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Hiller, Petra

Veröffentlichungsversion / Published Version

Sammelwerksbeitrag / collection article

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

Verlag Barbara Budrich

Empfohlene Zitierung / Suggested Citation:

Hiller, P. (2010). Understanding corruption: how systems theory can help. In G. d. Graaf, P. v. Maravic, & P. Wagenaar (Eds.), *The good cause : theoretical perspectives on corruption* (pp. 64-82). Opladen: B. Budrich. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-368792>

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Chapter 5: Understanding corruption: How systems theory can help

Petra Hiller

1. Introduction

Network relations have been a principal focus of empirical policy and administration research at least since the 1980s.¹ Examples that immediately spring to mind are the debate on neo-corporatism and the ‘cooperative state’, not to mention the abundance of literature that has analysed policy networks. Viewed from the perspective of political and administrative science, networks of this kind react to difficulties in the administration of national policy. Networking is an attempt to control environmental uncertainty. Less often discussed in this context, however, is the perception that under conditions of this kind, the opportunities for corruption also increase.

More recent studies have shown that corruption primarily takes place inside a network of structures interlinking politics and business (Bannenberg 2002; Höffling 2002). The economisation of the public sector proceeding under the banner of ‘New Public Management’ seems to be giving further impetus to this trend (Maravić 2007). If this is true, then we must ask (a) why corrupt networks are mainly found in politics and (b) how sociologists can best explain this.

I develop a proposal in this article that seeks to answer these two questions by considering the issue of ‘corruption and networks’ within the context of social theory. The adoption of a social theory perspective entails that the terminology and standpoints habitually applied in corruption research may require some adjustment. The following deliberations thus begin with the conviction that a sociological analysis must break free of the concepts of corruption developed by political science research (2). The alternative I propose is to explore corruption from an organisational and social perspective. This will allow us to conceive of corruption as a linkage of different horizons of meaning in social communication and therefore to identify a structural affinity with the constitutive conditions of networks (3). In a further step (4), I will investigate why the political domain appears to be particularly susceptible to corruption. The an-

1 This article is based on an earlier German version entitled ‘Korruption und Netzwerke. Konfusionen im Schema von Organisation und Gesellschaft’, in: *Zeitschrift für Rechtssoziologie* 25, 2005, pp. 57-77.

swer lies in the nature of moral observation, which personalises political communication and in this way fosters scandalisation of behaviour. Section 5 portrays network formation as a linkage technique that (in exactly the same way as corruption) represents a breakdown in functional differentiation. The concluding remarks on corruption and networks sum up this notion (6).

2. Corruption research

Corruption research is still guided by Joseph S. Nye's definition of corruption as 'behaviour 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' (1967: 419). Thus, research on political corruption understands it to mean *abuse of political power*, where abuse implies a breach of regulations involving the exchange of political power for other resources. And so political corruption denotes a manner of exerting influence on political decisions in order to serve particular interests at the expense of the general public. The classical definition thus depicts corruption as a kind of antonym to the 'common good' (Gebhardt 2003: 16). This conception of corruption has been refined in a variety of ways (cf. Gardiner 2005; Kurer 2003; Philip 2002). Approaches inspired by democratic theory now suggest that the distinction between private and public – which is a crucial element of the traditional definition of corruption – should be replaced by a distinction between inclusion and exclusion (Warren 2004). Generally, however, research on this topic situates political corruption at the level of individual behaviour and motive attribution (e.g., Graeff 2005; Jain 2001), and so crucial queries regarding the conceptualisation of its subject matter can only be resolved in definitional terms and not with the means offered by a social science theory. Some criticism has been voiced about this very issue. It has been asked, for instance, why corruption research should be restricted to examining economic advantages gained by individuals, why the acceptance of advantages on behalf of third parties (beyond family or private clique structures) should be excluded, why corruption should refer only to abuse of public resources, when legitimate exercise of influence turns into corruption and how this definition applies to the phenomenon of corruption networks. Problems of this kind, which are inevitable given a conception of corruption built on case studies and patterns of deviance, are discussed by Gardiner (2002). I argue that this type of approach fails to make use of the full potential of corruption research. It remains limited to describing types of behaviour and to characterising individual cases. Thus, corruption research does not arrive at a theoretically solid grasp of its subject.

My thesis is that this failure has the following cause: While it is true that corruption occurs through the exercise of influence and the assertion of inter-

ests at the level of organisations and networks, it is also true that corruption cannot be explained theoretically at this level. Sociological considerations must therefore approach the question at a more fundamental level and ask in which *social* structural conditions corruption arises. Consequently, a sociological exploration will not allow its viewpoint to be narrowed by political science considerations. The first task is to describe what happens in terms of the formation of social structures when corruption is observed in organisational contexts.

To this end, we must first examine the *relationship* between organisation and society and then strictly abide by the resulting distinction between system levels. The main theoretical and conceptual underpinnings used in this perspective have their basis in differentiation theory, which is the approach I will maintain in the following. I proceed on the assumption that only a conception of corruption which is grounded in social theory and which deviates from the popular conceptualisation found in the literature permits an adequate understanding of the problem. It will become clear following my proposed definition that the phenomenon of corruption does indeed have a special affinity with network formation, but that this association can also only be reconstructed within an analysis guided by social theory. Moreover, the analysis of organisation and society from the perspective of differentiation theory confirms the notion that structural formations such as corruption and networks should be described as effects of functional differentiation and not, as sometimes assumed, as a ‘de-differentiation’ phenomenon taking place in modern society.

In this theoretical perspective, the concept of corruption is used in a *non-ontological* manner. Niklas Luhmann’s systems theory with its differentiation theory perspective, which I will use in the following, is a constructivist observation theory. The epistemological background implies that systems theory does not consider the ontological characteristics of an object, rather asks how and by whom something is observed. In other words, within the framework of this epistemology, there are no definitions that are independent of the observer. Theory formation takes place at the level of second-order observations. A corresponding constructivist theory of corruption, which distinguishes itself from action theories, will thus not ask what corruption ‘is’ and what the causes of corruption ‘are’. Instead, the central question asked by such a theory will be *how and by whom corruption is observed*. Systems theory thus differs substantially from causal scientific theories of knowledge. Its method is functional analysis – a prerequisite of theory formation by abstraction. The advantage of this approach for the acquisition of knowledge is that one can use it to evidence *general* structure formations in society, which can then be compared in respect of functional equivalents (Luhmann 1970: 9-30).

3. Differentiation

These considerations lead us to the question as to what we would see if, instead of treating the phenomenon of corruption at the level of organisations and networks, we were to look at it from the point of view of functional contexts in society. Smelser (1971) has already presented a proposal of this kind based on differentiation theory. Drawing on Parsons' theory of generalised interchange media, Smelser describes very precisely how social differentiation is a prerequisite for corruption.

Under Niklas Luhmann's project of systems theory, social communication is structured in accordance with specific functions (politics, law, business, etc.). Here, Luhmann's theory departs radically from Parsons' ideas in that it switches from 'action' to 'communication' as the basic unit of operation of social systems. Moreover, Luhmann holds that functional systems in society are autopoietically closed systems. When functional codes are reproduced, only communications that are specific to the respective meaning system are recognised. This means, in turn, that at the level of *functional systems*, political decisions can only be justified politically and economic decisions can only be justified economically. Linkage between the codes of different meaning systems is therefore excluded. The legal system deals with each communication by distinguishing between legal and illegal, because this is the only kind of operation that has meaning for the legal system and is therefore suited to reproducing it (Luhmann 1981). All other types of communication, in other words communications that cannot be identified as being either legal or illegal but that may nonetheless arise in *organisations* of the legal system (political, economic, aesthetic, or religious decisions, for example), are not attributed to the functional system of law but to its social environment. Thus, in the functional differentiation is a mechanism that avoids confusion among functionally differentiated systems.²

But everyday experience tells us a very different story. Take the neo-liberal 'reforms' of the European welfare state over the last twenty years, for instance. In areas of this kind, policy decisions are not only motivated politically, but increasingly also economically. And this does not only apply to politics. If we shift our focus to the legal system, we see that juristic decisions are not motivated purely legally, but that economic, pedagogical and sociological considerations are just some of other factors also brought into the equation. These examples demonstrate that the functional differentiation of society is by no means maintained at the organisational level. Functional systems quite evidently follow their own logic and, as a type of social system, this also goes for organisations. Thus, we must make a distinction be-

2 I borrow the term 'confusion' from a formulation used by Luhmann (2000a: 92) to deal with the differentiation between role and person.

tween *functional logic* and *organisational logic*. This insight gives us important pointers for an understanding of corruption based on social theory.

In everyday communication, the label of 'corruption' is primarily applied in cases where money has changed hands. The allegation of corruption implies that politicians and political organisations can be bought. From a systems theory perspective, the allegation of corruption simply means that the political system has been infiltrated by the logic of an extraneous system. In this particular case, power is exchanged for money and political decisions are no longer determined only by political concerns. More specifically, if corruption is the abuse of political power, then it is abuse in favour of a different logic – in this case an economic one. And this brings us to the proposed definition of corruption already found in Smelser (1971): What is observed as corruption is actually the *linkage of different horizons of meaning* in social communication. But how do these linkages of meaning that we call corruption come about? The answer to this question is not found in the functional contexts of society but at the level of their organisations.

In order to develop this argument, we must take Smelser's considerations an important step further. Smelser's conceptualisation does no more than observe an overlap in particular situations of different media of interchange between the public and the private sector. If we want to carry out a more thorough analysis, however, we must take the relationship between organisation and social differentiation into account (Luhmann 1975: 9-20). And so we arrive at a question which is given too little consideration in corruption research. As far as I can see, corruption research makes no systematic distinction between the political system and political organisations. And yet an analysis guided by differentiation theory of the relationship between organisation and society can yield much more telling insights. Some observers suggest that organisations can be allocated one-on-one to particular functional systems, or that they should be viewed as subsystems of functional systems. But we cannot resort to shortcuts here, such as linking organisations back to functional systems and seeing the latter as the determinants of organisations' decision-making. The system type 'organisation' is not structured in accordance with the coding of functional systems (Nassehi 2002). For this would mean abandoning the distinction between organisation and society or, more precisely, abandoning the differentiation between system levels and system types in the framework provided by the theory of functional differentiation. A differentiation theory perspective will thus proceed on the assumption that there are complementary processes of system formation and will describe the reproductive link between organisational and functional systems in terms of a relationship of reciprocal conditioning (Lieckweg/Wehrsig 2001). If we consider that organisation has differentiated itself as a separate category of system that cannot be derived from functional systems, then we can achieve a more precise understanding of the problem by distinguishing between organisation and society. We can then acknowledge that organisations participate in

several different functional systems and that their decisions are not governed by just one logic of meaning. In order to survive in society, organisations frequently have to give weight to different criteria when making decisions. At the same time, it is clear that most organisations have a *basic orientation* towards a certain functional logic to which they are then assigned. It is only when we see a preminent orientation and corresponding attributions to functional systems that we speak of *economic, scientific, political*, etc. organisations.

The distinction between organisation and society is also important in another respect in any exploration of corruption. We had already established that functional systems are meaning systems: they are responsible for coding communication. As functional subsystems, they cannot make decisions and they cannot communicate. This is not the case for organisations, however, which are social systems that reproduce themselves by means of decisions and that communicate through decisions. This is very significant when it comes to the issue of corruption, for when corruption is observed, then it is in the form of *decisions*. Thus, corruption arises when organisations (networks, groups or individuals) that are assigned to particular functional contexts fail to uphold the appropriate functional logics in their decisions. Corruption is an example of organisations 'using the codes of functional systems in accordance with their own logic' (Lieckweg/Wehrsig 2001: 40). Alfons Bora has shown that these processes must on no account be considered as phenomena of de-differentiation of modern society. What is interesting is that such processes show that functional differentiation is maintained at the level of functional systems. Moreover, it is the very differentiation of specific horizons of meaning in communication (truth, money, power) that allows the linkage of different logics of meaning. If society were not functionally differentiated, then corruption could not be observed (cf. Smelser 1971). Using the example of the politicisation of legal decisions, Alfons Bora demonstrates empirically that functional differentiation is a prerequisite for the confusion of horizons of meaning, for these can only occur within this framework (Bora 1999). Social trends such as politicisation, juridification, scientification and economisation are thus consequences of decisions taken at the organisational level whose genesis cannot, however, be adequately described by organisational sociology. Each of these trends exemplifies the observation that the dominant orientation of an organisation's decision premises has allowed itself to be corrupted by another logic of meaning. Now we may ask whether certain types of organisation are more susceptible to corruption than others, although it will not be possible to develop this question within the framework of systems theory. Systems theory's strength lies in the elaboration of a *general* theory of formal organisation. But a general theory cannot achieve a re-specification with respect to particular types of organisation. While systems theory does differentiate organisations in terms of functional systems by asserting – as pointed out above – that organisations have a basic orientation

towards a certain functional logic, it does not provide a theoretical explanation for this (implicit) typologisation of formal organisations (cf. Tacke 2001).

To sum up, infiltration by an extraneous logic does not take place in the functional systems of society, rather at the level where decision-making is determined. This insight, which is owed to systems theory, takes us a decisive step further than Smelser's analyses. The decision premises of organisations adopt extraneous criteria, and so it is at the level where decision-making is programmed that logics of meaning can become confused. Thus, it is not politics that is corrupt, nor even the political system, but the organisations, networks and individuals who belong to the political system (cf. Baecker 2000).

If we generalise this observation and view corruption in differentiation theory terms as a linkage between different system logics, then there are important consequences for a sociological perspective on the topic of corruption. *On the one hand*, it becomes clear that corruption emerges as society is differentiated. *On the other hand*, it likewise becomes clear that the phenomenon of corruption cannot be restricted to linkages between politics and business. This can be demonstrated by an example from the German health system known as the 'heart-valve scandal', which took place in the mid-1990s and involved a total of 1,860 doctors and technicians working in 418 hospitals.³ This group of people cheated the German health insurance funds, and thus their contributory members, by overcharging for heart valves and technical appliances. The intersection of different horizons of meaning, in this case medicine and business, is also evident in this example. And it is only because there is this intertwinement of functional systems that we call corruption. When norms are breached within the confines of the context of medicine, then this is considered malpractice or a violation of the Hippocratic Oath. In the context of business, such deviations from the norm are said to constitute fraud, bribery, or white-collar crime in general. But corruption is only observed when different horizons of meaning intersect. And there is no need either for money to change hands or for the law to be broken in order for corruption to be observed. The conceptualisation of corruption I have proposed here as the linkage of different horizons of meaning in social communication allows us to *compare* very different forms of corruption from the same perspective.

An example of corruption without money changing hands can be found in the practice of linking science with politics. In other words, scientists are corrupt when their work is guided by political rather than truth criteria.⁴ Such work is then recognised as being 'partisan', for example as being too friendly

3 The numbers involved are provided simply to give an idea of the empirical dimensions of a corruption network. For additional data and a description of this case, cf. Scheuch (2002).

4 The example does not refer to a kind of science that can be bought, rather to science that proceeds on the basis of a particular ideological standpoint.

to trade unions, and is filtered out of scientific communication. The same kind of corruption can be found in the art world, especially in the case of commissioned work. An artist can be rapidly judged to have succumbed to corruption when expectations that are external to art (e.g., political correctness) become relevant.

Another example of a system being infiltrated by an extraneous logic is when political decisions are based on religious arguments – for example, in the case of political decisions regarding the application of reproductive medicine, or when the question of tolerance of religious symbols in schools is on the political agenda. There are many other examples, and in every single case what we are clearly dealing with is a breakdown in functional differentiation at the level of organisations and networks.

This conception of corruption, which is grounded in social theory and defines itself in terms of differences in meaning and the linkage of different meanings, reframes the questions at the heart of corruption research. It does not distinguish between conformist and deviant behaviour, nor does it deal with any of the particularities of the abuse of public goods. The shortcomings of the latter kind of conceptualisation are all too familiar. Even the question as to what exactly constitutes ‘abuse’ can bog the debate down in definitional disputes.⁵ And so we arrive at a conception of corruption that may irritate some readers because it diverges so significantly from the customary definitions. This is not only because a theory-driven vision of corruption must ignore the boundaries of the *public sphere* in order to be able to show in a social theory analysis that such structural intersections occur in all sectors of society, not just in politics. Unlike everyday communication, in which corruption is always considered to be reprehensible,⁶ a theoretical reconstruction dispenses with normative preconceptions. This allows us to describe the constitutive conditions of such structural formations and also to examine cases of positively assessed corrupt behaviour.⁷ The evaluation of corruption does not

5 In the simplest scenario, a change in the law would suffice to render corrupt behaviour acceptable. Possibilities that spring to mind are funding for political parties and the ‘second’ jobs of parliamentary deputies. Indeed there have been many cases (not only in Italy!) of these and other kinds of corruption being legalised (Kurer 2003: 46).

6 In their reflections on the concept of corruption in everyday language, Fleck and Kuzmics point out that ‘*what* is considered morally reprehensible and *whether* certain behaviour is considered in this way varies from time to time (and from place to place), but *the fact that* attributing the label is equivalent to an evaluation is as good as unaffected by social change’ (1985: 7, original emphasis). This observation is also confirmed by the word’s etymology. *Corruptere*: ‘spoil’, ‘debauch’, ‘damage’, ‘demolish’. Incidentally, the same connotation has also penetrated political and social science analyses. Cf., for example, C. J. Friedrich’s influential work ‘The Pathology of Politics’ (1972).

7 We are in good sociological company here, as shown by a glance at Max Weber’s work: ‘Weber consistently makes ‘technical’ use of the corruption and bribery vocabulary of Western culture, but he never adopts the values with which these labels are charged and sensationalised. Corruption and bribery are placed in a relational context and in most citations

take place at the level of its constitution, but at the level of its observation by society. And this brings us to the topic of ‘morality’.

4. Morality

It is easy to see that the social observation of corruption is a matter of moral communication. In the perception of third parties, the intermingling in politics of different logics of meaning is considered morally reprehensible. Observers can invoke the expectation that particular horizons of meaning (power, truth, etc.) should be upheld. When this does not happen, then we are faced not only with a violation of norms, but in a very moral sense with political or scientific or some other kind of abuse. Interestingly enough, such moralisations can be highly selective. If an entrepreneur against his or her own economic wisdom does not shut down a business outlet that is operating at a loss and motivates this decision politically in terms of a sense of responsibility for local employment and for the development of the region (thus linking the meaning horizons of politics and economics), then this entrepreneur would never be considered a corrupt businessperson. Likewise, the decision to keep operations afloat would never be considered morally reprehensible. On the contrary, an entrepreneur of this kind would become the object of an unusual degree of moral esteem. Thus, morals do exist in business, and they also make a difference. A good example here is the *Brent Spar* case. *Brent Spar* was the name of an oil-storage platform located in the North Sea that the *Shell* company decided to sink on site in 1995 because this was likely to be cheaper than disposing of the structure on land. In a campaign that attracted huge media attention, the environmental protection organisation *Greenpeace* succeeded in persuading the company to dispose of *Brent Spar* on land after all for ecological reasons. In this case, too, then, there is an evident fusion of system logics that was by no means considered morally reprehensible. The same applies to the example mentioned above of religious arguments infiltrating politics. This type of linkage of different logics of meaning is usually not called into question for moral reasons. At least in Germany, one rarely hears the allegation that politics has allowed itself to be abused or corrupted by religion. So how do such differences come about? We will clarify this question in the following, for otherwise the proposed conception of corruption would appear substantially less plausible.

The observational framework of morality, that is, approval versus disapproval of behaviour (Luhmann 1978), is clearly applied selectively, for the linkage of different system logics is not always subject to disapproval. In fact, once again ‘at the end of the day it is the communicative purpose that

they are identified clearly as ‘structural’ social realities, not as motivational phenomena or universal moral standards’ (Schmidt 2003: 72).

gives a moral quality to a meaning or a sign' (Luhmann 1978: 52). The fact that the presence or absence of corruption depends on observation becomes very evident within the context of morality. And this becomes even clearer when an additional distinction is introduced, that is, the distinction between *self-serving* and *selfless* corruption.⁸

It can be assumed that politics is particularly exposed to moral judgement and that bribery in politics is considered especially reprehensible. One of the likely reasons is that political power is bestowed by third parties and also constitutes a relationship of subordination, so that the exercise of political power comes attached to moral expectations. This bond is further strengthened by the fact that moral communication has a strong personalising effect, which increases the likelihood of conflict. Thus, moral communication finds a particularly welcoming ground in politics, for in the political system, too, decisions are attributed to a substantial extent to individuals (Luhmann 2000b: 380). The strong tendency of moral communication towards personalisation and its associated tendency to engender conflict together facilitate the scandalisation of events in the political system (e.g., the exposure of corruption) – something which is much less easy in other subsystems of society.

But one can also find examples where there is no moral condemnation of political corruption. Morality is not always dosed out in the same way. Evidently, the moral observation of corruption depends on whether or not a special advantage has been obtained. The impetus to moralise wanes when the particular gain that arises as a result of corrupt behaviour is not received by an individual but actually benefits a collective interest (however 'particular' that interest may be). We are familiar with the moral evaluation of deviant behaviour when it takes place in a 'selfless' way. For instance, there is something altruistic about the destitute mother who steals to feed her children, and even criminal law takes her circumstances into account. Self-enrichment for reasons of greed, by contrast, is reprehensible. So we see that the judgement varies depending on whether exclusive advantage has been obtained or whether third parties have benefited. This is an example of the 'double standard' of moral communication (Luhmann 1978). It makes a significant difference to moral judgement if evidence of altruistic motivation can be found behind deviant behaviour. This is why moral judgement tolerates advantages obtained on behalf of third parties. As an example of the 'double standard' of morality, we note that until 1999 in Germany, bribes that were paid to attract foreign contracts were tax deductible as business expenses. The reason given for this practice was that it did not damage the German taxpayer in any way; on the contrary, when the bribes paid off, the taxpayer would be rewarded through the overall increase in tax revenue.⁹ In the moral

8 This leads to an interesting departure from current definitions of corruption, which are based on the distinction between damage to the common good and no damage to the common good. Morality is interested in whether or not personal advantage has been 'earned'.

9 This and the following example are taken from Scheuch (2002).

observation of corruption, therefore, it makes a difference whether the latter is seen as *personal enrichment* (self-serving behaviour) or as *selfless corruption* (Scheuch 2003). The party-funding scandal under the Kohl government demonstrates this distinction again quite clearly. When the then Federal Chancellor was accused of illicitly receiving two million Deutschmarks, he defended himself by saying that he had violated the German Political Parties Act only for the good of his party and that he had in no way personally enriched himself. In other words, he had engaged in *corruption for the benefit of the corporation*, as Scheuch dubs this pre-modern practice. And again morality (the moralising of society) makes a distinction here.

There are therefore thresholds of tolerance in the moral observation of corruption and these thresholds are based on just one convention: corruption carried out in the interests of the collective tends to be tolerated. This observation entails a whole package of other explanatory factors that cannot be detailed here. But it is now clear why international organisations are believed to be particularly corrupt. There are many familiar examples: member states of the European Union that exploit the EU budget for the good of their own countries (Warner 2000); the United Nations, which is believed to be so corrupt that the USA managed to refuse to pay its U.N. dues for years on the basis of this argument; the World Bank, which was pilloried by its own directors when corruption there got completely out of hand (Eigen 2003). Network relations in international and global organisational contexts offer the perfect structural conditions for the practice of selfless corruption.

Taken together, these considerations suggest an answer to the questions posed above as to why there is an absence of disapproving moral judgement when religious provinces of meaning infiltrate politics or when economic organisations act politically. The reason is that no self-interest is observed in these cases. Thresholds for moralisation vary depending on attribution. This is why politics can be corrupted by religion, science, law, etc. without this causing moral indignation. Likewise it explains the many examples of corruption for the benefit of the corporation (company, political party, school, etc.) that are not considered to be instances of corruption in everyday communication. And it also explains why politicians are often forced to resign as a consequence of relatively harmless cases of illicit gain: this is more likely to happen when their behaviour is considered to have been directed towards personal enrichment. These preliminary considerations indicate that the moral observation of corruption is one of the most exciting areas of corruption research. Thus, both for theoretical and empirical research, the most important question in the field becomes the problem of the second, moral observation of linkages of meaning – this is the challenge against which a definition of corruption based on differentiation theory must prove itself.

What still remains unclear, however, is the relationship between corruption and networks. This question will be dealt with in the following section.

5. Networks

If we think about networks in politics, then the *spoils system* comes to mind. Political organisations appear to specialise in controlling official posts and power advantages by means of networks of relations (Luhmann 2000a: 110). In the political domain, vacancies are usually not filled on the basis of external recruitment but as a consequence of internal promotion (Bosetzky 1974; Luhmann 2000a: 104). Networks of contacts are activated in order to push through exclusionary decisions (Luhmann 1995a: 237-264). While, on the one hand, careers are owed to the selection procedures practised by organisations (Luhmann 2000a: 101), on the other, selections (decisions) are always under-determined by formal criteria. Even supposedly 'rational' personnel decisions are influenced by particular interests. And yet patronage is not always met with disapproval. There are examples observed in political and economic organisations that demonstrate that the acquisition of loyalty through selective recruitment is socially acceptable. This applies, for example, to enterprises that favour the children of their employees when recruiting apprentices. There are strong indications that such family network structures also come into play in the allocation of apprenticeship places in the public administration and in connection with careers in party organisations.

We see patronage as the *forecourt* of corruption. In other words, we deviate from the familiar understanding of the concept, which includes patronage under the label of corruption as a form of 'abuse of political power'. But if our point of departure is that corruption corresponds to the linkage of different horizons of meaning, then it becomes clear that patronage is a different type of use of political power. Contact networks of this kind do not seek to link different functional logics. Their brand of particularism organises recruitment within the confines of system contexts (political, economic, scientific, etc.). At the same time, however, this can constitute a kind of preparation for corruption, for in this way expectations can be established. Just as it is generally accepted in the case of gift exchange (Mauss 1990), it is not the good that is given that creates an advantage for the patron, rather the obligations that are created through the giving (and receiving!), however indeterminate these obligations may be. Patronage establishes expectations of reciprocity (Stegbauer 2002).

When what is at stake are not apprenticeship places or patronage, rather leadership roles for which external candidates are sought, networks become important in another sense. In this case, it is the contacts enjoyed by individuals that seem to legitimise a style of personnel recruitment that draws on personal relationships. In a sense, what is recruited is the candidate's network, which is counted as a gain for the organisation. When it comes to filling leadership positions, professional personnel recruiters are actually expected to adopt this kind of approach. Thus, when it seemed that *Deutsche Bank* would soon need a new chief executive, it was felt that it might be a

good idea to offer the position to a well-known politician because he or she would be certain to have good contacts in Brussels. In this case, an individual's network is explicitly identified as an outstanding characteristic and as a reason to consider a politician for the job and not, for instance, a candidate from the financial sector.¹⁰ This is a patent example of linkage between the meaning horizons of politics and business being viewed positively. Indeed, when it comes to positions on supervisory boards or advisory committees, this is one of their very functions. The same applies to the advisory committees of other organisations, such as in science, sports, or art. Their purpose is to act as a conduit for the infiltration of foreign rationalities into their own organisational context. Networks of this kind serve as a means of coordination with the organisation's environment (Luhmann 1995a: 237-264). Such links are suspected in everyday communication as being corrupt when no visible 'payment' is made for the indulgences that are disbursed. For even if there is no proof of direct influence on the decision behaviour of individuals, everything we know about reciprocity tells us that 'some kind' of payment will be made.¹¹ Reciprocity as a *universal* norm tells us that one-sided payments must always be seen as advance payments that imply the expectation of subsequent settlement: 'Because reciprocity is a general guide to action with which everyone is familiar, it is almost unthinkable that a person could receive a gift without giving something else in return, especially when the names of the givers have remained a secret' (Stegbauer 2002: 71). What immediately spring to mind here are anonymous donations to political parties. But the same also applies to white corruption, such as including politicians on the payroll of enterprises.

Both network research and corruption research identify particularism as the driving force behind the establishment of such arrangements. Differentiation theory takes a different perspective in that it examines the relationship between functional systems and organisations or networks. It thus becomes evident that different logics of meaning cross paths at the organisational and network level. The particularism of such structural formations can then be described as a secondary effect that only emerges as a result of the confusion of different meaning horizons. And the question as to which structural preconditions render networks susceptible to corruption can now be clarified. When organisations establish networks between politics and economics, they also create linkages between functional areas of society. In other words, network formation is a *linkage technique*.

This conception of network formation as a linkage technique draws on a proposal developed by Veronika Tacke (2000) in the context of network theory. She believes that networks are constructed by means of a reflexive com-

10 Cf. 'Aktionärsrevolte: Hedgefonds will Deutsche Börse verkaufen'. *Spiegel Online*, 10 May 2005. URL: <http://www.spiegel.de/wirtschaft/0,1518,355331,00.html>.

11 Let us recall at this point the 'do ut des' principle of Roman contractual law: 'I give so that you may give'.

bination of *addresses* that are embedded in different contexts of meaning. Addresses are thus said to be ‘polycontextural’. The construct of addresses indicates that organisational networks – just like personal networks – do not link individuals, but the *characteristics* of individuals (or positions or official functions). This means that networks link specific – not arbitrary – addresses. These considerations evince the structural similarity existing between corruption and networks. It is therefore no surprise that the increased significance of personal and organisational networks discussed in the literature since the mid-1980s has also been seen in relation to ‘de-differentiation’. As Veronika Tacke shows, however, networks, in order to develop, require a functionally differentiated social structure. For it is only in such conditions that polycontextural addresses can emerge at all and then be re-combined in response to the new opportunities created by the linkage. We can also apply this reasoning to the level of organisational and contractual relationships and ascertain that the purpose of hybrid organisational networks is not to dissolve organisational boundaries; on the contrary, the parasitic nature of networks is evidenced by the fact that they latch onto existing structures: ‘Networks of this kind lack an independent existence from the outset, as many traditional interpersonal networks have. They only develop where exploitable institutions already exist’ (Teubner 2001: 561).

The structure of networks of personal contacts teaches us that successful relationship networks really do establish a link between addresses from different context meanings. Their particular characteristic is to constitute a bridge across ‘structural holes’ (Burt 1992). Ronald Burt has examined this quality in the organisational context, using the example of personal networks that transcend departmental, functional and group boundaries. Burt believes that the success of these structural formations lies in the intersection between ‘social worlds’ and that this is evidenced by the ‘heterogeneity of the contacts’ (Burt 2004). In the language of differentiation theory, address networks of this kind create a link between different horizons of meaning in communication. In this context, Burt emphasises the technique of *brokerage* underlying the linkage of addresses. And he also discusses the *corrosive effects* that may accompany brokerage, such as fraud, organised crime and corporate misgovernance (Burt 2004: 354).

If we want to look at networks of contacts between politics and business that are found beyond organisational boundaries, then we can examine this linkage technique in an area of the service sector that specialises in the creation of networks of addresses. I am referring to lobbyists who act as commission brokers or ‘PR advisors’ and who play a vital role in the realm of corruption. The particular service provided by these *address brokers* is to connect people from different functional contexts. Here, too, it is not the individuals themselves but the specific characteristics they possess – such as capacity to exert influence – as a consequence of their position in a particular organisation that make specific addresses interesting for networks. Both the

recruitment of specific addresses and the motivation to participate in a network are guided by the following consideration: What possibilities that I currently do not have can become available to me through the possibilities of others? The possibilities in question can range from access to intentions regarding future investments to decisions regarding the provision of intensive-care facilities in a particular federal state. Addresses are thus created depending on the particular opportunity of the moment. At the local level, and especially in the building trade, it is engineers' offices and 'project consultants' who act as address brokers between business, politics and the public administration (Rügemer 1996). In every case the goal is to improve the available options, and this requires links that extend beyond system boundaries. Contact networks within and between organisations are activated when people begin seeking access to something that otherwise would be precluded to them.

The heterogeneity of contacts also becomes significant for another reason, and this requires a brief explanation in the context of corruption and networks. The fact is that the heterogeneity of the constituent contacts of networks significantly enhances their stability. This is because

'there is a lack of instruments for returning favours and repaying assistance, provision of access and brokerage across the boundaries of meaning; as a result, the question of social compensation for services rendered must be shifted into the time dimension as a kind of credit against as yet unspecified return services' (Tacke 2000: 305).

However, the possibility provided by polycontextural addresses to postpone and leave indeterminate the recompense not only extends to the temporal dimension. Gouldner (1960) speaks of heteromorphic reciprocity when *who* exactly is going to repay the debt remains unspecified. Thus, we can imagine that instead of the recipient of the original favour, a third party might step in who 'some day' will extend an as yet unspecified courtesy. Recalling how Tacke describes generalised reciprocity as a mechanism that stabilises network relations, this explains both how corruption arises through the establishment of relationships of dependency within networks and how such structures manage to survive over the long term. Höffling (2002) accurately reconstructs corruption as a *social relationship*. The significance of this in empirical terms can perhaps be illustrated by the case of a former German Bundestag deputy who was sentenced in 2003 to three years in custody for fraud involving bid rigging, among other offences. When it came to the repatriation of the monies involved and the public prosecutor offered the enterprises that had suffered the damage the funds seized from the guilty party, the former declined to enforce a claim. In this way, the six-figure sum was restored to the corrupt ex-politician.¹² Thus, another stabilisation mechanism can also take effect in the context of corruption: The 'resource of illegality' (Luhmann 1995a: 256) is used by networks to protect themselves against dis-

12 Cf. 'Justiz pfändet eine Insel'. Neue Westfälische, 10 May 2005.

appointed expectations. Participation in an illegal network renders one susceptible to blackmail and it is especially because of this that a network of relationships can achieve a high degree of stability. Illegality can thus be used as a resource to protect the structure of such arrangements against deviance. And this is all the more true when the exit option can only be contemplated in association with the acceptance of one's own downfall (Luhmann 1995b).

6. Corruption and networks

The above considerations have shown that both public opinion and research on the subject assume that there is a certain affinity between corruption and networks, despite the lack of a theoretical contribution that explains this constellation. The question that arises, then, is what form a sociological approach to the phenomenon might take. This text develops the theory that established definitions of corruption, which describe corruption in terms of exercise of influence and defence of interests, cannot provide satisfactory answers to this question. I argue that the structural conditions of modern society behind the emergence of corruption and networks cannot be reconstructed within the terms of this kind of definition. Thus, I propose the adoption of an approach based on differentiation theory. The latter theory provides an analysis of the *social structural conditions* of corruption and can reveal the way in which the macrostructure of modern society is circumvented at the organisational level. The comparative strengths of systems theory lie in analysis guided by social theory. If we look at corruption from the perspective of the functional contexts of society, then we come up against structural 'confusions' that are not provided for within functional differentiation. We find linkages between horizons of meaning that appear to deviate from social differentiation. Such observations generate irritation and society responds with an increase in moral communication.

But how is it possible that system logics can be ruptured and the structural and ideological premises of functional systems not be maintained? I argue that the explanation can be found in the distinction between organisation and functional system. System differentiation seen in terms of meaning differentiation organises social communication in accordance with its codes. But the social operation of communication does not take place at the level of functional systems, rather at the level of organisations, networks, groups and people. And so it is only by distinguishing between system level and system type that we can gain insight into how confusions in the scheme of meaning can come about. Once a distinction has been made between organisation and society, it becomes evident that organisations make use of the codes of functional systems according to their own needs (Lieckweg/Wehrsig 2001). Organisations operate as multi-referents and this means that their decision-making is not necessarily guided by a single logic. Seen from the perspective

of functional differentiation, therefore, corruption appears to correspond to a feeding in of foreign meaning logics at the programming level of organisations. And so it is the organisations of the functionally differentiated society that allow the primacy of functional differentiation to collapse and that deliver it to deviance.

What can we learn from all of this for coping with corruption? We cannot derive direct recommendations as to how to combat corruption from systems theory analyses. At the same time, this much becomes clear: The situation of politics is paradoxical. As Burt's work (1992; 2004) and research inspired by it have shown, heterogeneous networks are seen as social innovations. Cross-linkages that transcend boundaries of meaning lead to an incrementation of options and, in favourable cases, result in socially desired outcomes. This is why politics promotes network formation between research institutes and enterprises, for example. Moreover, the catchword 'public governance' characterises heterogeneous organisational networks as efficient structures of political management. This means, on the one hand, that cross-linkages between public and private organisations may manifest performance advantages that are not perceived as corruption. On the other, political arrangements of this kind suffer from a legitimacy deficit which is currently the subject of intense discussion in governance research (cf. Pierre 2000; Rhodes 2008). The structural affinity of the constitutional conditions of networking and corruption are not highlighted as a problem in governance research carried out in the context of political science, and the question begs itself: Why ever not? But even regardless of the answer to this question, the dilemma of politics is evident to the empirical observer: If politics wanted to prevent the infiltration of foreign provinces of meaning into the decision-making premises of political organisations, then it would have to fall back on the Weberian model of bureaucracy, which – ideal typically – guarantees the differentiation of functional contexts at the level of formal organisations. Nobody would ever seriously want to recommend this solution. Modern society uses the term 'public governance' to describe the phenomenon whereby inter-organisational networks have become a paradigm of political management across functional boundaries. This development is also accompanied by the second observation from the moral perspective. The debate in governance research on the legitimacy deficit is registered in social communication as a loss of confidence in the organisations of representative democracy.

The observance of a linkage between meaning horizons draws attention to structural affinities between corruption and networks. Network formation can be reconstructed as a linkage technique aiming at a reflexive combination of addresses (Tacke 2000). It has been established that successful networks derive their performance advantages through the linkage of different meaning contexts (Burt 2004). Unlike action theory approaches, which see the particularism of defending one's own interests as the structural characteristic shared by both corruption and networks, the argument presented here con-

cludes with an outcome supported by social theory. On this view, it is not particularism that renders networks susceptible to corruption, for not every network is corrupt: There are supplier networks in the car industry, research networks in sociology, networks of artists in the visual arts, etc., that cannot be associated *per se* with corruption. In fact, we only observe corruption when the meaning horizons of communication from different functional contexts are linked *and* when these linkages are judged to be morally reprehensible.

Thus, the proposal developed here can be extrapolated in three steps: (1) It is based on the observation of a functionally differentiated society. Functional differentiation means that at the level of the *functional systems* of society, communication is structured in accordance with specific codes (law, power, knowledge). Functional systems are meaning systems (i.e. horizons of meaning). Their codes operate exclusively. The differentiation of diverse functional contexts is the prerequisite for the observation of corruption. (2) The level of functional systems must be distinguished from the level of *organisations*. The differentiation of meaning horizons that takes place at the level of functional systems is not always maintained at the organisational level. Unlike functional systems, organisations (just like people, groups and networks) are systems that are capable of decision-making. Their decisions *can* (but do not have to) link different meaning contexts. When such linkages of different meaning structures occur, then the logic of functional differentiation founders at the level of organisations. In the observational framework of functional differentiation, it thus becomes evident that the logic of the functional system to which an organisation is ascribed is being corrupted at the organisational level by another value. This ‘first observation’ of the linkage of meaning is none other than the observation of a structural question in the scheme of functional differentiation. It is connoted neither positively nor negatively. (3) Only in a third step, that of the ‘second observation’ within the moral scheme, are such structural linkages evaluated in social communication and labelled as acceptable or reprehensible.

We thus make a distinction between conditions of constitution and their observation (1) and (2), and the evaluation by society of social phenomena (3). When it comes to the second observation of social communication, which of the structural linkages described are labelled as reprehensible and denominated colloquially as corruption depends on current morals and is thus contingent on history. What are not contingent, however, are the structural conditions that must be observed in order that a phenomenon can become the subject of a moral discourse and in order that corruption can potentially be labelled as reprehensible.

An examination of morality provides possible preliminary answers to the question as to why politicians are particularly vulnerable to allegations of corruption. Moral communication has a personalising effect and thus shows a strong tendency to generate conflict. Just like morality, politics is based on the personalisation of decisions and on playing out conflicts. The attribution

of decisions to individuals and the moral evaluation of these individuals are more common within the context of competition between political parties than in contexts where society observes business or science. This opens up new questions that this text can do no more than mention, for example regarding the 'double standard' of a morality that tolerates unselfish corruption. How society reacts to corruption is decided within the observation scheme of morality, which adheres its own rules of attribution. This is where the main research questions of this area of study are to be found.

The strength of systems theory is that it can render evident these different observational conditions. As a constructivist theory of observation, its epistemological interest is to reconstruct, with the help of social theory differentiations, how and by whom something is observed. It considers the attribution of causes and the packaging of ontological characteristics into definitions as observer-dependent constructions. This text has demonstrated this process in relation to the observation of corruption.