

CORRUPTION IN SLOVAKIA: ETHICAL ISSUES FROM A SYSTEMATIC POINT OF VIEW

Introduction.

Although corruption has always existed, recognition of the negative impact of corruption on society has broadened greatly in recent years. A growing body of research shows that corruption represents not just the degradation of integrity and morals, but also a severe hindrance to the process of economic development (Mauro, 2004).

Corruption stymies investment and growth and misdirects public resources; corruption systematically redistributes wealth in favour of those with the connections and money to work the system; corruption acts as a regressive tax, felt most harshly by small businesses, micro-enterprise, and the poor; corruption erodes confidence in the institutions of state and is associated with organized crime; for lawful taxpayers, corruption erodes the quality of the public services upon which citizens rely and for which they pay taxes (World Bank & the United States Agency for International Development, 2000).

Corruption, at all of its various levels, is one of the most serious threats to the stability and development of a civil society. The greatest obstacle to the integration of the former Eastern Bloc Countries¹ into the European Union is corruption (Commission of the European Communities, 2003). Western Europe and the European Union institutions are not excluded from this epidemic, but in most of the former Eastern Bloc Countries, corruption, in all of its forms, is endemic.

Following elections in late 1998, the new coalition government of Slovakia claimed to have recognized the harmful effects of corruption and placed anticorruption high on the official agenda. Fuelled by its enthusiasm to join the European Union, this new coalition began pleading with the European Union and other international agencies to assist them in making an effort to try to fight corruption. In 1999, the Prime Minister, Mikulas Dzurinda, participated in a public conference on corruption. As a result, the formation of an Anticorruption Steering Committee under the leadership of the Deputy Prime Minister, Pál Csáky, was created, leading to the first draft of the National Programme for the Fight Against Corruption. The Slovak government requested that the World Bank and the United States Agency for International Development conduct a diagnostic study on corruption to help provide information on the pattern and profile of corruption in Slovakia as part of the National Programme. The objectives outlined in the National Programme are based on three main pillars:

1. Elimination of the situations where corruption can potentially occur.
2. Increasing the risk resulting from corrupt practices.
3. Enhancing public sensitivity to corruption.

¹ Poland, Czechoslovakia, Hungary, Yugoslavia, Romania, Bulgaria, and Albania.

The document indicated that the success of the National Programme would depend on the right sequence of steps, the “critical path.” In the text of the National Programme (p. 14) the following steps were identified:

- Building **legal consciousness** and increasing public sensitivity to corrupt conduct.
- Ensuring that **the rules be enforceable** (police, courts, public prosecution office) - this is the basis for building a state governed by the rule of law.
- Transparency of public administration activities and definition of clear rules for its decision-making.
- Simplification and **elimination** of unnecessary **administrative barriers** in the public life and legalization of extra fees paid for the provision of above-the-standard services of public administration.
- Transparency in the **political** field, mainly as regards the funding of political parties and conflicts of interest.
- Improved effectiveness of **control** mechanisms.

Today we can see that the National Programme did not have a major impact on the problem of corruption in Slovakia. In their Corruption Perceptions Index 2009² press release, Transparency International ranked Slovakia 56th out of 180 countries that were surveyed. Furthermore, Slovakia has the worst rating of the CPI index of all V4³ countries, after Ukraine. Table 1 shows this comparison. A survey conducted by the Slovak Republic Government Office (Úrad vlády Slovenskej republiky) in 2005, showed that from 1997 to 2005 the level of corruption in Slovakia has risen. Table 2 highlights this rise in four specific and crucial areas in two years increments.

Table 1: Corruption Perception Index in V4 Countries, 2009

	2009	
	<i>Score</i>	<i>Ranking</i>
Slovenia	6.6	27
Hungary	5.1	46
Lithuania	4.9	52
Poland	5.0	49
Czech Republic	4.9	52
Latvia	4.5	56
Slovakia	4.5	56
Ukraine	2.2	146

Note: 10 = free of corruption, 0 = maximum degree of corruption

Source: Transparency International

² The Transparency International Corruption Perceptions Index 2009 charts levels of corruption in 180 countries. The CPI 2009 is a poll of polls, reflecting the perceptions of business people, academics and risk analysts, both resident and non-resident. First launched in 1995, the 2009 CPI draws on 17 surveys from 13 independent institutions. A rolling survey of polls provided to Transparency International between 2007 and 2009, the CPI 2009 includes only those countries that feature in at least three surveys.

³ Poland, Hungary, Czech Republic, Slovakia, Lithuania, Latvia, Slovenia, and Ukraine.

Table 2

Areas where, in the opinion of the respondents, they feel compelled to give a bribe					
	1997	1999	2001	2003	2005
Healthcare	66.62	68.93	66.77	66.89	72.37
Education	28.59	33.72	27.89	32.01	34.41
Courts	22.51	23.65	26.37	26.18	37.96
Police	14.45	16.71	14.18	17.18	18.9
Other	6.24	2.73	5.42	2.58	4.68

Health Care

Health care is the sector where with which the greatest portion of the Slovak society comes in contact. It is also the sector that is perceived to have the largest level of corruption. In this sector giving bribes, or *malá pozornosť*⁴, is widely practiced. While some Slovaks characterize these payments as small expressions of gratitude, many find them necessary to receive proper care. A Hospital stay is the type of service for which *malá pozornosť* is paid most often. The size of *malá pozornosť* paid in the health sector ranges from 20 SKK to 100,000 SKK (World Bank & the United States Agency for International Development, 2005).

Education

It is impossible to effectively address corruption in the health care sector without looking at the level of corruption in the education sector. Bribes seem to be routinely paid for admittance to medical schools (Open Society Institute, 2005), a practice that sets a bad tone for those entering the medical profession.

Although the most important reason for bribery in the education sector is to gain admittance to schools and universities, many have reported (Chapman, 2002) that bribes take place to get better grades. The size of the *malá pozornosť* paid in the education sector range from 35 SKK to 50,000 SKK, with a median of 500 SKK (Open Society Institute 2005). University students paid the highest bribes by a large margin, averaging nearly 7,000 SKK. According to the World Bank & the United States Agency for International Development *Diagnostic survey* most Slovaks felt that it is impossible to gain admittance to medical or law schools without paying bribes. Such surveys make it quite clear that an anticorruption strategy for these sectors must take a systemic approach that should not just examine the delivery of judicial and health services, but also the institutions that train and certify the professionals in those sectors.

⁴ The Slovak word *malá* and *pozornosť* in the English language means *little* and *attention*, but in this context it means, "little present."

Courts

Two of the most serious obstacles that enterprises face in their business development in Slovakia are the “slowness of courts” and the “lack of proper execution of justice.” Among enterprises that had been involved in court cases in 2001, nearly 19 percent indicated that they had encountered bribery. The average bribe was over 25,000 SKK, and the median was over 11,000 SKK (World Bank & the United States Agency for International Development, 2005).

Opportunities for corruption in the judiciary sector mainly occur due to six reasons:

- I. Courts failing to stick to the timetable for cases on the dockets and observe the ‘lawfully assigned judge’ principle.
- II. Insufficient independence of the judiciary.
- III. Lack of interest and low legal awareness of the public.
- IV. Obsolete rules of procedure.
- V. Inefficient and slow judicial process.
- VI. Inadequate remuneration of judges, understaffing at courts, inappropriate selection of candidates for judicial profession, inadequate further education and training (Transparency International Slovensko, 2005).

Corruption in the judiciary sector has never been an issue that was publicly debated. Nevertheless, the credibility of the judiciary sector is relatively low (Open Society Institute, 2005). The changes that the political and the economic sectors went through after the Velvet Revolution⁵ opened the doors to the courts and the judges for corruption pressures under the old system. As necessary as it was for the judiciary sector to change its system of court administration and remuneration of the judges to reflect the new political and economical conditions, no significant changes have so far been implemented. As a result, judges who are not motivated to resist corruption pressures are in a position to misuse their powers with very little risk and high benefits.

Although most judges insist that there is very little corruption in the system, there is an every growing amount of media coverage that have publicized a number of corruption cases that allegedly involved judges. The filing of criminal charges against a judge is a very serious event. Since the world of private media is relatively new in Slovakia, it is prone to be influenced more by political considerations of who supports whom, than solid facts and arguments. The lack of care and professionalism on the part of the media will lead to inappropriate and incorrect coverage, which would, ultimately, undermine the remnants of public confidence in the court system.

⁵ The six-week period between November 17 and December 29, 1989, also known as the "Velvet Revolution" brought about the bloodless overthrow of the Czechoslovak communist regime.

Police

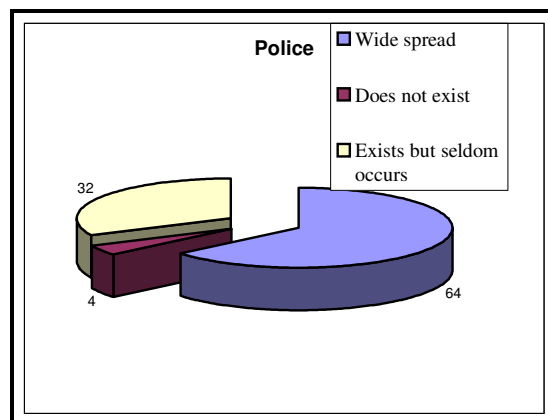
Corruption in the police sector can be defined as any activity involving the misuse of authority, in the performance of its duty, aimed at gaining benefits for individuals or organizations. Corruption in this sector follows similar patterns and trends of the previous sectors. But, the risk of the police sector being involved in corrupt relationships, either in administrative proceedings or, more dangerously, in connection with the enforcement of law under criminal proceedings, justifies special attention to this sector.

Corruption in the Interior Ministry and, particularly, the Slovak Police Corps (SPC), is a very dangerous phenomenon. The SPC should be one of the forefront institutions in the fight against crime, corruption included. Corruption, thereby, deforms the fundamental function of the SPC as a preventive-repressive authority. Such deformation impairs cooperation with citizens, lowers their trust in the police and, ultimately, makes the work of SPC in combating crime more difficult, if not impossible.

The depth of corruption in this sector is highlighted in the 2005 Report of the Public Prosecutors' Office. This report states that in 2005, 160 policemen in Slovakia were under criminal prosecution and 111 were charged with criminal offences (Transparency International Slovensko, 2005).

The public's perception of this sector varies. A survey carried out by the Focus Agency for CPHR showed that 22.7% of those polled had no idea about the scope of corruption in the police sector. Opinions of those who were able to assess the scope of corruption are divided as follows:

Graph 1



Definition of Corruption

What is corruption? Different countries have their own idea of what constitutes corruption. So far, multilateral international forums have failed to agree on a single definition. Even within the countries that are desperately trying to fight this cancer, policy makers struggle for a common understanding of how to exactly and clearly define corruption. As an example, in an interview with Mr. Bohumil Hanzel, an MP in the SMER party, he confirmed that while some politicians in Slovakia firmly believe that money or services must be exchanged between the parties for favouritism to be classified as corruption, others, in the same party, strongly disagree with such a limited classification (personal communication, February 2005).

In failing to adopt and enforce a clear international definition of corruption will lead to the only alternative of identifying specific forms of corruption as illegal. For example, in Slovakia, the law, as stipulated in article 13, paragraph 1 of the Constitution, bans only specific forms of corruption. As a result, the Slovak legal system does not prohibit corruption outside of these forms, thus, corruption is not unlawful in Slovakia. Other types of corruption that is not stipulated in the Slovak Constitution can be penalized only by means of moral condemnation. This opens the door for corrupt individuals/organizations and their lawyers to use legal loopholes to avoid prosecution.

A clear and precise international definition of corruption, which will be adopted and enforced by all countries, is a necessary initial step. Such a definition must perceive corruption as a wider concept than bribery. It must include depravity, corruptibility, and bribery, both passive and active. It must also include any act preformed by, or directed towards, persons holding various competencies in the public or private sector that are in conflict with their responsibilities, arising from their office, which result in gaining or granting improper advantages.

Two attempts for such a definition of corruption have been made by the United Nations. These definitions can serve as a starting point for a collective reflection for a common understanding. These definitions are:

1. Draft International Anti-corruption Convention of the United Nations defines corruption as any “offer, promise or giving of any advantage to another person as undue consideration for performing or refraining from the performance of that person’s duty, or the soliciting or accepting of any advantage as undue consideration for performing or refraining from the performance of one’s duty.”
2. At the 9th UN Congress held in Cairo in 1995, corruption was defined as “bribery or any other act relating to persons vested with responsibility, aimed at influencing the performance of their official duties and at obtaining any improper advantage for themselves or for others.”

It is time for the European Union to call for a European wide congress to start a discourse on creating a definition that will be valid by law within the EU. The participants of this congress must include politicians, academicians, business leaders, and civil society⁶ of the Member States.

⁶ NGOs, think tanks, trade unions, and religious associations.

Causes of Corruption

In many ways, identifying the problem of corruption is much easier than identifying its causes or the source or its solution. Most attempts in trying to identify the causes of corruption have fallen short of only listing specific areas that address the removal of the effects of corruption. In the National Program for the Fight Against Corruption the Slovak Government listed four points as the “underlying causes” for corruption. These areas are:

1. Failure of the market and regulatory interventions by public administration,
2. Imperfect formal rules.
3. Inadequate implementation and enforcement of rules and imperfect control mechanisms.
4. The standard of informal rules.

In the document’s section for outlining the solutions for fight against corruption four areas were identified. These areas and their sub-areas are:

1. Elimination of potential causes of corruption;
 - a. Access to information and transparency of public administration.
 - b. Elimination of administrative barriers to business and subjectivism in decision-making.
 - c. Management of public funds and administration of public property.
 - d. Corruption in state-owned enterprises and in enterprises with state or municipality participation.
 - e. Securing the services in ”bottleneck” areas and above-standard services.
 - f. Transparency of financial transactions.
 - g. Transparency of the political life.
 - h. Control mechanisms.
 - i. Grants from international sources.
2. Maximization of the risks connected with acts of corruption;
 - a. Property declarations of public official.
 - b. Introduction of the institution of a prosecutor on corruption.
 - c. Investigating or prosecuting authorities.
 - d. Accountability of legal and natural persons for acts of corruption.
 - e. Training in the field of combating corruption.
3. Reform of the judiciary.
4. Informal rules and building public sensitivity to corruption.

The above-mentioned areas are designed to deal with the symptoms of corruption than its causes. It is not possible to eliminate or to reduce significantly the rate of corruption unless a systematic program of prevention from a long-term point of view eliminates its underlying causes. This does not mean that it is not necessary to work on the short-term reduction of corruption with examples of the above-mentioned measures. But, alone, such measures fall short of an effective and long lasting solution.

Ethical Issues from a Systematic Point of View

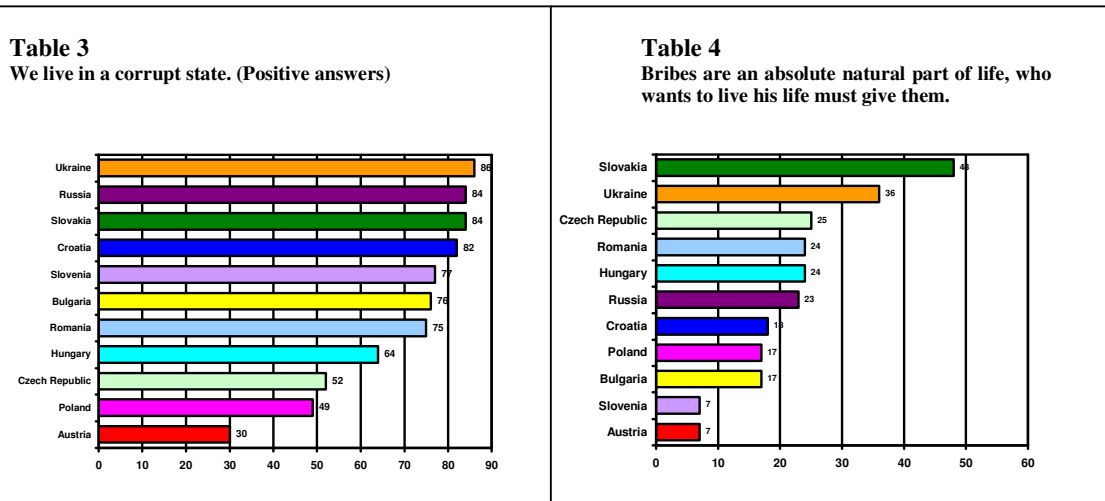
In our new age of human interdependence, where economical and political realities are forcing the world toward larger scales of unity⁷, the adoption of global ethics is not only necessary, but inevitable. Consider the degree to which the former Eastern Bloc Countries require the vigorous, enlightened, and principled participation of their citizens if they are to be smoothly integrated into, and be successful in the EU. This includes the necessity for business people to moderate their concern for profits with human-centred values if these economies are to avoid a catastrophic polarization of wealth. As business and individuals plunge in the quest for an intemperate and narcissistic materialism, the potential of human capital keeps dissipating in these countries.

These and other trends clearly reflect the need for the promotion of global ethics and moral development that would be appropriate for our new age of global interdependence. For example, goodness, when defined in passive terms, to mind one's own business and not to harm anyone, or concepts that are limited to national good, corporate good, or tribal good, is simply inadequate in an age of interdependence. Yet in a world where humanistic relativism is more of a rule than exception, the authoritarian approach of promoting specific global, or even national, morals or values is controversial and non functional. Too often, in the past, campaigns to promote morality have been associated with repressive religious practices, oppressive political ideologies, and narrow and limited visions of the common good, as based on a particular nationalistic, cultural or ethnic framework. Such campaigns usually formulated codes of conduct, in which rules were given to individuals and institutions, and were enforced by various authorities. Of course, such systems of law cannot be rejected entirely. It is essential to have institutions to promote justice, by either rewarding individuals for following an agreed, and accepted, code of conduct, or punishing them for disobedience. But, sadly, despite the good intentions of the authoritarian approach, it has too often led to excess or failed completely. Such failures are evident when so-called "civilized" societies engage in acts of genocide or "ethnic cleansing." As well, there will always be clever lawbreakers who will escape detection and punishment, and avoid prosecution by using the same laws and procedures that had been created to punish them.

This kind of authoritarian approach, on its own, is not enough, as we are experiencing in Slovakia. All of the campaigns that thus far the Slovak government has initiated are elements of the authoritarian approach. Several years later, after the initial stages of the implementation of these campaigns, Slovakia has reproved in the area of corruption.

One sign of the failure of this approach in Slovakia is the level of tolerance Slovaks have for accepting corruption as part of life. In October 2004, a survey conducted by GFK Praha, asking people's views on corruption, revealed that the level of tolerance for corruption as part of life is very high in the former Eastern Bloc Countries. Slovakia is ranked on the top of the survey in accepting bribes as a natural part of life. Tables 3 and 4 highlight this level of acceptance.

⁷ i.e. The European Union.



Informal rules, represented by the generally recognised patterns of behaviour, traditions, customs, and culture are an important part of every society. These rules are the culmination of the ethical and value systems of the society and must be in harmony with the informal rules. If the informal rules grow too far apart from the formal rules of a society, people become tolerant for individuals who disobey the formal rules. Thus, the degree of citizens' tolerance for corrupt behaviour is determined by informal rules more than by any other factors.

To have an effective and lasting campaign to combat corruption in Slovakia the campaign must have an additional approach to the existing authoritarian. An approach that seeks to empower individuals to develop their own moral conscience, such that they will personally make the "right" decision and follow the "right" way of life - even at the sacrifice of their seemingly immediate interests. As utopian as this may sound, it is this approach that needs to be fully examined and pursued in any campaign to promote global ethics and moral development. It is this approach that upholds the inherent dignity of all individuals and recognises their intrinsic worth and capacity. It is this approach that will move the informal rules of a society closer to the formal.

Through this approach, moral development becomes a process that leads to the creation of a personal "moral compass" that is congruent with the formal rules of a society. The underlying principle that such a programme builds upon is that the source of moral behaviour initiates from an individual's understanding of "the moral law of cause and effect" (Smith, 1992) rather than through inculcation of a moral credo or a set of rules for moral behaviour.

As individuals encounter and sustain positive or negative experiences with the law of cause and effect, personal "value paradigm," (Hatcher, 1998) which is the system by which we make choices, is constructed. Thus, an effective campaign for moral development must incorporate this moral law of cause and effect in all of its programs, which in turn will lead to a slow, but sustainable development of a correct individual value paradigm.

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