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## Network corruption: when social capital becomes corrupted

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## Summary in English

### Network Corruption: When Social Capital Becomes Corrupted

Its meaning and significance in corruption and network theory and the consequences for (EU) policy and law

#### **The reason for this study, background and central question**

The first reason for this study is that a gap appears to exist in the available theories on corruption; very little research is available on corruption by a network, nor does the network theory thoroughly discuss the risks or pitfalls of networks. The second reason for this study is the observation that policies and investigations appear to be limited in dealing with corruption in network-like structures, while at the same time international and European organisations refer to ‘trading in influence’, political and high-profile corruption and the need to eradicate these forms of corruption. The descriptions of both trading in influence and ‘political corruption’ are such that they refer to a web, circle or network in which corruption occurs.

The current literature and research on corruption in network-like structures is not extensive, nor do literature and research on networks extensively discuss the pitfalls of networks or how such a collective can become corrupt. This study seeks to bridge both themes, thereby learning from the day-to-day reality of large corruption cases which are difficult to investigate, and comparing them to what is described in the existing bodies of literature on corruption and networks. Thus, understanding network corruption is relevant to prevent, detect and address corruption in our modern society. It will help create awareness and understanding of when social capital becomes corrupted.

In this study I consider the structure of the network and the responsibility in these networks in real-life cases: what consequences this has in terms of how the conduct should be assessed; what it means when corruption is a collective behaviour; and whether the behaviour of individuals can be assessed independently of the network. We need to understand which norms are laid down in the anti-corruption policies and models and compare them with the norms upheld in social networks, to explore whether it is possible to distinguish networks from network corruption. In particular, the various roles that individuals take on in such networks needs consideration. The three case studies (the FIFA case, the News of the World case and the Roermond case) concerned serious misconduct by a given set of persons having some form of loose association, but sometimes with little individual behaviour being criminal. In this study the link between networks and corruption is explored by means of the following central question:

*In what way and to what extent is corruption linked to the functioning of social networks, and what does this entail for our knowledge of corruption and networks and the policies to eradicate corruption?*

## Methodology

The method of conceptual analysis is used to unravel existing concepts of corruption before introducing a new concept, specifically: network corruption. My aim was to assess whether it:

1. is justified to use the definition of 'network corruption' (a question of its legitimacy)
2. helps in understanding the issues which policy-makers, practitioners and public prosecutors have to deal with (a question of insight: does it offer a better insight into the phenomenon of corruption?)
3. contributes in a practical sense (pragmatic value/user value: does it have added value for the practice of policy-making and investigation?)

In order to be able to lay the foundation for this study and in order to assess the value of the network corruption definition, methodological holism is used. In doing so, I react against the usual way of looking at corruption (methodological individualism) which is dominant in policy-making and investigation. Corruption is a social phenomenon which cannot only be understood by assessing it at the level of the individual. Methodological holism allows the assessment of social-level rather than individual-level mechanisms (Zahle, 2016). Zahle (2016) explains methodological holism as an approach which views social phenomena as being present in their own right. Social scientific explanations need not always be confirmed by looking at what happens at the level of individuals. On the contrary, moral responsibility for social phenomena can be attributed to collectives and groups.

The case selection allows an analysis to be carried out on the way in which network corruption functions in concrete cases and to assess whether this definition is of added value in trying to understand when networks become corrupted. This consequently concerns a conceptual analysis and an explorative study. The research method of case studies is exploratory in nature and therefore the context and the experiences of actors are critical. The concept of network corruption is introduced to assess whether this will work in practice. This concept is the start of a new theory and according to Eisenhardt (1989) this approach to case study research is popular among scholars when the phenomenon under examination is not adequately explained by pre-existing theories. (Freeman *et al.*, 2017: 3). By remaining close to the underlying ideas of the case study, the emergent theoretical explanation is inductively driven by observations. However, applying a new concept to real-life cases also depends on the richness of the underlying case descriptions. The purpose of this type of case study is less to confirm or refute the appropriateness of competing or complementing theories, but rather to explain a particular phenomenon to which the theory pertains and to determine whether its application helps to reveal its presence and features in real cases.

This study investigates the contemporary phenomenon of network corruption within its real-life context, but it would be unreasonable to look at all corruption cases in which a network played a role. The three case studies in this research concern the network of the international organisation FIFA, a network in the United Kingdom and the network of the municipality Roermond in The Netherlands. Three cases were chosen; in my view this is the required minimum number to make a real comparison and understand the similarities and differences in the cases. At the same time, this is the maximum number to be analysed thoroughly and within the time limitation. The focus was on understanding the mechanisms in each case,

which help in assessing how we should understand corruption which arises in the sphere of networks. The case studies offered an analysis of the corruption phenomenon, its context and the actors involved. This allowed for specific characteristics to be distilled and to practise methodological holism, making it possible to get to the essence of corruption, which would not be possible if methodological individualism had been used. Selecting these cases was not done at random. On the contrary, specific cases were selected. With the primary research question in mind (Yin, 2003: 24-25), the following logic was upheld:

- they were presented as large scandals, both in terms of the number of individuals involved and the size of the corruption involved;
- whereby the network was the centre of attention and brought in connection with corruption;
- they have (and/or had) a major impact on society;
- they emerged in developed democracies;
- besides corruption, other forms of misconduct were reported.

Through the triangulation of data sources (press releases of the public prosecutor, court hearings, independent forensic investigation reports, parliamentary inquiry reports, newspapers and informal anonymous talks) this case study research views and explores the phenomenon of network corruption from multiple perspectives. Concrete practical knowledge of corruption is scarce, but by using case study methodology, I hope to contribute to the international body of knowledge by developing a theory on corruption which is not only academic but practical.

### **Corruption literature**

The body of knowledge on corruption leads to the conclusion that corruption is a polymorphic concept. Recent literature on corruption does present the system and network approach of corruption, mostly by looking at how individual corrupt acts are in fact caused by the collective behaviour of groups and organisations (corruption is the norm and many are committing corruption). This, however, is still a focus in which corruption is understood as an act in a context, while this study seeks to explore corruption linked to networks, even if there is no individual corruption such as bribery. Having assessed the most used corruption definitions and typologies, I've come to define corruption as: "allowing improper interests to influence decision-making at the expense of the general interest." This definition does not differentiate between active and passive influencing, public and private sector involvement, individual and collective actors or the reciprocal relationship. The core of the corruption concept is that those with a form of decision-making power which directly affects the general interest take into account interests which should not be part of their consideration. This definition lies at the core of most definitions described above; this is what makes corruption to be a concern. Contrary to most bribery definitions or TI's definition, the 'private gain' or the reciprocal element of exchange ('favour and return favour' or 'in return for') is not explicit but implicit. Each individual who allows improper interests to influence decision-making has a reason for doing so but this reason is not as concrete as most scholars tend to think.

International law distinguishes bribery from trading in influence to indicate the social structure in which the more sophisticated forms of undue influencing take place. In common

language corruption linked to networks is for instance referred to as ‘nepotism’ or ‘old boys’ networks’. The difference between appropriate and inappropriate ways of influencing is sometimes difficult to distinguish. This is also the reason why there is hesitation among states to criminalise trading in influence, as it bears many characteristics which are similar to the characteristics of lobbying. Since 2011, the EU has been particularly active in organising anti-corruption activities. The LRCC, ANTICORRP and European Semester are different examples of EU initiatives in which it facilitated research by independent experts and scholars into the corruption phenomenon. These initiatives are meant to help the EU in determining what its (future) anti-corruption policies should consist of. The European Commission uses the term ‘political corruption’ in its existing policies to address the form of corruption in which complex connections between representatives from various institutions undermine democracy and fair decision-making. This in itself is considered to be a risk, but the European Commission also sees this as an extra context in which corruption is difficult to detect. Scholars such as Heywood (1997; 2015) point at the major developments which blurred the lines between the private and public sector. Too big a focus on seeing corruption as something related to the public sector minimises the chance of recognising the trading in influence which takes place.

Corruption is translated into a legal wording for pragmatic purposes but if we explore the link between social networks and corruption, the essence of corruption is missing. While there are attempts to define corruption in such a way that the environment which contributes to corruption is also considered, the current integrity system models depart from a rather classic interpretation of corruption. The NIS and the ACR, as well as the European Semester offer a description of the necessary ingredients of an anti-corruption framework and try to make the integrity or anti-corruption safeguards coherent. In doing so, these approaches fail because they have not thought through the concept of corruption. In assessing how society’s institutions and the legal framework prevent corruption, the interrelatedness between institutions is overlooked and the role played by networks is not recognised.

### **Network literature**

The key element in networks is reciprocity. The group-serving attributions which network members collectively bring about, can lead to the normalisation of reciprocity (generalised reciprocity) which, together with the closed and exclusive nature of the network, leads to exclusion of non-network members or outsiders. Networks form the important social capital needed in society. In network theory a distinction is made among ‘bonding networks’, which are close-knit homogenous groups, inward looking, with a high degree of personal contact and reinforcing exclusive identities and ‘bridging networks’ which are more loosely-knit heterogeneous groups, outward looking and developing broader identities, and ‘linking networks’, which are a form of social capital consisting of relationships with people across different hierarchical levels and power. The bonding networks cultivate trust, cooperation and collective strength among individuals often with a shared history, experience and common purpose. The bridging and linking networks allow different groups or networks to share and exchange information, ideas and innovation and build consensus among the groups representing diverse interests. Network theory also indicates that those network members who

function as a broker and connect (through weak ties) the closed bonding networks with other networks across the structural holes, are the most successful. These 'bridging connections' give these brokers (centres of influence) an advantage. The broker has more diverse contacts and as such is more likely to be a candidate for involvement in new opportunities. Additionally, this position brings together otherwise disconnected contacts, which give this individual a disproportionate say in whose interests are served when the contacts come together. Closure can be necessary to realise the value found in these holes. As such, the bonding or closed networks gain from the opportunities obtained by bridging or broker connections but equally make the risk of the network's deterioration greater because of their exclusion of non-networks members, and this is what links networks to corruption.

The available network literature has linked networks to the aspect of inclusion and exclusion, but it has not thought through the question of when networks deteriorate and what this means in terms of responsibility. The literature does point to the dark side of networks when discussing corruption networks: networks in which the norm has become to act corrupt. These networks are criminal networks, goal-directed to make a living by organising criminal activities. Norm development in emerging networks is more of a social process which has been less exposed in literature. This gap in network theory is therefore followed by the fundamental question of who is to be held responsible for those emerging networks which become exclusive or, alternatively, who is responsible for preventing networks from becoming corrupted. (Business) ethics provide arguments which allow responsibility to be attributed to those networks which are not formalised per se. Networks can develop and at a certain moment they qualify as autonomous organisations which can bear responsibility for their conduct. Among others, loosely organised collectives, such as the informal emergent networks, can become an autonomous moral actor with a responsibility of its own, if this network of individuals share a particular interest or background, are shown to have a 'shared attitude' (attitude similarity) and manifest their 'self-consciousness' by showing that they as a collective become organised in such a way that a purpose is reached. The result is something that can only be realised through this collective's cooperation. Additionally, there is an awareness that the network has to be turned into an appropriate organisation to get to this result. Also, individuals take on different role responsibilities in getting the network organised.

Chapter, table 2 entails a table which presents the: informal social networks (a), informal social networks which can bear responsibility (b) and informal social networks which can bear responsibility for their deterioration (c).

<b>Features of informal social networks (a)</b>	<b>Features of informal social networks which can be held responsible (b)</b>	<b>Features of informal social networks which can bear responsibility for their deterioration (c)</b>
(1) A social network has <i>an informal structure</i>	(1) The presence of an <i>informal structure</i>	(1) An informal collective cooperation > <i>misuse of professional roles for network interests</i>
(2) A social network does not have a formal leader or director but so-called <i>Centres of Influence</i> can be distinguished	(2) The shared interest of the network members	(2) Shared interest > <i>generalised reciprocity</i> (previous, present or future favour from the network)
(3) A social network is <i>dynamic, responsive and adaptive</i> , in contrast to static and bureaucratic organisations	(3) The <i>common attitude</i> of the network members	(3) Common attitude > <i>Self-consciousness</i> of the network
(4) A social network has a purpose which can be deduced from the behaviour of its members instead of stated or paper goals	(4) The network members' <i>self-consciousness</i> of the of the presence of the network	(4) Closed character > <i>exclusion</i> (harming the rights of outsiders)
(5) A social network coincides with self-categorisation, individuals <i>identify themselves with</i> the network to which they are a member	(5) The <i>closed character</i> of the network	
(6) A social network not simply the sum of its members		

### Three case studies

The social networks in the three case studies emerged over time (the NoW and the Roermond case) or were knowingly established (the FIFA case). In all three cases, the social networks led to in-group favouritism and the structural exclusion of others. The individual conduct of network members contributed to the way in which the network functioned and the network reinforced the individual behaviour. The social networks' internal correction mechanism failed because all individuals involved fulfilled their role in such a way that the network would succeed in protecting the shared interests. While the network members gained from their network, the social capital became corrupted.

The cases specify the findings of the theoretical chapters, but they also provide a certain nuancing. Not only did these cases show how the theoretical findings on networks and corruption actually become apparent in practice, but these networks were also linked to various forms of undue influence and could be linked to other crimes besides corruption. Corruption by the network allowed other forms of criminal conduct to thrive, including phone hacking, leaking of confidential information, fraud, violation of public procurement rules, illegal financing of political parties and money laundering (crime and corruption in the network). These acts are all interwoven with the network corruption. The FIFA case matches the features of network corruption, but is also an example of a corrupt organisation and corrupt individuals. Here the network corruption coincided with a corrupt network. Assessing the network does help to understand the underlying mechanisms of corruption, but even without the concept of network corruption, the individuals and the legal entity of the FIFA organisation can be accused of corruption. As such, this is a nuancing of the earlier findings. This is to a lesser degree true of the NoW and Roermond cases. Those two cases met the features of network corruption and using these features helped in understanding the corruption of the collective. However, the corruption in these networks was limited compared to the corruption by these networks. The NoW and Roermond cases did not reveal any corruption networks, networks in which corruption such as bribery was the norm. Notwithstanding that, the case descriptions presented enough proof of network corruption and gave a valuable insight in the mechanisms leading up to the actual network corruption.

### **Network corruption**

The three case studies show the existence of networks based upon an informal structure with varying degrees of openness to others. Equally, the extent to which reciprocity was generalised or specific varied from case to case. Although we tend to look at the respective organisations such as FIFA, the NoW Corporation, political parties, the Metropolitan Police Services or the municipality involved, it is in fact the network across these organisations which caused its outcome to be corruption. At a certain moment the network members act in such a way that their acting is no longer a form of favouring each other but the purpose of the network changes to the preferential treatment (specific or generalised reciprocity). If this development coincides with the thinking in terms of network members and outsiders, it becomes closed. If a network is no longer open for others to join and the norm has become to treat its members in a preferential way, it becomes network corruption. This is distinct from trading in influence, where the informal closed network seeks to influence decision-making but in which the norm has not yet become to favour network members in all instances to the detriment of outsiders. In cases of network corruption, the social network has become an actor besides the individuals acting in it. The theoretical framework regarding corruption and networks as informal autonomous organisations has been used to define network corruption.

For the purposes of this study, network corruption will be defined as:

*Informal collective cooperation in which professional roles are misused for network interests to such an extent that the dominant norm is that of generalised reciprocity, leading to the exclusion of others, while the members' awareness of their network is reflected in their common attitude.*



This definition of network corruption is based on the combined analysis of corruption and network literature and research. It allows the assessment of networks to see when influencing becomes undue influencing.

Chapter 8, table 3 presented an overview on networks and influence

<b>Purpose</b>	<b>Helping one another: doing the other a favour</b>	<b>Influencing decision-making</b>	<b>Preferential treatment</b>
<b>Type of network</b>			
<b>Goal-directed network with a form of organisation</b>	Social capital (linking)	Interest representation/lobbying  The agent who is being influenced is not part of the network.	Trading in influence  The agent who is being influenced is not part of the network.
<b>Goal-directed network with an informal open structure</b>	Social capital (bridging)	Interest representation/lobbying  The agent who is being influenced is not part of the network.	Trading in influence  The agent who is being influenced <i>becomes part</i> of the network.
<b>Goal-directed network with an informal closed structure</b>	Social capital (bonding)	Interest representation/trading in influence  The agent who is being influenced <i>becomes part</i> of the network.	<b>Network corruption</b>  <b>Agents are part of the network</b>
<b>Emergent network with an informal closed structure</b>	Social capital (bonding)	Interest representation/trading in influence  The agent who is being influenced <i>becomes part</i> of the network.	<b>Network corruption</b>  <b>Agents are part of the network</b>

### **Organising routes for development**

The focus of this study has been on the EU and its anti-corruption policies. With corruption being a major concern to the EU because of its serious threat to the internal market and the rule of law, and because corruption scandals undermine public trust in the EU itself, it is

important that the EU leads by example, by setting EU anti-corruption standards for EU member states while actively expressing how its institutions and representatives prevent their networks from becoming corrupt. The EU is determined to ensure it understands the phenomenon of corruption and wants to add something to what is already done in terms of anti-corruption by other international organisations (European Commission, 2011a; 2014c; ANTICORRP, n.d.a), first by introducing the Anti-Corruption report (ACR) and the EU corruption research project ANTICORRP and now by mainstreaming anti-corruption in its economic policy dialogues in the European Semester. Although the EU wants to take action against political corruption and high-profile corruption, the existing assessment tools it uses and those which it has developed itself are deficient in addressing network corruption. The NIS and LIS model and, to some extent, the EU ACR present an inventory of the national anti-corruption frameworks (all institutions and policies by law and in practice). What are missing in these models are coherency and an understanding of the network structure of corruption. (e.g., Huberts & Six, 2012; Slingerland, Six & Huberts, 2012). This form of corruption is the blind spot in current anti-corruption and integrity systems. This means that there should be an element included which allows for an easy overview of the way social networks function across the formal institutions and system.

Additionally, the current policy instruments which seek to prevent undue forms of influence, such as the rules on the financing of political parties, the rules on asset declarations, rules on conflict of interest and lobbying should be presented, used and interpreted with the network structure in mind. As such, the assessment of undue influencing should not be limited by screening individual acts, for instance an individual donation to a political party or the incompatibility of functions for a top official. To the contrary, it implies that the information from these policy instruments should be integrated to get a real overview of the existing networks. Not only for monitoring purposes, but also to create network awareness and network responsibility among individuals. The network approach also implies that the normal and totally accepted individual acts can collectively cause network corruption. Therefore the distinction in such instruments between accepted or non-accepted activities should be less strict and be supplemented with questions helping to stimulate an individual's awareness of his network. Only when these policy instruments are linked to networks can network awareness develop among policy-makers, politicians, public prosecutors and network members etc. who otherwise would continue to compare individual acts to these instruments, while their reflection should be on the nature of the network and their role in it.

A next step would be to look at the member states' civil, administrative and criminal law and consider how legal instruments can help to prevent or redress network corruption (e.g. Hale & Cline, 2014; Keiler, 2011; Makinwa, 2013). One way would be to request member states to criminalise this form of corruption. This study presented ways to innovate criminal law in such way that the collective responsibility can be established. For instance, by combining the court proceedings of networks members to allow an assessment by the judges on the mechanisms leading up to the network corruption and each individual's role in it. This was done to some extent in the Roermond case. Another way is to extend the possibilities of participation beyond anti-competition law or by introducing a law similar to the US'

Racketeer Influenced and Corrupt Organisations Act (RICO), in which a pattern of behaviour resulting in corruption is enough to prove criminality instead of having to prove individual criminal acts (e.g., Moran, 1986). Other means are also available. The risk of network deterioration should be mentioned in codes of conduct. Additionally disciplinary measures should also apply in cases in which employees, civil servants or officials have proven not to take action against the closure of the network and its norm development to treat network members in a preferential way. There are recent examples of Dutch civil law actions against collectives such as the civil law ban in the case of the Motorcycle Club Bandidos which indicate that there ways in which the law can deal with informal collectives and their responsibility (ECLI:NL:RBMNE:2017:6241).

Additionally, the topic of networks should get far more attention in professional ethics as part of anti-corruption polices than it now does. Being able to reflect is a precondition for anti-corruption rules and standards to have effect. Reflection is not restricted to the boundaries of an organisation. If the EU manages to design policies which allow for reflection and assessment of our roles and participation in networks, we will be challenged to look beyond the micro- and meso-level to see how we can contribute and solve societal problems in collectives such as networks. This study presented four features to distinguish whether a network has become deteriorated. This retrospective approach is a step in the direction of acknowledging that social networks have a moral status of their own. The introduction of collective responsibility for social networks has an ever bigger potential if we consider the prospective ethical dimension. This means that responsibility is not determined once there is a realisation that damage was done; on the contrary, the prospective ethics underlines the importance of asking questions and reflecting on the roles that one has in networks and the way in which a person or an organisation is able to solve societal problems (e.g. Wempe, 2011).

Incorporating professional (prospective) ethics in anti-corruption policies and assessment models is an important step in dealing with and preventing network corruption. If we acknowledge networks as autonomous organisations, we should hold the collective responsible in its own right or translate this responsibility into responsibilities of the individual network members. It is important to localise responsibility, not only to talk in terms of liability but, more importantly, to try to prevent future cases of network corruption and to address them as soon as they are about to happen. The feature of 'self-consciousness' is important in this regard, because it is concerned with role responsibilities within networks. Understanding the network part of this study implies looking for the role each individual played in the network instead of assessing whether his or her individual actions were corrupt or not. Understanding the link between networks and corruption implies that we assess roles and role responsibilities in a network. I recognise six roles in networks for the sake of understanding how networks emerge and to clarify individual responsibility in the collective.

The *orchestrator* is the agent who guides and supports the network's activities and its continuation. Orchestrators are the initiators of the network and are connected to most of the network members. They are the centre of influence. Their main responsibility is to establish trust in the network to boost cooperation. The *strategist* is the agent who defines network

objectives and sets out the strategy to achieve these objectives and knows how the network can adapt when circumstances change. The *facilitator* is the agent that makes an action or process easy or easier by providing assistance or guidance, either directly or indirectly, to the network members. The *intermediary* is the agent who acts as a link between people in and outside the (core) network and arranges agreements by transferring information. Both the facilitator and the intermediary to function as a broker, which is necessary to achieve the objectives set by the strategists. Depending on the type of network and the purpose of the network, the agents they connect with can become part of the network themselves. The *supporter* is the agent who is actively interested in and wishes success for the network without having an active role; he/she is foremost expressing solidarity. The *criticiser* is the agent who is actively interested in and wishes success for the network but not at all costs. A network needs to organise itself in such a way that these roles are fulfilled by its members. This can result in social capital, but it can also lead to network corruption. Each individual takes on a role and these different roles coincide with different responsibilities. This is important to be able to assign responsibility retrospectively, but it also offers an alternative preventive approach.

This study showed that acknowledging network corruption can help in understanding the many examples of corruption which were not caused by individual acts of persons or organisations and which could therefore not be addressed accordingly. Current theories on corruption are deficient in describing the collective nature of corruption caused by networks, while network theory is deficient in describing what the pitfalls of networks can be. Corruption is linked to the functioning of social networks in many ways. Networks can form a context in which the norm is to act in a corrupt manner, leading to systemic corruption such as bribery. Corruption can also be linked to networks in which the norm is that of generalised reciprocity without individual corruption but which become closed to outsiders, thereby resulting in corruption. This is a form of 'network corruption' which can stand on its own, but which can also be the structure through which a corruption network and individual corruption come into being. The present study has described the emergence of this phenomenon and what this entails for our knowledge of corruption and networks and the policies to eradicate corruption. The study hopes to create a greater awareness among the public, decision-makers, political parties and law enforcement authorities of the processes that take place within networks which contribute to the changing character of networks in the direction of corruption.