the same period deals with payment of a debt to the Orphan Fund that was demanded of the borrower, a former governor. These findings are based on a preliminary sampling of the records in question.
35. I am once again grateful to my colleague, Avi Rubin, for kindly providing me with this information. This policy supports the conclusion reached by Rubin that the Ottoman reformers made special efforts to indict and punish judges and other members of the judicial staff and to disseminate information about such cases for the purpose of deterrence and in order to display their commitment to the principle of the rule of law.

CHAPTER 18

1. Cornelius O'Leary, *The Elimination of Corrupt Practices in British Elections, 1868–1911* (Oxford: Oxford University Press, 1962). For a recent reevaluation see Kathryn Rix, "'The Elimination of Corrupt Practices in British Elections'? Reassessing the Impact of the 1883 Corrupt Practices Act," *English Historical Review* 123 (2008): 65–97.
2. *Report of the Conference of Officers of the Liberal Associations upon the Corrupt and Illegal Practices Act 1883* (London: National Liberal Federation, 1883).
3. P. Harling, "Rethinking 'Old Corruption'," *Past & Present* 147 (1995): 127–58.
4. William D. Rubinstein, "The End of 'Old Corruption' in Britain," *Past & Present* 101 (1983): 55–86.
5. F. H. Herrick, "Lord Randolph Churchill and the Popular Organization of the Conservative Party," *Pacific Historical Review* 15 (1946): 178–91; Herrick, "The Origins of the National Liberal Federation," *The Journal of Modern History* 17 (1945): 116–29.
6. Kathryn Rix, "By-elections and the Modernisation of Party Organisation, 1867–1914," in *By-elections in British Politics*, ed. T. G. Otte and Paul Readman (London: Boydell, 2013), 151–76.
7. H. J. Hanham, "The Sale of Honours in Late Victorian England," *Victorian Studies* 3 (1960): 277–89.
8. See the case of E. H. Carbutt in T. A. Jenkins, "The Funding of the Liberal Unionist Party and the Honours System," *English Historical Review* 105 (1990): 920–38.
9. John D. Fair, "From Liberal to Conservative: The Flight of the Liberal Unionists after 1886," *Victorian Studies* 29 (1986): 291–314.
10. David Howell, *British Workers and the Independent Labour Party, 1888–1906* (Manchester: Manchester University Press, 1984).

11. James McConnel, "'Jobbing with Tory and Liberal', Irish Nationalists and the Politics of Patronage 1880–1914," *Past & Present* 188 (2005): 105–31.
12. W. J. Baker, *A History of the Marconi Company, 1874–1965* (London: Routledge, 2002), 143–8.
13. G. K. Chesterton, *Autobiography of G. K. Chesterton* (New York: Hutchinson, 1936), 205.
14. Geoffrey Searle, *Corruption in British Politics, 1895–1930* (Oxford: Oxford University Press, 1990).
15. Frans Coetzee, "Pressure Groups, Tory Businessmen and the Aura of Political Corruption before the First World War," *Historical Journal* 29 (1986): 833–52.
16. Moisey Ostrogorsky, *Democracy and the Organisation of Political Parties* (New York: MacMillan, 1902).
17. Alan Doig, *Corruption and Misconduct in Contemporary British Politics* (Harmondsworth: Penguin Books, 1984), 65.
18. P. Fennell, "Local Government Corruption in England and Wales," in *Corruption Causes, Consequences and Control*, ed. Michael Clarke (London: Frances Pinter, 1983), 10–23 at 13.
19. Fennell, "Local Government," 10.
20. James Moore and John Smith, eds., *Corruption in Urban Politics and Society, 1780–1950* (Farnham: Ashgate, 2007).
21. Rubinstein, "The End of 'Old Corruption' in Britain."
22. For an evaluation see E. P. Hennock, *Fit and Proper Persons: Ideal and Reality in Nineteenth Century Urban Government* (London: Hodder, 1973). Derek Fraser, *Municipal Reform and the Industrial City* (London: Palgrave, 1982).
23. Asa Briggs, *The Victorian City* (London: Oldhams, 1963); Gordon E. Cherry, *Urban Change and Planning. A History of Urban Development in Britain since 1750* (London: Foulis, 1972).
24. Quoted in Doig, *Corruption*, 65.
25. See James Moore, *The Transformation of Urban Liberalism* (Aldershot: Ashgate, 2006).
26. Joseph Scott, *Leaves from the Diary of a Citizens' Auditor* (Manchester: City News, 1884), esp. 43–45.
27. See, for example, the role of the *Manchester City News, Spy* and *The City Lantern* in Manchester.
28. For examples see Scott, *Leaves.*
29. Moore and Smith, *Corruption*, ch. 6.
30. Moore and Smith, *Corruption.*
31. John Garrard, "The Salford Gas Scandal of 1887," *Manchester Region History Review* 2 (1988–89): 12–20.
32. Licensing Act, 1872. Available online at: http://www.legislation.gov.uk/ukpga/Vict/35-36/94/enacted [accessed January 8, 2016].
33. For background see Geoffrey Seuss Law, "Manchester's Politics, 1885–1906" (PhD dissertation, University of Pennsylvania, 1975), 204–51.
34. *Spy* [Manchester], 2, 17 April 1891.
35. James Moore, "The Art of Philanthropy—The Formation and Development of the Walker Art Gallery in Liverpool," *Museum and Society* 2 (2004): 68–83.
36. Jerome Caminada, *Twenty-Five Years of Detective Life* (Manchester: City News, 1895).
37. Jean Farquhar, *Arthur Wakerley, 1862–1931* (Leicester: Sedgebrook Press, 1984), 22.
38. Public Bodies Corrupt Practices Act, 1889, 52 & 53 Vict. Available online at: www.legislation.gov.uk/ukpga/Vict/52-53/69/contents [accessed January 8, 2016].

39. H. A. Shannon, "The Limited Companies of 1866–83," *The Economic History Review* 4 (1933): 290–316.
40. Municipal Corporations Act, 1882. Alderman. Contract with Corporation. Share or Interest in Contract. Company. Managing Director and Shareholder. Share or Interest in Company. Penalty. Lapish v. Braithwaite [1925] 1 K.B. 474. 40 T.L.R. 857, [1926] A.C., *The Cambridge Law Journal* 2 (1926), 371–4.
41. Bryan Keith-Lucas and Peter G. Richards, *A History of Local Government in the Twentieth Century* (London: George Allen & Unwin, 1978), 95–6.
42. See R. M. Jackson, *The Machinery of Local Government* (London: MacMillan, 1958), 341–3.
43. Doig, *Corruption and Misconduct*, 77–9.
44. James Moore and Richard Rodger, "Municipal Knowledge and Policy Networks in British Local Government, 1832–1914," *Jahrbuch für europäische Verwaltungsgeschichte* 15 (2003): 29–58.
45. For a detailed discussion of these changes see Moore, *The Transformation.*

CHAPTER 19

1. Alina Mungiu-Pippidi, ed., *Controlling Corruption in Europe. The Anticorruption Report*, vol. 1 (Opladen: Barbara Budrich Publishers, 2013). According to Mungiu-Pippidi, "group A"—well-governed and relatively non-corrupt countries—consists of Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Malta, the Netherlands, Sweden and the UK.
2. Paul Heywood, "Political Corruption," *Political Studies* 45 (1997): 417–35; Hans Nelen, "Corruptie in de polder: Nederland ontwaakt," in *Integriteit: Integriteit en integriteitsbeleid in Nederland*, ed. J. H. J van den Heuvel, L. W. J. C. Huberts and E. R. Muller (Deventer: Kluwer, 2012), 169–86; Sebastian Wolf, *Korruption, Antikorruptionspolitik und öffentliche Verwaltung* (Wiesbaden: Springer, 2014).
3. Michael Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (Cambridge: Cambridge University Press, 2005), 74–6.
4. Johnston, *Syndromes of Corruption*, 60.
5. Michael Johnston, *Corruption, Contention and Reform. The Power of Deep Democratization* (Cambridge: Cambridge University Press, 2013); Francis Fukuyama, *The Origins of Political Order. From Prehuman Times to the French Revolution* (London: Profile Books, 2011); Bo Rothstein, "Anti-Corruption: A Big Bang Theory," *QoG Working Paper* 3 (2007). Available online at: http://www.pol.gu.se/digitalAssets/1350/1350652_2007_3_rothstein.pdf [accessed June 23, 2017].
6. Dirk Tänzler, Konstandinos Maras and Angelos Giannakopoulos, "The German Myth of a Corruption-Free Modern Country," in *The Social Construction of Corruption in Europe*, ed. D. Tänzler, K. Maras and A. Giannakopoulos (London: Ashgate, 2012), 87–105.
7. See also Ronald Kroeze, "The Rediscovery of Corruption in Western Democracies," in *Corruption and Legitimacy: A Twenty-First Century Perspective*, ed. Jonathan Mendilow and Ilan Peleg (Lanham: Rowman & Littlefield Publishers, 2016), 21–40; Jens Ivo Engels, *Die Geschichte der Korruption. Von der Frühen Neuzeit bis ins 20. Jahrhundert* (Frankfurt: S. Fisher, 2014).
8. Hendrikus J. Brasz and Willem F. Werthem, *Corruptie* (Assen: Van Gorcum, 1961), 52 also plead for the study of anticorruption not only from a formal-legal perspective but also by considering anticorruption as a "practice and reality" in history.

9. Hartmut Berghoff, "From the Watergate Scandal to the Compliance Revolution. The Fight against Corporate Corruption in the United States and Germany, 1972–2012," *Bulletin of the German Historical Institute* 53 (2013): 7–30 at 12.
10. Dan Hough, *Corruption, Anticorruption and Governance* (Basingstoke: Palgrave Macmillan, 2013), 23; Robert Williams, "New Concepts for Old?" *Third World Quarterly* 20 (1999): 503–14 at 506–7.
11. See for example Susan Rose-Ackerman, *The Economics of Corruption: A Study in Political Economy* (New York: Academic Press, 1978); Rose-Ackerman, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge: Cambridge University Press, 1999); Robert Klitgaard, *Controlling Corruption* (Berkeley, CA: University of California Press, 1988).
12. Ivan Krastev, "When 'Should' Does not Imply 'Can'. The Making of the Washington Consensus on Corruption," in *Entangled Histories and Negotiated Universals. Centers and Peripheries in a Changing World*, ed. Wolf Lepenies (Frankfurt and New York: Campus Verlag, 2003), 105–26.
13. Johnston, *Syndromes of Corruption*, 6.
14. Sebastian Wolf, *Antikorruptionspolitik*, 100–4; Hough, *Corruption and Anticorruption*, 12.
15. Wolf, *Antikorruptionspolitik*, 107.
16. Patrycja Szareki-Mason, *The European Union's Fight Against Corruption: The Evolving Policy Towards Member States and Candidate Countries* (Cambridge: Cambridge University Press, 2010).
17. Berghoff, "From the Watergate Scandal To the Compliance Revolution," 17.
18. Netherlands Public Prosecutor, "SBM Offshore Settles," 2015. Available online at: https://www.om.nl/actueel/nieuwsberichten/@87201/sbm-offshore-settles/ [accessed June 1, 2015].
19. Hough, *Anticorruption*, 32 and 33; see also UNESCAP, "What is Good Governance?," July 1–3, 2009, accessed January 11, 2015. Available online at: http://www.unescap.org/sites/default/files/good-governance.pdf [accessed June 23, 2017]; Mark Bevir, *Governance. A Very Short Introduction* (Oxford: Oxford University Press, 2012), especially ch. 6 on "Good Governance"; Sebastian Wolf and Diana Schmidt-Pfister, eds., *International Anticorruption Regimes in Europe. Between Corruption, Integration, and Culture* (Baden-Baden: Nomos, 2010).
20. Dieter Haller and Chris Sore, eds., *Corruption: Anthropological Perspectives* (London: Pluto Press, 2005); Edward L. Glaeser and C. Goldin, eds., *Corruption and Reform. Lessons from America's Economic History* (Chicago: Chicago University Press, 2006).
21. Fukuyama, *The Origins of Political Order*, 14; Alina Mungiu-Pippidi, "Becoming Denmark: Historical Designs of Corruption Control," *Social Research* 80 (2013): 1259–86; Mette Frisk Jensen, "The Question of How Denmark Got To Be Denmark: Establishing Rule of Law and Fighting Corruption in the State of Denmark, 1660–1900," *QOG Working Paper Series* 6 (2014): 1–26. Available online at: http://pure.au.dk/portal/files/82049568/How_Denmark_got_to_be_Denmark_QoG_Workingpaper.pdf [accessed June 23, 2017].
22. Ronald Kroeze, "The Rediscovery of Corruption in Western Democracies."
23. Berghoff, "The Watergate Scandal," 14.
24. Friso Wielenga, *Nederland in de Twintigste Eeuw* (Amsterdam: Boom, 2010), 266.
25. Handelingen van de Tweede Kamer der Staten Generaal [Minutes of the Second Chamber of Parliament, 1975–76—henceforth HTK], Kamerstuk nr 13787, "Rapport van de commissie van onderzoek," 3. Available online at: http://www.statengeneraaldigitaal.nl [accessed June 23, 2017].

26. HTK, "Rapport van de commissie van onderzoek," 8–10; see also 23. There the committee concluded that the Prince had promoted the purchase of certain aircrafts.
27. HTK, "Rapport van de commissie van onderzoek," 34 and 35.
28. HTK, "Rapport van de commissie van onderzoek," 36.
29. HTK, "Rapport van de commissie van onderzoek," 14, 15 and 36.
30. HTK, "Rapport van de commissie van onderzoek," 36.
31. HTK, "Rapport van de commissie van onderzoek," 37.
32. HTK, "Rapport van de commissie van onderzoek," 37 and 38.
33. Gerard Aalders, *Het Lockheed-schandaal: wapenindustrie, smeergeld en corruptie* (Amsterdam: Boom, 2011), 191.
34. Aalders, *Het Lockheed-schandaal*, 193.
35. HTK, "Plenary Debates," 30 August 1976, 5136. Available online at: www.statengeneraaldigitaal.nl [accessed June 23, 2017].
36. HTK, "Plenary Debates," 30 August 1976, 5137 and 5138.
37. HTK, "Plenary Debates," 30 August 1976, 5138.
38. HTK, "Plenary Debates," 30 August 1976, 5139.
39. HTK, "Plenary Debates," 30 August 1976, 5144.
40. HTK, "Plenary Debates," 30 August 1976, 5141.
41. HTK, "Plenary Debates," 30 August 1976, 5157 and 5158.
42. Aalders, *Het Lockheed-schandaal*, 183 and 194.
43. Aalders, *Het Lockheed-schandaal*, 185. So important was it for him, that Bernhard kept asking to be allowed to wear his uniform again. In 1991, as a sign of goodwill and as a present from the cabinet in consideration of the silver marriage of his daughter Queen Beatrix, he was allowed to wear it again.
44. As cited in Aalders, *Het Lockheed-schandaal*, 196.
45. Aalders, *Het Lockheed-schandaal*, 197 and 198; John T. Noonan, *Bribes: An Intellectual History of a Moral Idea* (Berkeley, CA: University of California Press, 1984), 663.
46. Aalders, *Het Lockheed-schandaal*, 196, 199–203 and 207.
47. A. J. P. Tillema, "Ontwikkelingen rondom corruptiebestrijding in Nederland," Transparency International Nederland 2015, 1–12. Available online at: http://www.transparency.nl/wp-content/uploads/2015/07/Artikel-OSP-over-Corruptie.pdf [accessed January 7, 2016]; "Aanwijzing opsporing en vervolging buitenlandse corruptie," Overheid.nl, accessed January 7, 2016, wetten.overheid.nl.
48. Werner Abelshauser, *Nach dem Wirtschaftswunder. Der Gewerkschafter, Politiker und Unternehmer Hans Matthöfer* (Bonn: Dietz Verlag, 2009), 493.
49. Abelshauser, *Hans Matthöfer*, 495.
50. "Vor 30 Jahren: Bundestag beschließt Flick-Ausschuss," Deutscher Bundestag, May 15, 2013. Available online at: https://www.bundestag.de/dokumente/textarchiv/2013/44789336_kw20_kalenderblatt_flick_untersuchungsausschuss/212402 [accessed July 10, 2014].
51. Hans Werner Kilz and Joachim Preuß, eds., *Flick. Die gekaufte Republik* (Reinbeck: Rowolt, 1984), 327.
52. Abelshauser, *Hans Matthöfer*, 496.
53. Kim Christian Priemel, "Twentieth Century Flick: Business History in the Age of Extremes," *Journal of Contemporary History* 47 (2012): 754–72.
54. "Erosion des Vertrauens der Bürger in die Parteien." Axel Schildt and Detlef Siegfried, *Deutsche Kulturgeschichte. Die Bundesrepublik—1945 bis zur Gegenwart* (Bonn: Carl Hanser Verlag, 2009), 443.
55. "[Die Flick-Affäre war] eine schmierige Parteispenden-Angelegenheit, die in der Öffentlichkeit das unsägliche Bild einer korrupten Verflechtung von Politik und

Wirtschaft hinterließ und zur 'Parteienverdrossenheit' beitrug." Edgar Wolfrum, *Die Geglückte Demokratie. Geschichte der Bundesrepublik Deutschland von ihren Anfängen bis zur Gegenwart* (Bonn: Klett Gotta, 2007), 362 and 363.

56. Kilz and Preuß, *Flick: Die Gekaufte Republik*.
57. Plenarprotokoll Deutscher Bundestag [Minutes of the Plenary Sessions of the German Bundestag, Sitzung—henceforth PDB], Plenary Session, 19 May 1983, 426. Available online at: http://dip21.bundestag.de/dip21/btp/10/10008.pdf [accessed 11 July, 2014].
58. PDB, Plenary Session, 19 May 1983, 428. Available online at: http://dip21.bundestag.de/dip21/btp/10/10008.pdf [accessed July 11, 2014].
59. PDB, Plenary Session, 19 May 1983, 422–4. Available online at: http://dip21.bundestag.de/dip21/btp/10/10008.pdf [accessed July 11, 2014].
60. PDB, Plenary Session, 19 May 1983, 422–4. Available online at: http://dip21.bundestag.de/dip21/btp/10/10008.pdf [accessed July 11, 2014].
61. PDB, Plenary Session, 19 May 1983, 422–4. Available online at: http://dip21.bundestag.de/dip21/btp/10/10008.pdf [accessed July 11, 2014].
62. Deutscher Bundestag, "Beschlußempfehlung und Bericht des 1. Untersuchungsausschusses nach Artikel 44 des Grundgesetzes zu dem Antrag der Fraktion der SPD" [Final Advice of the Investigation Committee], 21 February 1986. Available online at: http://dip21.bundestag.de/dip21/btd/10/050/1005079.pdf [accessed August 7, 2014].
63. The investigation committee consisted of eleven members of parliament: five from CDU/CSU, four from SPD, one from FDP and one from Die Grünen.
64. "Ein Untersuchungsausschuß ist kein Gericht." Deutscher Bundestag, "Beschlußempfehlung und Bericht des 1. Untersuchungsausschusses nach Artikel 44 des Grundgesetzes zu dem Antrag der Fraktion der SPD" [Final advice of the Investigation Committee], 21 February 1986, 285. Available online at: http://dip21.bundestag.de/dip21/btd/10/050/1005079.pdf [accessed August 8, 2014].
65. Thomas Bartholmes, *Die "Flick-Affäre"—Verlauf und Folgen* (Speyer: Hochschule für Verwaltungswisschaft, 2003), 22 and 27.
66. Johnston, *Syndromes of Corruption*, 75. Johnston carries on in a similarly critical vein on pages 76 and 77: "These sort of dealings [gifts to parties and politicians such as in the case of Flick] are aided by relatively weak legal and political constraints. Germany did introduce new controls on party contributions in the 1980s, but there are no limits and no bars against contributions or in cash. Bribery of Bundestag members is a legal offence, but the law is not vigorously enforced . . . Finally . . . top figures often enjoy de facto immunity (Seibel 1997: 89, 94–96): jail terms are rare, criminal charges are likely to deal with tax evasion rather than bribery, and political careers may continue with little loss of standing."
67. Heinrich August Winkler, *Der lange Weg nach Westen*, vol. 2 (Bonn: Bundeszentrale für politische Bildung, 2004), 414.
68. Norbert Frei et. al. *Flick. Der Konzern, die Familie, die Macht* (Munich: Random House, 2009), 687.
69. Winkler, *Der lange Weg nach Westen*, 412.
70. Frei et al., *Flick*, 696.
71. Ronald Kroeze, *Een kwestie van politieke moraliteit. Politieke corruptionschandalen en goed bestuur in Nederland, 1848–1940* (Hilversum: Verloren, 2013), 261–3.
72. Ronald Kroeze, "Corruptie in de Nederlandse politieke geschiedenis. De functie van debatten over omkoping, belangenverstrengeling en systeemfalen," in *Jaarboek Parlementaire Geschiedenis*, ed. C. van Baalen et al. (Amsterdam: Boom, 2014), 81–94. See also the words of German investigative journalist Thomas Ramge. For him scandals are

a "means of communication," "the most exciting political rituals within a democracy" and "democratic rituals of self-cleaning." Thomas Ramge, *Die Großen Polit-Skandale. Eine andere Geschichte der Bundesrepublik* (Frankfurt: Campus Verlag, 2003), 10.

CHAPTER 20

1. See Vladimir Ilyich Lenin, "A Caricature of Marxism and Imperialist Economism [1916]," in *Collected Works*, vol. 23 (Moscow: Progress Publishers, 1974), 29–76 at 46; Lenin, "Imperialism and the Split in Socialism [1916]," in *Collected Works*, 23:105–20 at 106.
2. Vladimir Ilyich Lenin, "The New Economic Policy and the Tasks of the Political Education Departments [1921]," in *Collected Works*, vol. 33 (Moscow: Progress Publishers, 1974), 60–80 at 75.
3. "Beschluß des V. Parteitages über den Kampf um den Frieden, für den Sieg des Sozialismus, für die nationale Wiedergeburt Deutschlands als friedliebender, demokratischer Staat," in *Protokoll der Verhandlungen des V. Parteitages der SED, 10. bis 16. Juli 1958* (Berlin [East]: Dietz, 1959), 1329–416 at 1392.
4. "Programm der SED," in *Protokoll der Verhandlungen des IX. Parteitages der SED in Berlin 18.-22. Mai 1976*, Vol. 2 (Berlin [East]: Dietz, 1976), 209–66 at 250.
5. Thomas Schuhbauer, *Umbruch im Fernsehen, Fernsehen im Umbruch. Die Rolle des DDR-Fernsehens in der Revolution und im Prozeß der deutschen Vereinigung 1989–1990 am Beispiel des Jugendmagazins Elf "99"* (Berlin: Logos, 2001), 225.
6. See also Schuhbauer, *Umbruch im Fernsehen*, 224–47.
7. A brochure by Peter Kirschey, a journalist at *Neuen Deutschland*, reflects this process: see Peter Kirschey, *Wandlitz Waldsiedlung—die geschlossene Gesellschaft. Versuch einer Reportage. Gespräche, Dokumente* (Berlin [East]: Dietz, 1990).
8. Małgorzata Mazurek, "'Filling the Gap between Plan and Needs': Social Networks in the Local Government System in Communist Poland," in *Vernetzte Improvisationen. Gesellschaftliche Subsysteme in Ostmitteleuropa und in der DDR*, ed. Annette Schuhmann (Cologne: Böhlau, 2008), 103–20 at 104.
9. Klaus Marxen and Gerhard Werle, eds., *Strafjustiz und DDR-Unrecht. Bd. 3: Amtsmißbrauch und Korruption* (Berlin: De Gruyter, 2002), xxvii.
10. Susan Rose-Ackerman, "Corruption," in *The Encyclopedia of Public Choice* vol. 1, ed. Charles K. Rowley and Friedrich Schneider (Dordrecht: Kluwer Academic Publishers, 2004), 67–76 at 67.
11. See sections 159 (Fraud to the detriment of socialist property), 165 (Breach of trust) and 247, 248 (Bribery) in *Strafgesetzbuch der Deutschen Demokratischen Republik*, ed. Ministerium der Justiz (Berlin [East]: Staatsverlag der DDR, 1968).
12. The classic study on this topic in relation to the Soviet Union is Michael Voslensky, *Nomenklatura: The Soviet Ruling Class* (Garden City, NY: Doubleday & Co, 1984). For the GDR see: Mathias Wagner, *Ab morgen bist du Direktor. Das System der Nomenklaturkader in der DDR* (Berlin: Das neue Berlin, 1998), 16f.; Wolfgang-Uwe Friedrich, "Kaderpolitik als totalitäres Herrschaftsinstrument. Das Nomenklatursystem in der DDR," in *Diktaturvergleich als Herausforderung. Theorie und Praxis*, ed. Günther Heydemann et al. (Berlin: Duncker & Humblot, 1998), 169–86.
13. J. M. Montias and Susan Rose-Ackerman, "Corruption in a Soviet-type Economy: Theoretical Considerations," in *Economic Welfare and the Economics of Soviet Socialism: Essays in Honor of Abram Bergson*, ed. Steven Rosefielde (Cambridge: Cambridge University Press, 1981), 53–83 at 58.

14. Frank Bajohr, *Parvenüs und Profiteure. Korruption in der NS-Zeit* (Frankfurt: Fischer, 2001), 141–7. See also Frank Bajohr, "The Holocaust and Corruption," in *Networks of Nazi Persecution. Bureaucracy, Business and the Organization of the Holocaust*, ed. Gerald D. Feldmann and Wolfgang Seibel (New York: Berghahn Books, 2005), 118–40.
15. Montias and Rose-Ackerman, "Corruption in a Soviet-type Economy," 56.
16. Mark Harrison and Byung-Yeon Ki, "Plans, Prices, and Corruption: The Soviet Firm Under Partial Centralization, 1930 to 1990," *Journal of Economic History* 66 (2006): 1–41 at 17.
17. Olson speaks of "irrepressible markets" in this context. See Mancur Olson, *Power and Prosperity. Outgrowing Communist and Capitalist Dictatorships* (New York: Basic Books, 2000), 175.
18. Alena V. Ledeneva, *Russia's Economy of Favours: Blat, Networking and Informal Exchange* (Cambridge: Cambridge University Press, 1998), 39–59. Ledeneva tries to make a clearer distinction between the phenomenon of *Blat* and bribery, corruption, informal economic practice, patronage and wheeling and dealing. In the process it becomes clear that aside from the differences many categories also overlapped.
19. Bajohr, "The Holocaust and Corruption," 119–20.
20. For the overall process see Dietrich Staritz, *Die Gründung der DDR. Von der sowjetischen Besatzungsherrschaft zum sozialistischen Staat*, 3rd. ed. (Munich: Dt. Taschenbuch-Verlag, 1995).
21. Monika Tatzkow and Hartmut Henicke, "'. . . ohne ausreichende Begründung . . .'. Zur Praxis der 'Enteignung der Naziaktivisten und Kriegsverbrecher' in der SBZ," *Zeitschrift für offene Vermögensfragen* 2 (1992): 182–9 at 182, 186 and 188. Friederike Sattler, *Wirtschaftsordnung im Übergang. Politik, Organisation und Funktion der KPD/SED im Land Brandenburg bei der Etablierung der zentralen Planwirtschaft in der SBZ/DDR 1945–52* (Münster: LIT, 2002), 247.
22. Tatzkow and Hartmut Henicke, "'. . . ohne ausreichende Begründung . . .', 286.
23. Tatzkow and Hartmut Henicke, "'. . . ohne ausreichende Begründung . . .'.
24. André Steiner, *The Plans that Failed. An Economic History of the GDR* (New York: Berghahn Books, 2010), 31.
25. This conclusion is supported by the following studies on the ZKK, which do not raise the issue of anticorruption measures. Jutta Braun, "Wirtschaftsstrafrecht und Enteignungspolitik in der SBZ-DDR. Die Zentrale Kommission für Staatliche Kontrolle 1948–1953" (PhD dissertation, University of Munich, 1999); Thomas Horstmann, *Logik der Willkür. Die Zentrale Kommission für Staatliche Kontrolle in der SBZ/DDR von 1948 bis 1958* (Cologne: Böhlau, 2002).
26. Nils Klawitter, "Die Rolle der ZKK bei der Inszenierung von Schauprozessen in der SBZ/DDR: Die Verfahren gegen die 'Textilschieber von Glauchau-Meerane' und die 'Wirtschaftssaboteure' der Deutschen Continental-Gas-AG," in *Die Hinterbühne politischer Strafjustiz in den frühen Jahren der SBZ/DDR*, ed. Jutta Braun, Nils Klawitter and Falco Werkentin (Berlin: Schriftenreihe des Berliner Landesbeauftragten für die Unterlagen des Staatssicherheitsdienstes der ehemaligen DDR, 2002), 23–56 at 24. See also for the background of the case.
27. Abt. Wirtschaft an das Zentralsekretariat [der SED], Die landeseigenen Betriebe, 2.5.47, Stiftung Archiv der Parteien und Massenorganisationen der DDR im Bundesarchiv [hereafter SAPMO-BA] DY30 IV 2/602/57, Bl. 27.
28. For a preliminary sketch of this process see: Wagner, *Ab morgen*, 30–61. However, the question of the changes in the privileges allocated to the *nomenklatura* cadres over time is not raised.
29. Bajohr, "The Holocaust and Corruption," 118.

30. On the material privileges enjoyed by leading academics and engineers see: Agnes Charlotte Tandler, *Geplante Zukunft. Wissenschaftler und Wissenschaftspolitik in der DDR 1955–1971* (Freiberg: Technische Universität Bergakademie Freiberg, 2000), 26–32; Dolores L. Augustine, *Red Prometheus. Engineering and Dictatorship in East Germany, 1945–1990* (Cambridge, MA: MIT Press, 2007), 42.
31. On the preparation and implementation see: André Steiner, *Die DDR-Wirtschaftsreform der sechziger Jahre. Konflikt zwischen Effizienz- und Machtkalkül* (Berlin: Akademie Verlag, 1999).
32. Abt. Planung und Finanzen: Information über die Arbeitstagung der Leitung des VWR mit den Generaldirektoren der VVB . . . [am 2.7.65], 7.7.65, SAPMO-BA DY30 IV A2/2021/274.
33. Protokoll über die am 13.8.65 durchgeführte Beratung des Genossen Dr. Mittag mit den Sekretären der Bezirksleitungen, die für Fragen der Industrie und des Bauwesens verantwortlich sind, 18.8.65, SAPMO-BA DY30 IV A2/601/8.
34. VWR [Volkswirtschaftrat]: Verfügung Nr.62/65 über das Verbot der Verwendung von Prämienmitteln für Kooperationsleistung vom 2.7.65, SAPMO-BA DY30 IV A2/2021/274.
35. At the same time this form of coordination did not function in the intended way. See: Steiner, *DDR-Wirtschaftsreform*, 96, 130, 156, 373, 394, 454, 492.
36. Mittag an Ulbricht: Beschlußentwurf, wie auf dem Gebiet der Planung und Leitung weitergearbeitet werden muß, 4.10.65, SAPMO-BA NY4182/973, Bl. 33; Referat des . . . Gen. Willi Stoph vor den ersten Sekretären der Bezirksleitungen der SED und des Vorsitzenden der Räte der Bezirke über Probleme der Plandurchführung 1970 . . . am 21.9.70, SAPMO-BA DY30 IV A2/2021/474.
37. Ministerium der Finanzen, Inspektion: Ergebnis einer Prüfung im Zentralen Investitionsbüro Sportbauten des Staatssekretariats für Körperkultur und Sport über die Ordnungsmäßigkeit der Verwendung staatlicher Mittel für Investitionen, 18.1.79, SAPMO-BA DY30/2779, Bl. 280f.
38. For a wealth of archival material on the broader picture, see Jonathan R. Zatlin, *The Currency of Socialism. Money and Political Culture in East Germany* (Cambridge: Cambridge University Press, 2007), 153–5, 172–81, 230–4. However, Zatlin's definition of corruption is broader than the one used here.
39. Friedrich Thießen, ed., *Zwischen Plan und Pleite. Erlebnisberichte aus der Arbeitswelt der DDR* (Cologne: Böhlau, 2001), 47.
40. Abt. Parteiorgane, Dohlus an Erich Honecker, 1.2.72: Information zu Erscheinungen der Korruption und der Verletzung der sozialistischen Gesetzlichkeit durch Mitarbeiter im Wohnungswesen des Stadtbezirkes Berlin-Treptow, 31.1.72, SAPMO-BA DY30 J IV 2/2J/3942.
41. All the information and quotes in the following are from: Erich Mückenberger an Günter Mittag: Kurze Zusammenfassung der Dokumentation des Generalstaatsanwaltes der DDR über festgestellte Erscheinungen von Vergeudung und Korruption durch volkseigene Betriebe, staatliche Organe und Einrichtungen, 1.2.79, SAPMO-BA DY30/2779, Bl. 305–314. See also: Günter Mittag an Erich Honecker, 9.11.77, SAPMO-BA DY30/2777, Bl. 123–134.
42. On the private trading firms (Handelsbetrieben) see: Heinz Hoffmann, *Der Kommissionshandel im planwirtschaftlichen System der DDR. Eine besondere Eigentums- und Handelsform* (Leipzig: Leipziger Universitäts-Verlag, 2001).
43. André Steiner, "Das DDR-Wirtschaftssystem: Etablierung, Reformen und Niedergang in historisch-institutionenökonomischer Perspektive," in *Die Wirtschaftsgeschichte vor der Herausforderung durch die New Institutional Economics,* ed. Karl-Peter Ellerbrock et al. (Dortmund: Ardrey, 2004), 113–31 at 130.

44. Thießen, *Zwischen Plan und Pleite*, 197.
45. Volker Klemm, *Korruption und Amtsmissbrauch in der DDR* (Stuttgart: Dt. Verl.-Anst., 1991), 29. For single examples see: Zatlin, *Currency*, 239.
46. Abt. Parteiorgane, Dohlus an Erich Honecker, 1.2.72: Information zu Erscheinungen der Korruption und der Verletzung der sozialistischen Gesetzlichkeit durch Mitarbeiter im Wohnungswesen des Stadtbezirkes Berlin-Treptow, 31.1.72, SAPMO-BA DY30 J IV 2/2J/3942.
47. Unless otherwise indicated, the following is based on: Willi Fahnenschmidt, *DDR-Funktionäre vor Gericht. Die Strafverfahren wegen Amtsmißbrauch und Korruption im letzten Jahr der DDR und nach der Vereinigung* (Berlin: Berlin-Verlag, 2000), 42–50. Documents from court procedures and the relevant legal stipulations are provided by: *Amtsmißbrauch und Korruption*, ed. Marxen and Werle.
48. Dieter Lösch and Peter Plötz, "HWWA-Gutachten. Die Bedeutung des Bereichs Kommerzielle Koordinierung für die Volkswirtschaft der DDR," in *Der Bereich Kommerzielle Koordinierung und Alexander Schalck-Golodkowski. Bericht des 1. Untersuchungsausschusses des 12. Deutschen Bundestages* (Bonn: Deutscher Bundestag, 1994), 3–158 at 46; *Statistisches Jahrbuch der DDR 1990*, ed. Statistisches Amt der DDR (Berlin: Staatsverlag der DDR, 1990), 144.
49. Charles A. Schwartz, "Corruption and Political Development in the USSR," *Comparative Politics* 11 (1979): 425–43 at 427.
50. William A. Clark, *Crime and Punishment in Soviet Officialdom: Combating Corruption in the Political Elite, 1965–1990* (Armonk: Sharpe, 1993), 65.
51. Artur Meier, "Abschied von der sozialistischen Ständegesellschaft," *Aus Politik und Zeitgeschichte* 16–17 (1990): 3–14.

AFTERWORD

1. Michael Johnston, *Corruption, Contention and Reform: The Power of Deep Democratization* (Cambridge: Cambridge University Press, 2014).
2. "Effective" in this context does not necessarily mean "beneficial": some cures for corruption have indeed been as bad as the disease itself. But the basic political lessons remain.
3. See the introductory chapter to this volume by Ronald Kroeze, André Vitória and G. Geltner.

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