

The Construction of Corruption, or RULES OF SEPARATION AND ILLUSIONS OF PURITY IN BOURGEOIS SOCIETIES

What's breaking into a bank compared with founding a bank?

—Bertolt Brecht, *The Threepenny Opera*

Peter Bratsis

Defilement is never an isolated event. It cannot occur except in view of a systematic ordering of ideas. Hence any piecemeal interpretation of pollution rules of another culture is bound to fail. For the only way in which pollution ideas make sense is in reference to a total structure of thought whose keystone, boundaries, margins and internal lines are held in relation by rituals of separation.

—Mary Douglas, *Purity and Danger*

Did Somebody Say Corruption?

George W. Bush and his “coalition of the willing” wage war on the corrupt regime of Saddam Hussein. Islamic fundamentalists deride their national governments as corrupt and, accordingly, have little love for the United States, a patron of many of these regimes. The World Bank has declared that corruption is the single greatest obstacle to global development. The Michigan Militia and similar right-wing populist groups claim that federal institutions, such as the FBI and IRS, are a corruption. Left-leaning critics and reformers, such as Michael Moore and Ralph Nader, attack the corruption that presumably plagues American political and economic life.

The list could go on and on; it seems that there is hardly any contemporary political tendency that does not contain some form of anti-corruption agenda. It is striking that so many disparate and competing political discourses all agree that corruption is a problem, oftentimes *the* problem. Regardless of the interpretive frame (right, left, populist, technocratic, religious, secular, etc.), the specter of corruption is a constant, and is both unavoidable and unquestioned; unquestioned in the sense that the undesirability of corruption is taken as a given, no substantive argument is needed—who is, after all, in favor of corruption?—and unavoidable in that corruption seems to refer to underlying tensions, antagonisms, and traumas that, regardless of one's conceptual toolbox and political tendencies, cannot be ignored or passed over.

These cursory observations highlight the main hurdle in, as well as the need for, the understanding of corruption. The idea of corruption has become so universal, so unquestioned, so much a part of various common senses, that its determinations, historical specificities, and social functions tend to remain hidden. If this is true anywhere, it is true in regard to the ever growing popularity of the term corporate corruption. Insider trading and bribery may likely be placed under the category of “corporate corruption.” But what about embezzlement or union busting or transfer pricing or planned obsolescence? What makes something a corruption? Furthermore, what’s so bad about corruption?

This essay is an examination of the foundations and function of the concept of corruption. Discussion focuses on the most developed and seminal version of the concept in modern society, political corruption. Beginning with a discussion of definitions of political corruption, the essay argues that there is a significant and much neglected difference between modern and premodern understandings of corruption. The modern understanding of corruption, it is argued, is directly tied to the rise of the organization of social life and interests by way of the categories of the public and private. The main function of the idea of corruption and the rules and rituals that arise from it has been to keep the categories of the public and private pure and believable. The homology between the rules regarding clean and unclean foods in Leviticus and the rules regarding clean and unclean politics in congressional ethics regulations is demonstrated. Based on this reading of congressional regulations, the key components behind the modern concept of corruption are identified and exposed. The essay concludes with a discussion of the implications of this argument for the question of corporate corruption, the apparent proliferation of anticorruption discourses, and politics overall.

What Is Corruption?

Nearly all definitions of political corruption emphasize the subversion of the public good by private interest. Among the more famous definitions of corruption is the one offered by Joseph Nye (1989): “Behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or state gains; or violates rules against the exercise of certain types of private-regarding influence” (966). Similarly, Carl Friedrich (1989) argues that

corruption is a kind of behavior which deviates from the norm actually prevalent or believed to prevail in a given context, such as the political. It is

deviant behavior associated with a particular motivation, namely that of private gain at public expense. But whether this was the motivation or not, it is the fact that private gain was secured at public expense that matters. Such private gain may be a monetary one, and in the minds of the general public it usually is, but it may take other forms. (15)¹

Contained within the modern understanding of corruption are two inter-related assumptions: that mutually exclusive public and private interests exist and that public servants must necessarily abstract themselves from the realm of the private in order to properly function.

The significance and relative historical novelty of this definition has been ignored in the contemporary literature on political corruption. The tendency has been to emphasize the continuity of the concept of political corruption from the ancient to modern times. Carl Friedrich (1989) has argued that the basic understanding of corruption as “a general disease of the body politic” is common to the ancients and the moderns (18). John Noonan (1984), who defines bribery, presumably the most obvious form of political corruption, as “an inducement improperly influencing the performance of a public function” (xi), traces the concept back to roughly 3000 B.C. and claims that, although the concept has transformed over time, it has, in its main contours, remained constant.

Along the same lines, there are usually numerous references to Aristotle and Machiavelli in works tracing the history of the concept of corruption. Aristotle is often cited for his assertion that political forms can be corrupted. In his classification of the three kinds of constitution, Aristotle lists kingship, aristocracy, and polity.² He goes on to note that each can be corrupted. His discussion of kingship is particularly relevant because what causes the corruption of kingship into tyranny is the disregard the tyrant has for his subjects; he rules only to further his own “interests” (Aristotle 1958, 373–75). Machiavelli’s discussion of the function and causes of corruption are also often discussed, especially as he developed them in *The Discourses* in discussing the decline of the republic of Rome (Machiavelli 1970, esp. book 1). Sara Shumer (1979) has noted that Machiavelli’s discussion of corruption includes the idea of the subversion of the public by the private: “One dimension of political corruption is the privatization both of the average citizen and those in office. In the corrupt state, men locate their values wholly within the private sphere and they use the public sphere to promote private interests” (9).

There are reasons to doubt this official history of corruption as a concept common to nearly all political forms and historical epochs. For one thing, the apparent lack of a word for bribery in Ancient Greek presents a problem for those who assume an unbroken line in the concept of cor-

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ruption. Mark Philp (1997) notes that there are many words in Ancient Greek that make no distinction between a gift and a bribe (*doron*, *lemma*, *chresmasi peithein*) since, for the Greeks, to persuade through gift giving was acceptable and no perversion of judgment could be assumed (26). Philp makes the point that if the Greeks have no conception of bribery, then the whole idea of a public body in Ancient Greece is put into question: “If these were the only terms for bribery in the Ancient Greek world we would have to take the view that there is a basic untranslatability of the terms between us and them—that they not only failed to distinguish gifts and bribes, but that they also had no real concept of public office or trust” (26). On this point, Philp is absolutely right. He goes on to argue, following Harvey (1985), that there was a term for bribery in Ancient Greece, *diaphtheirein*. However, contrary to Philp’s interpretation, it is not true that *diaphtheirein* has the same status as the modern term *bribery* or that it can be said to connote a form of corruption in the modern sense. *Diaphtheirein* refers to the corruption of the mind by which the ability to make sound judgments and pursue the good has been impaired and, more generally, to destruction and decay. Not all bribery is corruption in the modern sense. A closer reading of Harvey’s discussion of *diaphtheirein* reveals this point. Harvey takes great pains to show that in contrast to and concurrent with neutral and positive terms, there did indeed exist at least one negative term (*diaphtheirein*) for influencing through giving money and gifts. Nowhere, however, do we find any reference to public trust, private interest, or any category we usually use in discussing bribery and corruption. Bribery as *diaphthora* (the more common version of the word) was negative because it implied that the citizen, by way of accepting a bribe, was no longer able to properly act as a citizen since the will and power to judge had been destroyed.³ As Harvey puts it, “The man who takes a bribe surrenders his free will; what he says and does he does for another, and in that sense he no longer exists as an independent individual: he is a non-entity. That, I suggest, is the essential point” (86). Instead of some public trust succumbing to private interests, the recipient of a bribe has lost the ability to be a citizen by relinquishing his autonomy. Like slaves, merchants, and women, all precluded from being citizens since they lack basic requisites for properly acting as a citizen, the recipient of a bribe is incapable of the autonomous thought and moral judgment necessary for being a citizen.⁴

The categories of the public and the private are integral to the modern notion of corruption. Put simply, no corruption in the modern sense is possible if there is no public and private. As Philp’s arguments illustrate, much of the literature on corruption assumes that the apparent omnipres-

ence of a concept of corruption is a sure sign that the public and private are also omnipresent social categories. That the ancient understanding of corruption is so far removed from the modern one puts this assumption into question.

Ernst Kantorowicz's *The King's Two Bodies* (1957) provides a useful corrective to this ahistorical tendency in the corruption literature. For Kantorowicz, our modern understanding of public and private is tied to the rise in early modern England of the legal and political doctrine of the king's two bodies. This doctrine asserts that we have two bodies, a public and a private one. In its most developed form, the two bodies doctrine asserts that while, on the one hand, we exist as concrete individuals with physical bodies, particular passions, interests, obligations, and so forth, on the other hand, we exist in an abstract sense, as members of the body politic, a body that is beyond our physical bodies and concrete social existence. This body politic is the polity, characterized by the common interests that bind its members together and is materialized in the rituals, personnel, and institutions of the state (193–272).

It should be noted that this version of public and private differs greatly from other typical uses of these categories within political thought, notably, the Arendtian understanding of public and private, most clearly exemplified by Habermas's treatise on the public sphere. Habermas (1991) notes that the terms *private* and *public* first appear in German in the middle of the sixteenth century and argues that no such divisions existed in feudal societies. He goes on to argue that these categories did exist in ancient societies and equates the ancient Greek terms of *polis* and *oikos* with public and private (Habermas 1991, chap. 1). Thus, in the Arendtian sense, the categories of the public and the private are mainly functional distinctions based on different uses of space. The public sphere becomes the space within which individuals can come together and discuss and formulate political opinions and positions. This is contrasted to the state, on the one hand, with its police and legal functions, and to the private side of civil society on the other hand, with its family ties and market relations (Habermas 1991, 30). Although the two distinctions are not necessarily mutually exclusive, this functionalist distinction between what is public and what is private is not the distinction between public and private connoted by corruption. In political corruption, private interests and passions come to displace the common good. It is not that public spaces come to be used for nonpolitical goals, for example, that makes for political corruption. Thus, although we see the categories of public and private applied to most societies, including those of the ancient world, it is usually done so in this more functionalist way and the categories themselves have

little in common with the ways in which the ancients understood and organized political life.⁵

In light of these observations, the categories of public and private that our modern concept of corruption presupposes are fairly recent. Even up to Machiavelli, despite Shumer's point, noted above, our modern concept of corruption seems to be missing. Related to the argument regarding the rise of the public and the private is the question of the rise of the concept of interests. As Albert Hirschman (1977) has argued, it is only in the modern era that the concept of interests emerges and this marks a radical break with premodern conceptions of the good. For Hirschman it is the increasing dominance of finance and money that explains the change in the term *interest* from simply a financial term to a concept that is central to our understanding and organization of contemporary politics.⁶ It is in this context that Hirschman sheds light on the question of Machiavelli's notion of corruption and notes how the term *corruption* went through a similar transformation in meaning: "'Corruption' has a similar semantic trajectory. In the writings of Machiavelli, who took the term from Poybius, *corruzione* stood for deterioration in the quality of government, no matter for what reason it may occur. The term was still used with this inclusive meaning in eighteenth-century England, although it became also identified with bribery at that time. Eventually the monetary meaning drove the non-monetary one out almost completely" (40).⁷

The Greek term *diaphthora* and the Latin term *corruzione*, in spite of their usual translation as "corruption," refer to an understanding of corruption that is quite foreign to our modern one. Political corruption is an exclusively modern phenomenon made possible only after the rise of the public/private split and the concept of interests. While it may be impossible, and not particularly important from the perspective of the present work, to provide some specific date or event that signals the moment that our modern concept of corruption emerges, it is appropriate to locate it within the general processes of modernity and claim that our understanding of corruption becomes possible and thinkable as capitalism and the state emerge and become dominant.⁸

Why Corruption?

To note the novelty of the modern concept of political corruption and the basic preconditions of its existence begs the question of why the term corruption came to represent the idea of the subversion of the public interest by private interests. This becomes more strongly apparent when one notes deeper differences in meaning between the two concepts of

corruption. In the traditional understanding of corruption, there was a strong imagery of decay and regression, of something becoming less and less capable, potent, or virtuous. This understanding contained the idea that through disease, old age, the influence of vice, or any other reason, the ability to seek the good and virtuous is decreased and possibly destroyed. Here, we have the corruption of the mind, morals, and the will. The term still retains this meaning today. We understand the use of the term in the claim, for example, that the youth of Athens were corrupted by Socrates and we use the term in essentially the same way when we claim that the minds of the young are corrupted by the entertainment industry or that the ability to make sound decisions is corrupted by religious cults, various psychological disorders, and so on. What is interesting here is that there is a clear division of good and bad; vice is never good nor is disease or psychosis.

By contrast, in the modern understanding of corruption there is no division based on something that in itself is good and desirable and something that is not. Private interests are not bad. Quite the opposite, the whole line of questioning from Weber's *The Protestant Work Ethic and the Spirit of Capitalism* to Hirschman's *The Passions and the Interests* has been focused on explaining how private interests, particularly in the economic sense, came to be welcomed as something positive. How, then, can two things, public and private interests that are in themselves seen as proper and good, come to constitute something that is bad and improper? Mary Douglas (1966) does much to answer this question when she notes that notions of purity and cleanliness have nothing to do with something that in itself is dirty. For Douglas, dirt is best understood as something that is out of place:

Shoes are not dirty in themselves, but it is dirty to place them on the dining-table; food is not dirty in itself, but it is dirty to leave cooking utensils in the bedroom, or food bespattered on clothing; similarly, bathroom equipment in the drawing room; clothes lying on chairs; out-door things in-doors; upstairs things downstairs; under-clothing appearing where over-clothing should be, and so on. In short, our pollution behaviour is the reaction which condemns any object or idea likely to confuse cherished classifications. (36–37)

Private interests and public interests are both perfectly fine, as long as they stay in their proper places. Once we have the contamination of the public by the private, politicians and politics itself become dirty, tainted, infected, and thus corrupt. The opposite is equally true. Once we have an invasion of the private by the public (for example, public authorities being able to regulate “private” behaviors such as sexual and religious conduct, and so forth) we come to equally negative conclusions regarding the transgres-

sion of the categorical separation of private and public. The modern notion of political corruption is thus much closer to the idea of corruption as adulteration than the idea of corruption as deterioration and destruction. This conception of political corruption is consistent with the use of corruption to describe the loss of the purity of one substance by the introduction of another, in the way that wine can be corrupted by water or a flower bed can be corrupted by weeds.

To emphasize these differences in meaning, let us take as an illustration the likelihood that Ronald Reagan had Alzheimer's disease in the later years of his presidency. Assuming that the disease had progressed to the point of hindering his ability to make sound decisions, his condition would constitute corruption in the classical sense in the same way that bribery constitutes corruption; his capacity to think and act in an autonomous and rational way was diminished. It is obviously not corruption in the modern sense since there is no instance of the contamination of the public interest by private interests. The Clinton coffee scandals, in which prospective campaign contributors were invited to coffees at the White House, are an example of the latter. It is hard to imagine that drinking coffee could ever result in corruption in the traditional sense (unless one became so addicted to it that the ability to reason was lost, one had to resort to crime in order to support the consumption of coffee, and so forth) but drinking coffee can easily result in corruption in the modern sense. If the coffee is being consumed by prospective campaign contributors in a public area, say, the nonresidential areas of the White House, it can be said to constitute political corruption because the president is allowing his private interests to contaminate the purity of the public space. This space within the White House is not public simply because it is owned by the public but rather because it is designated for the president's use as a public servant, not as a private citizen. If coffee is being consumed and contributions are being sought in space that is designated for the president's use as a private individual, no corruption is present. The same people, the same coffee, the same money changing hands; the only difference is in the room where it is occurring, which constitutes all the difference between corruption and noncorruption.⁹

In light of these stark differences, how is it possible that the modern and traditional ideas of corruption are so easily conflated and confused? Although the meanings are different, both understandings of political corruption attempt to establish a normative distinction between what is desirable and what is not. In the traditional understanding of political corruption, the characteristics of a citizen, king, or regime as they *should* be are established and contrasted with those characteristics that are seen as bad or undesirable from the point of view of that ideal reality. In the modern

understanding, a strict division of the public and private is asserted and various phenomena that may conflict with that presumed division are termed a corruption. This difference between what should be and keeping things in their proper place is immensely significant. On the one hand we have a normative political project that posits what the good is and on this basis is able to establish what is corrupt or bad. On the other hand we have the desirable/undesirable distinction established in a more technocratic and underhanded way. The proper ordering of all things social is posited in the form of ontological assumptions regarding the public/private and phenomena that pose a challenge to this vision of how things are become branded as corrupt.

Since the modern concept of corruption does not function as an explicitly normative construct but rather as an articulation of categories of bourgeois political ontology, it has the effect of constituting and reaffirming the dominant public/private split through its application and subsequent categorization of phenomena as corrupt or uncorrupt, as pathological or normal. In so doing, the normative dimension of the modern concept of corruption becomes manifest precisely because of its way of categorizing social phenomena. By establishing the division between the normal and pathological in the public/private split, the modern understanding of political corruption is at once making a statement of fact and presenting us with the political goal of fully realizing the normal. As Georges Canguilhem (1991) notes in his discussion of the foundations of the concept of the normal:

In the discussion of these meanings [of normal] it has been pointed out how ambiguous this term is since it designates at once a fact and “a value attributed to this fact by the person speaking, by virtue of an evaluative judgement for which he takes responsibility.” One should also stress how this ambiguity is deepened by the realist philosophical tradition which holds that, as every generality is the sign of an essence, and every perfection the realization of the essence, a generality observable in fact takes the value of realized perfection, and a common characteristic, the value of an ideal type. (125)

In this way, the modern concept of corruption repeats the normative-political emphasis of the traditional understanding of political corruption but does so in an essentialist and apolitical manner. The confusion of the two concepts of political corruption thus appears to be, at least partly, a result of the similar normative function of situating what is politically desirable and what is not. But already built into the modern concept of corruption is an ahistorical and acritical understanding of political phenomena that takes the integrity of the public/private split at face value, as a quality immanent in all societies, as the normal. For this reason, it is rare

that the historical specificity and socially embedded quality of the concept of political corruption becomes visible to observers. Similarly, by conflating the two concepts of corruption, the reception of the modern concept of corruption reifies it back throughout history and gives the public/private split the appearance of the eternal.

Characteristically, most contemporary discussions of political corruption within political science occur within the subfield of comparative politics, not normative political theory. Under the guise of discussions on clientalism, patronage, totalitarianism, civil society, and so forth, comparative politics has spent much of its time demonstrating the normalcy of the United States and other advanced capitalist societies by demonstrating the pathologies of “less developed” nations.¹⁰ In line with the comments by Canguilhem quoted above, an omnipresent assumption in this literature is that the public and private are essential attributes of human societies, that political development and advancement entail the realization of this fact and the formation of institutions, laws, and attitudes that end the systematic corruption prevalent in these underdeveloped societies. The following statement from Jacob von Klaveren (1989) is typical: “We know that the political systems of the so-called underdeveloped regions still remain in the stage of systematic corruption, and there are good reasons for this which we cannot go into here. For simplicity’s sake, let us say that the Age of Enlightenment has not yet, in a relative sense, occurred there, which is not too surprising considering the low educational level” (557).¹¹ In a different context, even a political commentator as astute as Hannah Arendt argues that totalitarianism is characterized by the effacement of the public-private distinction (Arendt 1968). Totalitarianism, then, is a corruption of the separation of the public and private, a pathological negation of the separation of the public from the private, and it is certainly less desirable than the normal articulation of the public-private split in liberal societies. In this respect, Arendt is no more capable of going beyond the essentialist bourgeois conception of the public and private than are mainstream social scientists and their theories of modernization and development.

Rules of Separation: From Leviticus to Washington, D.C.

The categorizations of academics, however, are not the cause of the division between what is considered a normal and a pathological ordering of the public and private. The academic categories are no more than reflections of the categories and normative precepts prevalent in bourgeois societies themselves. What we must understand is how bourgeois societies

come to form and regulate their conception of normalcy regarding the public/private split.

As Canguilhem first argued in *The Normal and the Pathological* (1991), and as Michel Foucault demonstrated in his various histories of the practices of normalization (especially *Madness and Civilization*, 1965), the question is not simply how the normal is constituted but how the normal is constituted by way of the production of the pathological. The normal in the case of corruption, just as in the case of physiological diseases and mental disorders, is largely a negative category; normal is that which is not pathological. How do we know what is pathological? There are rules that inform us. The term normal derives from the Latin term *norma* (rule). The normal is that which conforms to the rule. Conforming to the rule when it comes to political corruption thus refers to *not* transgressing the rules that regulate the purity of the public and private. If breaking these rules is constitutive of the pathological, of corruption, then following the rules can be nothing but the normal, good, and desirable. If we are to understand how the normal is constituted, we must be able to identify those rules that define the pathological and upon whose presence the presumed purity of the public depends.

Mary Douglas's analysis of rules of separation is a useful point of departure for such an analysis. As noted above, Douglas argues that societies tend to declare "any object or idea likely to confuse cherished classifications" as impure/dirty/corrupt. These classifications, in turn, are dependent upon a conceptual edifice "whose key-stone, boundaries, margins and internal lines are held in relation by rituals of separation." Most interesting in terms of its implications toward the analytical task at hand is how Douglas applies these principles in her explanation of the various rules regarding clean and unclean food in Leviticus. Douglas attempts to solve what has long been considered a puzzle by biblical scholars, how to explain why some animals are considered unclean and others clean: "Why should the camel, the hare, and the rock badger be unclean? Why should some locusts, but not all, be unclean? Why should the frog be clean and the mouse and the hippopotamus unclean? What have chameleons, moles and crocodiles got in common that they should be listed together?" (42).¹² As Douglas notes, there have tended to be two ways of addressing this problem. One approach has been to view these rules as arbitrary, irrational, and unexplainable, and the other has been to see them as largely serving educational and disciplinary functions, such as teaching self-discipline by selecting the most tasty and tempting of creatures as unclean or selecting those animals that were most likely to harm health and carry disease, or protecting Jewish culture from the encroachment of neighboring cultures (30–33, 44–50). Having identified the contradictions and

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inconsistencies in these attempts to explain the rules, Douglas attempts a new explanation by treating these various rules as exactly what they purport to be, rules of separation. Douglas notes that the traditional idea of the holy was quite literal; it referred to wholeness, completeness, purity of form (51–53). Thus, for example, animals appropriate for sacrifice had to be complete and pure, free from physical imperfections and blemishes. Similarly, for wholeness and completeness to be realized, the organization of the world has to be kept pure. In accordance with this meaning of holy, we find injunctions against sowing the same field with more than one kind of seed, against plant and animal hybrids, against making cloth by combining two or more kinds of fibers, against bestiality, and so forth. To be heterodox and confusing is unholy; things should be kept in their proper order and not mixed.¹³

The categorizing of clean and unclean foods, then, has nothing to do with how appetizing, ugly, healthy, or sloppy the animals are, but, rather, how pure they are in terms of conforming to their classification. The animals that are true to life in the sky are birds; they have feathers and two feet and they fly. All birds that do not fly are unclean since they defy these principles, as do all things that fly but are not birds. The animals true to life in the water are fish with scales and fins; all creatures in the water that do not have these characteristics are unclean. Animals that roam the earth are four-footed and move by walking, jumping, or hopping. Animals that seem to have two feet and two hands, like crocodiles, mice, and weasels, are unclean. All creatures that swarm are unclean since that mode of propulsion is proper to neither sky, nor land, nor water. Thus, worms, snakes, and the like are unclean. Some kinds of locusts are clean because they hop; locusts that fly have an attribute that only birds can properly have. Proper mammals have cloven feet and chew the cud. Camels, pigs, badgers, and hares all lack one or both of these qualifications, and therefore are unclean. Members of the antelope family, sheep and goats, cows, and so on, do conform to these rules, and so they are clean (Douglas 1966, 56–58).

In this example Douglas provides us with an important illustration of the idea of cleanliness as keeping things in their proper place. Moreover, she gives us a model for interpreting other sets of rules of separation. The task of interpreting rules of separation in relation to political corruption seems somewhat different than interpreting Leviticus because we have already identified the basic idea behind the rules against political corruption, to keep private interests from contaminating the public good. So, while Douglas's interpretation of Leviticus is compelling in its elegance and ability to explain all the seemingly anomalous classifications of clean and unclean, it would apparently not be useful for examining rules

regarding political corruption. But this would be a false conclusion because we know only the general principle behind keeping the public/private divisions separate and clean. Why, for example, is it OK for a congressperson to go on a seven-day trip paid for by a lobbyist but not an eight-day trip? Why is clientalism corruption, but passing laws that benefit campaign supporters and contributors usually not? Why are staff members allowed to lobby the congressional representatives they have worked for after one year, as opposed to four or five years, or never, or right away? The reality is that, with one partial exception, there has never in the history of the modern state been a law against political corruption as such.¹⁴ There are only laws against particular examples of what could be classified as political corruption: bribery, embezzlement, nepotism, and so forth. So, although there is no need to deduce the general principle regarding political corruption, there is a need to examine the rules designed to maintain the purity and separation of the public and private if we are to be able to deduce the ideas behind what bourgeois societies understand to be corruption and what they do not.

A partial list of ethics rules from the House of Representatives follows, as background for the subsequent discussion in this essay. The rules are divided according to the kind of activity they refer to, and the wording of each rule is exactly as it appears in a summary memo of ethics rules given to all members, officials, and employees of the House of Representatives (Committee on Standards of Official Conduct 2001).

The House Gift Rule prohibits acceptance of any gift unless permitted by one of the exceptions stated in the rule. Gifts allowed by the exceptions include:

- Any gift (other than cash or cash equivalent) valued at less than \$50; however, the cumulative value of gifts that can be accepted from any one source in a calendar year is less than \$100;
- Gifts from relatives, and gifts from other Members or employees;
- Gifts based on personal friendship (but a gift over \$250 in value may not be accepted unless a written determination is obtained from Standards Committee);
- Personal hospitality in a private home (except from a registered lobbyist);
- Anything paid for by federal, state, or local government.

Members and staff may never solicit a gift, or accept a gift, that is linked to any action that have taken or are being asked to take.

Private payment of necessary food, transportation and lodging expenses may be accepted from a qualified private sponsor for travel to a meeting, speaking engagement, or fact-finding event in connection with official duties.

Limit on number of days at the expense of the trip sponsor:

- 4 days, including travel time, for domestic travel.
- 7 days, excluding travel time, for foreign travel.

No use of congressional office resources (including equipment, supplies or files) for campaign purposes.

No solicitation of political contributions from or in any congressional office.

Don't accept any contribution that is linked to any official action, past or prospective.

No personal use or borrowing of campaign funds, and no use for official House purposes.

Avoid mixing of House and private resources.

Official position and confidential information may not be used for personal gain.

A Member must abstain from voting on a question only if the Member has a direct personal or pecuniary interest in the question.

Outside Earned Income Limit for Calendar Year 2001—\$21,765.

For ONE YEAR after leaving office:

—A Member may not communicate with or appear before a Member, officer or employee of either House of Congress, or any Legislative Branch office, with intent to influence official action on behalf of anyone else.

—Very Senior Staff may not communicate with or appear before the individual's former employer or office with intent to influence official action on behalf of anyone else.

All the important components of the concept of corruption that I have identified and discussed are present in these rules. The two bodies principle is evident in the rules that distinguish between the person as a public servant and as a private citizen. Gifts from family, gifts from other members of Congress, gifts from close friends, and anything paid for by public funds are allowed (since in all these exchanges it is either a private-to-private or public-to-public relationship). Hospitality in a private home is allowed as long as that person is not a registered lobbyist (thus negating the distinction of a private home). Members must abstain from voting on and lobbying for issues in which they have private interests. Similarly, omnipresent in these rules is the general prohibition against mixing the public and private. All of the rules are manifestations of this principle; the suggestion that all House personnel "avoid mixing of House and private resources" seems clear enough. In this way, the main contours of these rules clearly conform to the dual conceptual principles of two bodies and corruption as a mixing of categories.

An interesting gray area is the position of the political candidate. Reelection campaigns of incumbent members of the House are clearly not on the public side of the equation; Congressional staff and resources are not to be used for campaign purposes. No campaign activity, including

soliciting contributions, is to take place in any congressional rooms or offices. Even informational mailings to constituents are not allowed within ninety days prior to a primary or general election since it would be impossible to distinguish between the member sending the mailing as a public servant or sending it as a candidate. Conversely, campaign contributions may not be used for public or private purposes. It would seem that candidates for office and campaign contributions are neither public nor private; they represent an interesting in-between situation, and a position that is inherently heterodox and “unclean” (perhaps equivalent to larvae that, as swarming creatures, are unclean but, once they transform into walking or hopping insects, become perfectly clean). It may be normal to be a private citizen, it may be normal to be a public servant, but to be a candidate is to be neither and, thus, the conceptual position of the candidate must be kept as separate as possible from the usual registers of public and private to avoid creating confusion.

This interesting in-between case aside, the greatest challenge to interpreting these rules of separation is explaining, first, all the possible forms of corruption against which there are no rules and, second, all those rules that appear to be arbitrary or, at least, could easily be different and still conform to the general principles. For example, why should the limit for allowable gifts be set at \$50 and not higher or lower? If the limit were \$60, or \$100, or \$10, would it not still fulfill the same function and would not the principles behind the rule remain the same? Similarly, how can we interpret some of the more general and looser rules, such as the prohibition against using one’s official position for personal gain?

If anything can be gleaned from Douglas’s analysis of Leviticus it is that rules of separation are synonymous with the system of ideas; one constitutes the other. The system of ideas that underlie the rules is itself a product of the rules. There can be no classification of clean and unclean without the rules of separation and no rules without classifications. In this sense, the reason the gift limit is \$50 is that there must be a limit, a rule of separation. This is not to say that the dollar amount is random or that it could be any amount and still retain its practical function. The first step in understanding this rule is understanding why there is a need to place a dollar amount as a limit in the first place. Because there is the \$50 rule, not simply some general principle of public/private separation, we can now identify what conforms to the rule and what does not, we can now identify the normal and pathological in relation to accepting gifts. In the same way, the general decrees that public office cannot be used for private gain or that gifts and contributions can never be linked to actions that have been taken or that will be taken are utterly meaningless and have no significance. Why else would someone who is neither a relative

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nor a friend give a gift to a member of the House or provide a campaign contribution if not as some form of support for an action that was taken or that he or she hopes will be taken? It is precisely because everyone knows this to be true that limits are established and the rules of separation are made specific.¹⁵

Examples of this principle appear throughout the rules. We know that everyone is potentially a lobbyist, so, in order to establish a clear distinction, the categorization *lobbyist* is made a technical term referring to those who are legally registered as such. We know that any number of actions while in office could result in private gain (indeed, untold numbers of corporations and law firms are willing to pay significant amounts of money to employ individuals once they leave office, purely on the basis of their having been in office), so we have a multitude of specific rules that tell us what constitutes private gain and what does not. We cannot know what political corruption is without recourse to these rules of separation.

That the limit to gifts should be \$50, that privately sponsored travel has four- and seven-day limits, that additional earned income is limited to \$21,765, all have another foundation as well. As has been noted, the dollar limit to gifts could have been set at \$1,000 and the basic principle of there being a specific rule by which to determine what is normal and pathological would be sustained. However, it would be more difficult to demonstrate that a gift of that magnitude does not constitute a corruption of the public interest in the eyes of citizens. Obviously, the greater the value of a gift the less believable the assertion that the person receiving the gift was not influenced by it. It may be that the gift limit could be \$100 or that the additional earned-income level could be \$40,000 and the gift would be just as believable and efficient as the existing amounts; the point is that the specific limits in each rule correspond to basic parameters regarding how such actions are likely to be perceived. A principle that underpins much of the content of these rules is that public servants must not engage in behaviors that are too overt and obvious in their illustration of how the concrete private body of the public servant conflicts with the presumed purity and objectivity of their abstract public body. If former employees and advisors are to lobby for you on behalf of an interest group, they should at least wait a year; it looks better. If you do take a trip paid for by private money, don't let it go beyond four days; it doesn't look good. Maybe it is true that elected public servants will tend to act on behalf of important supporters and campaign contributors, but at least don't make it too obvious.

The investigation into the violation of many of the rules listed above by Representative "Bud" Shuster (R-Pa.) illustrates this principle. Shuster, chairman of the Transportation and Infrastructure Committee,

became the object of an official investigation by the Committee on Standards of Official Conduct (CSOC) largely as a result of Shuster's apparent collusion with his former chief of staff, Ann Eppard, who had worked for him for twenty-two years (Committee on Standards of Official Conduct 2000a). After resigning her post, Eppard established her own lobbying firm and lobbied Shuster on behalf of her clients during and after the twelve-month period following her resignation. As already noted, senior house staff are not allowed to lobby their former employers for twelve months following the end of their employment. The official report notes that this restriction, enacted in 1989, was intended "*to diminish any appearance that Government decisions might be affected by the improper use by an individual of his former senior position*" (CSOC 2000a, 8; italics in original).

Shuster and Eppard proved to be inept at keeping up appearances. Not only was Eppard the former chief of staff, she was also, while she was lobbying Shuster, the assistant treasurer for Shuster's reelection campaign and a significant fund-raiser (in itself, it is perfectly legal to be a lobbyist and a campaign officer or fund-raiser—it simply must not *appear* to be something that is done in exchange for some favor). Shortly after Eppard began to represent Frito-Lay and Federal Express, Shuster pushed through the Congress the granting of a waiver from many federal safety regulations for midsized delivery trucks (such as those used by both companies): "A quiet lobbying campaign aimed at the House Transportation Committee yielded in a few months what years of regulatory struggles had not" (CSOC 2000a, 79). After Eppard was hired by Amtrak, Shuster championed a bill that provided Amtrak with money and financial restructuring, exactly what Amtrak had hired Eppard to accomplish. After Eppard was hired by the Outdoor Advertising Association of America, Shuster argued on behalf of a bill allowing more billboards to be placed along routes designated as scenic byways, and legislation was eventually passed (CSOC 2000a, 79–82). There are a great many additional potential rules infractions investigated by the CSOC, including a trip by Shuster to Puerto Rico paid for by one of Eppard's clients, frequent stays by Shuster at Eppard's home, and Shuster's frequent use of Eppard's car.

It should be noted that the CSOC found Shuster not guilty of any infractions in the three legislative cases noted above. Yet, he was found to have violated the letter of the law with regard to the twelve-month rule and gift rules, and was found guilty of bad campaign-finance accounting and a few other minor infractions. All the infractions boil down to the violation of one rule, literally rule number 1, clause I of the Code of Official Conduct, "a Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably

on the House of Representatives.” What Shuster was ultimately found guilty of is not being a good enough actor when it comes to maintaining the illusion of the purity of the public good from private interests. The letter of reproof issued to Shuster by the CSOC reads like a mantra for clause I; it begins by noting that “by your actions you have brought discredit to the House of Representatives” and goes on to establish why each infraction constitutes a violation of clause I: “The first area of misconduct, constituting conduct that did not reflect creditably on the House of Representatives. . . . The third area of misconduct to which you admitted, and which constitutes conduct by you that did not reflect creditably on the House of Representatives. . . . The fifth area of misconduct to which you have admitted, and which constitutes conduct that did not reflect creditably on the House of Representatives” (CSOC 2000b). The letter concludes with the following statement: “In our free and democratic system of republican government, it is vital that citizens feel confidence in the integrity of the legislative institutions that make the laws that govern America. Ultimately, individual Members of Congress can undermine respect for the institutions of our government” (CSOC 2000b).

The purity of the public is specular and illusory, a performative gesture, a product of a series of rules designed to cloak the fetishistic nature of the public/private split. In Leviticus, the division between the clean and the unclean was such that by following the rules of separation one could completely realize the conceptual goal of wholeness as it was understood at the time. In Washington, D.C., the fetishistic nature of the public makes it impossible to fully realize the separation of the public and private in terms of the actual content of politics. The legal fiction, as Kantorowicz terms it, of the abstract body of the public is materialized and regulated through the rules of separation in that what is kept pure is not politics itself but, rather, its categorizations and self-presentations. Given the impossibility of removing “private interests” from either the real bodies of public servants or from the actual substance of bourgeois politics, a series of rules and practices are instituted in order to purge the realm of appearances from acts that challenge the categorization of society as divided into two mutually exclusive registers, the public and the private. The success of these rules of separation thus relies upon two interrelated imperatives, to regulate and cloak or eliminate all those activities that are likely to be perceived by citizens as a presence of private regarding within the public body, and to structure the parameters and boundaries of what citizens are likely to perceive as corruption simply by serving as the point of reference for establishing what constitutes the normal and pathological in such matters.

There are a great many potential corruptions of the public by the pri-

vate that are not included in the rules discussed above, and this can only be interpreted as a sign that they fall within the “normal” side of the equation. It could easily be argued that members of the Congress are corrupt when they vote according to the private interests of constituents in their districts, or that a president is corrupt when he appoints his friends to public office, and so forth. We find nothing against these types of activities in the existing rules of separation, although in both cases it could be a violation of the rules if appearances are not maintained.¹⁶ The pragmatic requisites of bourgeois politics necessitate that private interests be everywhere within the public but that everyone categorize these short-circuits as being normal and desirable.

In this respect, the rules of separation found in Leviticus and those found in Washington, D.C., are not based on some truth existing in nature or society but are attempts to formalize and ritualize the meanings and categorizations through which society maps its understandings and perceptions. The attempt to explain the rules of separation by reference to the “real” dirtiness imminent in the object or activity itself is thus necessarily bound to failure. Crabs and oysters are no more dirty, from the perspective of nutrition or biology, than are salmon and tuna. Clientalism is no more dirty from the perspective of the interests it articulates than are pluralist interest group arrangements. Again, to go back to Douglas, it is only in reference to the system of ideas that these rules make sense and their object is nothing more than the material constitution and reproduction of the system of ideas.

Cynicalism, Corporations, and Conflict: Tentative Conclusions

That political corruption as such has never been completely outlawed in modern societies thus makes perfect sense. The whole point of the discourse and practices surrounding corruption has been to make most cases of private regarding within the public acceptable and normal by identifying only some forms of private regarding as corrupt. The rules and rituals of separation that function to maintain the purity of the categories of public and private also support the contemporary legal fiction that public servants act not as concrete individuals but as articulations of the abstract body of the polity and, accordingly, are neutral, objective, and free from the passions and interests that may plague their private existence.¹⁷ The pragmatic problem here is that everybody knows this to be a fiction. Everybody knows that Bush as public servant cannot be abstracted from Bush as private citizen, that his religious fundamentalism, corporate alliances, and personal affiliations directly impact his conduct as president.

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The logic operant here is one of cynicism; we know that the idea of a public that is free of private interests and passions is fictional, nonetheless, we demand that all involved act as if this were not the case. We demand that the illusion of a real and substantive public be maintained even though we may not fully believe it.

The question of corporate corruption is simply an extension of these principles. Rather than dealing with the eternal polity, we now deal with another abstract body, the corporation. The corporation never dies or suffers from the infirmities of old age and vice; it is a legal and fictional subject that we speak of as acting, even though we all know that it does not exist as a real body and that its actions are no more than the actions of individuals who happen to occupy positions within it. If the idea of corporate corruption has any precision, then, it alludes to the actions taken by individuals that go against the purity of this classification, for example, when individuals fail to maintain the fictional division between themselves as private, concrete, self-interested individuals and as public, corporate servants working on behalf of the shareholders/constituents of said corporation.¹⁸

The popularity of the anticorruption stance, whether it be applied to politics or corporations, is largely a product of the tension between what we know to be true and what we desire to be true. We all know that modern politics as well as economic life are about clashes of self-interests, about maximizing profits and utility, and that these arenas are rife with antagonisms and animosities. The problem is, the public/private divide has asserted that we, as members of the polity, are bound to each other by common interests, that through our abstract bodies as members of the body politic we lead an unalienated and harmonious existence with our fellow citizens. The tension between the nationalist fantasies that support this fiction of the polity unified through common interests and destinies and the reality of society is the common trauma that has led to projects across the political spectrum that seek to realize this harmonious unity of the polity. The only significant difference between them is what they understand the problem to be: greedy corporations, pathological individuals, government apparatuses run amuck, and so on. In all cases the implication is that there is a pathological presence in society; something is out of place.

The popularity of anticorruption discourse is also a testament to the success of the rituals and rules of separation in regard to the categories of public and private. Rather than reject the categories as bourgeois fantasies designed to support the fiction of the polity, the discontented seek to produce social change by way of and through these categories. As has been demonstrated here, even the academic literature on corruption has taken

the categories of public and private to be natural, essential, universal, indisputable, and inescapable. Thus, the question of corruption has remained largely a technocratic one, involving managing things properly so that everything stays where it should be; the state stays out of our private lives, corporations stay accountable to the public, Americans stay in their corner of the world, and so forth. What is always missing is the “ought” function, the positing of things in terms of what ought to be rather than in terms of keeping things in their proper place. The shift from the traditional to the modern notion of corruption has coincided with our relinquishing the question of ought to bourgeois political ontology. The radical position today is not to obsess over corporate corruption and remain trapped by the fallacy that if only some procedures were reformed and greed kept in check the public interest could be realized. The radical position today is to reject the categories of public and private as they are presently constituted and to expose all the questions that have been subsumed by the discourse on corruption. The task at hand today is to go beyond the moralistic, technocratic, and formalistic positions that the concept of corruption leads us to. The real problem is not that something is out of place; it is that there is no political process through which we can posit what we think the good society is, in order to know if we are moving in the proper direction or are in a state of *diaphthora*. Illusions of purity and the desire for order have replaced real politics; that is the problem.

Notes

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1. For a discussion of the various ways that political corruption has been defined, see Heidenheimer, Johnston, and LeVine (1989). They argue that there are three ways: “public office centered,” as a deviation from the requisites of public office; “market centered,” as rent-seeking activity by civil servants; and “public interest centered” as action that does damage to the public interest. All three of these definitions contain the idea that the public is subverted by the private.

2. Aristotle sometimes identifies four types of constitution, including oligarchy in the list and replacing polity with democracy.

3. The standard definition of *diaphthora* can be found in the Liddle-Scott Greek-English lexicon, which is available online at www.perseus.tufts.edu.

4. Peter Euben (1989) has equated the term *stasis*, not *diaphthora*, with political corruption. *Stasis* refers to the destruction and fracturing of the political community, and thus can also easily be thought of as *diaphthora*. As with *diaphthora*, *stasis* does not imply any question of public-private transgression.

5. This brief discussion of the categories of public and private necessarily skips over many important questions and debates. A much more extended discussion of these points is needed to demonstrate the full import and causes of this rise of the public-private split. Toward this end, and in addition to Kantorowicz, Norbert Elias's *The Civilizing Process* (Malden, Mass.: Blackwell, 2000), particularly the discussions of how the king becomes transformed from a feudal lord into a public functionary, is a seminal text.

6. Marcel Mauss's *The Gift* (1990) is also relevant to this question. According to Mauss, "The very word 'interest' is itself recent, originally an accounting technique: the Latin word *interest* was written on account books against the sums of interest that had to be collected. In ancient systems of morality of the most epicurean kind it is the good and pleasurable that is sought after, and not material utility. The victory of rationalism and mercantilism was needed before the notions of profit and the individual, raised to the level of principles, were introduced. One can almost date—since Mandeville's *The Fable of the Bees*—the triumph of the notion of individual interest. Only with great difficulty and the use of periphrasis can these two words be translated into Latin, Greek, or Arabic" (76). See also Louis Dumont (1977) on the rise of these ideas.

7. The question of corruption is particularly confusing in the case of Machiavelli because already present in his work is the public-private split and the question of interests, as when he states, "So the senators sent two ambassadors to beg him to set aside private enmities, and in the public interest to make the nomination" (523). In this context, it is easy to accept Shumer's argument that the subversion of the public by the private is one dimension of corruption for Machiavelli. But, even if we accept this argument, Hirschman is still correct in his assessment, and the concept of corruption found in Machiavelli is still traditional because private interests in this context function as bribery did in the earlier example, as something that decreases virtue. Thus, private interests are bad in themselves, and corruption is not simply the improper presence of private interests within the public. For example, the idea Shumer puts forth that average citizens are corrupted by their privatization is completely unthinkable from the point of view of the modern understanding of corruption. It does not make sense in the modern context to say, for example, that voters are corrupt because they vote according to their private interests. In fact, it is never possible to say that private citizens are ever corrupt in the modern sense of the term (although they can certainly be corrupting, as when they tempt public officials with bribes and favors). This difference between the traditional and the modern understanding of corruption is further examined in the next section of this essay.

8. Given that the modern concept of corruption becomes thinkable at any point after the rise of the public-private split, it seems possible, in opposition to both Mauss and Hirschman, that the modern use of the term occurs well before either Mandeville (Mauss's argument—*The Fable of the Bees* was published in 1714 with the revealing subtitle *Private Vices, Publick Benefits*) or the late eighteenth/early nineteenth century (Hirschman's argument). For example, Francis Bacon was convicted of political corruption qua bribery in 1621. He famously con-

fessed, "I am guilty of corruption and do renounce all defense." Given the dominance of the two bodies doctrine in Elizabethan England and the relative novelty of convicting a judge for bribery (at that time, it was common for judges to receive gifts from winning parties), it seems likely that already with Bacon we have the use of the term of corruption in the modern sense. The important point here is that the rise of the modern concept of corruption should not be thought of as an event but, rather, as a process that begins with the rise of the two bodies doctrine and becomes fully realized by the time of the bourgeois revolutions of the eighteenth and nineteenth centuries.

9. Note the similarity of this understanding of corruption with the claim of bin Laden et al. that the presence of Westerners in the Middle East is a corruption of the sacred spaces of Islam. There is nothing bad or evil about Americans as such; the problem is that they are out of place. The same logic has been used by German fascists; the basic political problem here is that things are out of place, and the political project of Nazism is to return things to their "proper" order. The problem with regard to the Jews and Gypsies is that there is no "proper" space to return them to; thus they are always a corruption. The only "solution" is to eliminate them altogether.

10. In addition to nearly all the contributions in what is undoubtedly the best-known and most authoritative collection of readings on the subject, Heidenheimer, Johnston, and LeVine's *Political Corruption: A Handbook* (1989), there are hundreds of essays in this tradition to be found in the many mainstream journals that cater to area studies and comparative politics, particularly in reference to Asia, South America, Africa, and Eastern and Southern Europe.

11. Nearly all commentators on political corruption, including van Klavern, would readily admit that corruption occurs even in liberal capitalist societies. The main question is whether it exists as a transgression of accepted rules and institutional norms or whether it exists in a systemic way. Similarly, the question is often presented as one of frequency; corruption exists everywhere but there are pathological elements in underdeveloped societies that result in it being much more common there than in the developed world. Huntington (1989) says, "Corruption obviously exists in all societies, but it is also obviously more common in some societies than in others and more common at some times in the evolution of a society than at other times" (377).

12. Douglas, mistakenly, assumes that frogs are clean because they are not listed by name in the relevant sections of Leviticus. She explains the apparent anomaly of a lizard being clean as a result of frogs having four feet and jumping (as opposed to other lizards, which do not have four feet and swarm and creep). That frogs, despite their having four feet and hopping, are unclean can easily be explained by their amphibious nature.

13. The common dictum "cleanliness is next to godliness," apparently derived from an old Hebrew proverb, makes sense in this context.

14. The partial exception in some states within Australia (New South Wales, Queensland, and Western Australia). All three have recently passed laws against corruption that are very broad and general.

15. Obviously, this general prohibition against linking gifts to past or future actions simply requires that the exchange not be explicitly linked to actions; giving a gift or contribution is fine as long as it is not presented as an exchange for some action.

16. As with the savings and loan scandals of the late 1980s, it is almost always acceptable for members of Congress to lend support to business interests, but when it appears as being too much support, whatever that may be judged to be, it can be said to violate the rules of separation precisely because people judge it as too much, because it does not “reflect creditably” on the state apparatuses. When it comes to having supported savings and loans that failed and cost taxpayers billions of dollars, it appears that the threshold for what constitutes too much is lower than usual. In this respect, it may very well be the case that the only reason Shuster was investigated and reproved by the CSOC is because the *Journal of Commerce* published an article raising suspicions about Shuster’s activities and because he was also the object of an investigation by the *60 Minutes* television program.

17. It should be noted that the two bodies doctrine not only establishes the modern split of the public and private but also makes possible the modern fiction of the corporation. This was recognized by Kantorowicz and he documents the rise of the legal fiction of the corporation (1957, 291–313). See also Stoljar 1973.

18. Of course there is much more going on when it comes to corporate corruption. Rules regarding accounting practices, stock trades, and the like are constantly being adjusted and fought over in the ever shifting demarcation of what constitutes a normal presence of private regarding in corporate life. Similarly, the normatively loaded term of corruption comes to stigmatize a whole ensemble of practices and moralizes these transgressions as the product of “evil” and “greedy” individuals.

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