

Preface and acknowledgements

Since the beginning of this century – a century that seems no less corrupt than the ones that preceded it – I have had the opportunity to observe corruption in many of its forms. I have studied the problem in different countries, both rich and poor, at different levels of governance, and in different industries and sectors. Equipped with a variety of analytical tools, I have tried to understand the mechanisms of bribery, the inner life of public institutions, and the political economy of governance in the most challenged societies. As a policy-oriented researcher and ‘governance expert’ – for a period employed by a large development partner – I have sought to come up with recommendations for governments and state institutions that want to do battle with corruption.

For a dozen years, while I thought my work was meaningful, some questions kept nagging at me, and left me feeling incapable of understanding the very problems I was expected to solve: Why is it so difficult to hold these gangsters accountable for their corruption? Why are those politicians and officials who are known to steal from state coffers not removed from public office? Why are firms allowed to continue their practices despite being widely suspected of offering bribes? How can civil servants extort clients for bribes undisturbed by law enforcement? I had approached corruption from many different angles, but not from a legal perspective, and I became increasingly aware that criminal law was the key to many of the problems I wanted to solve. After all, criminal law is the ultimate reaction to harmful acts in a society, and when this reaction cannot be relied on to hold offenders accountable, other integrity mechanisms – ‘international best practice good governance’ among them – seem to fail as well.

By a fortunate coincidence, as I came to this conclusion I was invited by the Faculty of Law at the University of Bergen, Norway (where I happen to live) to do a postdoctoral project on the economics of criminal law. The project, which is part of a research program called ‘Theory in Practice: Risks and Responses in the Modern Criminal Law,’ is financed by the Norwegian Research Council. The program managers are Jørn Jacobsen and Linda Grønning, to whom I am forever grateful, not ‘only’ for the three-year stay at their faculty, but also for our many lively

debates about criminal law and society. I am also very grateful to the faculty's criminal law research group, who had never before let an economist be part of their team. My handicap as a novice in law was graciously endured, and I was allowed to learn from my colleagues, who did not necessarily expect me to educate them about economics in return. What I *was* asked to do was to write something about what those involved in criminal law could learn from my experiences with various forms of governance dysfunctions, discuss some of the current criminal law challenges in the slippery world of corruption, and consider solutions from the perspective of both law and economics. Which is how this book began.

Much of the intersection between law and economics, I found, is *terra incognita*, a land largely unexplored despite the literature called 'law and economics.' The mere question of what constitutes an efficient criminal law response to corruption is usually understood very differently in these two camps. But by combining their different approaches to, and critiques of, criminal justice responses of corruption, it becomes easier to see what a well-performing criminal justice system might look like. In terms of developing sustainable strategies to combat corruption, the combined reasoning is greater than the sum of its parts.

Without direct and indirect support from colleagues, friends, managers and mentors, this book project would never reach its completion. In my studies of corruption, development and law enforcement, I have had the benefit of generous advice from more experienced researchers in the field. Especially, I want to thank Susan Rose-Ackerman, Kalle Moene, and Mark Pieth. Moreover, the book draws on insights generated over years engaged in the development community, and I am grateful for numerous useful debates with former colleagues at the Chr. Michelsen Institute (CMI) and the World Bank. The book project was encouraged by colleagues at the Faculty of Law, University of Bergen. Especially I am grateful to Linda Gröning, Jørn Jacobsen and Ernst Nordtveit. Also, a deep thank you goes to the Norwegian School of Economics (NHH), Department of Auditing, Accounting and Law, where I now work, for generously securing the opportunity to complete this book project – and encouraging continued research in the law and economics of corruption.

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Tina Søreide

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