

European Union Corruption and Its Impact on the Implementation of Mediation in the EU. A Comparative North-South Approach

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Abstract. *Denmark, Finland, Iceland, Norway and Sweden are generally regarded as the Scandinavian states or the Northern European states. The Nordic countries share a common history and tradition. The Danish, Swedish and Norwegian languages are very similar, the inhabitants of the country being able to understand each other very easily. The Nordic people were warriors until the conversion to Christianity, when the Viking culture started dying off quickly. After the loss of this warrior culture, the Northern people focused on agriculture-based activities. Today, these states are a model for the rest of the world in almost all aspects of social culture. It is well known that the justice system and the mediation procedures in the Northern states are more efficient than in the Southern European states. The court rooms in the south are overwhelmed with cases, leaving the population dissatisfied with the current justice system. In this article I will focus on how corruption disrupts the justice system. I will analyze the effects of corruption, the causes and how the low level of corruption in the Scandinavian countries leads to their highly efficient judicial system.*

Key words: *Europe, justice system, mediation, corruption, social cohesion, Euromedia, Nordic states, Scandinavian states, legal system, Transparency International, bureaucracy, bribery, nepotism, abuse of power, ethics, morality, public officials, judges, lawyers, mediators, common law, civil law, Scandinavian law.*

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What is Corruption?

Corruption means the abuse of power and trust for personal gain. The corrupt is acting on interest without thought for future consequences or the harm he might be doing to the community. Some would say that corruption is very humane; it is a sort of misguided survival instinct if you will.

The corrupt person is using all means available to reach the top of the food chain.

Indeed, corruption was present in human society since the formation of cities, government and the appearance of public workers. Taking bribes was as common an activity in Ancient Greece as it is today. Plato himself was against this practice and, in Ancient Rome, measures were also taken with the intent to limit corruption. The Roman measures to prevent corruption at a judicial level were taken in the shape of laws: Lex Servilia Glauci and Lex Cincia, which forbade lawyers to receive gifts after pleading a case (A Dictionary of Greek and Roman Antiquities, 1875). Corruption was a subject of much heated debate and trials to reduce it, throughout history. Today, corruption is present in various degrees in all European states. The states have different ways of dealing with corruption. We will see that corruption is understood differently from state to state.

Corruption can include material goods, intangible goods, unjust favors and any other kind of unlawful benefit. We are referring to corrupt public officials, but also to persons working in the private sector (notaries, mediators, lawyers), who do not act in a professional manner, working in the best interest of the public. In order for an act to be corrupt, the following elements need to be present: intent and personal or political gain. So, according to these criteria, the act must be done consciously and, as such, it must be identified as either simple abuse done because of incompetence, lack of experience or a simple error from that person. Adapting the definition of corruption to the legal system, we can say that judicial corruption is any act that has negative influence over the people working in the legal system, which affects the impartiality of judicial proceedings in order to obtain an unlawful benefit by them or other parties. When corruption is present in the legal system the result is an improper delivery of justice and legal rights to the citizens of a state. The judicial system includes: lawyers, court rooms, notaries, judges, magistrates, prosecutors, law enforcement officers, mediators, court clerks etc. When these people act in their own self-interest instead of abiding the rules they swore upon, the rights of the citizens are in danger. The most important aspects of democracy are liberty and justice for all. The fundamental principles of democracy are crossed; there is danger that the rules might be only for those who can't afford to pay for their rights or who aren't well connected. There is an imbalance in society that over time could escalate, the bridge between the poor and the rich becoming wider. In my opinion, there are two ways in which the justice system is negatively influenced. The first is by using pressure points; this means someone with power to influence the system uses that power to manipulate it in their own interest. The best example is political pressure, where politicians use their influence to affect the objectivity and independence of the legal system and of judges. The independence of the justice system can be affected if the politicians meddle with the appointment of judges, their pay or the way cases are assigned to certain judges. The second way to negatively influence the justice system is by the traditional bribe given to workers in the legal sector.

Corruption in Europe

In 2011, in their annual report, Transparency International discovered from European Union surveys that almost three-quarters of its citizens believe corruption exists in EU institutions. Two thirds think it's a major problem in their country. These findings are a sharp wake-up call to those who think corruption occurs mostly outside Europe (Transparency International, 2011). Moving on to 2012 and looking at the corruption perception index from that year, we can see that the Northern European states are the least corrupt states in the world. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 - 100, where 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean.

A country's rank indicates its position relative to the other countries and territories included in the index. Denmark and Finland received an almost perfect score of 90, granting them first place for clean countries. Sweden scored 88 points and Norway 85. These countries are the ones we perceived to have a good judicial system. Moving further south to countries that we perceived to have a weaker judicial system we can see that they are also perceived to be more corrupt. Spain scored 65 points, ranking the 30th place for corruption cleanness. Italy scored 42 points and Romania 44 (Transparency International, 2012). I will not list the score for all countries but below you can see a table for consultation.

SCORE					
Highly Corrupt			Very Clean		
0-9			90-100		
RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE
1	Denmark	90	22	Saint Lucia	71
1	Finland	90	25	Austria	69
1	New Zealand	90	25	Ireland	69
4	Sweden	88	27	Qatar	68
5	Singapore	87	27	United Arab Emirates	68
6	Switzerland	86	29	Cyprus	66
7	Australia	85	30	Botswana	65
7	Norway	85	30	Spain	65
9	Canada	84	32	Estonia	64
9	Netherlands	84	33	Bhutan	63
11	Iceland	82	33	Portugal	63
12	Luxembourg	80	33	Puerto Rico	63
13	Germany	79	36	Saint Vincent and the Grenadines	62
14	Hong Kong	77	37	Slovenia	61
15	Barbados	76	37	Taiwan	61
16	Belgium	75	39	Cape Verde	60
17	Japan	74	39	Israel	60
17	United Kingdom	74	41	Dominica	58
19	United States	73	41	Poland	58
20	Chile	72	43	Malta	57
20	Uruguay	72	43	Mauritius	57
22	Bahamas	71	45	Korea (South)	56
22	France	71	46	Brunei	55
46	Hungary	55	69	FYR Macedonia	43
48	Costa Rica	54	69	South Africa	43
48	Lithuania	54	72	Bosnia and Herzegovina	42
50	Rwanda	53	72	Italy	42
51	Georgia	52	72	Sao Tome and Principe	42
51	Seychelles	52	75	Bulgaria	41
53	Bahrain	51	75	Liberia	41
54	Czech Republic	49	75	Montenegro	41
54	Latvia	49	75	Tunisia	41
54	Malaysia	49	79	Sri Lanka	40
54	Turkey	49	80	China	39
58	Cuba	48	80	Serbia	39
58	Jordan	48	80	Trinidad and Tobago	39
58	Namibia	48	83	Burkina Faso	38
61	Oman	47	83	El Salvador	38
62	Croatia	46	83	Jamaica	38
62	Slovakia	46	83	Panama	38
64	Ghana	45	83	Peru	38
64	Lesotho	45	88	Malawi	37
66	Kuwait	44	88	Morocco	37
66	Romania	44	88	Suriname	37
66	Saudi Arabia	44	88	Swaziland	37
69	Brazil	43			

A 2009 poll by the Euromedia research group showed that only sixteen percent of Italians fully trust the current justice system in Italy and they were highly displeased with the court system (Fischer, Bruce, 2011). Italy is not alone when it comes to corruption and inadequacies in their justice system. This is a problem present in many states as the above graph shows. When individuals within the various systems of law are corrupt, injustices often occur.

An inadequacy of the judicial system is the most obvious consequence of corruption, but the most severe result is at a macro level, affecting the whole population in different fields. It creates a cultural background that is very hard to shake. A high level of corruption builds a high level of mistrust among the population for the state institutions, but also a high level of mistrust among people in general. The worst thing that happens is that over time people think that it's all right to cheat and lie because everybody does it. Constant news of corruption builds a mindset that it is fine to cheat your neighbor, because that is how to get ahead in life. If you don't do it, then you mark yourself as a fool that is fair game for any con man. We will study further in this article the various impacts of corruption and we will try to find some causes why there are such high discrepancies between European states.

How Widespread is Bribery and Corruption?

The 2013 report of Transparency International offers an image of how inclined people are to offer a bribe. The report featured 114,000 respondents in 107 countries, but in this article we will concentrate only on the responses from the countries in Europe. Transparency International gives insight on how willing people are to stop corruption. A survey was conducted to find out how many people had to pay a bribe in 2012. As expected, countries that are less corrupt hold the smallest percentage of people that have done this. Less than 5% of respondents from Denmark, Finland, Norway, Portugal, and Spain reported that they had to pay a bribe. Around 5 - 9.9% of the respondents from Bulgaria, Estonia, Italy, Slovenia, UK, stated that they paid a bribe, while in Hungary 10-14.9 %, in Romania 15-19.9%. The highest percent of people that declared they paid a bribe was in Greece, Lithuania, Moldova and Bosnia, around 20-29.9%. According to the studies conducted, people most often pay bribes when they interact with the police, while the second most bribed institution worldwide is the court house. The judiciary system is normally viewed as very corrupt (Transparency International, 2013). The 2013 report also analyzes how people viewed how clean and efficient the judicial system in their country was. The Northern European countries (Finland, Denmark, Germany etc.) that are less corrupt and are thought of as having a good judicial system have a very high standing on the chart, compared to Southern states. The table with all the statistics for every country is available for browsing in the Global Corruption Barometer.

Understanding the Legal System in Europe

Civil law, one of the most widespread systems of law today, is based on Roman Corpus Juris Civilus. Most European countries have a civil law system; an exception is England, which has a common law system. In essence, civil law is dedicated to the strict codification of regulations and then the enforcement of those regulations. It is the task of the judges to examine, de-codify and correctly apply the law. Civil law is a complete assortment of laws that citizens must know to follow. The judge is the one that determines the penalty based on the written documents (The Dictionary by Farlex, Legal Dictionary). Common law, by contrast, was established before the written practices, and it continued to be applied even after the documentation of rules and procedures. This type of law derives from community customs and traditions and has evolved over the centuries. One of the main differences between civil law and common law is that the latter relies on precedent. A judge practicing common law relies on a predecessor's decision and on former reports and decisions, rather than on set-in-stone documents and written procedures. In a common law court, lawyers present their arguments in front of a neutral party, judge and jury, who then evaluate the arguments and the evidence, and issue a decision.

Ulf Bernitz, in his article on "What is Scandinavian Law" cites Åke Malmström, a law professor at Uppsala University and Scandinavian pioneer in the field of comparative law with his work on law study. In his research, he comes to the conclusion that the judicial system in European states can be divided into the following legal families: that based on the French civil code (in France, Italy and Spain), German civil law (in Germany, Austria, Switzerland, Yugoslavia, Greece and Portugal) and Scandinavian law (in Denmark, Norway, Sweden, Finland and Iceland). The argument that Scandinavian law is an independent family is based on two things. The first is that there isn't a clear, undistinguished division between civil law and common law.

As I have stated above, civil law has its origins in the Roman Empire, while common law has its origins in England. Throughout the history of the Scandinavian countries (Finland, Iceland, Denmark, Sweden, Norway), Roman law was never accepted, but because of the spread of globalization and the continuous exchanges between the states, some elements of the Roman law have slipped in these countries. Basically the law in the Scandinavian countries is currently a mix between common law and the Roman-Germanic legal family. "There are no general civil codes of French, German, Austrian or Italian model in the Scandinavian countries and no plans to enact such codes exist. On the other hand, statutory law constitutes the basis in most fields of law" (Bernitz, 2010). There is a tradition of unification of law, the drafting of uniform laws has been used and the process continues under the guidance of the Nordic Council (established in 1952). There are no general civil codes in the Nordic countries. The states have a variety of acts or statutes on several aspects of private law. Some of the acts cover basic

parts of the law, but they do not cover all aspects, remaining intentionally incomplete. What aspects are uncovered are solved by applying analogy principles expressed in the statutes or by supplementing case law. A special Contract Act is in force in all of the Scandinavian countries. This act covers some aspects of contract law. Other aspects of legal cooperation between the countries include intellectual property, maritime law, sales and torts.

Effects of Corruption

The effects of corruption are numerous and have a lot of ramifications, but because this article only focuses on corruption in correlation with the justice system, I will only tackle those effects.

A Chaotic Society

Corruption in the legal system is one of the most damaging types, for the only reason that it makes it very hard to fight all other forms of corruption. The corrupt remain beyond the law, not suffering any consequences for their action. In turn, this also encourages others that might have been fearful of the law to engage in activities that promote their self-interest. The justice system is very broad. It implicates a whole lot of people: the police force, investigators, lawyers, notaries, magistrates, judges etc. All of them if influenced negatively can obstruct the course of justice. An investigation for a corrupt official could be without a proper result if the investigators, judges, lawyers and any one working on the case are compelled to overlook evidence. The above mentioned official could walk away free, encouraging others to behave in the same way. Hence, we can draw the conclusion that a clean legal system is the building block for any kind of initiative to fight corruption. In order to tackle corruption and reduce it, it is particularly important to concentrate on the legal system. If we manage to reduce it, we can be sure of the smooth procedure of investigations into other cases and punishments for those who are guilty. All states in the European Union are democratic and, as such, the citizens in these states expect equal treatment and their rights to be defended. A society isn't democratic in the true sense of the word if small elites can break the cohesive rules that form the said society. Opinion polls show that corruption in the judicial system ranks high. People view the personnel working there as very corrupt and not working in their best interest. If we are to have a successful legal system that people can trust, measures must be taken to reduce the corruption index and have a cleaner system. This will improve the effectiveness of the system on a macro and micro level. Court procedures will be faster, reducing the overcrowding of courts and people will also start trusting alternate resolution methods (ADR methods). ADR methods are much appreciated in countries such as Finland, Denmark, Sweden and still untrusted in countries such as Italy, Romania, Croatia, and Greece, who have a corrupt judicial system. In my opinion, one of the reasons for this is that the population has grown so accustomed to corrup-

tion, especially in the legal system, that they need sound proof of a resolution. And they feel that the only way they can concretely find a permanent solution to their problems is within the traditional court rooms. There, even if it's a long process and they have limited control of the result, they can be sure of a solution. It is much harder to work on a solution that pleases everyone, a win-win solution, especially if everyone thinks that the other person is trying to cheat them. This is what corruption does; it creates a mind-set that everyone is against you. How can we have a proper judicial system and how can we use ADR methods if there is no trust? This feeling of dissociation and lack of empathy must be eliminated.

Nepotism

Nepotism can be defined as favoritism to a relative of the person in power. This is done in disregard of merit, experience, capacity, skills, or other factors that are a must for a regular person. The word comes from the Italian word, *nepotismo*, which means nephew. The dictionary defines this word as favoritism or a patronage of a family member, (Dictionary Online, 2013). Nepotism is a symptom of corruption, government and the justice institutions being the most affected by this phenomenon. European states have numerous reports of illegal hiring practices amounting to nepotism. In 2011, for example, Bulgaria was rocked when "hundreds of judges demanded the dissolution of the top judicial body over its controversial appointment of a court chief." The controversial court chief was Vladimira Yaneva; she was a close family friend of the interior minister and it was feared that she might negatively influence court rulings (Eubusiness, 2011).

While at first glance we might say that it isn't so wrong to help friends and family, the truth is that it is a disastrous practice that brings negative consequences in all aspects. The factors that are at play when we are discussing nepotism are lack of objectivity, lack of skill, poor performance, thus reducing opportunities for the majority. I will first start talking about the lack of objectivity. This works in two ways; the first is if the person is appointed in order to control the decision making process. For example, a politician might meddle in the appointment of a judge, in this way allowing him/her to decide in certain rulings he/she might be interested in. If the system is highly corrupt, a judge might be afraid to do his duty. A very important person might walk away free, just because of powerful friends, or because of their relation to the judge. This leads to many investigations being opened, but very few convictions. On the other hand, small wrongdoers are the ones condemned, to give an impression of security. This is a factor that fosters the continuity of corruption and also increases the criminal rates in a country. It is one of the factors that contribute to the creation of criminal organizations and crime families. Due to the many ramifications and connections of such an organization, by being assured of the sympathy of the legal system, the heads walk free. They are encouraged to continue their activity, knowing that they are above the law. If a state

would like to reduce its criminal activity, they would have to start by increasing the objectiveness of the legal system. The old saying that justice is blind still applies but in the sense that it is blind to the mistakes of those that it favors.

The second way in which lack of objectivity works is if the relationship of those working in the justice system leads to a conflict of interest. I will use again the example of the judge, because it is the most obvious and easy to understand. If one of the lawyers pleading the case has close ties with the judge presiding, then this will be a conflict of interest, because it might affect the objectivity of the judge. Of course, this conflict of interest is illegal and a case should not be decided like this, but sadly it happens. As I have said before, objectivity is not the only problem derived from nepotism, but incompetence also. The practice of appointing family members and friends in offices, with disregard for skills leads to many problems in the management of things. If we talk strictly about the legal system, these problems are investigation issues, blockage of cases, negligence, paralysis of cases, omissions. It is for these reasons that often innocent people are condemned and that it takes so much time to resolve a case. There are numerous cases of this happening: in Romania for example, there are numerous reports of people spending decades in prison because of incompetence. Failure to appoint personnel based on merit leads to workers that are more pliable and more easily influenced. They are more pliable due to a variety of reasons – fear of losing their job and being replaced being one of them.

Lack of Public Trust

Corruption determines the loss of respect and trust for the authority of the institutions. It causes negative effects on the legitimacy of the system. Corruption is perceived by the citizens of a state as negative, which leads to accusations and calumnies. Even an honest legal worker can be afraid that his image could be easily destroyed by calumnies and unfounded accusations. Corruption is disadvantageous for citizens with little material resources and without high powered relations. Their complaints, pleas and cases are often left behind to give priority to those with money or those who have friends in high places. The government and those working in the judicial system, especially judges, are highly mistrusted in lots of governments. There is something in the human nature that rejects authority and those who would cage them, imposing rules. Citizens associate people working in the legal sector with the government, associating them with being part of the problem rather than part of the solution.

Loss of Resources

Corruption in the system leads to higher rates of unreached objectives. It's harder to reach the objectives you have planned for the future if you have unqualified personnel, leading also to a loss of resources. The cost of administration is higher. More resources, both material and human, are required to maintain the system. Improper personnel,

hired just because of nepotism, are a bad managerial practice. More people will be required to complete a task that could be done by just one person. If the personnel are highly skilled, they are able to work faster and are able to fulfill a higher variety of tasks. The bureaucracy in the system can in this way be reduced and resources could be saved. Instead of paying three or four salaries for unskilled personnel it is more efficient to pay one salary to one very skilled and efficient person. The loss is not only material but there is also a loss of time, resources and energy that is wasted with trying to outsmart the system and trying to cheat and make leverages.

Disregard for Morality

This is as much an effect of corruption as a cause. Corruption feeds corruption. When the mass majority sees that those who make the laws and have to apply them disobey them, then they are tempted to do so as well. The vast majority wonders (and we can't blame them) why they should conform to some rules they didn't have any part in creating when those that are in power don't. The majority will see loop holes in the law and will try to find new ways to avoid punishment. They will spend their energy in avoiding the law and doing everything they can to satisfy their interests. Very aggravated individuals, as a last measure, will choose to take matters in their own hands and seek justice on their own. This happens when a law system is considered corrupt and biased. If things are to improve, the average citizen must be confident that those who are part of the decision making process have to abide by the law and if not, suffer the consequences.

Possible Causes of Corruption

Low Salaries for Workers of the Judicial System

One possible cause of corruption is low salaries and poor working conditions. The salaries and working conditions vary across European states, each one setting it independently of the EU. If the salary is low, the work space overcrowded and there is a lack of equipment then there is a problem. A justice system where individuals are overworked and ill paid is a recipe for disaster. If the remuneration, or the pension, is very low, people are encouraged to seek unlawful means of finance for their retirement fund. The countries that are considered developing, typically those that have been under the communist regime, have a tendency to underpay their public workers. This practice encourages negligence and corruption.

Developing Countries are more prone to Corruption

There is a set of factors that make developing countries more prone to corruption. A developing country is in the process of forming its system and organizing its laws, it is an ever changing entity. Because of this, it is easier to break the rules and go unnoticed. The strategies against corruption are typically just forming and the mentality of the

people is under construction. In Europe, developing countries are typically those that have been under communist rule. Under the communism, people were afraid to speak against the government and take actions against it for fear of retribution. Some of this mentality still remains in the generation that grew up under the communist era. I believe that is one of the reasons people are complacent and are more willing to overlook the flaws of the government and the judicial system. Furthermore, a mentality has been created among people, namely that the public workers, far from being there to help implement the rights of citizens, are untrustworthy and work only for themselves. Public administration in developing countries is often very bureaucratic and very inefficient. The complex regulation that is not very clear and still in the process of formation, makes the fight against corruption that much harder. The biggest challenge is that after years of this, the population grows complacent, corruption being seen as something of a norm, with the people not being able to do anything about it. If we look again at the corruption perception index from 2012, we can see that the former countries with a communist regime are now among the most corrupt in Europe. These Eastern European countries, as they are called, have had a rough time because of the change of regime. This has led to economic, political and organizational problems. Even if the recent economic crisis has put a damper on their economical progression, the countries are still evolving. New policies are being implemented to fight corruption. In the future, with the right managerial practices and a rise in economy and initiatives from the civil society, better practices can be foreseen that can reduce corruption. Of course I consider that this will be done in a long time span, possibly a period of ten, twenty years, depending on the implication and interests of the civilians and politicians.

Tolerance for Corruption

Corruption breeds corruption. Studies have shown that in societies that have been dealing with corruption for a very long time, people start to see it as a norm. Societies start to think that there is nothing wrong with corruption and that it is a part of daily life. Citizens start to have a mindset that there is nothing that they can do about it. Even worse, some consider corruption beneficial, because it allows them to access special privileges, speed up procedures. The payment of a bribe is seen as an acceptable part of society and a normal part of doing business. Sometimes people don't even consider their behavior immoral. As Pepys exemplifies "attorneys who consider themselves law-abiding do not hesitate to pay a bribe to a court clerk to expedite a case file. Since the attorney is not interfering in the substance of the case, he does not believe any corrupt activity has been conducted. Such an attorney overlooks the fact that his behavior can have the effect of distorting the average citizen's access to the court's procedural process", (Pepys, 2003). The effects of such practices are laws being passed and politicians getting in office even if they are not deserving of it. The problem resides also in the fact that there is a shift in mentality. It is no longer an ethical-moral prohibition to be

corrupt. Everybody is doing it, so why not do it? This is the question that passes to the vast majority of persons living for years in a corrupt society.

A High Level of Bureaucracy

Excessive bureaucracy or red tape, as it is sometimes referred to, describes excessive regulation or a very rigid conformity to formal rules that are considered redundant and hinder the process of decision making and taking action (Transparency International, 2012). Red tape can express itself through excessive or overly rigid administrative procedures, excessive paper work, requirements for unnecessary licenses, multiple people or committees and a myriad of specific rules that slow down the active process. The multitude of scholars on corruption generally agree that a highly bureaucratic system is a danger for fostering corruption and decreasing direct action. People willing to skip these procedures in one way or another often try to turn to bribery, thus encouraging corruption. Those involved in the bureaucratic system are usually public officials/workers that upon the prospect of receiving bribe have a low interest in reducing the bureaucracy in a system. Rather than doing this, they increase the level of bureaucracy, encouraging people to appeal to bribes so they can skip the endless steps. This increase also makes it harder to verify that the whole process is clean, because it leads to more people being involved and more steps that need to be taken and controlled.

Fear of Consequences

Corruption and the judicial system are closely related: what affects one affects the other and vice versa. The probability of getting caught and punished for abuse of power, accepting a bribe or engaging into unethical practices influences the risks people are willing to take. Therefore, the greater the effectiveness of the legal system, the smaller the chances of corruption.

Social Capital

Social capital is a concept that reunites elements such as trust, human connections, cooperation, solidarity, interpersonal relations, contacts, all of which contribute to the well-being of society. "Social capital is embedded in primary social institutions which provide people with basic values, such as high levels of social trust, cohesion and participation" (Del Monte, Papagni, 2007). The studies conducted by Almond-Verba in 1963 and Inglehart in 1990 demonstrated that elements of social capital (trust, public participation) increase the quality of democracy. In their article, Alfredo Del Monte and Erasmo Papagni argue that if we follow the transaction cost theory we can say that in a high trust culture transaction costs are reduced because less contracts are required and disputes may be settled more easily. Some disputes could be prevented from arising in the first place, thus reducing the need to appeal to public and private dispute resolution methods (courts, ADR methods).

Social capital promotes democracy by allowing people to form active connections through the community. In a country with high social capital, people are more willing to get involved in different organizations, do volunteer work and get together to support a cause they believe in. This permits the achievement of goals that could not be gained otherwise, or would be gained at a higher cost. One such goal could be the public pressure put on a corrupt public official to resign if corruption evidence is presented against him. In countries with low social capital, citizens are more dispersed, acting separately rather than as a whole. By promoting trust, exchange of relations, participation, the people in a community are more likely to get together for signing petitions, manifesting for their beliefs and generally putting pressure on the government.

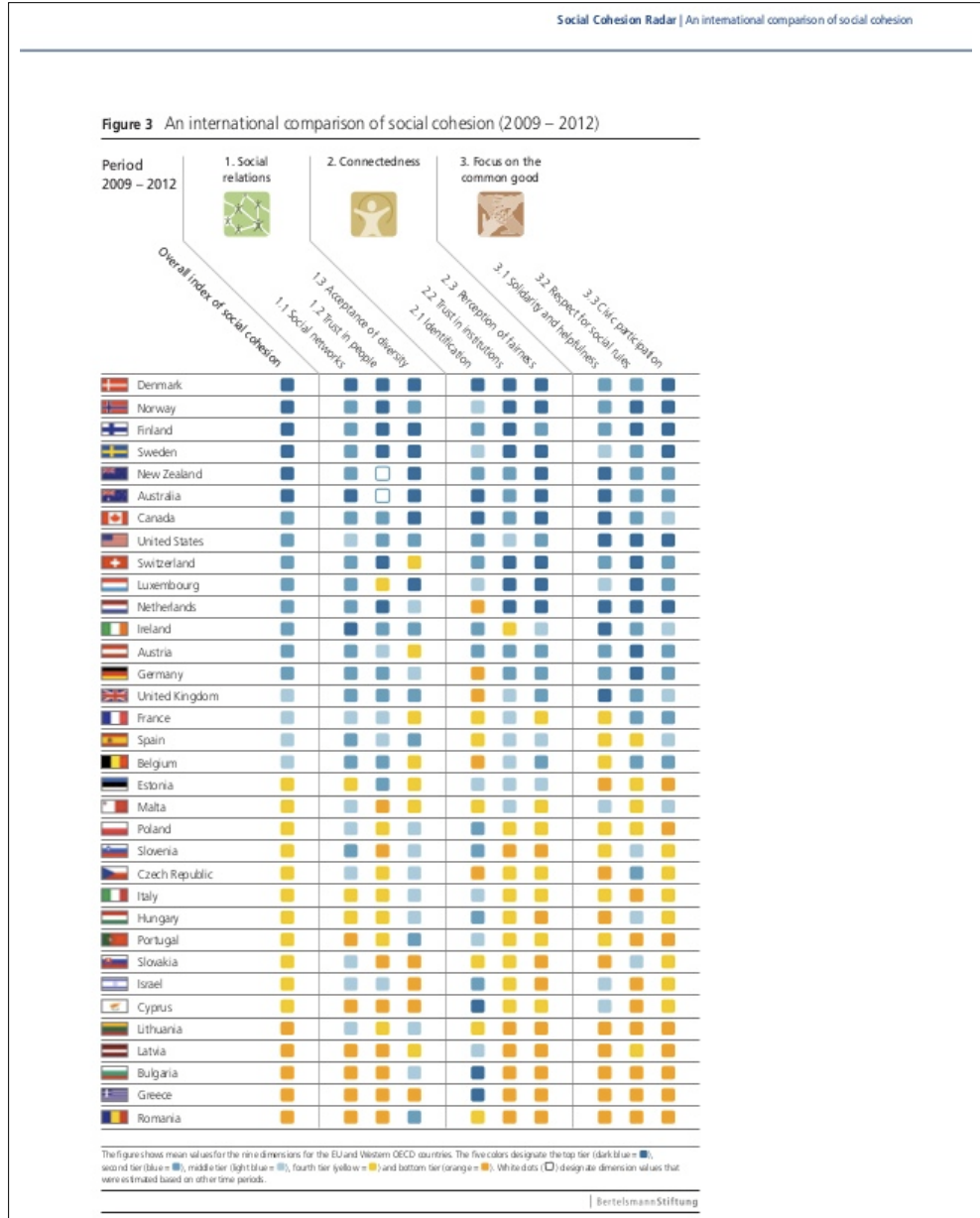
Therefore, social capital is a supporter for democracy and a resource for the individuals in the community, allowing them to put in practice their goals and move with a purpose. The element of trust is considered a moral resource and unlike other resources, the more you use trust, the more it increases. Hence, it increases the civic spirit of the community and promotes a clearer, more transparent exchange between individuals. The authors that have studied social capital have all come to the conclusion that “if a society has established patterns of trust, cooperation and social interaction, this will generally result in a more vigorous economy, more democratic and effective government and fewer social problems” (Del Monte, Papagni, 2007).

Social Cohesion

A recent study by German Bertelsmann Foundation and Jacobs University in Bremen, which looked at 34 countries in the EU and the OECD, was aimed at analyzing social cohesion. They intended to measure relationships and connectedness between members and communities and their focus on the common good. Dimensions include people's social network, trust in others, confidence in social and political institutions, willingness to help others and participation in public activities. The study revealed that Denmark, Norway, Sweden and Finland had the best social cohesion. At the bottom were Romania, Greece and Bulgaria (Bertelsmann Stiftung, 2013). The graph below shows the results for all countries analyzed. Rather than using numbers to describe the results, the countries are divided into color groups. The top tier countries are identified with the dark blue dot, the second tier ones are blue, and the next are light blue, yellow and orange.

Social cohesion is directly related to corruption. A highly corrupt state affects the social cohesion of its inhabitants. In turn, this affects the judicial system of that respective state. If social cohesion in a country is high, then there is a smaller probability of conflicts, and when they arise, they are more easily solved. Individuals have a greater desire to respect social rules and work for a constructive community. They have faith that the other is also trying to do the same and is not trying to backstab them, because of the high level of trust. It is easier to build a dialogue, and find a solution, if the parties in the

conflict start with the assumption that the other party is honest. This permits better communication: if one is always with their guard up and wastes energy on thinking of how the other party might backstab them, it limits their creativity in finding a solution. We can say that the graph below is an image of social capital. Trust, social relations, connections, community spirit, are all elements of social capital, therefore the graph allows us to see which countries have the highest social capital.



Mediation

Governments are looking to mediation as a solution to improve the judicial system. Mediation is viewed as an alternative to court rooms. In order to have a successful result, trust is required: mediation is based on trust. A lot of countries with high corruption and low social cohesion are having problems in implementing mediation, getting people to trust the procedure and having favorable results. In order for these countries to successfully implement mediation at the level it is in Scandinavian countries, the social cohesion of the community must be increased by reducing corruption.

The Effect of Corruption on the Parties that Go to Mediation

Mediation is built on trust and cooperation between the parties. When the parties go to mediation, it is expected of them to communicate with each other in order to find a win-win solution. But when parties are constantly obsessing over having to be vigilant, lest they be cheated, and also constantly thinking of loop holes in order to stir the situation in their favor, it is no wonder that the system has problems. A successful mediation depends on the parties; the contract is not enforced by law unless they go to court or to a public notary, so after the mediation session, it's up to the parties to respect the agreement. When the parties learn that the result of the mediation is not enforceable, they are weary to try mediation, preferring court. There, they know that the judge's decision is final and the other party has to obey it. The culture of mistrust affects the number of people that go for mediation and fills the courts to exhaustion.

The Effect of Corruption on the Mediator

If the general population is corrupt and has a cultural mindset prone to corruption, there are higher chances for the mediator to have the same predispositions. Of course, I am not saying that all mediators are corrupt. I'm merely stating that the statistics on corruption are a mirror of the predisposition of the population to become corrupt. Public clerks (judges, politicians, doctors etc.) are after all part of the general population and thus reflect the traits of the people.

A mediator with a corrupt mindset would not enter into mediation for helping the disputing parties solve their problems. He would enter mediation to earn as much money as possible, with no regard to the parties. The mediation process would be as quick as possible and the results would not be long lasting because the conflict would arise again. Such mediators are a danger to the system by distorting the image of the process. This would mean that less people would apply for mediation and prefer a court trial, with all its drawbacks. The process of mediation is relatively new in a lot of European countries (the mediation legislation is constantly changing and improving). Because of this, it is especially important to ensure that the mediators that are practicing are doing the whole process justice, in order to build a favorable image.

Conclusion

The content of the article shows how corruption can affect the legal system and how closely tied together the two are. We have seen there are a lot of social mechanisms that affect a state and its level of cleanliness. In order to tackle corruption, the first thing that must be addressed is trust and public participation, by increasing social capital. There is a high level of corruption, especially in the former communist countries. These are characterized by a lack of trust and a general sense of apathy among the population. There is a clear need for reforms that combat corruption at all levels. By contrast, countries like Finland, Denmark, Sweden have a low level of corruption and there is a strong sense of trust both among the people living there and for the institutions that serve them. The European Union has several instruments and legislations in place for the purpose of combating corruption, but implementation is still faulty. Starting from 2013, the EU has set up the European Anti-Corruption Report with the purpose of monitoring and assessing the efforts of member states in their fight against corruption. Furthermore, plans are being made to create new instruments in order to tackle corruption in the police and the judicial system. These are all done with the hope to reduce corruption on a global scale in the EU.

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