

CORRUPTION AS A PAN-CULTURAL PHENOMENON: AN EMPIRICAL STUDY IN COUNTRIES AT OPPOSITE ENDS OF THE FORMER SOVIET EMPIRE*

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A decade ago, corruption was not a proper subject for polite scholars or policymakers.¹ Today, the creation of and comment on anticorruption regimes is a growth industry.² Anticorruption regimes exist at the global level and in almost every region and grouping of countries.³

Anticorruption regimes share several structural characteristics. Most approach corruption as a pan-cultural phenomenon, and therefore most simply assume a shared set of perceptions about corruption.⁴ Most regimes then go on to require that all parties criminalize this behavior.

Scholarly commentary on these legal regimes, on the other hand, is not uniform. Some scholars applaud international coordination as necessary to combat a phenomenon that does not confine itself within borders,⁵ while some condemn it as morally imperialistic and an elitist intrusion into the affairs of other countries.⁶ Nonetheless, most legal scholarship on international corruption regimes does share at least one characteristic: it is theoretical and assumptive rather than empirical.⁷

International corruption regimes are legal constructs; evaluation of these constructs by legal scholars is critical. Evaluation, however, must be based on factual knowledge rather than assumption and supposition.⁸ The lack of empirical research, therefore, constitutes a serious gap in legal scholarship on an issue that is at the forefront of legal change in the world today.

This article seeks an empirical understanding of a basic question underlying international corruption regimes: do different cultures share an understanding of corruption. The authors of this paper administered a short questionnaire to similar sets of respondents in two different countries, Bulgaria and Mongolia, and conducted follow-up sessions with the respondents. The authors found that the respondents had strikingly similar attitudes towards and understandings and perceptions of corruption. While the data does not disprove a relativist position – that determination would require a comprehensive data set incorporating the entire world – it does lend support to those who suggest a shared understanding of corruption.

1. *The Question*

The foundational question examined in this paper is whether the perceptions and understandings of people in two different countries and cultures correspond or are different. A corollary of this question is whether empirical data on understandings and perceptions of corruption cast insights into theoretical discussions of corruption, as well as into the definition of corruption.

Empirical questions about the meaning of corruption are important for at least four reasons: 1) corruption is a serious issue that calls into question the efficacy of law and of social and economic systems, 2) changing international global regimes use shared meanings of corruption, which could result in the imposition of meanings of corruption on some cultures, 3) similarly, international financial organizations are attempting to deal with the issue of corruption in a systematic way, and 4) legal scholarship benefits from at least some level of empirical insight.

1.1. *Corruption is a Serious Issue.*

The damage engendered by corruption has been thoroughly explicated in the literature. Briefly, the literature states that corruption distorts economic decisions,⁹ impedes transnational commercial relationships,¹⁰ degrades bureaucratic systems,¹¹ and severely corrodes social structures.¹² One argument in favor of corruption depends on very particular circumstances: under conditions of authoritarian repression, internal corruption can facilitate the creation of channels through which goods and services reach people who do not have connections within the authoritarian regime.¹³

1.2. *Changes in Global Regimes.*

At the global level, in April of 2002, the United Nations mandated the drafting of the “United Nations Convention against Corruption.”¹⁴ The terms of reference for the committee drafting the convention include “definitions; scope; protection of sovereignty; preventive measures; criminalization; sanctions and remedies; confiscation and seizure; jurisdiction; liability of legal persons; protection of witnesses and victims; promoting and strengthening international cooperation; preventing and combating the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds; technical assistance; collection, exchange and analysis of information; and mechanisms for monitoring implementation.”¹⁵ The mandate for an international convention is a direct descendent of the Declaration Against Corruption and Bribery in International Commercial Transactions, adopted by the United Nations in 1996, which also calls upon members of the United Nations to criminalize transnational bribery.¹⁶ Also at the global level, in 1996 the International Chamber of Congress, a nongovernmental organization with nearly global membership,¹⁷ issued the Rules of Conduct to Combat Extortion and Bribery in International Business Transactions.¹⁸ The Rules of Conduct prohibit the offer or acceptance of any bribe or kickback, require companies to control payments by their agents, and require recordkeeping sufficient to prevent the hiding of illicit payments or of secret funds.¹⁹

At the regional level, in 1996 the Organization of American States promulgated a treaty that requires its members to take certain actions with respect to transnational bribery, including the criminalization of bribery of foreign officials.²⁰ The treaty also requires signatories to cooperate with one another in the prosecution of corrupt officials and bribe givers.²¹ The European Union has promulgated two instruments that deal with corruption: the Protocol to the Convention on the Protection of the Communities’ Financial Interests²² and a general treaty,²³ both of which in a limited way require members to criminalize transnational bribery. The protocol, however, only deals with corruption that involves the financial interests of the European Union and the treaty only requires members to criminalize bribery involving officials of other European Union countries.²⁴ The Asia-Pacific Economic Cooperation has formed a Government Procurement Experts Group, which has issued the Non-Binding Principles on Government Procurement; these Principles address corruption but do not require members to criminalize any behaviors.²⁵

Most significantly, the Organization for Economic Cooperation and Development, a grouping of countries with high levels of wealth and well-developed market institutions, promulgated in 1997 a treaty requiring member countries to criminalize transnational bribery.²⁶ Signatories are also required to assist one another in the investigation of bribery and to allow extradition of bribe givers.²⁷ Because this convention has resulted in a great deal of local implementing legislation,²⁸ it has received the most attention from scholars and is considered in many respects the bellwether of the changes to the global anticorruption regime.²⁹

Viewed in the aggregate, it is clear that in the late 1990s a change occurred in the global corruption regime. From the global to the regional, organizations became proactive and assertive with respect to corruption. For the most part the new regimes assume an understanding of corruption and require criminalization of corrupt behavior.

1.3. International Financial Institutions.

The changes in the global corruption regime have affected international financial institutions and the World Trade Organization. The President of the World Bank, for example, has stated that no issue is more important to his organization than corruption,³⁰ and the Bank has published procurement guidelines, banned bribe-giving contractors from further work on Bank-funded projects, and canceled loans to bribe-soliciting countries.³¹ The International Monetary Fund deals with corruption proactively and will take action, including withdrawal of Fund support, in the event of corruption.³² Similarly, the Asian Development Bank actively investigates allegations of corruption, and has banned contractors who engage in corrupt activity and warned countries that project loans will be canceled if corruption is involved.³³ The African Development Bank has expressed its commitment to working with international partners to combat corruption,³⁴ and has adopted regulations allowing it to cancel contracts and sanction companies that engage in corrupt activities.³⁵ The Inter-American Development Bank has not yet implemented guidelines for corruption but has indicated that it will adopt programs to monitor corruption and to sanction corrupt contractors.³⁶ The World Trade Organization, in the Ministerial Meeting at Doha, declared that it will soon begin negotiations on a multilateral agreement on transparency in government procurement.³⁷

1.4. Legal Scholarship Benefits from Empirical Insight.

Legal scholarship is famous for advocating positions rather than engaging in scientific inquiry.³⁸ Whether advocacy is the proper focus of legal scholarship is a matter of some debate.³⁹ What should not be a matter of debate is that, regardless of whether legal scholarship consists of pure technical description or passionate advocacy, it must be based on fact rather than assumption.⁴⁰

Empirical research is particularly critical in discussions of corruption. Because corruption is both widespread and much discussed,⁴¹ some commentators fall prey to the temptation to treat anecdote as fact.⁴² Anecdote, however, can be wrong. For example, it is sometimes asserted that bribery is caused by low salaries.⁴³ This assertion not only has never been empirically verified, but it also flies in the face of the probability that the vast bulk of people who earn small salaries never

demand bribes and that the largest bribes are demanded by people who earn very large salaries.⁴⁴ Discussions that simply make such an assertion, therefore, may be artful but contribute little to an understanding of corruption.

Corruption is an issue of some import; and legal scholarship will play a role in developing an understanding of and in creating means of dealing with corruption. In particular, international corruption regimes require critical scholarly evaluation.⁴⁵ There is, therefore, an accompanying need for some level of empirical understanding as well.⁴⁶

2. *The Questionnaire*

The questionnaire was administered to fifty university students at St. Kliment Ohridski University (also known as Sofia University), in Sofia, Bulgaria,⁴⁷ and forty-five students at the National University of Mongolia, in Ulaanbaatar, Mongolia.⁴⁸ The authors administered the questionnaires themselves, and conducted follow-up sessions with the respondents in order to elucidate the meaning of their answers. The questionnaire was administered in English, as were the follow up sessions.⁴⁹

The mode of obtaining information was chosen to obtain the deepest level of information possible from a narrow target group.⁵⁰ University students were chosen because they represent the future leaders of each country,⁵¹ and because they are of an age that bisects the communist period and the period of transition.⁵² The use of a questionnaire allowed the authors to ask precisely the questions that they wanted to ask in a modeled format⁵³ and to obtain data that could easily be compared,⁵⁴ while the follow-up sessions allowed the authors to more fully understand what the respondents meant by their answers and to understand the respondents' perceptions of and definitions of the complex subject of corruption.⁵⁵

The questionnaire consists of twenty-six questions plus five background questions.⁵⁶ The first four questions ask about general perceptions of social and economic conditions. The next five questions ask about definitions of corruption and corrupt actors. The next twelve questions ask about the effect of corruption in general and of specific behaviors.⁵⁷ Finally, the last five questions asked about perceptions of general levels of corruption.

This format for questions purposely does not follow the suggestions of scholars such as Robert Maltes, who suggests a four-prong matrix for understanding public attitudes toward corruption.⁵⁸ The authors of this paper are interested in a far narrower question: how is corruption understood and defined. The authors approach this question in two ways, directly – with questions that ask the respondents to say what they think corruption is – and indirectly, with questions that ask respondents to indicate the effects of certain behaviors.

2.1. *Bulgaria and Mongolia*

Bulgaria and Mongolia present intriguing comparative possibilities because of similarities and dissimilarities in their historic and current conditions.

2.1.1. *Bulgaria.* Bulgaria has been both a great military power and a political nonentity. Modern Bulgarians descend from a band of military-minded nomads from Central Asia known as the proto-Bulgars.⁵⁹ After an expansive Asian empire imploded in the Seventh Century,⁶⁰ they migrated to the Danube basin where they assumed leadership of the more numerous Slav tribes and established the first Bulgarian Kingdom in 681.⁶¹ Within one hundred and fifty years, the Bulgarian state controlled from Hungary to the Balkan peninsula.⁶²

The rise of the Ottoman Turks spelled the end of Bulgaria's medieval greatness. The Ottomans invaded the Balkans in the Fourteenth Century and conquered all of present Bulgaria by 1396.⁶³ Five centuries of Ottoman rule ensued, which the Bulgarians bitterly refer to as the "Turkish Yoke."⁶⁴ A Bulgarian revival commenced in the Nineteenth Century, along with the development of an underground determined to free the country from Ottoman rule. Political negotiations failed, and Russia declared war on the Ottoman Empire.⁶⁵ After a bloody conflict, Bulgarian independence was achieved at the Treaty of San Stefano in 1878.⁶⁶

The Second World War resulted in Soviet occupation of Bulgaria and the imposition of Communist rule. Tudor Zhivkov assumed control of the country in 1956 and ruled it for more than thirty years.⁶⁷ Bulgaria was known as Moscow's most loyal satellite – the protests that occurred elsewhere in Eastern Europe never materialized in Sofia.⁶⁸ Zhivkov ruled until 1989, when he was forced out.⁶⁹ After changing its name from the Communist Party, the Bulgarian Socialist Party won the first election in 1990, making Bulgaria the first country to freely vote the Communists back into power.⁷⁰

Bulgaria has made a slow and painful transition to a market-oriented economy.⁷¹ The country has experienced financial instability and social and political uncertainty.⁷² Nonetheless, Bulgarians remain democratic and hopeful, and Bulgaria is endeavoring to join both the European Union and the North Atlantic Treaty Organization.⁷³

2.1.2. *Mongolia.* Mongolia has oscillated between the cosmopolitan and the recluse. In the thirteenth and fourteenth centuries Mongolia was the center of Asia and Mongols governed the largest empire the world has known.⁷⁴ Kharkhorin, Xanadu and Beijing – successive Mongolian capitals – were global centers where ideas from a variety of cultures and ideologies were exchanged.⁷⁵ By the eighteenth century, fortunes had changed and Mongolia was conquered by the Manchurians, who sat atop a feudal system that left most Mongolians in conditions of extreme poverty and relative isolation.⁷⁶ Mongolia, under the leadership of Damdin Sukhbaatar and with the aid of Russia, threw off the Manchurians in 1911 and again in 1921; in 1922, with the aid of Soviet Bolsheviks, Sukhbaatar's armies expelled the White Russians.⁷⁷

Sukhbaatar was a committed communist⁷⁸ and the country that he formed became the second communist country in the world, after the Soviet Union. Mongolia's development mirrored that of the Soviet Union,⁷⁹ with purges, disastrous collectivization, repression, and stagnation on the one hand⁸⁰ and education and institution building on the other. Mongolia also became one of the more isolated regions of the world.⁸¹

Perestroika in the Soviet Union had the corollary effect of (slightly) opening up Mongolia. Students and journalists who ventured outside of Mongolia returned with a broader perspective and a desire to change Mongolia.⁸² The collapse of the Soviet Union opened the door wide open; demonstrations were held in Sukhbaatar Square – the heart of Mongolia – and the ruling government agreed to institute changes. The Constitution adopted in 1992 created a multiparty, democratic system, and Mongolia is now considered a real democracy.⁸³

Ironically, the exigencies of living between two giants – at least one of which periodically maintains claims to the territory of Mongolia⁸⁴ – have caused Mongolia to again become a cosmopolitan.⁸⁵ Mongolia maintains an active diplomatic mission and is active in world affairs, and despite its physical isolation Ulaanbaatar is the most international city in the region.

2.1.3. *Similarities and Differences.* Bulgaria and Mongolia share much of recent history: communism, dictatorship, and dominance by the Soviet Union. Both populations are descended from Central Asian peoples who built great empires. Both were subsequently conquered and treated mercilessly by their conquerors. Both regained their independence with the aid of Russia. Both were part of the Soviet sphere of influence, and in fact nicely bookend that empire, existing on opposite ends. Both have experienced successful transitions to democracy, including relatively high rates of participation in political parties.⁸⁶ Finally, each has had an especially painful economic transition since the collapse of the Soviet Union. The economic declines following the collapse of Communism were strikingly similar. Jones and Miller point out that

In terms of cumulative output decline the Bulgarian performance (27.4 per cent) was worse than all the other Eastern European countries... but was better than the performance of all other [Council for Mutual Economic Assistance] countries except Mongolia and Uzbekistan. A similar picture emerges on the inflation front . . . the Bulgarian inflation (338 per cent) was worse than in any other Eastern European experience and better than the experience in any other CMEA country with the exception of Mongolia (where it was very similar).⁸⁷

On the other hand, there are profound differences between the two countries. Bulgarians speak a Slavic language, while Mongolians speak a Ural-Altaic language.⁸⁸ Bulgarians are a settled people, while many Mongolians remain nomadic.⁸⁹ Most Bulgarians are Orthodox Christian, while most Mongolians are Buddhists.⁹⁰

Most importantly, Bulgaria is in Europe while Mongolia is in Asia.⁹¹ Bulgaria has historical affinities to and experience with Western institutions, markets and legal systems, while Mongolia does not.⁹² Bulgaria's proximity to Europe give it natural advantages and make it a candidate for inclusion in Western organizations, while Mongolia's remoteness shapes both its present and its future. Indeed, Anderson, Lee and Murrel describe Mongolia as

at the extreme end of the spectrum of transition economies. It is one of the poorest and most isolated from external sources of human and financial capital. It has had virtually no historical experience of capitalism and is currently only beginning the process of development of a capitalist infrastructure. In contrast to the situation in many other transition countries, there were few wealthy individuals or financial organizations that would promote new forms of ownership during the privatization process.⁹³

In short, Bulgaria's and Mongolia's shared recent pasts but vastly different cultures and possibly different futures make them interesting places for comparison. To find a different understanding of corruption in these countries would lend support to a relativistic theory of corruption. On the other hand, to find a similar understanding of corruption would suggest either that the respective forty years and seventy years of Soviet dominance had a tremendous and unitary effect on perceptions, or would lend support to a theory of a shared understanding of corruption.

3. *The Findings*

3.1. *Background Questions*

As a preliminary matter, the respondents in the two groups have similar responses toward the background questions. Both the Bulgarian and Mongolian groups generally believe that economic conditions are not good, but that they are better than they were five years ago. Mongolian respondents also believe that social conditions are better than they were five years ago, while Bulgarian respondents have mixed attitudes.⁹⁴

These responses comport with social research done in both countries. In Bulgaria, respondents to a nationwide survey listed unemployment, poverty, corruption, low incomes and crime to be the most serious problems facing the nation.⁹⁵ In Mongolia, more than ninety percent of the respondents in a nationwide survey indicated their belief that the economic situation is not good, but more than eighty percent indicated that the transitions to both democracy and a market economy were good for Mongolia.⁹⁶

Both groups of respondents perceive corruption to be a serious social problem, but not necessarily the only social problem in their respective countries. Almost half of the Bulgarian respondents rank corruption as the most serious social problem on the list that they were given, while over a third of the Mongolian respondents do so.⁹⁷ When answers for the first most important and second most important social problem are consolidated, corruption emerges as most often ranked by each of the response groups, followed closely by economic decline. Interestingly, among Bulgarian respondents organized crime emerges as a fairly clear third choice, whereas among Mongolian respondents the answers are dispersed among all of the remaining choices.⁹⁸

These responses also comport with social research in each country. A nationwide survey found that 45.6 percent of Bulgarians rate corruption as one of the most serious problems facing Bulgaria.⁹⁹ No research regarding corruption in Mongolia has been published, but the government states that a survey it conducted indicated that sixty-four percent of Mongolians believe corruption to be a serious or the most serious problem in the country.¹⁰⁰

The fact that the respondents answers comport with general research done in Bulgaria and Mongolia does not necessarily mean that these respondents are perfect indicators for Bulgarian and Mongolian society. It is useful to note, however, that the target groups do not seem to hold radically different positions on these background issues than do other parts of Bulgarian and Mongolian society.

With respect to background questions specifically dealing with corruption, the two groups of respondents again generally correspond. Both groups agree that dishonesty is more widespread in politics than in business, and both agree that the majority of government officials take bribes.¹⁰¹ Both groups disagree with the statement that the amount of corruption has declined in recent years. Both groups are roughly evenly split over the question of whether bribery by foreign or local parties is more harmful.

The greatest difference between the two groups of respondents with respect to this group of questions is in their reaction to the statement “in this country, there are two interpretations of the law – one for the rich people, another – for poor.” Bulgarian respondents generally agree with this statement, while Mongolian respondents disagree. According to a nationwide survey, fifty-five percent of Bulgarians believe that “nearly all” or “most” lawyers are involved in corruption.¹⁰² In follow-up sessions to the questionnaire discussed in this article, Bulgarian respondents indicated that corruption in the legal system involves both bribery and trading in influence. They also stated that poor Bulgarians are uncomfortable with hiring lawyers – and can’t afford them anyway.¹⁰³ Some also pointed to stories of murders carried out by the mafia for which the perpetrator escaped punishment. Others felt somewhat defensive: “Doesn’t money buy justice in the United States too?”

In follow-up discussions with Mongolian respondents, several respondents expressed dismay that such a proposition could even be suggested about Mongolia. They stated that Mongolia was too recently socialist for people to yet think that way, and also expressed a belief that there were far too few wealthy people for the statement to be pertinent in Mongolia.¹⁰⁴

3.2. Definition of Corruption.

When directly asked to define corruption, the correspondence between the two groups of respondents is quite striking. Sixty percent of both groups define corruption as “acceptance of monetary reward for services rendered.”¹⁰⁵ In both groups the second largest group of answers, by a large margin over the third, is “criminal use of authority.” In both groups the next tier of responses, the third and fourth most frequently given, consists of “connections to organized crime” and “assisting relatives in their business activities.”¹⁰⁶

At the other end of the rankings, none of the respondents in either group define corruption as “acceptance of birthday and other gifts.” “Assisting relatives in meeting influential people” and “participation in commercial ventures” are the next bottom tier in both groups.¹⁰⁷ In the middle, among both sets of respondents, are “embezzlement” and “helping relatives in getting a job/getting into schools.”

In short, when presented with a menu of choices by which to define the term corruption, the two sets of respondents show remarkable similarity in their choices. The most common definition is accepting money for services, followed by criminal use of authority. Accepting gifts that are truly gifts¹⁰⁸ or engaging in outside business ventures, on the other hand, are not chosen as definitions of corruption.

3.3. Indirect Definitions of Corruption

The questionnaire also seeks to find an understanding or definition of corruption through indirect means. As a preliminary matter, respondents were asked how corruption and how bribery affect Bulgaria and Mongolia. The overwhelming majority say that these behaviors are harmful to their respective countries.¹⁰⁹ Follow-up questions and other conversations confirmed that these are truly-held beliefs and not simply the answers of students anxious to give what they consider to be the “proper answer.”¹¹⁰ A safe assumption, therefore, is that if a behavior is *not* perceived as harmful it therefore is not perceived as corrupt. The questionnaire went on to ask respondents about the effects of ten different behaviors.

The correspondence between the Bulgarian respondents and the Mongolian respondents is again striking, although not as dramatic as with the direct question. It should be noted that all of the behaviors are found to be harmful, but in

different degrees.¹¹¹ When the behaviors are ranked in terms of the degree to which respondents find each harmful, the pattern is almost identical.

The behavior that each group finds most harmful is the acceptance of payments from organized crime.¹¹² The next two are bribing a judge and the taking of property during the privatization process. The only difference occurs in the behavior that the fourth greatest number of Bulgarian respondents find harmful – “a government employee who gives the best jobs to his relatives.” This behavior was found harmful by Mongolian respondents but not to the same degree as Bulgarian respondents. Following this difference, the rankings are almost identical.¹¹³

3.4. *Specific Behaviors*

The evaluation of certain specific behaviors is worthy of some comment. The consolidated responses of both groups of respondents can be found in the Appendix to this paper.

3.4.1. *Nepotism.* A government employee who gives the best jobs to his relatives is vigorously condemned as harmful by Bulgarian respondents. The behavior is also considered harmful by Mongolian respondents, but not by nearly the same percentages.¹¹⁴ Indeed, this behavior caused the only significant difference when the rankings of the two groups of respondents are compared.

The Bulgarian respondents may have been influenced by periodic news reports of wealth accumulated by the relatives of government officials. While these relatives did not receive jobs, there is a perception that they received indirect benefits as a result of their connections to power. Most respondents were appalled by nepotism because they do not think that it is fair. Several mentioned with disgust acquaintances with connections who had received jobs beyond their credentials.¹¹⁵ Many respondents, however, indicated that nepotism did not matter in the long run, expressing confidence that talent and hard work would eventually triumph over connections.¹¹⁶

Mongolian respondents, in follow up sessions, referred to a strong tradition of respect for family relationships.¹¹⁷ Several respondents said “you cannot say no to a relative.” When asked whether not being able to say “no” was actually beneficial or was instead simply acquiescing to a harmful practice, respondents engaged in a vigorous discussion of the benefits and harms of the practice, and produced much anecdotal evidence to support both sides. When asked in later sessions to explain the difference between Bulgarian and Mongolian responses, a follow-up group suggested that the difference stemmed from Mongolia’s much smaller population;¹¹⁸ in Mongolia people are quite aware of extended family connections, and people hear quite quickly if an individual is not respecting his or her family. Bulgarian respondents, on the other hand, used a different logic in describing the effect of a small population. To them, a small population means that word spreads quickly when a government official’s family suddenly becomes wealthy, and as a result, the family’s reputation is tarnished.

Respondents were also asked to evaluate the effect of a government employee who tells his relatives what the government is going to do before other people are told. Interestingly, while both groups of respondents find this behavior to be harmful, the condemnation is fairly soft, and some respondents in both groups find the behavior to have some benefit or even a lot of benefit for Bulgaria or Mongolia.

3.4.2. *A Bribe Taker Who Does Good Things.* The respondents were asked to evaluate the behavior of a local “boss” or government official who accepts a bribe, but does a lot of good for the community. The majority of respondents in both groups find this behavior harmful, but large numbers in both groups indicate that this behavior has some benefit for Bulgaria and Mongolia.

When asked about this finding, Bulgarian respondents engaged in what can best be described as a static cost-benefit analysis. None defended bribery on its merits, but several pointed to situations when it is defensible. Some respondents cited exploitation of foreigners as occasionally beneficial for Bulgaria. A frequently-offered example involved school officials taking bribes from wealthy Greeks in exchange for admission and/or high grades and then using some of the bribe proceeds to improve the campus, thereby bettering the situation of the average Bulgarian student. Several respondents also referred to the long period of Ottoman domination, when many Bulgarians were impoverished and people had to work together to survive. In these situations, corrupt officials who helped out were often the only hope for positive treatment by the authorities.¹¹⁹

Mongolian respondents, in follow-up sessions, engaged in a vigorous debate over this issue. Some suggested that this was a viable method of achieving progress and of developing the community. Other respondents condemned the behavior without hesitation, arguing first that the harm caused by the taking of the bribe at least equaled the benefit conferred by the bribe-taking official, and second that the system created by such a practice would be unstable. This group of respondents also argued that even if a benefit was conferred, taking the bribe is morally wrong. Interestingly, the respondents did not use concrete examples but instead treated the question entirely in the hypothetical. They also assumed that bribes would be demanded from or offered by local persons and not by foreign investors or actors.

3.4.3. *The Bribe-Taking Traffic Officer.* Respondents were asked to evaluate the behavior of a traffic officer who supplements a low income by fining people and keeping the fines. This practice is not unusual in transition economies, and some corruption literature suggests that it is a normal practice.¹²⁰ Both groups of respondents find

the behavior harmful. The degree of condemnation, however, is soft. Bulgarian respondents, especially, provided numerous examples of situations in which they bribed traffic officers. They seemed resigned to this small-scale corruption as a fact of everyday life and even joked about it and the small salaries earned by civil servants.

3.4.4. *Beneficial Corruption.* When asked to evaluate specific behaviors, eighty-five responses indicated that a behavior had some or a lot of benefit for Bulgaria or Mongolia. Out of nine hundred and fifty responses this number represents less than one percent, and might be dismissed as inconsequential. Nonetheless, the explanations given are of some interest.

In follow-up discussions, Bulgarian and Mongolian respondents offered similar explanations for these responses. They generally explained their answers through a static cost benefit analysis. Their arguments were very reminiscent of the “speed money” arguments of the 1960s: that a bribe could allow a company to bypass bureaucracy and could facilitate productive business enterprises.¹²¹ For example, a respondent explained her response that a “foreign entrepreneur who bribes government employee to get an approval of his projects” is of “some benefit” to Mongolia by stating that without the bribe the foreign entrepreneur might not invest, and that the investment would bring in needed capital and expertise, and probably jobs. Even respondents who adhered to this argument, however, acknowledged that bribery is wrong.

3.5. *Who is corrupt?*

Respondents were asked to rank eleven different entities in order of how corrupt those entities are. The answers are very similar, but there is less correspondence between the two groups of respondents than is the case in other answer sets.

(rank)	Bulgaria entity	[score]	(rank)	Mongolia entity	[score]
(1)	Customs and tax revenue service employees	[2]	(1)	Customs and tax revenue service employees	[2.6]
(1)	Elected politicians or people running for office	[2]	(2)	Judiciary	[3.6]
(3)	Government workers	[3.5]	(3)	Employees of banking & financial institutions	[3.7]
(3)	Police	[3.5]	(4)	Elected politicians or people running for office	[4]
(5)	Judiciary	[4]	(5)	Police	[4.2]
(6)	Employees of banking & financial institutions	[6.5]	(5)	Government workers	[4.2]
(7)	Local entrepreneurs (businessmen)	[7]	(7)	Local entrepreneurs (businessmen)	[6.4]
(7)	Institutions of higher education	[7]	(8)	Institutions of higher education	[6.5]
(7)	Mass media and news services	[7]	(9)	Foreign entrepreneurs (businessmen)	[7.2]
(10)	Foreign aid workers and advisors	[9]	(10)	Mass media and news services	[7.7]
(10)	Foreign entrepreneurs (businessmen)	[9]	(11)	Foreign aid workers and advisors	[7.8]

These answers are interesting for two reasons. First, a preliminary observation is that while the response sets are very similar, they are not identical. Each group is experiencing corruption in a different way. An often-forgotten fact in the literature on corruption is that corruption is not a unitary phenomenon; it exists in a variety of manifestations and textures.¹²²

Second, in both sets of answers there is a clear division between government actors and private sector actors, and the government actors are perceived as being more corrupt. If a definition or understanding of corruption were to be drawn from these rankings, the definition would probably focus on public actors rather than private.¹²³

It is also interesting to note that both groups of respondents rank foreign entities as not very corrupt. This too touches on a small debate within the corruption literature: whether corruption starts from within a culture or is imported by foreign investors.¹²⁴ These groups did not directly address the genesis of corruption in their respective countries; they tended to focus on domestic corruption rather than imported corruption.¹²⁵ While the perceptions of the respondents regarding the primacy of domestic corruption are in no way proof of the reality,¹²⁶ there is value in understanding perceptions.

Respondents were asked to list other corrupt entities in Bulgaria and Mongolia. Both groups stated that doctors and the medical profession are corrupt. According to a nationwide survey, forty-seven percent of Bulgarians believe that “nearly all” or “most” doctors are involved in corruption.¹²⁷ Bulgarian respondents indicated that when patients are in need of care, they are told that rapid service will require an extra payment. One example given was a patient who needed a tooth extracted and was told to come back in several weeks – or to pay something on the side for immediate service.¹²⁸ In another example, a respondent indicated that a “great percentage” of surgical operations are paid individually to the surgeon in charge – even though the patients are in that surgeon’s district and have the right to free medical treatment.¹²⁹ If a patient refuses to pay, he or she is told to go elsewhere for the operation.¹³⁰ Respondents made it clear, however, that they respect the medical profession and some expressed sympathy for the low salaries that doctors receive.¹³¹

In contrast, Mongolian respondents stated that a bribe was not a prerequisite for medical care and in fact noted that a bribe offered by a stranger would almost certainly be refused. Instead, they stated that scarce medical care is generally given first to people with personal connections rather than on the basis of need. Many respondents considered this inequitable and corrupt.

Mongolian respondents also stated that primary and secondary education is corrupt.¹³² In follow-up discussions respondents who did not list primary and secondary education vigorously seconded those who did. The most common form of corruption in the early years of education was believed to be admission to scarce spots in kindergartens and schools on the basis of personal connections – or very occasionally bribes – rather than on a more equitable basis.¹³³ In later years, some respondents believed that parents pay bribes for their children to gain admission to prestigious secondary schools,¹³⁴ and most students said that parents were asked for payments to obtain marks and tests that would allow their children to go on to higher education.¹³⁵

Bulgarians in general believe university professors and officials to be much more corrupt than primary and secondary school teachers. Twenty-seven percent of Bulgarians believe that “nearly all” or “most” university faculty are involved in corruption whereas only nine percent characterize primary and secondary school teachers in the same way.¹³⁶ In follow-up sessions Bulgarian respondents provided many examples of abuses carried out at universities. Several indicated that grades can be bought, and spoke of friends who bragged about paying for grades. Others cited a private university in Sofia at which admission and grades can be bought and exams obtained before they are given. One respondent reported that a student was able to procure a place in a prestigious university for US\$ 7000. They also gave examples of more subtle and creative forms of corruption. One professor reputedly requires students to purchase from him autographed copies of his book – for over six times the bookstore price. When asked about these practices, respondents condemned them and suggested that professors’ low salaries are the basis for these corrupt acts.¹³⁷

4. *Implications of the Findings*

The findings can be interpreted in two ways. One means of interpreting the findings is by simply comparing the Bulgarian and the Mongolian response sets. The other is to use the responses to seek insights into the literature on corruption.

4.1. *Comparison of the Responses*

The similarity in the understanding of corruption evidenced by the two sets of responses stands out. When presented with the same menu of definitions, respondents on different continents selected almost exactly the same definition of corruption.¹³⁸ The probability that two groups would randomly arrange a menu with nine selections in an identical manner is 0.0000027.

This similarity repeats itself when the questionnaire seeks to indirectly elicit an understanding of corruption. When perceptions of the degree of harm of various behaviors are ranked, the rankings by the two groups are almost identical.¹³⁹ The probability that two groups would randomly rank ten different behaviors in the same pattern is 0.0000002. Clearly, some factor has influenced both sets of respondents in a similar way. This set of responses *proves* nothing: it requires replication and falsification. Nonetheless, the question of why two groups of university students on two different continents would present such similar responses suggests some very interesting possibilities.

One possibility, and perhaps the most intriguing, is that there is in fact a shared understanding of corruption.¹⁴⁰ Perhaps the Bulgarian and Mongolian respondents simply perceive and understand corruption in the same way. Commentators from emerging economies have suggested that there is indeed a shared understanding.¹⁴¹ The findings of this questionnaire support their proposition.

A second possibility is that the experiences shared by Bulgaria and Mongolia over the last fifty years contribute to a shared understanding. The Soviet system determinedly set out to create a uniform mentality in the countries within its reach.¹⁴² There is some evidence that the attempts to create a uniform mentality did affect attitudes and behaviors,¹⁴³ although the empirical evidence tends to indicate that attitudes are not in fact as uniform as those who ran the system may have hoped.¹⁴⁴ Nonetheless, it is possible that the shared experiences of Soviet hegemony, disruption, and transition contribute to a shared perception and understanding of corruption.¹⁴⁵ In order to test this possibility, questionnaires should be administered in other countries that were part of the Soviet bloc and that have gone through similar periods of disruption and transition.

A third possible reason why the Bulgarian and Mongolian responses are so similar is that the fact that both response groups are comprised of university students, which affects their perceptions in a similar way. The university experience does affect a multitude of perceptions and attitudes, including ethical beliefs and understandings of what is right and wrong.¹⁴⁶ It is possible, therefore, that it is the shared university experience that contributes most to the shared understandings of the two response groups. A problem with this hypothesis is that notwithstanding the similarities that the authors have noted between the two universities, the university experience may not in fact be shared.¹⁴⁷ In order to test this possibility, questionnaires should be administered to university students in other cultures, at different stages in the university experience.

What is just as interesting as the possibilities raised by the correspondence between the two groups of respondents is the lack of support for other theories. Most broadly, the findings do not support a relativistic theory of how people understand corruption.¹⁴⁸ Similarly, these findings do not support the anecdotal claim that corruption is accepted in some cultures or societies.¹⁴⁹

More specifically, the findings do not support the argument that anticorruption regimes are elitist and constitute moral imperialism.¹⁵⁰ Balakrishnan Rajagopal, for example, argues that the global anti-corruption movement is “Eurocentric” because emerging economies do not necessarily share the same understanding of and attitudes toward corruption.¹⁵¹ Steven Salbu eloquently argues, on the other hand, that the components of the anticorruption regimes that require prosecution of extraterritorial bribery constitute moral imperialism.¹⁵² His argument is premised in part on the supposition that such regimes prevent foreign parties from engaging in behaviors that are uniquely accepted in the host country.¹⁵³ The findings support neither of these arguments.¹⁵⁴

4.2. *The Literature*

4.2.1. *Definitions of Corruption.* The definitions chosen by the respondents correspond to a remarkable degree with one another. They also correspond to the prevalent definition of corruption in western literature. That definition was summarized by Joseph Nye as “behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence.”¹⁵⁵ Indeed, in follow-up discussions respondents seemed to use this definition.

This broad definition obviously encompasses a number of behaviors, such as bribery, theft, nepotism, and misappropriation.¹⁵⁶ In the west, scholars tend to focus on bribery.¹⁵⁷ Moreover, the international corruption regimes focus on bribery.¹⁵⁸ Interestingly, the definitions chosen by the respondents also lean toward bribery. A discussion of corruption that focuses on bribery, or a corruption regime that deals first with bribery, would seem to be legitimate and comprehensible to these respondents.

The choices for definition not chosen by respondents also are of interest. No respondent chose “acceptance of birthday and other gifts.” This bears out the statement made by Daniel Jun that “Korean people share the same moral standards as the Western culture regarding bribery. They are equally capable of distinguishing between what is intended to be gratuitous and what is intended to wrongfully influence another person.”¹⁵⁹ Courts, too, have distinguished between gifts and corrupt exchanges.¹⁶⁰ On the other hand, because the acceptance of gifts may create the *appearance* of an improper act and thus decrease trust in the government, many western jurisdictions prohibit the acceptance of a gift, even though such acceptance is not in itself considered corrupt.¹⁶¹

Very few respondents chose as a definition of corruption “participation in commercial ventures.” In follow-up discussions, respondents indicated that most government officials needed to work outside of government in order to supplement low wages. The fact that such activities are not considered corrupt bears out the predictions of scholars such as Kim Scheppele, made specifically in the context of transition economies.¹⁶² It also portends a clash, at some future time, between conflict of interest rules in the west and in the transition economies.¹⁶³

Finally, the selections made by the respondents show a need for future research, both empirical and theoretical, by legal scholars. Definitions that might be considered nepotism¹⁶⁴ were selected by a majority,¹⁶⁵ a middle number,¹⁶⁶ and very few¹⁶⁷ respondents. When evaluating specific behaviors respondents also evaluated discrete nepotistic behaviors differently. Clearly, respondents have a textured understanding of nepotism, and that understanding seems to be similar with respect to the Bulgarian and Mongolian groups. Unfortunately, there is little scholarly study of nepotism.¹⁶⁸ Legal scholarship, in particular, tends to examine the effect of anti-nepotism rules on married women.¹⁶⁹ The definitions selected by the respondents highlight a need for research by legal scholars, and may point to an area in which there are differences in understandings.¹⁷⁰

4.2.2. *A Bribe Taker Who Does Good Things.* Evaluations of this behavior touch on at least two aspects of the literature on corruption. First is the debate over whether corruption is accepted in some form by some cultures. This behavior offers a good test case. Ernest Harsch, for example, argues that corruption is an acceptable means of capital accumulation in Africa.¹⁷¹ Others say that no form of corruption is acceptable, even when the corrupt official does good things.¹⁷²

Both sides of the debate will find support in the findings reported in this paper. When asked to evaluate this behavior, forty-five percent of Bulgarian respondents and thirty-six percent of Mongolian respondents say that the behavior has some good effects for Bulgaria or Mongolia. Particularly in the case of the Bulgarian responses, because the percentage of positive responses is close to but not over half, both sides can claim validation.

The follow-up discussions and debates over this behavior touch on a second aspect of the literature. Padideh Ala’i argues that the underlying reason for the sudden attitudinal change in international policymakers, and for the growth in international anti-corruption regimes, is a change in the dialogue: corruption is treated as an economic issue rather than as a moral issue.¹⁷³ Her observation is indirectly supported by those who criticize international institutions for treating corruption as an economic issue.¹⁷⁴

Respondents in Bulgaria and Mongolia adopted almost identical approaches – evaluating the phenomenon from both economic and moral perspectives. Many spoke of the economic harms and benefits of this behavior. A number however, also spoke of the moral aspect. Those who analyzed the behavior from a moral perspective did not do so exclusively; the two perspectives can coexist.¹⁷⁵ Interestingly, most respondents who analyzed this behavior from a moral perspective found the practice harmful. As one respondent put it, “it is still wrong.”

4.2.3. *The Bribe-Taking Traffic Officer.* Some scholars have suggested that petty bribery is a viable means of supplementing low salaries for low-level bureaucrats such as traffic officers.¹⁷⁶ Interestingly, respondents criticized this behavior softly. Respondents clearly saw a difference between this type of activity and other behaviors. Nonetheless, they generally did find this behavior harmful.

The soft criticism by the two groups of respondents brings to mind a concern expressed by the World Bank. The Bank notes that a

small side payment for a government service may seem a minor offense, but it is not the only cost – corruption can have far reaching externalities. Unchecked, the creeping accumulation of seemingly minor infractions can slowly erode political legitimacy to the point where even non-corrupt officials and members of the public see little point in playing by the rules.¹⁷⁷

Some respondents did speak of the dynamic and cumulative effect of bribing a petty official. Nonetheless, it is not entirely clear that the respondents share the concern of the World Bank.

4.2.4. *Beneficial Corruption.* As noted, a small number of responses indicate a perception that corruption can be beneficial.¹⁷⁸ Most of these respondents expressed a belief that the negative aspects of corruption are outweighed in some circumstances by the benefits of having something happen, such as foreign investment or a local contract.

As noted previously, this reasoning reflects the “speed money” arguments of the 1960s.¹⁷⁹ Nathaniel Leff was at that time the most visible proponent of this argument,¹⁸⁰ although Samuel Huntington has since become better known. Huntington argues that

corruption may be one way of surmounting traditional laws or bureaucratic regulations which hamper economic expansion. In the United States, during the 1870s and 1880s, corruption of state legislatures and city councils by railroad, utility, and industrial corporations undoubtedly speeded the growth of the American economy A society which is relatively uncorrupt – a traditional society for instance where traditional norms are still powerful – may find a certain amount of corruption a welcome lubricant easing the path to modernization. A developed traditional society may be improved – or at least modernized – by a little corruption.¹⁸¹

Although respondents did not make reference to the rail barons of the late 1800s, their arguments resonate with Huntington’s.

The speed money argument very much relies on a static analysis of benefits: the cost directly attributable to a transaction is subtracted from the benefit directly accruing from a transaction.¹⁸² Static analysis is no longer considered an accurate measure of the effects of corruption,¹⁸³ a dynamic analysis that considers the damage done to a system over a period of time is considered more accurate – and does not favor the use of corruption as a development tool.¹⁸⁴

Salim Rashid’s research demonstrates how static and dynamic analyses of corruption might lead to different evaluations of its benefits and harms.¹⁸⁵ Rashid studied bribes paid to obtain telephone service in India. His hypothesis was that the bribes would help to differentiate customers in a system that otherwise was completely egalitarian, and that bribes would thus facilitate Pareto optimalization. Rashid initially found that this was the case. As time passed, however, bureaucrats came to expect bribes and also created inefficiencies in order to extract more and larger bribes. Therefore, a practice that appeared in an initial static analysis to have some benefits over time not only shed those benefits but also completely degraded the system.¹⁸⁶

The respondents were not versed in current theoretical literature regarding corruption. Nonetheless, a majority of respondents understood that corruption is better analyzed dynamically than statically. In follow-up discussions, respondents countered arguments that corruption can at times cause a good thing to happen by arguing in turn that the long-term damage is of greater consequence.

4.2.5. *Who is corrupt?* Both groups of respondents perceive that foreign investors and foreign aid agencies are either not corrupt or not as corrupt as local entities.¹⁸⁷ Perception, of course, is not proof of fact. Nonetheless, the perceptions touch on two aspects of the literature. The first, as mentioned, is the debate over whether corruption is transmitted through foreign investors or is grown internally.¹⁸⁸

The second aspect that these perceptions touch on is related to the first. One of the focuses of international corruption regimes is the criminalization of transnational bribery.¹⁸⁹ Aid agencies have also instituted programs to minimize corrupt activities by the international entities that they sponsor.¹⁹⁰ These findings do not indicate that the respondents would find such regimes or programs to be offensive. They do suggest, however, that these respondents look closer to home, and would be more likely to support regimes that dealt with corrupt local actors.

The actors that the respondents identified as corrupt are also interesting in terms of the basic services that those actors provide. Medical care and education are perceived as being corrupt; both are basic to the welfare and future development of each country. It is possible that corruption in these prosaic entities, rather than grandiose corruption, could lead to cynicism and disengagement from the reform process.¹⁹¹ Thus, it is possible that the international corruption regimes are not focusing enough attention on the areas of corruption that present the greatest danger.

Conclusion

Corruption is a serious issue. It is an issue that long has been taken seriously by local victims, and increasingly is being taken seriously by international institutions and regimes. The fit between international regimes and local concerns, however, raises questions: questions about efficacy, about focus, and perhaps most importantly about different understandings and perceptions of corruption. Formulating coherent responses to those concerns requires empirical understandings of how corruption is perceived and understood.

The responses from Bulgaria and Mongolia are each instructive in themselves and cast insights into how corruption is understood in different places. Comparison of the two sets of responses is even more interesting. The correspondence between the two sets of responses is striking, and suggests that there is some sort of shared understanding between the two groups. A shared understanding could arise from the fact that both sets of respondents are in universities, or from the fact that even though Bulgaria and Mongolia are on different continents both of their recent histories involve Soviet domination, democratic change, and transition. Or, most intriguingly, there could simply be a shared understanding of corruption.

Legal analysis of the international corruption regimes is critical. Legal analysis must, however, be based on factual knowledge rather than on supposition or intuition. The questionnaire discussed in this article addressed narrow questions in two countries. Thousands of questions remain in hundreds of countries. As legal scholars address those questions, a richer body of knowledge will be developed that will contribute to more efficacious and more sensitive international regimes.

APPENDIX

1. How would you rate the economic condition of Bulgaria/Mongolia at this time?

1. Excellent	BGL 1	MGL 0
2. Good	BGL 1	MGL 1
3. Not good	BGL 36	MGL 28
4. Poor	BGL 12	MGL 16

2. How would you rate the social conditions of Bulgaria/Mongolia at this time?

1. Excellent	BGL 1	MGL 0
2. Good	BGL 3	MGL 4
3. Not good	BGL 28	MGL 33
4. Poor	BGL 18	MGL 8

3. How do the economic conditions of Bulgaria/Mongolia at this time compare to economic conditions five years ago?

1. Better	BGL 27	MGL 34
2. Same	BGL 12	MGL 11
3. Worse	BGL 10	MGL 0

4. How do the social conditions of Bulgaria/Mongolia at this time compare to social conditions five years ago?

1. Better	BGL 14	MGL 25
2. Same	BGL 16	MGL 13
3. Worse	BGL 17	MGL 7

5. Which social problem do you believe is the most important? (This and the following questions relate to Bulgaria/Mongolia.) [*Some respondents checked more than one answer.*]

1. Ethnic/religious diversity of population	BGL 1	MGL 4
2. Corruption	BGL 24	MGL 16
3. Control over economy by foreign organizations and investors	BGL 1	MGL 1
4. Frequent government reshuffles	BGL 3	MGL 8
5. Economic decline	BGL 19	MGL 18
6. Organized crime	BGL 6	MGL 3

6. Which social problem do you believe is of the second importance? [*Some respondents checked more than one answer.*]

1. Ethnic/religious diversity of population	BGL 2	MGL 2
2. Corruption	BGL 10	MGL 18
3. Control over economy by foreign organizations and investors	BGL 1	MGL 8
4. Frequent government reshuffles	BGL 6	MGL 4
5. Economic decline	BGL 11	MGL 9
6. Organized crime	BGL 22	MGL 4

7. How do you interpret the word “corruption”? Each of the following refers to activities of government officials and government employees: [*Some respondents checked more than one answer.*]

1. Participation in commercial ventures	BGL 4	MGL 1
2. Acceptance of monetary rewards for services rendered	BGL 31	MGL 27
3. Acceptance of birthday and other gifts	BGL 0	MGL 0
4. Assisting relatives in their business activities	BGL 11	MGL 8
5. Assisting relatives in meeting influential people	BGL 2	MGL 4
6. Helping relatives in getting a job/getting into schools	BGL 9	MGL 7
7. Criminal use of authority	BGL 25	MGL 16
8. Embezzlement	BGL 10	MGL 7
9. Connections to organized crime	BGL 14	MGL 8

8. Please rank the following professions or social groups by how corrupt you consider each to be in this country. Rank the most corrupt group “1,” the next most corrupt group “2,” and so on. Write “NC” if you consider that group not to be corrupt.

The number given is the average of people who ranked a category as corrupt. The number of people who ranked a category as Not Corrupt (“nc”) and who did not answer (“na), which follow-up discussions indicates means a respondent does not think a category is corrupt, is also given.

1. Local entrepreneurs [businessmen]	BLG 7 (6 nc)	MGL 6.4 (11 nc, 3 na)
2. Employees of banking and financial institutions	BLG 6.5	MGL 3.7 (1 nc, 1 na)
3. Elected politicians or people running for office	BLG 2	MGL 4 (1 na)
4. Police	MGL 3.5	MGL 4.2 (5 nc, 1 na)
5. Judiciary	BLG 4 (1 nc)	MGL 3.6 (6 nc, 1 na)
6. Government workers	BLG 3.5	MGL 4.2 (2 nc)
7. Foreign aid workers and advisors	BGL 9 (25 nc)	MGL 7.8 (28 nc, 3 na)
8. Institutions of higher education	BGL 7 (2 nc)	MGL 6.5 (4 nc, 1 na)
9. Mass media and news services	BGL 7 (4 nc)	MGL 7.7 (12 nc, 1 na)
10. Foreign entrepreneurs [businessmen]	BGL 9 (15 nc)	MGL 7.2 (11 nc, 1 na)
11. Customs and tax revenue service employees	BGL 2	MGL 2.6

9. Is there another profession or social group that you consider to be as corrupt or more corrupt than those listed above? If so, what is that group?

BGL: sports figures
doctors (6 respondents)

MGL: lenders
kindergarten teachers
secondary school teachers (3 respondents)
ministry of education
doctors (2 respondents)
hospitals and medical services (2 respondents)
parliament
parliament members
employees who give the permission of possessing land
prison guards
traffic police (2 respondents)
coalition of lawyers
prosecutors
I think, all social groups belong in corruption in Mongolia, now

10. How does corruption affect Bulgaria/Mongolia?
- | | | |
|---------------------|--------|---------------------------------------|
| 1. A lot of harm | BLG 41 | MGL 29 |
| 2. Some harm | BLG 9 | MGL 16 |
| 3. Some benefit | BLG 0 | MGL 2 (these respondents also checked |
| 4. A lot of benefit | BLG 0 | MGL 0 some harm) |
11. How does bribery affect Bulgaria/Mongolia?
- | | | |
|------------------|--------|--------|
| 1. A lot of harm | BLG 34 | MGL 32 |
|------------------|--------|--------|

- | | | |
|---------------------|--------|--|
| 2. Some harm | BLG 13 | MGL 13 |
| 3. Some benefit | BLG 0 | MGL 1 (<i>this respondent also checked some</i> |
| 4. A lot of benefit | BLG 0 | MGL 0 <i>harm</i>) |

In your opinion, how does each of the following affect society in general?

12. Government employee who accepts bribe from a local business person?

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 33 | MGL 23 |
| 2. Some harm | BLG 14 | MGL 23 |
| 3. Some benefit | BLG 1* | MGL 0 |
| 4. A lot of benefit | BLG 0 | MGL 0 |

**this respondent listed both 2 and 3*

13. Foreign entrepreneur who bribes government employee to get an approval of his projects?

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 29 | MGL 22 |
| 2. Some harm | BLG 17 | MGL 20 |
| 3. Some benefit | BLG 2 | MGL 3 |
| 4. A lot of benefit | BLG 0 | MGL 0 |

14. Local "boss"/government official who accepts a bribe, but does a lot of good for the community?

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 8 | MGL 11 |
| 2. Some harm | BLG 19 | MGL 18 |
| 3. Some benefit | BLG 22 | MGL 16 |
| 4. A lot of benefit | BLG 0 | MGL 0 |

15. A local business manager who gives bribes to ensure preferential treatment during contract bidding?

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 26 | MGL 14 |
| 2. Some harm | BLG 23 | MGL 23 |
| 3. Some benefit | BLG 8 | MGL 8 |
| 4. A lot of benefit | BLG 0 | MGL 1 |

16. Government employee who gives the best jobs to his relatives.

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 38 | MGL 17 |
| 2. Some harm | BLG 10 | MGL 24 |
| 3. Some benefit | BLG 1 | MGL 4 |
| 4. A lot of benefit | BLG 0 | MGL 0 |

17. A government employee who tells his relatives what the government is going to do before other people are told what the government is going to do.

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 19 | MGL 18 |
| 2. Some harm | BLG 27 | MGL 18 |
| 3. Some benefit | BLG 2 | MGL 7 |
| 4. A lot of benefit | BLG 1 | MGL 1 |

18. A government employee who hastens the privatization of government property by acquiring it for himself.

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 43 | MGL 28 |
| 2. Some harm | BLG 6 | MGL 17 |
| 3. Some benefit | BLG 0 | MGL 0 |
| 4. A lot of benefit | | |

19. A traffic policeman who supplements his low income by fining people and keeping the fines for himself.

- | | | |
|---------------------|--------|--------|
| 1. A lot of harm | BLG 27 | MGL 21 |
| 2. Some harm | BLG 22 | MGL 19 |
| 3. Some benefit | BLG 0 | MGL 6 |
| 4. A lot of benefit | BLG 0 | MGL 0 |

20. A local government official who accepts payments from organized crime.

- | | | |
|------------------|--------|--------|
| 1. A lot of harm | BLG 48 | MGL 29 |
| 2. Some harm | BLG 2 | MGL 17 |

- 3. Some benefit BLG 0 MGL 3
- 4. A lot of benefit BLG 0 MGL 0

21. Someone bribes a judge to obtain the release from jail of a close friend.

- 1. A lot of harm BLG 42 MGL 31
- 2. Some harm BLG 6 MGL 14
- 3. Some benefit BLG 0 MGL 0
- 4. A lot of benefit BLG 0 MGL 0

Please state whether you agree or disagree with the statements at 22-26.

22. Dishonesty is more widespread in politics than in the business sphere.

- 1. Completely agree BLG 15 MGL 8
- 2. Agree BLG 24 MGL 28
- 3. Don't agree BLG 11 MGL 9
- 4. Absolutely don't agree BLG 0 MGL 0

23. Corruption in this country has significantly declined.

- 1. Completely agree BLG 0 MGL 3
- 2. Agree BLG 7 MGL 11
- 3. Don't agree BLG 24 MGL 26
- 4. Absolutely don't agree BLG 18 MGL 5

24. The majority of government officials accept bribes.

- 1. Completely agree BLG 12 MGL 11
- 2. Agree BLG 29 MGL 19
- 3. Don't agree BLG 9 MGL 14
- 4. Absolutely don't agree BLG 0 MGL 1

25. In this country, there are 2 interpretations of the law – one for the rich people, another – for poor.

- 1. Completely agree BLG 12 MGL 1
- 2. Agree BLG 20 MGL 11
- 3. Don't agree BLG 16 MGL 22
- 4. Absolutely don't agree BLG 2 MGL 11

26. Which of the following is the most harmful?

- 1. Bribes paid by foreign businessmen to government officials of Bulgaria. BGL 24 MGL 20
- 2. Bribes paid by local businessmen to government officials of Bulgaria. BGL 25 MGL 25

General Information

1. Gender

- 1. Male BLG 22 MGL 20
- 2. Female BLG 27 MGL 25

2. Age

BLG 23.6 MGL 21

3. Present marital status

- 1. Not married BLG 44 MGL 42
- 2. Married BLG 5 MGL 3
- 3. Married but live separately
- 4. Common marriage
- 5. Divorced
- 6. Widowed

4. Religion

- 1. Muslim BLG 0 MGL 1
- 2. Christian BLG 38 MGL 2
- 3. Jewish BLG 1

3. Buddhist		MGL 33
4. Other	BLG 1	MGL 1
5. Atheist	BLG 8	MGL 8
5. The importance of religion for you:		
1. Very important	BLG 13	MGL 2
2. Moderately important	BLG 17	MGL 20
3. Little importance	BLG 15	MGL 15
4. Not important	BLG 5	MGL 9

FOOTNOTES

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¹ See James Wolfensohn, Plenary Address at the 9th International Anti-Corruption Conference 1-3 (Oct. 10, 1999), available at http://www.transparency.org/iacc/9th_iacc/papers/day1/plenary/d1p1_jwolfensohn.html (noting that corruption was the unspoken “c word”).

² See Arvind K. Jain, *Preface* to ECONOMICS OF CORRUPTION, at vii, vii (Arvind K. Jain ed., 1998) (noting that “[t]he number of articles and books being devoted to [corruption] has grown exponentially in the 1990s”).

³ See Martin Wolf, *Corruption in the Spotlight*, FIN. TIMES, Sept. 16, 1997, at 23 (stating “is difficult to think of a significant international organization not looking at corruption.”); see also Alan Doig, *Dealing With Corruption: The Next Step*, 29 CRIME L. & SOC. CHANGE 99, 100 (1998) (“International agencies and donor governments have all issued statements or positions on corruption.”); *infra* notes 14-37 and accompanying text (discussing international regimes).

⁴ See Barbara Crutchfield George et al., *The 1998 OECD Convention: An Impetus for Worldwide Changes in Attitudes Towards Corruption in Business Transactions*, 37 AM. BUS. L.J. 485 (2000) [hereinafter “*Impetus*”] (describing in detail one international regime); Barbara Crutchfield George et al., *On the Threshold of the Adoption of Global Antibribery Legislation: A Critical Analysis of Current Domestic and International Efforts Toward the Reduction of Business Corruption*, 32 VAND. J. TRANSNAT’L L. 1 (1999) (describing international regimes).

⁵ See A.W. Cragg, *Business, Globalization, and the Logic of Ethics and Corruption*, 53 INT’L J. 643, 659 (1998) (stating that “the criminalization of corruption within national boundaries must be extended to include international business transactions”); Robert S. Leiken, *Controlling the Global Corruption Epidemic*, FOREIGN POL’Y, Dec. 1996, at 55, 67 (stating that “the solution to transnational bribery lies not in a futile attempt to repeal the Foreign Corrupt Practices Act but in universalizing it”); A GLOBAL FORUM ON FIGHTING CORRUPTION: FINAL CONFERENCE REPORT 73 (1999) (statement of Dr. Anton Bebler, Professor of Sociology at the University of Ljubljana, Slovenia, asking for “completing and strengthening the regime of international conventions against corruption”).

⁶ See Balakrishnan Rajagopal, *Corruption, Legitimacy and Human Rights: The Dialectic of the Relationship*, 14 CONN. J. INT’L L. 495, 496 (1999) (stating that international anticorruption efforts are “elitist, statist, and Eurocentric”); Steven R. Salbu, *Bribery in the Global Market: A Critical Analysis of the Foreign Corrupt Practices Act*, 54 WASH. & LEE L. REV. 229, 239 (1997) (stating that “efforts to control bribery in other nations constitute moral imperialism”).

⁷ See John K.M. Ohnesorge, “*Ratch*”*eting Up the Anti-Corruption Drive: Could a Look at Recent History Cure a Case of Theory-Determinism?*, 14 CONN. J. INT’L L. 467, 467 (1999) (criticizing the lack of empirical research on corruption in legal scholarship).

⁸ See Edgardo Buscaglia & Maria Dakolias, *An Analysis of the Causes of Corruption in the Judiciary*, 30 LAW & POL’Y INT’L BUS. 95, 96, 99 (Supp. 1999) (explaining this need for empirical study of corruption and noting that no such empirical work exists); see also David Kennedy, *The International Anti-Corruption Campaign*, 14 CONN. J. INT’L L. 455, 464 (1999) (suggesting a need for empirical study in legal scholarship on corruption); Steven R. Salbu, *Battling Global Corruption in the New Millennium*, 31 LAW & POL’Y INT’L BUS. 47, 77 (1999) (calling for empirical study of corruption).

⁹ Bribery distorts economic decisions because rather than purchasing a good or service based on the price, quality and fit of that good or service, a purchase is based on the size and quality of a bribe. See Mark B. Bader & Bill Shaw, *Amendment of the Foreign Corrupt Practices Act*, 15 N.Y.U. J. INT’L L. & POL. 627, 627 (1983). Sellers have little incentive to produce high quality, low cost goods and services and instead are rewarded when they divert money from production to the payment of bribes. M. Shahid Alam, *Anatomy of Corruption: An Approach to the Political Economy of Underdevelopment*, 48 AM. J. ECON. & SOC. 441, 448-52 (1989); see also Philip M. Nichols, *The Myth of Anti-Bribery Laws as Transnational Intrusion*, 33 CORNELL INT’L L.J. 627, 627-28 (2000) (describing low-quality products due to corruption); Stanley Sporkin, *The Worldwide Banning of Schmiergeld: A Look at the Foreign Corrupt Practices Act on its Twentieth Birthday*, 18 NW. J. INT’L L. & BUS.

269, 280 (1998) (describing low-quality construction due to corruption). Endemic bribery also distorts economies by diverting large amounts of money to unproductive purposes. See Andrei Shleifer & Robert W. Vishny, *Corruption*, 108 Q.J. ECON. 599, 611-15 (1993) (stating that corruption is more distortionary than heavy taxation because money is diverted to maintain secrecy); Shang-Jin Wei, Why is Corruption so Much More Taxing than Tax? Arbitrariness Kills 1-2 (NBER, Working Paper No. W6255, Nov. 1997) (finding empirically that corruption severely distorts economies).

¹⁰ Corruption impedes transnational commercial relationships in at least two ways. First, bribery is used to exclude competitors and create monopolies. See Frederick M. Abbott, *Foundation-Building for Western Hemispheric Integration*, 17 NW. J. INT'L L. & BUS. 900, 914 (1996-1997) ("Governmental corruption and non-transparency are likely to benefit inefficient local operators over efficient multinational operators."); Franklin A. Gevurtz, *Commercial Bribery and the Sherman Act: The Case for Per Se Illegality*, 42 U. MIAMI L. REV. 365, 390-91 (1987) (noting the inefficiencies created when firms bribe to create monopolies); Herbert Hovenkamp, *Antitrust's Protected Classes*, 88 MICH. L. REV. 1, 16 (1989) (providing examples of how bribes are used to obtain or retain monopolies). De facto monopolies are also created because government officials will only accept bribes, and therefore allow entry, to those whom they trust. See Alam, *supra* note 9, at 449 (stating that bribe-taking officials limit entry to those whom they trust). The second way that corruption impedes transnational relationships is by creating environments in which foreign businesspeople simply do not want to work. Paolo Mauro finds a "negative association between corruption and investment, as well as growth, [that] is significant in both a statistical and an economic sense." Paolo Mauro, *Corruption and Growth*, 110 Q.J. ECON. 681, 705 (1995); see also Paolo Mauro, *The Effects of Corruption on Growth, Investment, and Government Expenditure: A Cross Country Analysis*, in CORRUPTION AND THE GLOBAL ECONOMY 83, 91 (Kimberly Ann Elliott ed., 1996) (finding that a measurable decrease in corruption in a country would increase its investment to gross domestic product ratio by almost four percent and the annual growth of its gross domestic product per capita by almost half a percent). Edgardo Campos and others find that while the negative effect is lessened if a corrupt government is predictable, there is still a negative effect. J. Edgardo Campos et al., *The Impact of Corruption on Investment: Predictability Matters*, 27 WORLD DEV. 1059, 1065 (1999).

¹¹ Corruption degrades bureaucracies in a number of ways. First, corruption drives away capable and honest employees. See Omotunde E.G. Johnson, *An Economic Analysis of Corrupt Government, With Special Application to Less Developed Countries*, 28 KYKLOS: INT'L REV. FOR SOC. SCI. 47, 57 (1975) (observing that in endemically corrupt systems capable and honest persons avoid government work); Vito Tanzi, *Corruption, Governmental Activities, and Markets*, FIN. & DEV., Dec. 1995, at 24, 26 (observing that in corrupt systems corrupt people will seek jobs that pay good bribes rather than jobs for which they are qualified); Francisco E. Thoumi, *Some Implications of the Growth of the Underground Economy in Columbia*, 29 J. INT'L STUD. & WORLD AFF. 35, 44 (1987) (stating that over time an honest individual in a corrupt system adapts and becomes more dishonest). Second, bureaucrats hold back information and resources in order to extract larger bribes for releasing each to the public. See Alam, *supra* note 9, at 449 ("bribery may impose costs because of the official's efforts to maximize the offer of bribes by creating false uncertainties").

¹² See Nancy Zucker Boswell, *Combating Corruption: Focus on Latin America*, 3 SW. J. L. & TRADE AM. 179, 184 (1996) ("Perhaps the greatest casualty of . . . corruption has been the erosion of public trust in public institutions and leaders, the foundation of democracy."); Cragg, *supra* note 5, at 654 (noting that respect for law and legal institutions is a "casualty" of bribery); Herbert H. Werlin, *The Consequences of Corruption: The Ghanaian Experience*, 88 POL. SCI. Q. 71, 79 (1973) ("The effect of corruption is to generate an atmosphere of distrust which pervades all levels of administration.").

¹³ See Ohnesorge, *supra* note 7, at 473 (noting that in repressive politics, corruption opens the door for desired consumer goods); Kim Lane Scheppele, *The Inevitable Corruption of Transition*, 14 CONN. J. INT'L L. 509, 515-18 (1999) (describing in detail how people adapted to the Soviet system with behaviors that would be considered corrupt in other systems); Paul B. Stephan, *Rationality and Corruption in the Post-Socialist World*, 14 CONN. J. INT'L L. 533, 533 (1999) (describing adaptation to corruption as a survival skill in the Soviet system).

¹⁴ *Terms of Reference for the Negotiation of an International Legal Instrument Against Corruption*, G.A. Res. 56/260, U.N. GAOR, 56th Sess., Agenda Item 110, at para. 2, U.N. Doc. A/RES/56/260 (2002) ("the Ad Hoc Committee for the Negotiation of a Convention against Corruption . . . shall negotiate a broad and effective convention, which . . . shall be referred to as the 'United Nations Convention against Corruption'").

¹⁵ *Id.* at para. 3. The Ad Hoc Committee was created pursuant to *An Effective International Instrument against Corruption*, G.A. Res. 55/61, U.N. GAOR, 55th Sess., Agenda Item 105, U.N. Doc. A/RES/55/61 (2001).

¹⁶ *United Nations Declaration Against Corruption and Bribery in International Commercial Transactions*, G.A. Res. 51/191, U.N. GAOR, 51st Sess., Annex, Agenda Item 12, at para. 2, U.N. Doc. A/RES/51/191 (1997). In 1998, the United Nations again called upon members to implement the provisions of the Declaration. *Action Against Corruption and Bribery in International Commercial Transactions*, G.A. Res. 53/176, U.N. GAOR, 53d Sess., 91st plen. mtg., at para. 4, U.N. Doc. A/RES/53/176 para. 4 (1999). These resolutions follow a 1976 resolution condemning transnational bribery and requesting unilateral and multilateral action against bribery. *Measures Against Corrupt Practices of Transnational and Other Corporations, Their Intermediaries and Others Involved*, G.A. Res. 3514, U.N. GAOR, 30th Sess., Supp. No. 34, at 69, U.N. Doc. A/10034 (1976).

¹⁷ See W. LAURENCE CRAIG ET AL., INTERNATIONAL CHAMBER OF COMMERCE ARBITRATION 25 (2d ed. 1990) (describing the Chamber as a nongovernmental “association of internationally-oriented enterprises and their national organizations” that works to “promote international commerce worldwide”); Boris Kozolchyk, *The Immunization of Fraudulently Procured Letter of Credit Acceptances: All Services Exportacao, Importacao Comercio, S.A. v. Banco Bamerindus Do Brazil, S.A. and First Commercial v. Gotham Originals*, 58 BROOK. L. REV. 369, 380 n.32 (1992) (“Many instruments sent for international collection are made subject to the International Chamber of Commerce Rules.”). The Chamber was founded in 1919 and has over 7000 members. See International Chamber of Commerce, Introducing the International Chamber of Commerce, available at http://www.iccwbo.org/home/intro_icc/introducing_icc.asp (last visited May 15, 2002). The International Chamber of Commerce claims to be “the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.” *Id.*

¹⁸ The Rules of Conduct to Combat Extortion and Bribery in International Business Transactions can be found in *Extortion and Bribery in International Business Transactions*, Ad Hoc Committee on Extortion and Bribery in International Business Transactions, ICC Doc. No. 193/15 (Mar. 26, 1996).

¹⁹ Rules of Conduct to Combat Extortion and Bribery in International Business Transactions arts. 1 (“No one may, directly or indirectly, demand or accept a bribe.”), 2 (“No enterprise may, directly or indirectly, offer or give a bribe and any demands for such a bribe must be rejected.”), and 4 (imposing financial recording and auditing requirements on enterprises). See Nancy Zucker Boswell, *An Emerging Consensus on Controlling Corruption*, 18 U. PA. J. INT’L ECON. L 1165, 1173-74 (1997) (discussing the Rules of Conduct and their relationship to other international regimes); David Hess & Thomas W. Dunfee, *Fighting Corruption: A Principled Approach: The C2 Principles (Combating Corruption)*, 33 CORNELL INT’L L.J. 593, 620 (2000) (discussing the Rules of Conduct and using them as a source for their own principles to combat corruption); Timothy Martin, *Corruption and Improper Payments: Global Trends and Applicable Laws*, 36 ALBERTA L. REV. 416, 435-39 (1998) (thoroughly explicating the Rules of Conduct).

²⁰ Inter-American Convention Against Corruption, Mar. 29, 1996, 35 I.L.M. 724, art. 5; see Lucinda A. Low et al., *The Inter-American Convention Against Corruption: A Comparison With the United States Foreign Corrupt Practices Act*, 38 VA. J. INT’L L. 243, 247-49 (1998) (discussing the requirement); Rex J. Zedalis, *Internationalizing Prohibitions on Foreign Corrupt Practices: The OAS Convention and the OECD Revised Recommendation*, 31 J. WORLD TRADE no.6, at 45, 55 (1997) (discussing the treaty).

²¹ The treaty requires signatories to allow extradition of bribe givers and bribe-taking officials and contains a pledge that signatories will not invoke bank secrecy laws to impede investigations into corruption. Inter-American Convention Against Corruption, *supra* note 20, art. XIII (extradition), art. XVI (bank secrecy).

²² Council Act of 27 September 1996 Drawing up a Protocol to the Convention on the Protection of the European Communities’ Financial Interests, 1996 O.J. (C 313) 1; see Alejandro Posadas, *Combating Corruption Under International Law*, 10 DUKE J. COMP. & INT’L L. 345, 396-99 (2000) (discussing the Protocol).

²³ Convention Drawn Up on the Basis of Article K.3(2)(c) of the Treaty on European Union on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union, 1997 O.J. (C 195), 37 I.L.M. 15 (1997); see David A. Gantz, *Globalizing Sanctions Against Foreign Bribery: The Emergence of a New International Legal Consensus*, 18 Nw. J. INT’L L. & BUS. 457, 472-73 (1998) (discussing the European Union’s convention).

²⁴ Gantz, *supra* note 23, at 472-73; Posadas, *supra* note 22, at 397. As Posadas points out, both of the European Union instruments are to a large extent subsumed by the OECD Convention on Bribery. See Posadas, *supra* note 22, at 396 (“The OECD Convention may have helped to mitigate this ratification problem in the area of corruption: most member states of the EC have and will continue to modify their domestic laws to comply with the OECD Convention, notwithstanding the pending EC legislation.”).

²⁵ See APEC Government Procurement Experts Group, Non-Binding Principles on Government Procurement para. 48, available at http://www.apecsec.org.sg/committee/gov_non_binding.html (last modified Oct. 17, 2001) (“The [government procurement] regime should be transparent. This helps to avoid problems such as fraud and corruption.”).

²⁶ OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Dec. 18, 1997, 37 I.L.M. 1 (1998), art. 1.1 [hereinafter OECD Convention]. Penalties for transnational bribes must be proportionate to the penalties for domestic bribery. See *id.* art. 3.1.

²⁷ See OECD Convention, *supra* note 26, art. 9 (mutual legal assistance), art. 10 (extradition); see also Posadas, *supra* note 22, at 392-93 (discussing the importance of these provisions).

²⁸ See OECD, Ratification Status as at 21 January 2002, available at <http://www.oecd.org/pdf/M00017000/M00017037.pdf> (last visited May 15, 2002) (listing thirty-one countries that have enacted implementing legislation).

²⁹ See George et al., *Impetus*, *supra* note 4, at 485 (stating that the Convention “provides an impetus for worldwide changes” and “heralds the beginning of a new era”). Not all scholars favor the Convention. Paul Stephan criticizes the Convention as imperialistic and impractical. Stephan, *supra* note 13, at 540.

³⁰ Wolfensohn, *supra* note 1, at 1.

³¹ See Helmut Sohlen, *Critical Importance of Controlling Corruption*, 33 INT'L LAW. 863, 865 (1999) (discussing activity of the World Bank). Section 1.15 of the *Guidelines for Procurement Under IBRD Loans and IDA Credits* states that any firm that offers or gives a bribe will be ineligible for bank-financed contracts; at least seventy-five firms and individuals have been declared ineligible. See World Bank Listing of Ineligible Firms; Fraud and Corruption, available at <http://www.worldbank.org/html/opr/procure/debarr.html> (last updated May 8, 2002) (providing a current list of ineligible firms). Section 1.25 of the *Guidelines for the Selection and Employment of Consultants under IBRD Loans and IDA Credits* states that any consultant that offers or gives a bribe may be ineligible for future Bank-funded work; at least one consulting firm has received a letter initiating that process. See *id.* (providing a current list of consultants under investigation).

³² See INTERNATIONAL MONETARY FUND, GOOD GOVERNANCE: THE IMF'S ROLE 2-8 (1997) (stating that the Fund will not support corrupt governments); see also Sohlen, *supra* note 31, at 866 (stating that the Fund now limits its involvement in countries where corruption negatively affects domestic economic growth). Section 1.2.2 of the Fund's *Code of Good Practices on Fiscal Transparency* states that "[t]axes, duties, fees, and charges should have an explicit legal basis," while section 1.2.3 states "[e]thical standards of behavior for public servants should be clear and well publicized." International Monetary Fund, *Code of Good Practices on Fiscal Transparency*. This document is available at <http://www.imf.org/external/np/fad/trans/code.htm> (last visited May 15, 2002). The code, in section 4.2.1 also suggests that "[a] national audit body or equivalent organization, which is independent of the executive, should provide timely reports for the legislature and public on the financial integrity of government accounts." *Id.* Chantal Thomas provides an excellent discussion of the anticorruption activities of the World Bank and the International Monetary Fund. Chantal Thomas, *Does the "Good Governance Policy" of the International Financial Institutions Privilege Markets at the Expense of Democracy?*, 14 CONN. J. NT'L L. 551, 552-56 (1999). She also points out that the international financial institutions concentrate on corruption in the financing of projects rather than general political corruption. *Id.* at 560.

³³ The Asian Development Bank has banned eighteen firms and thirty-four individuals and has reprimanded eight firms and one individual. Asian Development Bank, Sanctions, available at <http://www.adb.org/Anticorruption/sanctions.asp> (last visited June 13, 2002). The Asian Development Bank "defines corruption as the abuse of public or private office for personal gain. This means any behavior in which people in the public or private sectors improperly and unlawfully enrich themselves or those close to them, or induce others to do so, by misusing their position." Asian Development Bank, Anticorruption Policy, available at <http://www.adb.org/Documents/Policies/Anticorruption/default.asp?p=anticrrp> (last visited June 13, 2002). The Asian Development Bank "affirms a zero tolerance policy when credible evidence of corruption exists among ADB-financed projects or its staff." *Id.*

³⁴ AFRICAN DEVELOPMENT BANK, GOOD GOVERNANCE 15 (2000). This document is available at <http://www.afdb.org/projects/polices/pdf/governance.pdf>. The African Development Bank defines corruption as "the misappropriation of public assets or public trust/office for private gains." *Id.* at 5.

³⁵ *Id.* at 16.

³⁶ INTER-AMERICAN DEVELOPMENT BANK, STRENGTHENING A SYSTEMIC FRAMEWORK AGAINST CORRUPTION 7 (2001), available at <http://www.iadb.org/LEG/corruption.pdf>.

³⁷ See Draft Ministerial Declaration, WT/MIN(01)/DEC/W/1, at 5 (Nov. 14, 2001). The Declaration couches the proposed multilateral agreement in very soft language: "These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers." *Id.* The caution is well-merited. Some emerging economies and developing countries oppose consideration of the issue of corruption by the World Trade Organization, even under the rubric of "transparency." See Preparations for the Fourth Session of the Ministerial Conference: Issues of Concern to Small Economies, WT/GC/W/441, at para. 17 (Aug 6, 2001) (communication from Antigua and Barbuda, Barbados, Dominica, Dominican Republic, Fiji Islands, Grenada, Haiti, Jamaica, Maldives, Mauritius, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Solomon Islands, and Trinidad and Tobago) ("We recall the plurilateral agreement which provides for transparency, competition and non-discrimination. While appreciating the importance of increasing transparency, and technical support to achieve this, we do not believe that public procurement is a priority matter for international policy at this time."); see also Philip M. Nichols, *Outlawing Transnational Bribery Through the World Trade Organization*, 28 LAW & POL'Y INT'L BUS. 305, 364-77 (1996) (discussing objections made by developing countries and emerging and mature economies). Nonetheless, the Working Group on Transparency in Government Procurement has explicitly attributed its creation to the membership's commitment to combating corruption and bribery, even while reporting the view of some members that the goal of fighting corruption and bribery should not be mentioned explicitly in any agreement that the working group produces. See Report to the General Council, WT/WGTGP/3, at 36-37 (Oct. 12, 1999).

³⁸ See R.L. Beard, *Advocacy Masquerading as Scholarship: Or Why Legal Scholars Cannot Be Trusted*, 55 BROOKL. L. REV. 853, 854 (1989) ("The [legal] writings cause great confusion because they use the form of scholarship to address questions that, in fact, are beyond the reach of scholarship as the term is used with respect to other disciplines."); Paul Brest,

The Fundamental Rights Controversy: The Essential Contradiction of Normative Scholarship, 90 YALE L.J. 1063, 1109 (1981) (criticizing advocacy scholarship).

³⁹ Compare Edward L. Rubin, *Law and the Methodology of Law*, 1997 WISC. L. REV. 521, 522 (vigorously arguing that legal scholarship “frames recommendations, or prescriptions, to legal decisionmakers”) with HANS Kelsen, *PURE THEORY OF LAW* 1 (Max Knight trans., 1989) (arguing that legal scholarship has as “its exclusive purpose . . . to know and describe its object. The theory attempts to answer the question what and how law *is*, not how law ought to be.”).

⁴⁰ See JAMES B. RULE, *THEORY AND PROGRESS IN SOCIAL SCIENCE* 25 (1997) (stating that in social sciences theory is based on the organization of empirical observation into a larger intellectual structure).

⁴¹ See Moisés Naím, *The Corruption Eruption*, 11 BROWN J. WORLD AFF. 245 (1995).

⁴² An example is provided by David Hess and Tom Dunfee, who discuss the persistent but entirely anecdotal argument that corruption is ethically or economically justified at times. Hess & Dunfee, *supra* note 19, at 611-16.

⁴³ See Stacey Steele, *The New Law on Bankruptcy in Indonesia: Toward a Modern Corporate Bankruptcy Regime?*, 23 MELBOURNE U. L.R. 144, 155 (1999) (attributing corruption to low salaries).

⁴⁴ See JEREMY POPE, *CONFRONTING CORRUPTION: THE ELEMENTS OF A NATIONAL INTEGRITY SYSTEM* 9-10 (2000) (describing the common wisdom that low salaries cause corruption as “a myth” and stating that “the evidence is all to the contrary”). Pope, who is the director of Transparency International’s London office, has very little patience for those who claim that poverty is the root cause of corruption. “If poverty were the cause of corruption, then it would be hard to explain why rich, wealthy countries are beset by scandals – very few of which involve anyone who might be categorized as being ‘poor’ or in ‘need.’ It would also virtually equate poverty with dishonesty – which is a concept attacked vehemently by a number of critics, who see this alleged linkage as being little short of a blanket defamation of the poor.” *Id.* at 7.

⁴⁵ See Kennedy, *supra* note 8, at 464 (stating that there is a need for scholarly “examination of various legal regimes and rules” regarding corruption).

⁴⁶ See Joel R. Paul, *Interdisciplinary Approaches to International Economic Law: The New Movements in International Economic Law*, 10 AM. U. J. INT’L L. & POL’Y 607, 609 (1995) (stating that changes in the world must be accompanied by changes in legal scholarship); see also JAMES DOUGHERTY & ROBERT PFALTZGRAFF, JR., *CONTENDING THEORIES OF INTERNATIONAL RELATIONS, A COMPREHENSIVE STUDY* 1 (3d ed. 1990) (noting the need for well organized present observation to guide future research).

⁴⁷ For information about St. Kliment Ohridski University, see <http://www.uni-sofia.bg>.

⁴⁸ For information about the National University of Mongolia, see <http://www.num.edu.mn/>.

⁴⁹ Based on the authors’ observations, the respondents were able to understand the questionnaire and were able to articulate explanations of their answers in English.

⁵⁰ The authors acknowledge the criticisms made of virtually every method of obtaining data of this type. See generally Paul Beatty, *Understanding the Standardized/Non-Standardized Interviewing Controversy*, 11 J. OFFICIAL STAT. 147, 147-60 (1995) (describing the debates over and the criticisms of various methods of obtaining information).

⁵¹ St. Kliment Ohridski University is considered the finest University in Bulgaria and has produced the majority of the country’s leaders. Every President of Bulgaria and Chairman of the National Assembly since 1989 has been a graduate of the University. Likewise, the National University of Mongolia is considered the finest school in Mongolia and is the school at which most leaders obtained their degrees.

⁵² Most of the respondents are in their early twenties, which means that they spent around half of their lives in the communist period and half of their lives in the transition period.

⁵³ See ROGER SAPSFORD, *SURVEY RESEARCH* 5 (1999) (noting that survey-type methods of obtaining data have the advantage of allowing the researcher to ask precisely the question that the researcher wants to ask); see also Mark A. Tessler, *Measuring Abstract Concepts in Tunisia*, in *SURVEY RESEARCH IN AFRICA: ITS APPLICATIONS AND LIMITS* 141, 141-42 (William M. O’Barr et al. eds., 1973) (discussing difficulty of modeling questions for research in developing countries).

⁵⁴ See Eleanor R. Gerber, *The View From Anthropology: Ethnography and the Cognitive Interview*, in *COGNITION AND SURVEY RESEARCH* 217, 219 (Monroe G. Sirken et al. eds., 1999) (stating that survey-type measures yield data that can be compared).

⁵⁵ See SAHR JOHN KPUNDEH, *POLITICS AND CORRUPTION IN AFRICA: A CASE STUDY OF SIERRA LEONE* 13 (1995) (discussing the need for face-to-face questioning and loose formats when obtaining data on corruption in developing countries); see also SIEGFRIED PAUSEWANG, *METHODS AND CONCEPTS OF SOCIAL RESEARCH IN A RURAL DEVELOPING SOCIETY* 108-10 (1973) (discussing the value of follow up sessions in developing countries); Gerber, *supra* note 54, at 218 (suggesting that with most survey-type means of gathering data non-standardized interviews provide valuable information).

⁵⁶ The questionnaire is reproduced in the Appendix to this paper.

⁵⁷ Respondents were given the choices of indicating that they found these behaviors to cause a lot of harm, some harm, some benefit, or a lot of benefit. By providing the opportunity to indicate that these behaviors cause benefit or even a lot of benefit, the authors hope to avoid signaling to the respondents what answer the questioners would like to receive—see ROBERT M. GROVES & MIRK P. COUPER, *NONRESPONSE IN HOUSEHOLD INTERVIEW SURVEYS* 224-25 (1998) (stating that an

interviewer's perceived intentions may affect the likelihood of response)—a problem that might be particularly acute with an issue like corruption.

⁵⁸ Mattes, in a paper co-written with Cherrel Africa, suggests that attitudes toward corruption should be measured along four axes: absolute evaluations of the amount of corruption, relative evaluations of changes in the amounts of corruption, the public salience or importance of corruption, and support for anticorruption regimes. Robert Mattes & Cherrel Africa, *Corruption – The Attitudinal Component: Tracking Public Perceptions of Official Corruption in South Africa, 1995-1998*, at 1-4 (Oct. 12, 1999), at http://www.transparency.org/iacc/9th_iacc/papers/day2/ws1/d2ws1_cafricarmattes.html.

⁵⁹ The proto-Bulgars are discussed at length in VESELIN BESEVLIEV, *PROTOBULGARISCHE PERIODE DER BULGARISCHEN GESCHICHTE* (1981).

⁶⁰ See ALEXANDER FOL, *THE BULGARIANS* 26-27 (2000).

⁶¹ See *id.* at 43-45; IBRAHIM KAFESOGLU, *ORIGINS OF BULGARS* (1986).

⁶² See STEVEN RUNCIMAN, *HISTORY OF THE FIRST BULGARIAN EMPIRE* (1930).

⁶³ See FOL, *supra* note 60, at 93; DAVID MARSHALL LANG, *BULGARIANS: FROM PAGAN TIMES TO THE OTTOMAN CONQUEST* 130-78 (1976). Interestingly, the battle that portended the end of the Bulgarian Kingdom also constituted a signal defeat for the combined troops of Western Europe and marked the end of Western European military assistance for one hundred and forty years, which created even more room for Ottoman conquest. See Kelly DeVries, *The Lack of a Western European Military Response to the Ottoman Invasions of Eastern Europe from Nicopolis (1396) to Mohacs (1526)*, 63 *J. MILITARY HISTORY* 539, 539-41 (1999) (describing the battle of Nicopolis, the decisive battle in the Ottoman conquest of the Bulgarian Kingdom, as a turning point in Western European military reactions to Ottoman aggression).

⁶⁴ A classic piece of Bulgarian literature, *Under the Yoke*, documents the treatment of the Bulgarians during this period. See IVAN MINCHOV VAZOV, *UNDER THE YOKE* (Marguerite Alexieva & Theodora Atanassova tr., Lilla Lyon Zabriskie ed., 1971). The relationship of Bulgaria to Turkey has remained a critical aspect of Bulgarian national identity. Mary Neuburger points out that “[a]ll of the primary political turning points in Bulgarian history – quasi-independence from the Ottoman Empire in 1878, the dawning of the communist era in 1944, and the post-communist period beginning in 1989 – have required a re-positioning of Bulgarian national, cultural and political postures on the so-called “Turkish question.” Mary Neuburger, *Bulgaro-Turkish Encounters and the Re-Imaging of the Bulgarian Nation (1878-1995)*, 31 *E. EUROP. Q.* 1, 1 (1997).

⁶⁵ FOL, *supra* note 60, at 113.

⁶⁶ See *id.*; Geoffrey S. DeWeese, *The Failure of the International Court of Justice to Effectively Enforce The Genocide Convention*, 26 *DENV. J. INT’L L. & POL’Y* 625, 629 (1998) (discussing the Treaty of San Stefano and Russia’s role).

⁶⁷ See FOL, *supra* note 60, at 129. For a thorough discussion of the role played by Zhivkov from the beginning of the Communist rule of Bulgaria until shortly before its demise, see JOHN D. BELL, *THE BULGARIAN COMMUNIST PARTY FROM BLAGOEV TO ZHIVKOV* (1986).

⁶⁸ See Romyana Kolarova, *Bulgaria: Could We Regain What We Already Lost?*, 63 *SOC. RES.* 543, 545 (1996) (noting “the lack of an active dissident movement” and stating that “politically active Bulgarian dissidents in the late eighties had emerged more as critics and reformers within the ruling party than as active adversaries of the regime”).

⁶⁹ See Albert P. Melone, *Bulgaria’s National Roundtable Talks and the Politics of Accommodation*, 15 *INT’L POL. SCI. REV.* 257, 257-70 (1994) (describing Bulgaria’s “stable transition” to democracy, accomplished through the National Roundtable Talks among the ruling communist party and opposition parties).

⁷⁰ See Luan Troxel, *Socialist Persistence in the Bulgarian Elections of 1990-1991*, 26 *E. EUROP. Q.* 407, 407-18 (1992).

⁷¹ See Garabed Minassian, *The Road to Economic Disaster in Bulgaria*, 50 *EUROPE-ASIA STUD.* 331, 331-48 (1998) (describing the economic hardships experienced by Bulgaria); Rossen Vassilev, *Modernization Theory Revisited: The Case of Bulgaria*, 13 *E. EUROP. POL. & SOC.* 566 (1999) (describing Bulgaria’s economic and social difficulties).

⁷² Stability has eluded the government, in which power in the legislature has changed hands seven times in twelve years. See FOL, *supra* note 60, at 132 (describing the coalitions that have been formed in Bulgaria’s parliamentary government and the Prime Ministers who were a product of those coalitions); see also Boryana Dimitrova, *An Empirical Model of Voting Behavior in the Bulgarian Parliamentary Elections of 1994*, 44 *AM. ECON.* 71 (2000) (describing the behaviors of voters during a period of political uncertainty); Janos Simon, *Electoral Systems and Democracy in Central Europe, 1990-1994*, 18 *INT’L POL. SCI. REV.* 361, 361-5 (1997) (describing Bulgaria’s parliamentary system and the coalitions formed). The country experienced a severe financial crisis in 1996 and 1997, which led to hyperinflation and ultimately the imposition of a currency board. See STEFAN PETROV & JEFFREY MILLER, *BULGARIA’S CAPITAL MARKETS IN THE CONTEXT OF EU ACCESSION: A STATUS REPORT* 14-15 (1999) (noting that inflation reached 240 percent per month by February of 1997 and describing the creation of a currency board). The currency board linked the Bulgarian leva to the Deutsch mark (and now links it to the Euro). See Jeffrey B. Miller, *The Bulgarian Currency Board*, 43 *COMP. ECON. STUD.* 53, *passim* (2001) (describing the currency board). The board stabilized the country fiscally but many were left deeply impoverished. See UNITED NATIONS DEVELOPMENT PROGRAM, *DEVELOPMENT COOPERATION BULGARIA 1999 REPORT* 18 (2000) (stating that by 1996 the average monthly wage had dropped forty-two percent from its 1990 level, to approximately US\$ 20 per month, and that pensions had dropped sixty-five percent, to US\$ 10 per month). Organized crime flourished. See Jovo Nikolev,

Crime and Corruption After Communism: Organized Crime in Bulgaria, 6 E. EUROPEAN CONST. REV., No. 2, at 27 (1997) (describing the proliferation of organized crime after the collapse of the Soviet Union).

The continued uncertainty of the electorate is evidenced by two most recent elections. In the parliamentary elections of the summer of 2001, Bulgarians overwhelmingly voted for a new party led by the former King of Bulgaria, who returned to the country after fifty years in exile to be named Prime Minister. In November of 2001, Bulgarians elected to the Presidency the former head of the Bulgarian Socialist Party – making Bulgaria a democracy ruled by an ex-King and a communist. See United Nations Development Program, Profile of Bulgarian Politics, available at <http://www.undp.bg/profile/politics.htm> (last visited May 24, 2002).

⁷³ See Venelin I. Ganey, *Bulgaria's Symphony of Hope*, 8 J. DEMOCRACY 125, 125-30 (1997) (noting the great amount of hope in Bulgaria); Richard Rose & Christian Haerpfer, *Democracy and Enlarging the European Union Eastwards*, 33 J. COMMON MKT. STUD. 427, 428-29 (1995) (stating that there is a great amount of support for entry into the European Union in Bulgaria, and suggesting that Bulgaria will be admitted, although not in the first round).

⁷⁴ See DAVID CHRISTIAN, *A HISTORY OF RUSSIA, CENTRAL ASIA AND MONGOLIA* (1998).

⁷⁵ See THOMAS T. ALLSEN, *COMMODITY AND EXCHANGE IN THE MONGOL EMPIRE* (1997) (discussing the transmission of ideas in the Mongol Empire); DAVID MORGAN, *THE MONGOL EMPIRE AND ITS LEGACY* (1999) (same); Uradyn E. Bulag, *Book Review*, 74 PACIFIC AFF., 585, 585 (2001) (“The fact is that, long before we even heard of the terms globalization or transnationalism, Mongols were the chief agents who broke down petty communal boundaries, linking up Eurasia and setting in train developments that eventually led to the discovery of the ‘new world,’ and toward today’s so-called ‘globalization.’”).

⁷⁶ See Peter C. Perdue, *Comparing Empires: Manchu Colonialism*, 20 INT’L HISTORY REV. 255, 255-63 (1998) (discussing the Manchurian occupation of Mongolia).

⁷⁷ See OWEN LATTIMORE, *NATIONALISM AND REVOLUTION IN MONGOLIA* (1955); PETER S.H. TANG, *RUSSIAN AND SOVIET POLICY IN MANCHURIA AND OUTER MONGOLIA* (1959); Zoltan Barany, *Soviet Takeovers: The Role of Advisers in Mongolia in the 1920s and in Eastern Europe after World War II*, 28 E. EUROP. Q. 409 (1994).

⁷⁸ Ironically, it is widely suspected that the Soviet communists ordered Sukhbaatar’s murder in order to consolidate their power over Mongolia; Sukhbaatar died under mysterious circumstances before he turned thirty. Interview with former member of Mongolian Intelligence, Ulaanbaatar, Mongolia, March 12, 2002.

⁷⁹ See ROBERT ARTHUR RUPEN, *HOW MONGOLIA IS REALLY RULED: A POLITICAL HISTORY OF THE MONGOLIAN PEOPLE’S REPUBLIC 1900-1978*, at 5 (1979) (stating that the People’s Republic of Mongolia mirrored the Soviet Union because it was ruled by the Soviet Union).

⁸⁰ See JASPER BECKER, *THE LOST COUNTRY: MONGOLIA REVEALED* 83-118 (1992) (discussing the purges, repression and stagnation); SHAGDARIIN SANDAG & HARRY H. KENDALL, *POISONED ARROWS: THE STALIN-CHOIBALSAN MASSACRES: MONGOLIAN MASSACRES, 1921-1941* (1999) (discussing the purges, repression and collectivization). Collectivization was resisted by nomadic herders, who slaughtered their herds rather than giving up the animals to a collective, and Mongolia’s livestock reserves were substantially reduced. While disastrous, the collectivization efforts were not as disastrous as in the nomadic cultures ruled directly by the Soviet Union, because the pace of collectivization in Mongolia was slower, the process was never really completed, and the harsh environmental conditions necessitate nomadic techniques. See Robin Mearns, *Community, Collective Action and Common Grazing: The Case of Post-Socialist Mongolia*, 3 J. DEVELOPMENTAL STUD. 297 (1997) (discussing the effects of collectivization in Mongolia).

⁸¹ See THOMAS A. EWING, *BETWEEN THE HAMMER AND THE ANVIL: CHINESE AND RUSSIAN POLICIES IN OUTER MONGOLIA* 3 (1980); RAM RAHUL, *AFGHANISTAN, MONGOLIA AND THE USSR* 5 (1987).

⁸² This account is from interviews conducted by one of the authors with participants in the democratic revolution. No comprehensive history of the democratic revolution exists in English.

⁸³ See Christopher M. Finch, *Mongolia in 2001: Political Consolidation and Continued Economic Reform*, ASIAN SURVEY, April, 2002.

⁸⁴ The People’s Republic of China in theory recognizes Mongolia as an independent and sovereign country, although Mao frequently asked Stalin to allow China to take Mongolia. The Republic of China continues to claim the territory of Mongolia as part of the Republic of China. See Rong-Chwan Chen, *A Boat on a Troubled Strait: The Interregional Private Law of the Republic of China on Taiwan*, 16 Wis. Int’l L.J. 599, 606 n.18 (1998) (discussing the Republic of China’s claims on Mongolia’s territory).

⁸⁵ See Stephen Kotkin, *Introduction*, in *MONGOLIA IN THE TWENTIETH CENTURY: LANDLOCKED COSMOPOLITAN* 1, 1-5 (Stephen Kotkin & Bruce A. Elleman eds., 1999). The Taiwanese scholar Chien-Peng Chun, who clearly is sympathetic to Chinese claims to Mongolia’s territory, lauds Mongolia’s internationalism as a model for Taiwan to maintain its independence from Beijing. Chien-Peng Chun, *Taiwan’s Future: Mongolia or Tibet?*, 27 ASIAN AFF. 233, 235-40 (2001).

⁸⁶ See M. Steven Fish & Robin S. Brooks, *Bulgarian Democracy’s Organizational Weapon*, 9 E. EUROPEAN CONST. REV., no. 3, at 63 (2002) (characterizing Bulgaria and Mongolia, along with Romania, as “pleasant surprises” with respect to democratization and contrasting them with other post-communist countries including Russia and Ukraine). Seven percent of Bulgarians and twenty percent of Mongolians belong to political parties, whereas only one or two percent belong to political

parties in Russia and Ukraine. *Id.* Bulgaria and Mongolia contrast with countries that have reverted to authoritarianism, such as Belarus and Ukraine in the Soviet Union's former European sphere and Kyrgyzstan and Uzbekistan in Central Asia.

⁸⁷ See Derek C. Jones & Jeffrey B. Miller, *Early Transition in Bulgaria: Review and Evaluation*, in *THE BULGARIAN ECONOMY: LESSONS FROM REFORM DURING EARLY TRANSITION* 4, 4 (Derek C. Jones & Jeffrey B. Miller eds., 1997).

⁸⁸ See Donald L. Dyer, *Determinedness and the Pragmatics of Bulgarian Sentence Structure*, 37 *SLAVIC & E. EUROPEAN J.* 273, 273-89 (1993) (discussing the development of the Bulgarian language). For a full explication of the many differences between the language families, see *COMPARATIVE-HISTORICAL LINGUISTICS: INDO-EUROPEAN AND FINNO-UGRIC* (Bela Brogyanyi & Reiner Lipp eds., 1993).

⁸⁹ See Ricardo F. Neupert, *Population, Nomadic Pastoralism and the Environment in the Mongolian Plateau*, 20 *POPULATION & ENV'T* 413, 413-14 (1999) (stating that one third of Mongolians are nomadic and noting that that is one of the highest percentages in the world).

⁹⁰ See Christopher P. Atwood, *Buddhism and Popular Ritual in Mongolian Religion*, 36 *HISTORY OF RELIGIONS* 112, 112-19 (1996) (stating that the predominant religion in Mongolia is Tibetan Buddhism mixed with shamanism, and noting the revival of religion after the democratic changes); Stephen White et al., *Religion and Political Action in Postcommunist Europe*, 48 *POL. STUD.* 681, 683-91 (2000) (reporting high levels of support for and trust in the Orthodox Church in Bulgaria).

⁹¹ Seventy years of Soviet influence, of course, left an impression on Mongolia and Ulaanbaatar in many ways appears more Central European than Asian. Indeed, Jasper Becker's premise is that the Soviet period came close to eradicating Mongolian culture, almost turning it into a "lost country." BECKER, *supra* note 80, at 322.

⁹² See John Henry Merryman, *The French Deviation*, 44 *AM. J. COMP. L.* 109, 109 (1996) (stating that socialist law in Eastern Europe was a "temporary deviation" from Western law); see also Gianmaria Anjani, *By Chance and By Prestige: Legal Transplants in Russia and Eastern Europe*, 43 *AM. J. COMP. L.* 93, 94 (1995) (noting that before socialism Eastern Europe was heavily influenced by Roman-Germanic law and by the scholarship and models of the French, German, Austrian, Italian and Swiss systems).

⁹³ James H. Anderson et al., *Competition and Privatization Amidst Weak Institutions: Evidence from Mongolia*, 38 *ECON. INQUIRY* 527, 540 (2000). The authors point out that "[u]ntil 1990, this country had only known nomadism and socialism, theocracy, and communism" and that Mongolia is "too remote for foreigners to substitute for domestic expertise, as has been the case elsewhere." *Id.* at 528-29. They do, however, acknowledge that it would be "some exaggeration" to say that Mongolia had no institutions whatsoever at the time of transition. *Id.* at 540.

⁹⁴ When asked about the mixed attitude, Bulgarian respondents indicated that they thought that the improved economy has also brought increased inequalities to society and more individualism, which has had, according to some, a corrosive effect on social cohesiveness.

⁹⁵ See *COALITION 2000, CORRUPTION ASSESSMENT REPORT 2001*, at 3 (2001). In October of 2001, 64 percent of Bulgarian respondents listed unemployment, 46.9 percent listed poverty, 45.6 percent listed corruption, 45.4 percent listed low incomes, and 336.33 percent named crime as the most important problems Bulgarians face today. Respondents marked up to three answers, which is why the sum total of percentages exceeds one hundred percent. Details of the survey's methodology can be found at Coalition 2000, *Coalition 2000 Process*, available at <http://www.online.bg/coalition2000/> (last modified Sept. 6, 2001).

⁹⁶ Saint Maral Foundation, *Politbarometer #16*, *MONGOL MESSENGER*, Apr. 24, 2002, at 5. The Saint Maral Foundation survey, sponsored by the Konrad Adenauer Foundation, includes information on satisfaction with and trust in the government but unfortunately does not include perceptions of corruption.

⁹⁷ Those readers who examine the responses shown in the Appendix will note that even though not a single Mongolian respondent indicates that economic conditions are worse now than five years ago (and more than three-quarters indicate that economic conditions are better), eighteen respondents rank economic decline as the most serious social problem in Mongolia. In follow-up discussions, respondents indicated that they interpreted the words "economic decline" to refer to the collapse of the Mongolian economy following the dissolution of the Soviet Union and the transition in Mongolia to a democratic system. The consensus among one group of respondents, which they admitted was not necessarily borne out by empirical data, was that 1988 and 1989 were golden years for Mongolia's economy and that although conditions now are much better than they were in 1995, they still do not measure up to those years. In the follow-up sessions and in other discussions the respondents made clear how deeply the extreme hardships suffered by Mongolians in the early 1990s are etched into their memories. See Peter Boone, *Grassroots Macroeconomic Reform in Mongolia*, 18 *J. COMP. ECON.* 329, 330 (1994) (stating that the disruption of economic relations with the Soviet Union caused a loss of sixty percent of Mongolia's gross domestic product); S. Manaseki, *Mongolia: A Health System in Transition*, 307 *BRIT. MED. J.* 1609, 1609-10 (1993) (describing the "drastic" effect on almost every sector of Mongolia when Soviet aid, which constituted thirty-five percent of the government's budget, was suddenly discontinued).

⁹⁸ In the follow-up discussions, and in conversations throughout Mongolia, the issue of organized crime rarely came up; when the interviewer brought up the subject most people indicated that some type of organized crime exists and acknowledged the potential danger of organized crime but said that the problem is not serious in Mongolia. Several respondents stated that because the population of Mongolia is small it is very difficult to keep secrets, and that if a person were involved in

organized crime that fact would become immediately known. Respondents were quite confused when told that in the United States and Russia membership in organized crime is generally known and that it does not dissuade people from joining such organizations.

⁹⁹ See COALITION 200, *supra* note 80, at 3.

¹⁰⁰ Interview with Dorjdamba Zumberellkham, member of the advisory committee to the Parliamentary Committee that is drafting a new law on corruption.

¹⁰¹ This statement caused a great deal of frustration among many Mongolian government officials. They pointed out that most government officials are not in a position to demand bribes, having either no discretion or little contact with the public.

¹⁰² COALITION 2000, *supra* note 80, at 27.

¹⁰³ Bulgaria does not have a contingency fee system. Claimants must pay their attorneys a pre-arranged fee (the minimum is four percent of the expected recovery) before the attorney commences a case.

¹⁰⁴ The answers to this question indirectly reflect an understanding of corruption. Disparate treatment of different economic groups goes against the admittedly ill-defined concept of a rule of law. See Michael J. Brody, *Practicing Criminal Law: A Jewish Law Analysis of Being a Prosecutor or Defense Attorney*, 66 FORDHAM L. REV. 1141, 1150-51 (1998) (stating that equal justice for strangers and the poor are the essence of the rule of law); Yong K. Kim, *The Beginnings of the Rule of Law in the International Trade System Despite U.S. Constitutional Constraints*, 17 MICH. J. INT'L L. 967, 1001 (1996) ("The soul of the Rule of Law is the notion that it is equally applicable to everyone – rich or poor, powerful or weak."); Laurence H. Tribe, *Revisiting the Rule of Law*, 64 N.Y.U.L. Rev. 726, 728 (1989) (noting that the rule of law treats people of all incomes alike). Many commentators find a linkage between assimilation of the rule of law and corruption. F.C. DeCoste, *Political Corruption, Judicial Selection, and the Rule of Law*, 38 ALBERTA L. REV. 654 (2000) (describing the connection between the rule of law and corruption); O. Lee Reed, *Law, The Rule of Law, and Property: A Foundation for the Private Market and Business Study*, 38 AM. BUS. L.J. 441, 473 (2001) (stating that the absence of the rule of law contributes to corruption); Steven R. Salbu, *A Delicate Balance: Legislation, Institutional Change, and Transnational Bribery*, 33 CORNELL INT'L L.J. 657, 688 (2000) (noting the connection between the rule of law and corruption). But see James Thuo Gathii, *Corruption and Donor Reforms: Expanding the Promises and Possibilities of the Rule of Law as an Anti-Corruption Strategy in Kenya*, 14 CONN. J. INT'L L. 407, 414-25 (1999) (stating that although "the rule of law presents the hope of containing abuse of power where the wealthy and rich abstain from using the law in their interests at the expense of everyone else, and where those in power can be held accountable for such manipulations through established mechanisms of redress" that "the rule of law should not be looked upon too reverentially and apologetically" and that it may not deal with endemic corruption in Kenya).

¹⁰⁵ In both groups, some respondents checked more than one answer; these are percentages of the total number of respondents rather than of the total number of answers.

¹⁰⁶ Among Bulgarian respondents "connections to organized crime" is given slightly more frequently than "assisting relatives in their business activities"; in Mongolia the answers are tied.

¹⁰⁷ Among Bulgarian respondents, "assisting relatives in meeting influential people" is chosen as a definition slightly less than "participation in commercial ventures"; among Mongolian respondents the reverse is true.

¹⁰⁸ True gifts are distinguished from gifts that are actually disguised bribes.

¹⁰⁹ Two Mongolian respondents indicated that corruption results in some benefit for Mongolia. In follow-up discussions it was determined that they were simply trying to indicate a neutral choice, something that was purposefully not made available to them.

¹¹⁰ See GROVES & COUPER, *supra* note 57, at 224-25 (discussing possibility that respondents will perceive and give the desired answer).

¹¹¹ The authors have purposefully chosen not to perform regression analysis or other detailed statistical treatment of the data. While such treatment could easily be performed, the *n*'s are too low for meaningful results.

¹¹² Three Mongolian respondents indicated that there is some benefit to the acceptance of payments from organized crime. In follow-up sessions, no respondent indicated that he or she gave such an answer (the questionnaires were submitted anonymously); offers to meet in private with respondents who gave such an answer yielded no meetings. When the question of what benefits these respondents might have meant was presented to groups, the groups suggested that the answers might have been based on the fact that the question does not say that the official in question engages in misconduct in exchange for the payment; in the absence of a statement that the payments are given in exchange for misconduct on the part of the accepting official the group said that the payments could be seen as a form of taxation on an entity that is rarely taxed. Some respondents said that in light of this explanation, they too might consider such payments beneficial to Mongolia. Without speaking to the actual respondents who give these answers, this explanation remains speculative.

¹¹³ The ten behaviors given to the respondents for evaluation are:

- (1) government employee who accepts bribe from a local business person
- (2) foreign entrepreneur who bribes government employee to get an approval of his projects
- (3) local "boss"/government official who accepts a bribe, but does a lot of good for the community
- (4) a local business manager who gives bribes to ensure preferential treatment during contract bidding
- (5) government employee who gives the best jobs to his relatives

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- (6) a government employee who tells his relatives what the government is going to do before other people are told what the government is going to do
 - (7) a government employee who hastens the privatization of government property by acquiring it for himself
 - (8) a traffic policeman who supplements his low income by fining people and keeping the fines for himself
 - (9) a local government official who accepts payments from organized crime
 - (10) someone who bribes a judge to obtain the release from jail of a close friend

A comparison of the rank ordering in terms of the degree to which respondents found each behavior to be harmful is as follows:

	<u>BGL</u>	<u>MGL</u>
<i>most harmful</i>	(9)	(9)
	(7)	(10)
	(10)	(7)
	(5)	(1)
	(1)	(2)
	(2)	(8)
	(8)	(6)
	(4)	(5)
	(6)	(4)
<i>least harmful</i>	(3)	(3)

If behavior number five, a government employee who gives the best jobs to his relatives, was removed the correspondence between these two sets of rankings would be remarkable.

¹¹⁴ Seventy-six percent of the Bulgarian respondents find the behavior to cause a lot of harm, whereas only thirty-seven percent of the Mongolian respondents find the behavior to cause a lot of harm. Overall, ninety-six percent of the Bulgarian respondents find the behavior to cause some degree of harm, while ninety-one percent of the Mongolian respondents find the behavior to cause some degree of harm. The difference is in the degree of harm rather than in an overall condemnation of the behavior.

¹¹⁵ For example, someone whose marks place them in the middle of their class in law school might get a job that was not publicly advertised. The phrase “beyond their credentials” does not mean that the person in question had no qualifications whatsoever.

¹¹⁶ These remarks are best considered in the context of the ambitions of the students interviewed. While many could understand that some aspects of corruption are a part of everyday life in Bulgaria, the idea of people obtaining prestigious positions without the proper credentials was particularly appalling because these respondents aspired to obtain prestigious positions themselves.

¹¹⁷ Their comments comport with anthropological study of Mongolia. See Caroline Humphrey, *Rituals of Death as a Context for Understanding Personal Property in Socialist Mongolia*, 8 J. ROYAL ANTHROPOLOGICAL INSTITUTE 65 (2002) (discussing the importance of family relationships during the socialist period); see also Francisco J. Gil-White, *How thick is blood? The Plot Thickens . . . : If Ethnic Actors are Primordialists, What Remains of the Circumstantialist/Primordialist Controversy?*, 22 ETHNIC & RACIAL STUDS. 789, 789-92 (1999) (using data on the strength of family relationships in Mongolia to cast insights into an anthropological debate). In general, some anthropologists suggest that human beings are predisposed toward nepotism. See Doug Jones, *Group Nepotism and Human Kinship*, 41 CURRENT ANTHROPOLOGY 779 (2000) (stating that humans have a psychological adaptation for individual and group nepotism).

¹¹⁸ The population of Bulgaria as of July, 2001, was 7,707, 495 on 110,910 square kilometers: the population of Mongolia was 2,654,999 spread over 1,565,000 square kilometers. Central Intelligence Agency, *The World Factbook 2001 – Bulgaria*, available at <http://www.odci.gov/cia/publications/factbook/geos/bu.html> (last modified Jan. 25, 2002); Central Intelligence Agency, *The World Factbook 2001 – Mongolia*, available at <http://www.odci.gov/cia/publications/factbook/geos/mg.html> (last updated Jan. 25, 2002).

¹¹⁹ A similar argument has been made with respect to the authoritarian Soviet regime. See Ohnesorge, *supra* note 7, at 473 (noting that in repressive politics, corruption opens the door for desired consumer goods); Scheppele, *supra* note 13, at 515-18 (describing in detail how people adapted to the Soviet system with behaviors that would be considered corrupt in other systems); Stephan, *supra* note 13, at 533 (describing adaption to corruption as a survival skill in the Soviet system).

¹²⁰ See Salbu, *supra* note 104, at 657 (arguing that small bribes are a means of paying civil servants).

¹²¹ See Nathaniel H. Leff, *Economic Development Through Bureaucratic Corruption*, AM. BEHAVIORAL SCIENTIST, Nov. 1964, at 10, 10-11 (stating that bribes are speed money that allow productive businesses to bypass recalcitrant bureaucracies); see also SAMUEL P. HUNTINGTON, *POLITICAL ORDER IN CHANGING SOCIETIES* 59-71 (1968) (stating that bribery can speed up economic development); David H. Bayley, *The Effects of Corruption in a Developing Nation*, 19 W. POL. Q. 719 (1966) (arguing that bribery is a step in economic development).

¹²² Shang-Jin Wei provides an outstanding counter-example. He differentiates what he calls “predictable” corruption and “arbitrary” corruption and evaluates the effect that each has on foreign investment. Wei, *supra* note 9, at 1-2. His research and his writing demonstrate the benefit of an appreciation for the varied textures of corruption.

¹²³ Private sector corruption obviously exists and is harmful. See James P. Wesberry, Jr., *International Financial Institutions Face the Corruption Eruption: If the IFIs Put Their Muscle and Money Where Their Mouth Is, the Corruption Eruption May Be Capped*, 18 Nw. J. INT’L L. & BUS. 498, 508 (1998) (describing private sector corruption); Francois Vincke, *The State and the Civil Society in the Fight Against Corruption: The Business Community’s Attitude Towards Corruption. Special Focus on Private-to-Private Corruption* (Sept. 1997), at <http://www.oecd.org/daf/nocorruption/pdf/vincke.pdf> (discussing at length private sector corruption). The division apparent in the two response groups may reflect attitudes expressed by some scholars in the west concerning the differences between public and private sector corruption. See John C. Coffee, Jr., *Modern Mail Fraud: The Restoration of the Public/Private Distinction*, 35 AM. CRIM. L. REV. 427, 463 (1998) (“The absence of exit or other forms of loss protection (i.e., diversification, insurance, etc.) provides some justification for less tolerance for public corruption relative to private corruption.”).

¹²⁴ See GEORGE MOODY-STUART, *THE GOOD BUSINESS GUIDE TO BRIBERY: GRAND CORRUPTION IN THIRD WORLD DEVELOPMENT* 27 (Transparency International 1994) (“initially, at least, a far higher share of responsibility must rest on the tempters than on the tempted”); Beverly Earle, *The United States’ Foreign Corrupt Practices Act and the OECD Anti-Bribery Recommendations: When Moral Suasion Won’t Work, Try the Money Argument*, 14 DICKINSON J. INT’L L. 207, 221-23 (1996) (arguing that the increase in transnational bribery is caused in part by western companies); Henry H. Rossbacher & Tracy W. Young, *The Foreign Corrupt Practices Act Within the American Response to Domestic Concerns*, 15 DICK. J. INT’L L. 509, 526 (1997) (stating that western companies export the practice of bribery). At least one author of this paper has previously suggested that corruption is often imported.

¹²⁵ Bulgarian respondents had little to say about the genesis of corruption. The consensus was that corruption is an inherent human trait that exists everywhere in the world. When asked why they found foreign entities to be less corrupt than domestic, some respondents spoke of the qualitative differences between domestic and foreign corruption, and of the different effects on Bulgaria. Mongolian respondents also had little to say regarding the genesis of corruption, but they emphatically agreed among themselves that most foreign entities in Mongolia were not agents of corruption. Mongolian respondents did not believe that corruption is an inherent human trait, and in particular, they expressed sincere gratitude for the international and unilateral assistance given to Mongolia.

¹²⁶ The authors, for example, do not offer the responses to this questionnaire as proof that foreign businesses do not engage in corrupt activities in Bulgaria and Mongolia.

¹²⁷ COALITION 2000, *supra* note 95, at 21.

¹²⁸ According to the respondents, payments vary depending on the difficulty of the medical procedure, and may be anywhere from 100 leva (about US\$ 45) to US\$ 500.

¹²⁹ Bulgarian doctors in the public sector are paid for their work by the Ministry of Health.

¹³⁰ This example is derived from a request for students in a class to write down examples of corruption. The examples cited do not refer to requests for patients to pay for the costs of instruments, medication, or hospitalization.

¹³¹ A typical doctor receives a salary of approximately 200 leva (about US\$ 90) per month.

¹³² When asked in follow-up sessions, Mongolian respondents expressed their belief that university education is not corrupt. They were willing to entertain the idea that private universities might harbor some corruption, although they expressed skepticism and had not personally heard of actual incidents.

¹³³ One respondent also stated that teachers are sometimes paid by parents not to physically beat their children. Mongolia is an extremely peaceful country, and this statement evoked a great deal of surprise from the interviewer. Other respondents, however, did not dismiss the possibility that this could happen in the countryside.

¹³⁴ Students who had attended prestigious secondary schools said that this was not the case.

¹³⁵ Respondents were unusually evasive when asked if bribes had been requested of them or their parents. Each follow-up group deflected this question by discussing instead the low salaries of teachers and the poor resources of even the most prestigious schools.

¹³⁶ COALITION 2000, *supra* note 95, at 27.

¹³⁷ The starting salary of a teacher, for instance, is 120 leva a month (about US\$ 54), an Associate Professor is paid 320 leva a month (about US\$ 144), and a Full Professor is paid approximately 400 leva a month (about US\$ 180). That Bulgarian respondents perceive low salaries to be a cause of corruption does not, of course, mean that low salaries are in fact the cause of corruption. See *supra* note 44 (discussing the fact that no empirical evidence has been found linking low salaries to corruption). Moreover, Mongolian teachers earn substantially less than Bulgarian teachers but are not perceived as seeking bribes. Nonetheless, the perception of the Bulgarian respondents is interesting and worthy of note.

¹³⁸ See *supra* notes 105-108 and accompanying text (reporting the findings).

¹³⁹ See *supra* notes 109-113 and accompanying text (reporting the findings).

¹⁴⁰ The fact that Bulgarian students hypothetically could speak to Mongolian students – and indeed that researchers from the United States did in fact speak at length to both groups – about corruption and be understood suggests that there is at a basic

level some shared understanding about the concept. An analogy could be made to the “moral language” argument that is more generally used to refute theories of ethical relativism. See THOMAS DONALDSON, *THE ETHICS OF INTERNATIONAL BUSINESS* 14-17 (1989). Donaldson points out that “[t]he conspicuous fact is that those engaged in international discussion often use moral language consciously in an attempt to convince their hearers of the truth of their views.” *Id.* at 14. He goes on to point out that people in different cultures do seem to understand one another and that international dialogue is effective enough to be repeated by actors, thus suggesting that the people involved in these conversations share enough of an understanding of these moral concepts to make sense to one another. He concludes that “by the very logic of international debate, by the very act of language that classifies the convictions of advocates in the global struggle, reference appears to be made to some common, if not absolute, framework for resolving moral disputes.” *Id.* at 15; see Robert E. Frederick & W. Michael Hoffman, *Environmental Risk Problems and the Language of Ethics*, 5 *BUS. ETHICS Q.* 699, 699-711 (1995) (stating that moral language can be used proactively as a tool to harmonize multiple interests). Similarly, the two sets of responses to the questionnaire suggest that a typical Bulgarian respondent and a typical Mongolian respondent could easily and meaningfully converse with one another about corruption, which in turn suggests that they share heuristics and understandings about corruption (or else, as Donaldson suggests, they “should simply stop talking,” DONALDSON, *supra*, at 15). Of course, more empirical research is needed to explore this possibility. See J. Thomas Whetstone, *How Virtue Fits Within Business Ethics*, 33 *J. BUS. ETHICS* 101, 101 (2001) (calling for more empirical research into moral language).

¹⁴¹ See Daniel Y. Jun, *Bribery Among the Korean Elite: Putting an End to a Cultural Ritual and Restoring Honor*, 29 *VAND. J. TRANSNAT’L L.* 1071, 1084-85 (1996) suggesting a shared understanding; see also JOHN T. NOONAN, JR., *BRIBES* 703 (1984) (“[I]t is often the Westerner with ethnocentric prejudice who supposes that a modern Asian or African society does not regard the act of bribery as shameful in the way Westerners regard it.”).

¹⁴² See Jonathan Tudge, *Education of Young Children in the Soviet Union: Current Practice in Historical Perspective*, 92 *ELEMENTARY SCHOOL J.* 121, 126 (1991) (describing “one of the most distinctive guiding principles of Soviet education,” which was “its explicit concern with . . . [the] inculcation of a set of values and beliefs”). The mentality that the system attempted to create is sometimes referred to as “the Soviet man.”

¹⁴³ David G. Blanchflower & Richard B. Freeman, *The Attitudinal Legacy of Communist Labor Relations*, 50 *INDUSTRIAL & LABOR RELATIONS REV.* 438, 438-456 (1997) (discussing effects of the communist period in Eastern Europe on attitudes and perceptions); Leonora Fuxman, *Ethical Dilemmas of Doing Business in Post-Soviet Ukraine*, 16 *J. BUS. ETHICS* 1273, 1274-77 (1997) (discussing the Soviet mentality); Michael Swafford, *Sociological Aspects of Survey Research in the Commonwealth of Independent States*, 4 *INT’L J. PUB. OPINION RES.* 346, 345-54 (1992) (discussing uniformity in perceptions across the former communist block).

¹⁴⁴ See Tudge, *supra* note 142, at 127-31 (describing the technical shortcomings of the system as well as the improbability of creating a uniform mentality). In a study that specifically studied continued effects of Soviet social conditioning almost a decade after the Soviet system ended, William Mishler and Michael Rose found that citizens of Eastern Europe (including Bulgaria) had different levels of trust in government and other institutions but approached them and analyzed them in the same way – holistically along a single dimension – which is different than the methods of evaluation used by people in other regions. Mishler and Rose also found that the social conditioning of the Soviet period continued to have an affect on how people thought. They found, however, that this affect was for the most part indirect, whereas factors such as economic and political performance had direct effects. William Mishler & Richard Rose, *Trust, Distrust and Skepticism: Popular Evaluations of Civil and Political Institutions in Post-Communist Societies*, 59 *J. OF POLITICS* 418, 418-47 (1997).

¹⁴⁵ Jennifer Munroe suggests just such a possibility. “In transition countries, corruption is ‘path dependent’; that is, it represents the continued mining of state and enterprise interests and decision-making through non-transparent channels of personal influence, both of which were prevalent during the Communist system. That system also left a legacy of state dominance and feeble civic organization.” Jennifer Munroe, *Corruption: The Enemy of Progress*, *TRANSITION*, Oct.-Dec. 2001, at 13, 13-14; see also Scheppelle, *supra* note 13, at 520 (suggesting that corruption is inevitable when a country moves from an authoritarian system to a market-oriented system).

¹⁴⁶ See Peter J. Collier, *The Effects of Completing a Capstone Course on Student Identity*, 73 *SOC. OF ED.* 285, 285-296 (2000) (discussing how the university experience affects individual perceptions); Michael K. Zuschlag & Susan Krauss Whitbourne, *Psychosocial Development in Three Generations of College Students*, 23 *J. YOUTH & ADOLESCENCE* 567, 567-578 (1994) (discussing the powerful effect of the university experience on identity and value formation). Empirical evidence has been gathered in a number of countries. See, e.g., Lene M. Danielsen, Astrid E. Lorem & Jane Kroger, *The Impact of Social Context on the Identity Formation Process of Norwegian Late Adolescents*, 31 *YOUTH & SOCIETY* 332 (2000) (discussing studies conducted in Norway). Indeed, the influence of the university experience is considered so universally powerful that some advisors have suggested that a university in Somalia may help to create a group of people whose self-identity is not related to warring clans. See Abdi Ismail Samatar, *Somali Reconstruction and Local Initiative: Amoud University*, 29 *WORLD DEV.* 641 (2001).

¹⁴⁷ See Mette Jensen *et al.*, *Ego Identity Status in Cross-Cultural Context: A Comparison of Norwegian and United States University Students*, 83 *PSYCHOLOGICAL REP.* 455, 455-61 (1998) (finding significant difference between university students in two different countries).

¹⁴⁸ See Jennifer Daehler, *Professional Versus Moral Responsibility in the Developing World*, 9 GEO. J. LEGAL ETHICS 229, 248-249 (1995) (addressing the argument that bribery is not morally reprehensible because it is a culturally defined term).

¹⁴⁹ See H. Lowell Brown, *The Extraterritorial Reach of the U.S. Government's Campaign Against International Bribery*, 22 HASTINGS INT'L & COMP. L. REV. 407, 473 n.248 (1999) (suggesting that corruption is a way of life in some cultures); Scheppele, *supra* note 13, at 520 (stating that in the former Soviet Union people have solid values but those values are different with respect to corruption than those in the West); see also Hess & Dunfee, *supra* note 19, at 611-16 (discussing the anecdotal but persistent belief that corruption is accepted in some places).

¹⁵⁰ See Rajagopal, *supra* note 6, at 496 (stating that the anticorruption movement is "elitist, statist, and Eurocentric"); Salbu, *supra* note 104, at 239 (arguing that "efforts to control bribery in other nations constitute moral imperialism").

¹⁵¹ Rajagopal, *supra* note 6, at 496; see also Kennedy, *supra* note 8, at 458 (stating that the anticorruption regimes have overtones of colonialism).

¹⁵² Salbu, *supra* note 104, at 668 ("The risk of moral imperialism arises if businesspersons are in legal jeopardy or believe they are in legal jeopardy when they comply with relatively innocuous or socially beneficial local customs regarding petty payments or gifts."); Steven Salbu, *Extraterritorial Restriction of Bribery: A Premature Evocation of the Normative Global Village*, 24 YALE J. INT'L L. 223, 252 (1999) ("moral imperialism is an ineluctable reality whenever one sovereign entity seeks to alter or control behavior inside the borders of another"); Salbu, *supra* note 8, at 76 ("Only when the world reaches a stage where geopolitical influences become insubstantial cultural signifiers will extraterritorial legislation cease to engender the critical label of moral imperialism."); Salbu, *supra* note 6, at 275 (arguing that because condemnation of bribery is a cultural construct prohibition of transnational bribery is moral imperialism). *But see* Beverley Earle, *Bribery and Corruption in Eastern Europe, the Baltic States, and the Commonwealth of Independent States: What Is To Be Done?*, 33 CORNELL INT'L L.J. 483, 485 (2000) (noting that more scholars reject the moral imperialism argument); Bill Shaw, *The Foreign Corrupt Practices Act and Progeny: Morally Unassailable*, 33 CORNELL INT'L L.J. 689, 705-06 (2000) (arguing that corruption regimes do not constitute moral imperialism).

¹⁵³ Steven R. Salbu, *The Foreign Corrupt Practices Act as a Threat to Global Harmony*, 20 MICH. J. INT'L L. 419, 440 (1999).

¹⁵⁴ One aspect of Salbu's arguments, discussed later, finds sympathy in the findings in one respect. See *infra* notes 176-177 and accompanying text.

¹⁵⁵ J. S. Nye, *Corruption and Political Development: A Cost-Benefit Analysis*, 61 AM. POL. SCI. REV. 417, 419 (1967); see Thomas F. Burke, *The Concept of Corruption in Campaign Finance Law*, 14 CONST. COMMENT. 127, 129 n.9 (1997) (citing Nye's definition); Claire Moore Dickerson, *Political Corruption: Free-Flowing Opportunism*, 14 CONN. J. INT'L L. 393, 396 (1999) (same); cf. Saladin Al-Jurf, *Citizens, National Governments, and International Financial Institutions: Changing Conceptions of Development in the 1990s*, 9 TRANSNAT'L L. & CONTEMP. PROBS. 193, 196 (1999) (stating that the World Bank's definition of corruption is "[t]he abuse of public office for private gain"); Bayley, *supra* note 121, at 720 (Corruption is the "misuse of authority as a result of considerations of personal gain, which need not be monetary."); Philip B. Heymann, *Democracy and Corruption*, 20 FORDHAM INT'L L.J. 323, 325 (1996) (describing "[c]orruption, as secretly receiving private benefits to affect a decision that is supposed to be made in the interests of others and uninfluenced by private gain. . . .").

¹⁵⁶ See SUSAN ROSE-ACKERMAN, *CORRUPTION: A STUDY IN POLITICAL ECONOMY* 4 (1978) (discussing a variety of corrupt behaviors).

¹⁵⁷ See ROSE-ACKERMAN, *supra* note 156, at 4 ("I shall always keep bribery in the analytical foreground."); see also Bruce E. Cain, *Moralism and Realism in Campaign Finance Reform*, 1995 U. CHI. LEGAL F. 111, 113 ("Bribery defined in the traditional sense . . . is the paradigmatic instance of political corruption."); Dickerson, *supra* note 155, at 396 (arguing that other forms of corruption can be reduced to bribery).

¹⁵⁸ See *supra* notes 14-37 and accompanying text (discussing the international corruption regimes).

¹⁵⁹ Jun, *supra* note 141, at 1084-85.

¹⁶⁰ See *United States v. Dozier*, 672 F.2d 531, 537 (5th Cir. 1982) (distinguishing between gifts, which may represent "vague expectation of future benefits," and bribes, given "in return for some act of official grace"); *United States v. Johnson*, 621 F.2d 1073, 1076 (10th Cir. 1980) (stating that a gift must be offered with something more specific than a "generalized hope or expectation of ultimate benefit" in order to be considered a bribe) (citation omitted).

¹⁶¹ See Beth Nolan, *Public Interest, Private Income: Conflicts and Control Limits on the Outside Income of Government Officials*, 87 NW. U. L. REV. 57, 114-16 (1992) (discussing statutory restrictions on gifts).

¹⁶² See Scheppele, *supra* note 13, at 514-18 (describing the need of public employees to also work in the private sector).

¹⁶³ Nolan, *supra* note 161, at 33 (stating that the "concern with 'even the appearance of impropriety' is a theme that permeates post-Watergate ethics legislation"); Fred C. Zacharias, *Waiving Conflicts of Interest*, 108 YALE L.J. 407, 422 (1998) (discussing the relationship between conflict of interest rules and the concerns with the appearance of impropriety). The desire to avoid an appearance of impropriety is given particular expression in conflict of interest rules in the legal profession. See John S. Dzienkowski, *Positional Conflicts of Interest*, 71 TEX. L. REV. 457, 483 (1993) ("The intrinsic justification of protecting the integrity of the legal and judicial system explains the provisions that lawyers should avoid . . . the appearance of impropriety . . .").

¹⁶⁴ See *Atonio v. Wards Cove Packing Co.*, 827 F.2d 439, 445 (9th Cir. 1987), *rev'd*, 490 U.S. 642 (1989) (defining nepotism as a practice of giving preference to relatives); Jane Friesen, *Alternative Economic Perspectives on the Use of Labor Market Policies to Redress the Gender Gap in Compensation*, 82 GEO. L.J. 31, 35 (1993) (stating that the dictionary sense of the word [nepotism] . . . is to favor 'one's nephews and other relatives' and to bestow 'patronage by reason of relationship rather than merit'").

¹⁶⁵ "Assisting relatives in their business activities."

¹⁶⁶ "Helping relatives in getting a job/getting into schools."

¹⁶⁷ "Assisting relatives in meeting influential people."

¹⁶⁸ See Karen L. Vinton, *Nepotism: An Interdisciplinary Model*, 11 FAMILY BUS. REV. 297, 297 (1998) (describing nepotism as "one of the least-studied and most poorly understood human resource practices").

¹⁶⁹ See, e.g., Friesen, *supra* note 164, *passim*. An example of legal scholarship that squarely addresses nepotism as a form of corruption is Saul Levmore, *Efficiency and Conspiracy: Conflicts of Interest, Anti-Nepotism Rules, and Separation Strategies*, 66 FORDHAM L. REV. 2099 (1998). Levmore's excellent analysis, however, does not distinguish among different types or degrees of nepotism.

¹⁷⁰ Most Western scholars who study nepotism consider it a serious obstacle to economic development. See Jamil E. Jreisat, *Bureaucracy and Development in Jordan*, 24 J. ASIAN & AFRICAN STUD. 94, 94-1033 (1989) (describing nepotism as a "bureaucratic pathology" that has impeded development in Jordan); Fiona Robertson-Snape, *Corruption, Collusion and Nepotism in Indonesia*, 20 THIRD WORLD Q. 589, 589-98 (1999) (describing nepotism as one type of corruption that is impeding the economic recovery of Indonesia). Indeed, Western legal systems are sensitive even to the appearance of nepotism. See Christopher R. McFadden, *Integrity, Accountability, and Efficiency: Using Disclosure to Fight the Appearance of Nepotism in School Board Contracting*, 94 Nw. U. L. REV. 657, 696 (2000) ("[D]isclosure-and-fairness assures the public of the integrity of its school board's decisions by inviting heightened scrutiny of school board contracts and eliminating the harmful appearance of nepotism."). A few scholars, however, are less troubled by the choice of a decision maker to pay the higher costs that accrue to giving preferences to family members. See John J. Donohue & James J. Heckman, *Re-Evaluating Federal Civil Rights Policy*, 79 GEO. L.J. 1713, 1723 (1991) ("Nepotism is just another form of consumption.").

¹⁷¹ See Ernest Harsch, *Accumulators and Democrats: Challenging State Corruption in Africa*, 31 J. MODERN AFR. STUD. 31, 36 (1993) (referring to corruption as a "central" means of capital accumulation in Africa).

¹⁷² See Goh Kun, *A Systematic Approach to Anti-Corruption: The Case of the Seoul Metropolitan Government* 36 (Comments of Goh Kum, Mayor of Seoul, at the 9th International Anti-Corruption Conference, Durban, South Africa, October 14, 1999) (stating that no form of corruption is acceptable and noting that Seoul has a "zero tolerance" policy toward corruption).

¹⁷³ Padideh Ala'i, *The Legacy of Geographical Morality and Colonialism: A Historical Assessment of the Current Crusade Against Corruption*, 33 VAND. J. TRANSNAT'L L. 877, 906 (2000).

¹⁷⁴ See Rajagopal, *supra* note 6, at 497 n.9 (finding the emphasis on economics by scholars and institutions troubling, as it may marginalize other important values); Thomas, *supra* note 32, at 552 (criticizing international financial institutions' emphasis on efficiency as both a means and goal of eliminating corruption).

¹⁷⁵ Cf. Martin Davies, *Just (Don't) Do It: Ethics and International Trade*, 21 MELBOURNE U. L. REV. 601, 614 (1997) ("We delude ourselves if we think bribery to be purely economic conduct incapable of leading to fear, cruelty and humiliation.").

¹⁷⁶ Steven R. Salbu, *Information Technology in the War Against International Bribery and Corruption: The Next Frontier of Institutional Reform*, 38 HARV. J. ON LEGIS. 67, 89 (2001).

¹⁷⁷ WORLD BANK, *WORLD DEVELOPMENT REPORT 1997: THE STATE IN A CHANGING WORLD* 102 (1997).

¹⁷⁸ See *supra* note 121 and accompanying text (noting that less than one percent of the responses to questions about specific behavior indicated that such behaviors were of benefit to Bulgaria or Mongolia, and also noting that even though small in number these responses are of interest).

¹⁷⁹ See *supra* note 121 and accompanying text.

¹⁸⁰ Leff, *supra* note 121, at 10-11 (stating that bribes are speed money that allow productive businesses to bypass recalcitrant bureaucracies).

¹⁸¹ HUNTINGTON, *supra* note 121, at 68-69.

¹⁸² See Bryan W. Husted, *Honor Among Thieves: A Transaction-Cost Interpretation of Corruption in Third World Countries*, 4 BUS. ETHICS Q. 17, 18-19 (1994) (describing corruption as a transaction between parties).

¹⁸³ Salbu, *supra* note 8, at 49 ("The once-popular 'functionalist' view of bribery, under which corruption purportedly yields benefits of allocative efficiency and optimal capital formation, retains little favor among today's academics.").

¹⁸⁴ See Buscaglia & Dakolias, *supra* note 8, at 112 (noting that "present corruption decreases future productivity, thereby reducing dynamic efficiency"); Ibrahim F.I. Shihata, *Corruption - A General Review With an Emphasis on the Role of the World Bank*, 15 DICK. J. INT'L L. 451, 454-55 (1997) (noting the consensus among scholars that the long-term damage done by corruption far outweighs any immediate benefits).

¹⁸⁵ Salim Rashid, *Public Utilities in Egalitarian LDC's: The Role of Bribery in Achieving Pareto Efficiency*, 34 KYKLOS: INT'L REV. FOR SOC. SCI. 448, 448-55 (1981).

¹⁸⁶ *Id.*; see also Alam, *supra* note 9, at 449 (stating that "bribery may impose costs because of the official's efforts to maximize the offer of bribes by creating false uncertainties"). In his classic studies of an irrigation authority in South India, Robert Wade observed that irrigation officials purposefully withheld information and created bureaucratic obstacles in order to solicit larger bribes. Wade, however, did not observe the system before it was endemically corrupt, and thus could not comment on its deterioration. See Robert Wade, *Irrigation Reform in Conditions of Popular Anarchy: An Indian Case*, 14 J. DEV. ECON. 285 (1984); Robert Wade, *The System of Administrative and Political Corruption: Canal Irrigation in South India*, 18 J. DEV. STUD. 287, 287, 291 (1982).

¹⁸⁷ See *supra* note 124 and accompanying text (discussing the findings).

¹⁸⁸ See *supra* note 125 and accompanying text.

¹⁸⁹ See Duane Windsor & Kathleen A. Getz, *Multilateral Cooperation to Combat Corruption: Normative Regimes Despite Mixed Motives and Diverse Values*, 33 CORNELL INT'L L.J. 731, 733 (2000) (stating that the international regimes "all adopt, albeit in variously modified forms, the . . . principle of extraterritorial and supply-side criminalization of home-country business bribery of host-country foreign officials and international public organization officials").

¹⁹⁰ See Barbara Crutchfield George & Kathleen A. Lacey, *A Coalition of Industrialized Nations, Developing Nations, Multilateral Development Banks, and Non-Governmental Organizations: A Pivotal Complement to Current Anti-Corruption Initiatives*, 33 CORNELL INT'L L.J. 547, 575 (2000) ("Media attention and public concern flowing from this misappropriation of funds has caused the World Bank and the IMF to become increasingly vocal about their decisions to deny loans to countries that are unable or unwilling to rid themselves of bribery, kickbacks, and political payoffs.").

¹⁹¹ Susan Rose-Ackerman forcefully catalogues the social affects of corruption: "Corruption undermines the legitimacy of governments, especially democracies . . . Citizens may come to believe that the government is simply for sale to the highest bidder. Corruption undermines claims that the government is substituting democratic values for decisions based on ability to pay. It can lead to coups by undemocratic leaders." Susan Rose-Ackerman, *The Political Economy of Corruption*, in CORRUPTION AND THE GLOBAL ECONOMY, *supra* note 156, at 31, 44.