

LA3D1-15 Corruption and Law

24/25

Department

School of Law

Level

Undergraduate Level 3

Module leader

George Meszaros

Credit value

15

Module duration

10 weeks

Assessment

100% coursework

Study location

University of Warwick main campus, Coventry

Description

Introductory description

Law's opposition to corruption is well known. Law possesses a uniquely powerful role in both prescribing and sanctioning corrupt conduct, to say nothing of confiscating its proceeds. Corruption is taken seriously at the highest levels, as illustrated by the legally binding United Nations Convention on Corruption and the Organisation of Economic Cooperation and Development's (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. At the national level too, most countries across the globe have established an extensive array of anti-corruption legislation and anti-corruption institutions.

Although instinctively we all 'know' what corruption is, strikingly, the UN convention does not define it, preferring instead to give concrete examples. This inability to define corruption is not accidental or confined to international conventions. It reflects corruption's differentiated, contextually embedded and complex nature as well as conceptual challenges. Although there are definitions out there, like corruption as 'the abuse of public office for private gain', such state centric definitions have come under increasing scrutiny. Privately driven corruption is increasingly acknowledged, hence the broader definition, 'the abuse of entrusted power for private gain'.

An additional problem lies with law itself. Although prima facie opposed to corruption, many observers are beginning to question its relationship to corruption. Daniel Kaufman, an architect of World Bank anti-corruption strategies, has coined the term 'legal corruption' to describe law's potential as driver of corruption through a host of enablers (accountants, tax advisors, etc). In a

similar vein, the legal scholar Lawrence Lessig has developed the concept of 'institutional corruption', giving the example of campaign finance as both a legal and a corrupting influence on US politics and its constitutional arrangements.

More radical conceptions acknowledge law's disastrous legacy in earlier events and institutions like land enclosure, piracy, colonialism, and the East India Company to slavery – all of which were legally underpinned. Were these corrupt enterprises or something else, and if so, what does that tell us about the applicability and value of this term and role played by law? Recent debates by Transparency International asked whether 'tax abuse' (often legally enabled) should be defined as corrupt. It declined to accept that definition on the grounds that whilst two sides of the same coin, they are analytically distinct.

Through a series of contemporary examples and historical case studies, ranging from modern finance and 'white collar crime', to historical modes of accumulation and dispossession, we will explore the complex, contradictory and challenging relationship between corruption and law.

Module aims

The module aims to introduce students to selected features of international and national legal orders governing anti-corruption.

Conduct contemporary and historical case studies, including role play, in order to introduce students to contemporary debates, theorisations and institutions governing corruption and law.

Develop critical thinking about the normative assumptions underlying definitions of corruption, the complexities of this phenomenon, as well as assumptions governing the design and development of legal institutions designed to combat it.

Develop a critical awareness of some of the limitations of legal enforcement, including criminalisation.

Encourage students to engage, both conceptually and practically, with the complex and challenging relationship between corruption and law, including concepts like 'legal corruption' and 'institutional corruption'. Critically apply their understanding to historical and contemporary settings.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

1. The legal architecture and the case against corruption; international conventions, national laws, regulations and enforcement bodies.
2. Conceptualising corruption: defining, measuring, normative and ideological assumptions.
3. Corruption and law discourses in historical perspective (for example the cases of enclosure, piracy, colonialism and slavery).
4. Exploring corruption and law in historical perspective (for example East India Company to the South Sea Bubble).
5. Contemporary case studies of corruption in a global context (for example the Great Financial

Crisis of 2008)

6. Contemporary case studies of corruption in the UK (for example cases addressed by the Serious Fraud Office).
7. New thinking on corruption (for example 'institutional corruption' and the concept of 'legal corruption').
8. Anti-corruption discourses: the viability and implications of criminalisation in high finance and politics.

Learning outcomes

By the end of the module, students should be able to:

- Understand selected features of international and national legal orders governing anti-corruption.
- Critically analyse contemporary and historical contexts where law and corruption play a pivotal role.
- Demonstrate transferable and interdisciplinary skills, including the ability to communicate concisely exchange ideas and develop a reasoned position.
- Find and use research materials, drawn from multiple disciplines, to construct a deeper and more nuanced contextual understanding of the constitutive elements of corruption and law.

Indicative reading list

Key Readings (asterisked) and recommended readings.

*Barrington, R (2020), The Governance of Corruption in the UK, CSC Working Paper no.6

*Barrington, R (2020), The UK Bribery Act: key lessons from the campaign, CSC Working Paper no.4

Brooks, G (2016) The Criminology of Corruption: theoretical Approaches, Palgrave Macmillan.

CLARK, R., 2019. 'Robinson Crusoe's Implausible Palisades: Privateering, Colonialism, Realism, Myth and the South-Sea Bubble'. *Études Anglaises*, 72(2), pp. 167-181, 251.

*Corner House Research & Ors, R (On The Application of) v The Serious Fraud Office [2008] UKHL 60 (30 July 2008) <http://www.bailii.org/uk/cases/UKHL/2008/60.html>

*Dalrymple, W. (2019) *The Anarchy: The Relentless Rise of the East India Company*, Bloomsbury, London.

David-Barret, E. 2017-18 Corruption, Dirty Capital and the London Property Market,

*Department for International Development (DFID) (2015) *Analysing the Impact of Corruption on Private Sector Development: Country Case Studies and Analytical Tool*
<https://assets.publishing.service.gov.uk/media/5a8031aae5274a2e87db8678/guidance-note-analysing-impact-corruption-private-sector-dev.pdf>

EU Tax Observatory, *Global Tax Evasion Report 2024*, 2023, available at <https://www.taxobservatory.eu/publication/global-tax-evasion-report-2024/>

*Goldberg, F. 'Corruption and lobbying: conceptual differentiation and gray areas'. *Crime Law Soc Change* 70, 197–215 (2018)

*Hawley, S. (2020) 'The UK's corporate crime rules – why urgent change is needed', *Spotlight on Corruption*, 10 November 2020, available at <https://www.spotlightcorruption.org/the-uks-corporate-crime-rules-why-urgent-change-is-needed/>

Graeff, P. (2020) 'Corruption' in George Ritzer and Chris Rojek (eds.) *The Blackwell Encyclopedia of Sociology*, John Wiley & Sons.

*Graycar, A. & Smith R (Eds.). (2011) *Handbook in Global Research and Practice in Corruption*, Cheltenham, Edward Elgar.

*Harvey, D. (2003) *The New Imperialism*, Oxford University Press, 2003.

Hindess, B. (2007). *Corruption*. In *The Blackwell Encyclopedia of Sociology*, G. Ritzer (Ed.). This was more generally sociological and critical of individualistic turn. Contrast might be good and they are short.

Howes, J. (2023). *The Art of a Corporation: The East India Company as Patron and Collector, 1600-1860* (1st ed.). Routledge India. <https://0-doi-org.pugwash.lib.warwick.ac.uk/10.4324/9781003379515>

*Hough, D. (2017) *Analysing corruption*. Agenda, Newcastle upon Tyne.

Hough, D. (2013) *Corruption, Anti-Corruption and Governance*. Political Corruption and Governance series. Palgrave Macmillan, London.

Johannesen, N. Miethe J and Weishaar, D. (2022), "Homes Incorporated: Offshore Ownership of Real Estate in the U.K", CESifo Working Paper No. 10159

*Khan, Mushtaq, Andreoni, Antonio and Roy, Pallavi, R. (2019) *Anti-corruption in adverse contexts: strategies for improving implementation*, SOAS Working Paper 013. <https://ace.soas.ac.uk/wp-content/uploads/2022/05/ACE-WorkingPaper013-AntiCorruptionAdverseContexts-Text-190909.pdf>

Kaufmann, D., Kraay, A. & Zoido-Lobaton, P. (1999) *Governance Matters*. Policy Research Working Paper Series 2196, Washington, The World Bank. Available at: <https://info.worldbank.org/governance/wgi/pdf/govind.pdf>

*Kaufmann, D. (2009) *Corruption and the Global Financial Crisis*, *Forbes*, January 27, 2009, https://www.forbes.com/2009/01/27/corruption-financial-crisis-business-corruption09_0127corruption.html?sh=453584b061b3

*Kaufmann, D., & Vicente, P.C. (2011) *Legal Corruption*. *Economics & Politics*, 23 (195-219).

*Keating, Tom and Bullough, Oliver, *Corruption and Finance in the UK: A Reality Check*, 25 Sept 2020, Rusi, available at: <https://rusi.org/events/research-event-recordings/recording-corruption-and-finance-uk-reality-check>

Law Commission on Corporate Criminal Liability, available at: <https://lawcom.gov.uk/project/corporate-criminal-liability/>

*Lessig, L. (2013) Foreword: 'Institutional Corruption' Defined . Journal of Law, Medicine and Ethics, Vol. 41, No. 3.

*Lessig, L. (2013) "Institutional corruptions", Edmond J. Safra Research Lab Working Papers No. 1, March 15 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2233582

*Levenson, T. (2020) Money For Nothing: The South Sea Bubble and the Invention of Modern Capitalism, Head of Zeus.

McLean, B. (2004) The Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron, Penguin.

*Meszaros, George (2020) Caught in an authoritarian trap of its own making? Brazil's Lava Jato anti-corruption investigation and the politics of prosecutorial overreach. Journal of Law and Society, 47 (S1) pp. 54-73

*OECD Anti Bribery Convention available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293>

*OECD legal instruments: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293>

OECD (2013) Issues Paper On Corruption And Economic Growth, OECD, available at <https://www.oecd.org/g20/topics/anti-corruption/issues-paper-on-corruption-and-economic-growth.htm>

Paul, H., et al. (eds.), 'Introduction', The Bubble Act: New Perspectives from Passage to Repeal and Beyond, Palgrave Studies in the History of Finance, Palgrave, 2023, pp. 1-11.

*Paul H., et al. (eds.), 'Royal Charters, Royal Power, and the Business of Empire', The Bubble Act: New Perspectives from Passage to Repeal and Beyond, Palgrave Studies in the History of Finance, Palgrave, 2023, pp. 195-219.

*Rose-Ackerman, S., & Palifka, B. J. (2016). Corruption and government. Causes, consequences, and reform (Second ed.). New York: Cambridge University Press.

*Søreide, T. (2006) Is it Wrong to Rank? A Critical Assessment of Corruption Indices, CMI Working Paper, Bergen, Chr. Michelsen Institute, available at <https://www.cmi.no/publications/2120-is-it-wrong-to-rank>

Szablowski, D. "Legal enclosure" and resource extraction: Territorial transformation through the enclosure of local and indigenous law, The Extractive Industries and Society, Volume 6, Issue 3, 2019, Pages 722-732

*Transparency International (2021) The ABCs of the CPI: How The Corruption Perceptions Index Is Calculated, available at <https://www.transparency.org/en/news/how-cpi-scores-are-calculated>

*United Nations Convention against Corruption (2013) A Resource Guide on State Measures for Strengthening Corporate Integrity

*UNODC United Nations Office on Drugs and Crime, A Global Community Against Corruption, UNODC Corruption and Economic Crime Branch, 2022 Annual Report, Vienna, April 2023. Available at: <https://www.unodc.org/unodc/en/corruption/2022-annual-report.html>

Westmore, K. (2022) Corporate Criminal Liability: Lessons from the Introduction of Failure to Prevent Offences, Royal United Services Institute, 30 |September 2022, available at: <https://rusi.org/explore-our-research/publications/emerging-insights/corporate-criminal-liability-lessons-introduction-failure-prevent-offences>

Research element

100 per cent of the summative assessment is constituted by a research essay.

Interdisciplinary

The readings are drawn from a wide range of disciplines, methodologies and there is a significant historical as well as contemporary focus. The texts will encourage critical thinking across a range of disciplines.

International

As well as examining module examines international treaties directly, the module encourages consideration of national adherence to treaties as well as considering country cases comparatively.

Subject specific skills

Understanding philosophical, economic and political bases behind conceptual constructions of corruption and legal institutionalisations (international treaties, regulatory and law enforcement agencies) for combatting corruption.

Awareness of relevant international treaties as well as legislation and institutions combatting corruption.

Awareness of contemporary debates around definitions of corruption; awareness of contextual settings; and efficacy of legal approaches to the issue.

Transferable skills

Transferrable skills for careers public administration, regulation, law enforcement, NGO's and journalism.

Critical thinking.

Demonstrate transferrable and interdisciplinary research and writing skills.

Awareness of context in defining scope and appropriate resolution of challenges.

Ability to articulate arguments orally and in writing.

Study

Study time

Type	Required
Lectures	8 sessions of 1 hour (4%)
Seminars	8 sessions of 2 hours (8%)
Private study	126 hours (63%)
Assessment	50 hours (25%)
Total	200 hours

Private study description

Reading and seminar and assessment preparation.

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Assessment group A

Weighting Study time Eligible for self-certification

Assessment component

To be determined with individual students	100%	50 hours	No
Essay			

Reassessment component is the same

Feedback on assessment

Written feedback

Availability

Courses

This module is Optional for:

- Year 2 of ULAA-M130 Undergraduate Law
- ULAA-M105 Undergraduate Law (3 year) (Qualifying Degree)
 - Year 2 of M105 Law (3 year) (Qualifying Degree)
 - Year 3 of M105 Law (3 year) (Qualifying Degree)
- Year 2 of ULAA-M131 Undergraduate Law (4 Year)
- ULAA-M106 Undergraduate Law (4 year) (Qualifying Degree)
 - Year 3 of M106 Law (4 year) (Qualifying Degree)
 - Year 4 of M106 Law (4 year) (Qualifying Degree)
- Year 2 of ULAA-M132 Undergraduate Law (Year Abroad)
- Year 4 of ULAA-M108 Undergraduate Law (Year Abroad) (Qualifying Degree)
- Year 2 of ULAA-M133 Undergraduate Law with French Law
- Year 2 of ULAA-M134 Undergraduate Law with German Law
- ULAA-M136 Undergraduate Law with Humanities (3 Year)
 - Year 2 of M136 Law with Humanities (3 year)
 - Year 3 of M136 Law with Humanities (3 year)
- UPHA-V7MW Undergraduate Politics, Philosophy and Law
 - Year 2 of V7MW Politics, Philosophy and Law
 - Year 3 of V7MW Politics, Philosophy and Law
- Year 4 of UPHA-V7MX Undergraduate Politics, Philosophy and Law (with Intercalated Year)

This module is Option list A for:

- Year 4 of ULAA-ML35 BA in Law and Sociology (Qualifying Degree) (with Intercalated year)
- Year 3 of ULAA-M131 Undergraduate Law (4 Year)
- Year 3 of ULAA-M135 Undergraduate Law and Sociology
- Year 4 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 4 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)

This module is Option list B for:

- ULAA-ML34 BA in Law and Sociology (Qualifying Degree)
 - Year 3 of ML34 Law and Sociology (Qualifying Degree)
 - Year 4 of ML34 Law and Sociology (Qualifying Degree)
- Year 3 of ULAA-M130 Undergraduate Law