



# The myth of benign corruption

In countries where corruption is endemic in business practices, some companies may use 'business as usual' as an excuse to bribe and win favours. Regardless of customs, corruption is illegal and there are heavy repercussions should offending companies get caught

**A**FTER months of dinners and entertainment-cum-negotiations, a seemingly promising business deal with a high-level government official is starting to unravel.

Previously jovial and extremely accommodating, the said official's demeanour has turned lukewarm. He refuses to pick up your calls or reply to emails, despite your repeated efforts.

One day, you receive a memo, through his colleague, that a competitor has offered to include him in the deal, with a 10% share.

Regretfully, in spite of your "important personal relationship", the contract will go to this company, unless there were some way he could be "accommodated" – a hint that is subtle and yet blindingly clear.

Wanting to salvage the deal, you succumb. You agree to match the competitor's 10% kickback to the government official.

On a scrap of paper, the envoy jots down the name of a small consultancy that can help perform the transaction. You are told to visit their office this afternoon to seal the deal.

The following morning, as if by magic, you have the signed contract in hand.

## Abuse of power for private gain

Bribery is a form of corruption, which Transparency International defines as "the abuse of entrusted power for private gain".

Simply speaking, it concerns the unethical practice of offering something, usually money, to gain an illicit advantage.

Typical examples are when a company pays a public official or two companies pay off each other (private-to-private bribery) to gain the upper hand in securing a contract.

In business, bribery constitutes a theft of

resources, and companies that engage in it reap ill-gotten gains at the expense of society.

In corruption-riddled countries, it is the poorest communities who suffer when companies bribe government officials to win contracts.

With regards to economic growth, many also consider corruption to be sand in the wheels of trade, and it is not difficult to see why.

Corruption reduces the incentive for a small entrepreneur or a big firm to invest. This limits industry, and with it jobs and growth. In many ways, corruption is like a tax on business, and one that ultimately hurts economic growth.

## Greasing the wheels

Yet despite these reasons, some academics have suggested that corruption can actually offer positive opportunities, especially in the developing world.

"Corruption undermines community and impedes democracy in the long term, but in the short run, it can act as an equaliser, a kind of crude fast-track to proximate equality," wrote Dr Benjamin R Barber, in an article entitled *The Virtues of Corruption* which was published online in 2013.

In his piece, Barber, a senior research scholar at the Centre on Philanthropy and



by Lim Su Lin

In countries where corruption is already ingrained, bribery might be regarded as simply another way of 'doing business', instead of a criminal offence

Civil Society of the Graduate Centre in the City University of New York, denied being an apologist for corruption.

However, he argued that corruption in doses could actually improve market competition in countries where exploitation is already ingrained.

Quoting another section of the article:

"In the setting of a fair, equitable society in which equal opportunity belongs to all, both crime and corruption are unequivocal evils. But in a society where exploitation and unfairness are built into a system, those same vices become compensatory opportunities – acceptable tactics in the struggle against systemic injustice."

Barber was not the first scholar to make such a provocative argument.

Earlier, in 2012, Chris Blattman, a professor of Global Conflict Studies at the University of Chicago, published another article on corruption and development, suggesting that routine corruption could actually help to ease economic transactions in poorer countries.

"Bribes can act like piece rate or price discrimination and give faster or better service to firms with the highest opportunity cost of waiting," he wrote.

"Most of us fail to imagine that corruption can also grease the wheels of prosperity. Yet in places where bureaucracies and organisations are inefficient (meaning entrepreneurs and big firms struggle to transport or export or comply with regulation), corruption could improve efficiency and growth."

## Expectations are no excuse

In countries where corrupt business practices have become commonplace, certain firms have indeed been known to allocate resources for bribing government officials.

In such environments, bribery might

Tan says many anti-corruption laws don't cover just one jurisdiction but have overlapping areas of reach

# Why workplace crime happens

**B**ESIDES bribery, corruption can also happen within the company, when employees engage in fraudulent conduct.

Behavioural scientists have long tried to understand the factors that drive people to commit fraud.

A popular model, the Fraud Triangle, describes three key elements – pressure incentive, opportunity and rationalisation – that must be present for a person to do unlawful acts.

"We don't know what goes on in people's heads or in their personal lives. You have people who are very lonely or depressed. Some may have gambling debt and relationship issues. Others are just bad," says Alex Tan, senior executive

director and forensics lead at PricewaterhouseCoopers (PwC).

Tan was previously based in PwC New Zealand, where he set up the Investigations & Forensic Services practice to investigate fraud in stricken companies.

He recalls a particular case involving a local company, where a woman who was tasked with collecting the company's carpark money had committed theft.

"The company owned and managed a carpark. She was responsible for collecting all the one-dollar coins at the end of each day and depositing the sum twice or thrice weekly, but the company wasn't exactly checking whether the sum was deposited in the bank,"

he explains. The woman had been battling personal issues.

"She was a former gambling addict and very lonely – a single mother with low self-esteem," Tan explains.

Though her symptoms had moderated after many years of therapy, self-control broke one fateful day.

"It was on her birthday, she went out on her own for a drink. At the pub was a slot machine. She said, 'It's my birthday, I'll put 20 bucks in,' and just like that, she won five thousand dollars. That feeling of euphoria triggered her to go back into it," Tan explains.

"It was the mixture of rationalisation and the right circumstances. Because she had access to the bag of one-dollar coins, she told herself, 'I'll take the coins and use them. I'll be able to repay them when I win'."

"Every time she took it, she'd say 'Look, I'm only doing this now. Once I win, I'll be able to repay it and won't



be perceived as less of a scandal and more of a requisite expense to reduce business uncertainties. In other words, companies would take a "this is how business is done around here" approach.

But though they might gain an edge in business as an immediate result, anti-corruption experts maintain there is no such thing as benign corruption.

"Some countries do have a higher level of corruption than others, and an excuse given by companies which operate there is that this is the expected way of doing business. But in actual fact, regulators around the world have said that's no excuse," says Alex Tan, senior executive director and forensics lead at PricewaterhouseCoopers (PwC).

Earlier this year, PwC released a report (the Global Economic Crime Survey) on the pervasiveness of economic crime among businesses around the globe.

The report, which surveyed over 6,000 respondents across 115 countries, including 20% from Asia-Pacific, had ranked bribery and corruption as the third most common form of economic crime this year.

In Malaysia, bribery and corruption had jumped from 19% in 2014 to 30% this year, a much higher statistic than the global average of 24%.

### Beware anti-bribery laws

The phrase "When in Rome, do as the Romans do" suggests that it is polite, and even advantageous, to abide by the customs of a society when one is a visitor.

do it again'. But she never won on such a large scale again, besides the odd 50 or 100 bucks," Tan says.

By the time she was found out, the woman had stolen over half a million ringgit worth of the company's parking money.

Rogue cases notwithstanding, Tan warns that even long-standing trusted employees are not immune to corruption.

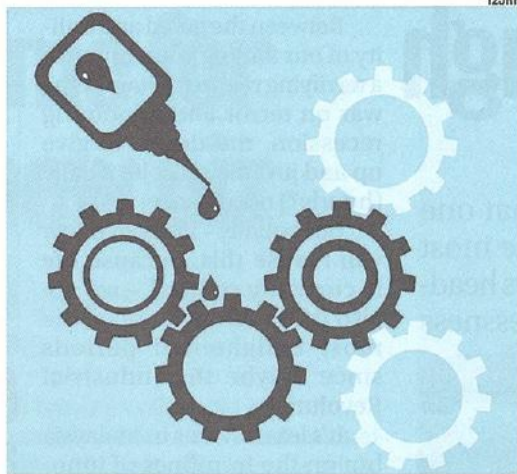
"Imagine if an employee suddenly has a marriage breakdown or his mortgage payments are just getting too high or there is a personal tragedy – that has a big impact on them when they come to work. When they see opportunities, quite often they will think 'I just need this one thing to get me through to the next level'," he says.

At the end of the day, he believes the root cause of corruption is human greed.

"Corruption is the abuse of entrusted power for personal gain. A computer doesn't do that. It's the people," Tan says.

"For most fraudsters, they can't stop. Most start stealing when they have urgent financial needs. But once the immediate financial issues have gone, they still need the money," he explains.

"They won't stop because doing so will mean



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However, companies would be unwise to apply this logic when doing business overseas, even in countries which are already playing host to corrupt practices.

This is because there are various sweeping anti-corruption regulations that are designed to catch out dishonest companies.

According to Tan, many of these laws don't cover just one jurisdiction, but have overlapping areas of reach.

"There's actually a lot of legislation that will have an impact on them (companies) in different countries that enforce similar rules," he says.

For example, the United States has its Foreign Corrupt Practices Act (FCPA) while the United Kingdom passed its Bribery Act in 2011.

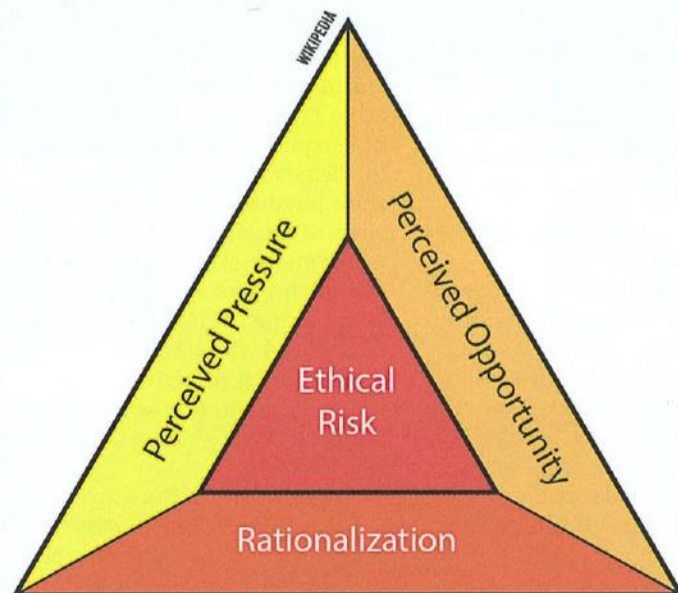
According to Tan, both these laws have broad jurisdictional reach. Corrupt companies can be sanctioned even if their illicit operations take place entirely or mostly outside of the home countries.

"The UK Bribery Act is quite interesting," says Tan.

"While it was being drafted, one question put forth by UK companies was this: 'What happens if we adhere to these standards overseas and come up against other companies which don't fall under UK's anti-corruption legislation when we go for a tender? They may pay a bribe and win the job'."

To overcome this, the government included a clause in the Act that captures offenders who commit crimes outside of the UK and have "close connections" to the country.

"The UK government put in a section that essentially says: 'If you have any presence



The Fraud Triangle lists three key elements – perceived pressure, perceived opportunity and rationalisation – that must be present at the same time in order for an ordinary person to commit fraud

cutting into their income. Once you find an easy way to get money, you get hooked. I challenge anyone who finds an easy source of money to turn it off."

## Fraud and graft thrive in bad times

**F** REPORTS are anything to go by, Malaysia is on a rocky road when it comes to unethical business dealings.

In 2011, a Transparency International report entitled *Bribe Payers Index* highlighted the likelihood of firms securing business abroad by paying bribes.

Out of 28 selected countries, Malaysia was placed in 15th position, slightly above the average of countries which were deemed more likely to engage in bribery for foreign businesses, whether through paying kickbacks to government officials or bribing each other in terms of contracts.

Since then, further surveys have indicated there are prevailing levels of bribery and corruption among Malaysian companies.

According to the Malaysian cut of PwC's survey, bribery and corruption had jumped from 19% in 2014 to 30% this year, a figure that is significantly higher than the global average of 24%.

This statistic surely indicates that corruption should not be taken lightly.

The senior executive director and forensics lead at PricewaterhouseCoopers (PwC), Alex Tan, who is a member of the report's editorial board, says the spike could be due to a number of issues, including the fact that lately, Malaysia's economy is experiencing tough times.

"Malaysia is facing rocky times ahead. When economies are hurting and inflation is high, fraud and corruption will start to thrive," he says.

"We can't get away from the fact that bribery and corruption is rising, especially in sectors like oil and gas, which have been badly hit," he adds.

However, Tan also believes that part of it could be due to companies reporting more incidences of crime.

"I don't know where the line is: whether it's because there's more corruption or because more people are facing up to it. But I do think a certain level in that rise is because companies are looking to identify and take action (against corruption) by reporting it," he says.

in the UK at all and commit corruption overseas, you're liable," Tan explains.

"For example, say you are a British company going for a contract in a certain country. However, a competitor from another country wins the job through paying a bribe. That company could also be captured under the Bribery Act, if they are found to have any connections whatsoever to the UK. Be it an office, a subsidiary, listing on the UK market, or even directors who are British citizens; the UK regulation will apply to them as well."

Shocking as it is, until 1999, private companies in Germany used to be able to get a tax break for paying a bribe, just because it was seen as the cost of doing business.

That is all gone now. Germany now has strong legislation against paying, offering or accepting a bribe. Companies found guilty stand to pay up to €10 mil (RM44.92 mil) in fines.

Such penalties are a strong reminder that bribery and corruption is a criminal act, regardless of where the act is committed or whether it is part of an ingrained business culture.

"Corruption is not legal in any country. It may be endemic but it's still illegal," Tan says.

"Many countries have stepped up their anti-corruption legislation, and companies that breach these laws could face heavy fines and (their directors could face) imprisonment," he adds.

"It doesn't matter where you are. If you pay bribes in China, India, wherever, you're liable. If you get caught, tough." **FOCUSM**