

TRANSPARENCY IN GOVERNMENT – PART II

Masaryk University
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TRANSPARENCY IN GOVERNMENT: U.S. ANTI-CORRUPTION LAWS

- **Topic Today:**
 - U.S. Laws include several types of anti-corruption measures; how do they work and would they be acceptable in the Czech Republic?
 - Legal systems differ; cultures differ; what is acceptable and useful in one country may not be in another.
 - This is not about “better” or “worse” but about differences.

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- Bribery and “gratuities” are illegal – in all countries; but what is meant by “bribery” and by “gratuities”

- Of course, a payment to a public official to bring about a decision.



- What is a gratuity? A “gift” a “thank you” gesture.
 - Given “for or because” of an official act.

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- A recognition that the “gift” was in recognition of an official act:



- What about small recognitions? As a courtesy?
 - Can “small” be defined?
- What about a dinner? Sports tickets? A trip to Paris?

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- How can bribery be detected?
 - The person offering the bribe wants it to be accepted.
 - The person receiving the bribe wants it.
 - The bribe is handled in private.
 - Sometimes, the secretary knows about it.
 - Sometimes, there is evidence of it, but not easy to find.

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- What about an informant?
 - When a person has information about bribery of a government official, is it “proper” for that person to disclose the information.
 - Is it proper for that person to receive a benefit for doing so?
 - For example: an individual is accused of a crime; facing time in prison; the individual is aware of bribery that occurred involving a judge.
 - Should the person with that knowledge receive a reduced sentence for his own crime in exchange for exposing the judge who was taking bribes?

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- Another example: a legislator who votes on possible laws is taking bribes.
 - The person giving the bribes is accused of a separate crime.
 - Knowing that bribery of a government official is a serious violation, he offers to expose the bribery.



- A search of the legislator's home reveals:
 - U.S. \$90,000 in "cold cash"

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- Should the individual who made this arrest possible receive a benefit himself?

- **The Whistleblower Act:**



- A referee at a football match blows the whistle when rules are violated.
- A whistleblower in a company is a person who becomes aware of violation of the law at the company.

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- The employee “blows the whistle” by disclosing the wrong-doing to the government.
 - Example: government contracts with private company to supply parts – aircraft engines.
 - Parts are defective and company knows it, but does not believe the defects are serious.
 - An employee disclosing the defect to the government would cause contract to be terminated.
 - A loyal employee?

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- Should the employee be rewarded if the government is able to make the contractor pay for its poor aircraft parts?
- Would the employee make this disclosure if he would be terminated by the company?
- Would the employee make the disclosure if he did not receive part of the amount the government recovers?

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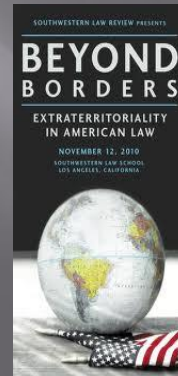
- How far should this go?
- Should it apply to tax cheating?



- Result: a society of people reporting on other people?

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- Another Anti-Corruption Law:
 - Foreign Corrupt Practices Act.
 - An Extra-Territorial Reach – what does that mean?



- If it happens outside the U.S. but affects the U.S. it can violate U.S. Law.
 - Applies where U.S. company is involved

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▣ CLASS DISCUSSION:

- What are the reasons for rewarding someone who exposes corruption?
- What are the reasons to not reward an employee who has knowledge of wrong-doing?
- Which kind of conduct is most likely to prevent corruption or cheating on contracts with the government?
- Taking account of history, should there be a law in the Czech Republic similar to that in the U.S. that rewards those who reveal cheating on contracts?