

# **Conceptions of Political Corruption in Ancient Athens and Rome.**

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## **Abstract**

There were two broad discourses of corruption in antiquity. The first ('corruption 1') conceived corruption in moralistic terms as a loss of virtue in the polity; a generalised condition afflicting political elites and citizens indiscriminately. The second discourse ('corruption 2') is the narrow, legalistic view of corruption as the abuse of public office for private gain and, as with contemporary understandings of corruption, it involved activities like patronage, bribery, extortion and embezzlement. It is sometimes suggested that the first discourse was either the only, or else the dominant discourse in antiquity. But, as will be shown in the following discussion, corruption 2 was very well developed in the classical period, particularly in Athens and Rome. In this paper I seek to show how well-developed was the conception of corruption 2 in antiquity by examining its treatment in discourse, law and practice. But I also attempt to map and comprehend the fractures and contradictions in the classical attitude to corruption that prevented it from being either monolithic or fully operational.

## **Introductory Comments**

There were two broad discourses of corruption in antiquity. The first (hereafter referred to as 'corruption 1' (virtue focussed corruption) conceived it as a generalised condition that spread contagiously and diffusely throughout the polity affecting leaders and citizens alike. It focussed less on the actions of individuals than on the loss of virtue and the general moral health of the body politic. Many classical writers took for granted that prosperous states were doomed to tip into decline and fears of moral decrepitude may be found in the writings of such ancient writers as Plato, Aristotle, Polybius, Thucydides, Tacitus, Epictetus and Seneca. Corruption was both the cause and effect of aggressive empire-building, hedonism (especially indulgence in luxury), material inequality and civic professionalization, especially of military functions. The second discourse of corruption (hereafter referred to as 'corruption

2' ('modern' or rule-focused corruption). was one that is more recognizable to the contemporary reader; this is the narrow, legalistic account whereby corruption is conceived as the abuse of public office for private gain involving such transgressions as patronage, bribery, extortion and embezzlement. Yet, it is sometimes suggested that the first discourse was either the only, or else the dominant discourse in antiquity. But, as will be shown in the following discussion, corruption 2 was very well developed in the classical period, particularly in Athenian and Roman society, which are the best documented cases and therefore the primary foci of this paper. Further, the Athenian and Roman cases evince similar patterns in attitudes to corruption.

In this paper I seek to show how well-developed was the conception of corruption 1 in antiquity by examining its treatment in discourse, law and practice. But at the same time, I also attempt to map and comprehend the fractures and contradictions in the classical attitude to corruption that prevented it from being either monolithic or fully operational.

### **Classical (1) versus 'Modern' (2) Conceptions**

It is sometimes argued that the ancient's interest in corruption is significantly different from that of the moderns. For example, Albert O. Hirschman has suggested that, until the eighteenth century, corruption 'stood for deterioration in the quality of government no matter for what reason' and that it was only after this time that 'the monetary meaning drove the non-monetary one out almost completely'.<sup>1</sup> John Kleinig and William Heffernan suggest that, for Plato and Aristotle, 'the primary focus is on a larger and more intrusive notion of generation or decay'.<sup>2</sup> Arlene Saxonhouse has also argued that for Aristotle, 'the corruption of the regime...is its change in form, not a violation of the public interest in and of itself'.<sup>3</sup> Peter Bratsis challenges the assumption that there is 'an unbroken line in the concept of corruption' (understood in the latter sense) and that it is a 'concept common to nearly all political forms and historical epochs'. On his account, antique Greek authors held no such conception because they did not have any specific terms for bribery as it is later used.<sup>4</sup>

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<sup>1</sup> Hirschman, A.O. *The Passions and the Interests*, New Jersey: Princeton University Press, 1977, p. 40, n. Q

<sup>2</sup> J. Kleinig and William C. Heffernan, 'The Corruptibility of Corruption' in W.C. Heffernan and J. Kleinig (eds) *Public and Private Corruption*, Lanham, Rowan and Littlefield, 2004, p. 5

<sup>3</sup> Saxonhouse, 2004, p. 40.

<sup>4</sup> Bratsis, Peter, 'The Construction of Corruption, or Rules or Separation and Illusions of Purity in Bourgeois Societies', *Social Text*, 21 (4), 2003, 9-33, 11-12

## The Language of Corruption

Bratsis follows Mark Philp<sup>5</sup> in noting that there are several words in ancient Greek that conflate or fail to distinguish between gifts and bribes (i.e. *doron*, *lemma*, *chresmasi peithein*). And although Philp (following David Harvey and others: see below) argues that there is another ancient Greek word for bribery that does distinguish gifts from bribes (*diaphtheirein*),<sup>6</sup> Bratsis counters that *diaphtheirein* does not mean bribery or corruption in the modern sense. Rather, it denotes a corruption of the mind by which the ability of individuals to make sound judgements is diminished. In the process of taking a bribe, the citizen has surrendered free will and has therefore lost the ability to exercise judgement as an autonomous member of the polity.<sup>7</sup> Bratsis seems to be only partly correct here. It is true that *diaphtheirein* is a process that destroys the independent judgement of a person<sup>8</sup> leading to his/her corruption. But the important point here is that the corruption of judgement leads a person to abuse her public role for private gain. Accordingly, as Plato indicates, a person whose independence cannot be destroyed cannot be bribed and is therefore *adiaphthorōs*. Similarly, Demosthenes tells us that an agent who is *adiaphthorōs* is ‘uncorrupted’ by promises or prospects of gain.<sup>9</sup> For such a person, there is no ‘inducement’ that could ‘suborn’ or ‘betray the just claims and the true interests’ of his country. Instead, he administers his public duties ‘in all purity and righteousness’.<sup>10</sup> For Kenneth Dover, *diaphtheirein* causes agents ‘to behave, feel or think in ways which impair their performance of their roles in the community’.<sup>11</sup> At this point we see the political and legal significance of *diaphtheirein*.

It is also worth noting here that the Romans did have a specific term for electoral bribery: *ambitus*, which connotes an overdeveloped desire for political glory and position.<sup>12</sup> Therefore, we know of at least two terms in the Greek and Roman lexicons that denoted corruption in the sense that it is now understood (corruption 2). Finally,

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<sup>5</sup> M. Philp, ‘Defining Political Corruption’ *Political Studies* XLV (1997), 436–462, 442.

<sup>6</sup> Philp, ‘Defining’, p. 442.

<sup>7</sup> Bratsis, ‘The Construction of Corruption’: 12

<sup>8</sup> The term *diaphtheirein* appears less frequently in earlier sources prompting Strauss to speculate that it was a word used more in spoken Greek and might even have been a colloquialism. But by the time of Theopopos and Aristotle it had gained formal acceptance (D.M. MacDowell, ‘Athenian Laws About Bribery,’ *RIDA* 30 (1983), 57–78, pp. 76-7).

<sup>9</sup> Dover, *Greek Homosexuality*, 48)

<sup>10</sup> Demosthenes, ‘On the Crown,’ in *Demosthenes*, trans. C. A. Vince and J. H. Vince (Cambridge, MA: Harvard University Press, 1926), xviii, 298.

<sup>11</sup> Kenneth J. Dover, *Greek Homosexuality* (Cambridge, MA: Harvard University Press, 1989), 48.

<sup>12</sup> Lintott, Andrew, ‘Electoral Bribery in the Roman Republic’, *The Journal of Roman Studies*, Vol. 80 1990, pp. 1-16, p. 1.

it should be pointed out that bribery is not the only form of political corruption associated with the abuse of public office for private gain; as will be shown, the ancients also worried about other forms of corruption as well, including extortion, patronage and embezzlement.

### **Corruption and the Public/Private Distinction**

It has also been denied that ‘modern’ understandings of corruption could be present in the classical world on the grounds that there was no distinction made in classical thought between the public and private spheres, therefore no corruption in the modern sense is possible. ‘Political corruption’, Bratsis insists, ‘is an exclusively modern phenomenon made possible only after the rise of the public/private split and the concept of interests’.<sup>13</sup> There is, however, considerable evidence to the contrary.<sup>14</sup> In fact, abuse of public office for private gain was a major problem and therefore a major preoccupation for writers in ancient Greece and Rome.

The ancient Athenians consistently evince unease about any intrusion into ‘public life of private economic motives’.<sup>15</sup> Plato, for example, complained of public officials who are ‘bribe-takers and money-lovers’.<sup>16</sup> In the *Politics* Aristotle cautions that ‘a tyrant...has no regard to any public interest, except as conducive to his private ends’ of ‘pleasure’ and ‘riches’, as opposed to the public motive for ‘honour’.<sup>17</sup> Office-holders, for Aristotle, have a public duty and the public interest is harmed when they use this office for their own ‘private ends’. Indeed, the only ‘true forms of government’ are those that ‘govern with a view to the common interest’ while those that rule only in the ‘private interest’ are ‘perversions’.<sup>18</sup>

In Greece, corruption was recognised as a crime and punished severely, specifically when it was judged contrary to the public interest. Demosthenes reports on the law whereby if one...

...accepts a bribe from another, or himself offers it to another, or corrupts anyone by promises, to the detriment of the people in general, or of any individual

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<sup>13</sup> Bratsis, ‘The Construction of Corruption’: 12-14.

<sup>14</sup> On this count I agree with Philp who notes that ‘there is ample evidence that the Greeks could recognize both the concept of a public trust, and the use of gifts to subvert the ends of this trust’ (Philp, ‘Defining Political Corruption’, p. 442).

<sup>15</sup> Strauss, p. 73:

<sup>16</sup> Plato, *Republic*, 390d

<sup>17</sup> Aristotle, *The Politics of Aristotle*, Vol. 1, trans. Benjamin Jowett (Oxford: Clarendon Press, 1885), V.x.

<sup>18</sup> Aristotle, *Politics*, III.vii.

citizen, by any means or device whatsoever, he shall be disfranchised together with his children, and his property shall be confiscated.<sup>19</sup>

Here is the Roman Stoic philosopher Epictetus (AD 55 – AD 135) addressing a literary audience of Rome’s elite and painting a lurid picture of systemic corruption that is thoroughly entrenched and normalised: ‘[o]ne man gets up at early dawn and looks for someone of the household of Caesar to salute, someone to whom he may make a pleasant speech, to whom he may send a present...how he may gratify one person by maliciously disparaging another’.<sup>20</sup> Epictetus then speaks directly to his hypothetical reader, confronting him with a series of blunt questions: ‘how did you come to be a judge? Whose hand did you kiss...? In front of whose bedroom door did you sleep? To whom did you send presents?’<sup>21</sup>

According to Cicero, public officials are bound ‘to keep the good of the people so clearly in view that, regardless of their own interests, they will make their every action conform to that.’<sup>22</sup> ‘Exploiting ‘the state for selfish profit is not only immoral: it is criminal, infamous’.<sup>23</sup> With a similar sensitivity to the public/private distinction, the Athenian orator Demosthenes (384-322 BC) rails against the use of ‘mercenary soldiers’ who barter ‘all the interests of the State, and their own as well, for a paltry profit’.<sup>24</sup> But here is an even better example given by the Athenian lawyer/politician Hypereides (c. 390-322 BC) in a speech given in 324-3 BC at the state prosecution of Demosthenes. In a digression on the types of political corruption that might be prosecuted successfully, Hypereides cites the case of Aristomachos, a ‘president of the Academy’ who was convicted and fined for private use of a public resource. The banal and relatively trivial nature of his ‘crime’ underlines how sensitive ancient Athenians really were to the private/public distinction. Apparently, Aristomachus ‘transferred a pick from the wrestling school into his own garden, nearby, and used it

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<sup>19</sup> Demosthenes, ‘Against Meidias’, 21.113.

<sup>20</sup> Epictetus, *Discourses* 4.6.31

<sup>21</sup> Epictetus, *Discourses*, 3. 7. 31

<sup>22</sup> Cicero, *De Officiis*, I. xxv. 85.

<sup>23</sup> Cicero, *De Officiis*, With an English Translation by Walter Miller, London: Harvard University Press, 1990, II:77.

<sup>24</sup> Demosthenes, ‘Answer to Philip’s Letter’, *Demosthenes*, 11.18.

there'.<sup>25</sup> Hypereides' implication that the guilty verdict was entirely appropriate suggests a very fine-- perhaps even over-developed-- appreciation of corruption 2.

### **Catapolitical Bribery.**

One factor that might have contributed to a high level of tolerance for routine corruption in Greece is the existence of what has been labelled 'catapolitical bribery'. Despite such apparent sensitivities, in Greece *dōra* were routinely offered and accepted. Some were more disapproving of this practice than others and it would be heroic to assume that all Athenians shared the same moral attitude to *dōrodokia*. Jack Cargill suggests that although classical thinkers did not conceive bribery as inherently corrupt, it was considered so when judged contrary to the public interest.<sup>26</sup> Claire Taylor adopts a similar line: 'the Athenian public seems to have accepted this situation so long as the politicians did not betray the interests of the city'.<sup>27</sup> Bribery was one thing, but bribery that hurt the interests of the polity was quite another.

When Aischines attacks Demosthenes with the accusation that 'he made enormous profits out of politics' and paid his 'expenses' with 'Persian gold', the crux of the problem is that Demosthenes 'supplie[d] his wants, not from his private income, but from [Athens'] perils'.<sup>28</sup> Hyperiedes makes a similar point: 'Whether someone took money you see, is not as grave an issue as whether he took it from an improper source'. '[P]rivate individuals' who take gold are not 'criminals in the same way as' those who have duties to the public, such as 'speakers and the generals'.<sup>29</sup> With the boot on the other foot now, Demosthenes accuses Aeschines of taking bribes from Philip of Macedon. By being in 'the pay of their enemies' Aeschines has seriously compromised the interests of the state and his 'fellow citizens'.<sup>30</sup> Hypereides accuses Demosthenes and his friends of criminally 'jeopardiz[ing]' the 'prosperity' and 'safety of the polis' by taking 'bribes against' his 'country's interests'.<sup>31</sup> Taylor refers to this latter and higher order of bribery as 'catapolitical' corruption.<sup>32</sup>

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<sup>25</sup> Hypereides, "State Prosecution of Demosthenes, After Report, for Receiving Bribes," in *Hypereides: The Forensic Speeches*, intro., trans. and commentary David Whitehead (Oxford: Oxford University Press, 2000), 365–371, 24–26.

<sup>26</sup> Jack Cargill, "Demosthenes, Aischines and the Crop of Traitors," *The Ancient World* 11:3–4 (1985), 75–85.

<sup>27</sup> Taylor, "Bribery in Athenian Politics Part I," 64.

<sup>28</sup> Aischines, *Speeches*, 3.173

<sup>29</sup> Hypereides 'Demosthenes', 24-26.

<sup>30</sup> Demosthenes, 1926, 18. 131.

<sup>31</sup> Hypereides, 'Demosthenes', 34-39.

<sup>32</sup> Taylor, "Bribery in Athenian Politics Part I," 64.

Hypereides insists that it is quite alright to enjoy some perks from public office and, further, that it is understandable that the courts might turn a blind eye in such circumstances. But '[t]here is just one proviso: what they take must be in, not against, [the state's] interests'.<sup>33</sup> In this case, Hypereides is referring to a case of embezzlement involving enormous sums (the Harpalos affair). The accused (Demosthenes and Demades) have, by their actions, 'threatened the very body politic'.<sup>34</sup> Hypereides declares that he has never been particularly interested in cases of non-*catapolitical* corruption. In fact, he 'has never in [his] life ...prosecuted a private individual' but only 'very powerful figure[s] in public life, like 'speakers' and 'Generals' who 'are in a position to harm the polis'.<sup>35</sup>

The main point to be taken here is that, for some, bribery wasn't seen as too much of a problem if it did not directly hurt the interests of the state, hence the moral ambiguity. So, it seems that there were some who took a consequentialist rather than deontological view of corruption; bribery for them was 'not a crime in and of itself' but was problematic only if it hurt the public interest.<sup>36</sup>

The difficulty here is that the claim some bribery was *catapolitical* and others not is based on an unstable distinction, since all corruption, ultimately, runs counter to the interests of the state and its citizens. Whether the corruption entails colluding with the enemy to imperil the very survival of the state or whether it is a more diffuse, systemic problem --made up of many small acts perpetrated by many individuals that, in the long run, leads to a dysfunctional civil service, political instability and economic decline (see below)-- both end up being effectively *catapolitical*. Some authors seemed to understand this and were therefore less inclined to see some forms of corruption as harmful and not others. The fact that the wealthy could manipulate the justice system was, for Cicero, 'pernicious to the republic'.<sup>37</sup> Ammianus appreciates that extortion in the provinces causes mass immigration<sup>38</sup> while judicial corruption disadvantages the poor.<sup>39</sup> Lucan, meanwhile, calculates that the outrageous

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<sup>33</sup> Hypereides, 'Demosthenes', 24-5.

<sup>34</sup> Hypereides, "Demosthenes," 24-5.

<sup>35</sup> Hyperiedes, 'Defence of Euxenippes', 27-29

<sup>36</sup> Strauss, 'Cultural Significance of Bribery', p. 72

<sup>37</sup> Cicero, M. Tullius, "Against Verres," in *The Orations of M. Tullius Cicero*, vol. 2, trans. C. D. Yonge (London: George Bell & Sons, 1903), 1.1.1.

<sup>38</sup> Ammianus, *Ammianus Marcellinus*, XXX, V.6; XXX.v.10.

<sup>39</sup> From a fragment by Ammianus cited in De Ste. Croix, G.E..M. ' 'Suffragium: From Vote to Patronage'', *The British Journal of Sociology*, 5 (1), 1954, pp. 33-48, p. 44.

costs of electoral bribery ‘destroyed the state’ because it led to unconscionable levels of debt, soaring interest rates and eventually civil war.<sup>40</sup>

Nevertheless, there is some evidence that *catapolitical* bribery was considered in a special class. The most perjorative adjective in Greek is *aischron*, which translates as ‘shameful’. It is a word that is often paired with acts of bribery but, significantly, this adjective is most often used in relation to the commission of *catapolitical* bribery.<sup>41</sup> When Demosthenes enjoins the Athenians to purify the city of *dōrodokia*, it is *catapolitical* bribery that he finds so repugnant. Indeed, fines and other such lenient penalties are out of the question in such cases: those ‘who have sold themselves to Philip must be abhorred and cudgelled to death’.<sup>42</sup>

Further evidence that *catapolitical* bribery might have been in a class of its own at least as far back as the fourth century BC (and probably even earlier) is found in the institution of an Athenian law reported by Hypereides: the *nomos eisangeltikos*.<sup>43</sup> This law targeted orators specifically, presumably because of their special role in political life and their ability to sway public opinion. The law specifies the penalty of impeachment for any orator who ‘betrays a city or...an army or fleet; or says things...not in the best interests of the Athenian people and takes money for doing so’. In the case of such serious crimes ‘there should be no procedural delay whatsoever’ in the meting out of justice.<sup>44</sup>

From the foregoing discussion it seems clear that ancient Greeks and Romans had a very clear sense of political corruption as abuse of public office for private gain, sharing with contemporary observers a concern with bribery, patronage, extortion and embezzlement. But this does not mean that their attitude to the issue was monolithic or consistent. Their capacity to make fine distinctions and identify forms of corruption that would not be out of place in a 21<sup>st</sup> century discussion of political corruption belies the fact that there was great deal of moral ambiguity at play in the theory and practice of corruption. There were also many factors inhibiting the unqualified and universal adoption of the legalistic conception in both settings. The remainder of this paper will explore discourses of corruption 2 in antiquity with a view to

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<sup>40</sup> Ambitus ‘destroyed the State; licence came devouring usury and interest that looks greedily to the day of payment; credit was shattered, and many found their profit in war’ (Lucan, *Civil War*, I.17).

<sup>41</sup> Harvey, ‘Dona Ferentes’, p. 109.

<sup>42</sup> Demosthenes, ‘On the Chersonese’, *Demosthenes*, 8.61

<sup>43</sup> In fact, Harvey categorises it as a law designed to address *catapolitical* offences (Harvey, ‘Dona Ferentes’, p. 111).

<sup>44</sup> Hypereides, ‘Euxenippos’, 7-8

demonstrating two things: first, that many antique writers understood corruption very much as we do today but, second, that this understanding was neither universal nor universally applied.

### ***Opportunities for Political Corruption.***

Both Rome and Athens had large bureaucracies with considerable opportunities for abuse. After it became the capital, Aristotle estimated that Athens had around 20,000 city employees.<sup>45</sup> Similarly, in Rome, by the fourth century AD, the number of civil servants had escalated considerably and it is estimated that between 30,000 and 35,000 were employed in the civil service compared with only a few hundred at the end of the second century.<sup>46</sup>

Many factors contributed to corruption, one of them being political and legal amateurism. In Greece after 411 BC most magistrates were not paid for their services and the temptation to augment one's income would have been high.<sup>47</sup> Neither were politicians paid salaries. Some, like members of the Boule, might have received a small state income (*mithos*) and their expenses were paid by the state when they travelled on embassies. Because pay was low-to-nonexistent, politicians had to be independently wealthy. They had considerable expenses, one of which involved the gathering of information to remain properly informed.<sup>48</sup> A politician also needed money for entertaining and for subordinates and bailiffs to run his business or farm while he worked for the state. Therefore it is hardly surprising that some accepted gifts to supplement their incomes.<sup>49</sup> For example, Aeschines attacked Demosthenes with the accusation that 'he made enormous profits out of politics' without ever laying out any of his own money for expenses which were paid for, dodgily, with Persian gold.<sup>50</sup>

### **Electoral Corruption**

According to some Roman writers, Rome was a paragon of civilisation and bureaucratic probity where corruption was concerned. Polybius (200–118 BC), for

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<sup>45</sup> *Athenian Constitution*, 24

<sup>46</sup> Averil Cameron, *The Later Roman Empire, AD 284-430*, Cambridge MA: Harvard University Press, 1993, p. 107.

<sup>47</sup> Taylor, "Bribery in Athenian Politics Part I," 57.

<sup>48</sup> Xenophon, "Memorabilia," in *Xenophon in Seven Volumes*, vol. 4, ed. E. C. Marchant (Cambridge, MA: Harvard University Press and London: William Heinemann, Ltd., 1923), 3.6.18.

<sup>49</sup> Harvey, "Dona Ferentes," 103.

<sup>50</sup> Aeschines, 1919, *Speeches by Aeschines*, trans. Charles Darwin Adams, Ph.D. (Cambridge, MA: Harvard University Press and London: William Heinemann Ltd, 1919), 3.173.

example, wrote that in Carthage ‘no activity which results in a profit is seen as a cause for reproach’ whereas ‘to the Romans ‘nothing is more disgraceful than to receive bribes or to seek gain by improper means.’ This assessment seems to have been rather optimistic. In fact, compared to Athens, *ambitus* or electoral bribery (the noun *ambito* connotes the pursuit of public office and acclaim, usually to excess)<sup>51</sup> was a far worse problem for the Roman Republic and is a ubiquitous source of complaint in the literature of the period. For example, it is reported that Julius Caesar won the office of Pontifex Maximus through bribery, while Cato is said to have bought the election of his daughter’s husband Bibulus.<sup>52</sup> *Ambitus* was even given a special role by some authors in precipitating the civil war.<sup>53</sup> In a letter to Lucilius, Seneca paints a sordid picture of the hustings, asking how anyone could...

...call it enjoyable, when the tribes are called together and the candidates are making offerings in their favourite temples – some of them promising money gifts and others doing business by means of an agent, or wearing down their hands with the kisses of those to whom they will refuse the least finger-touch after being elected?<sup>54</sup>

Electoral bribery, like most other forms of corruption, seems to have been fairly normalised.<sup>55</sup> In fact, it was such big business that it even gave rise to its own profession: distributors of bribes called *divisores*. Nevertheless, there was much moralising and handwringing on the subject: Cicero emphasised the importance of laws to prevent the ‘buying of votes’<sup>56</sup> and the sumptuary laws introduced from 182 onwards had the dual purpose of reducing virtue-sapping luxury and limiting the

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<sup>51</sup> Lintott, Andrew, ‘Electoral Bribery in the Roman Republic’, *The Journal of Roman Studies*, Vol. 80 1990, pp. 1-16, p. 1.

<sup>52</sup> Syme, 1960, pp. 25, 34.

<sup>53</sup> Florus argued that electoral corruption ‘inspired Marius and Sulla to dream of excessive power’ while, for Lucan, the enormous costs entailed caused the men it bankrupted to seek to recover their losses by civil war (Lintott, Andrew, ‘Electoral Bribery in the Roman Republic’, *The Journal of Roman Studies*, Vol. 80 1990, pp. 1-16, pp. 2-3; Lucan, *Civil War*, I.17).

<sup>54</sup> Seneca, *Moral Letters to Lucilius (Epistulae Morales ad Lucilium)*, Volume 3, translated by Richard Mott Gummere, Cambridge, Mass: Harvard University Press: Cambridge: Mass.

<sup>55</sup> Lintott, Andrew, ‘Electoral Bribery in the Roman Republic’, *The Journal of Roman Studies*, Vol. 80 1990, pp. 1-16, pp. 2-3.

<sup>56</sup> While conceding the difficulty of doing so (Cicero, *Laws*, in *De Republica; De Legibus* With an English Translation by Clinton Walker Keyes, London: William Heinmann Ltd. 1988, III.xvii.39-49).

amount that political elites could spend on gifts and entertainment for the purposes of drumming up electoral support.<sup>57</sup>

*Ambitus* was so serious a problem in Rome that many welcomed the demise of the republic, simply because it meant the end of elections. In the year 376, Q. Aurelius Symmachus wrote with relief of the ‘blessings of our age’:

[T]he hideous voting tablet, the crooked distribution of the seating places in the theatre among the clients, the venal run, all of these are no more! The elections are transacted between the senate and the emperors: equals elect equals, and the final decision rests with the superiors.<sup>58</sup>

### **Patronage.**

Roman law and literature is full of high ideals about how elites should rule, but the fact of the matter was that Roman politicians had to achieve their ambitions via networks, patronage, wealth, status, military glory and oratory; so a crucial factor was their ability to curry favour with others in the governing class.<sup>59</sup> In fact, few could afford to stand aside from the web of patronage.<sup>60</sup>

One of the factors complicating our understanding of what exactly public officials owed to their public was the notion of *gratia* which meant something like favour for which one expresses gratitude. *Gratia* could thus encompass gifts, donations and hospitality given in the context of a relationship between a socially dominant patron and his or her clients.<sup>61</sup> *Gratia* and patronage however, were not always seen as corrupt or corrupting. Some, for example, might castigate the corruption consequent on the monopolisation of *gratia* by the Emperors, and yet lament the passing of more ‘widespread’ *gratia* among the leading noble families of the Republic.<sup>62</sup>

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<sup>57</sup> The first of these was the Lex Orchia of 182, followed by other laws like the Lex Fannia of 161 and the Lex Antia of 68 (Lintott, Andrew, ‘Electoral Bribery in the Roman Republic’, *The Journal of Roman Studies*, Vol. 80 1990, pp. 1-16, pp. 5-6).

<sup>58</sup> Symmachus, *Or.* 4.7 cited in Linderski, J. 1985. ‘Buying the ovte: Electoral Corruption in the Late Republic’, *The Ancient World*, 11 (1), pp. 87-94, p. 87.

<sup>59</sup> Powell 1990: 21-22).

<sup>60</sup> See N. Wood, *Cicero’s Social and Political Thought*, Berkeley: University of California Press, 1988), 170.

<sup>61</sup> R.P. Saller, *Personal Patronage Under the Early Empire* (Cambridge: Cambridge University Press, 1982), 12–19.

<sup>62</sup> D. Braund, “Function and Dysfunction: Personal Patronage in Roman Imperialism,” in *Patronage in Ancient Society*, ed. A. Wallace-Hadrill (London: Routledge, 1989), 137–152, 149–150.

Despite how things actually operated, Cicero tells us that the duties of public officials here are very clear: ‘Those who propose to take charge of the affairs of government’ should remember Plato’s rule that one is bound ‘to care for the welfare of the whole body politic and not...the interests of some one party to betray the rest. To do otherwise is to ‘introduce into the civil service a dangerous element: dissension and party strife’.<sup>63</sup> The evidence on attitudes to patronage is thus contradictory and there seems to have been a great deal of ambiguity around the question of whether it was an acceptable institution.

In the second century AD the Consul and orator Marcus Cornelius Fronto (100–170), who had a reputation for high-mindedness, nevertheless wrote a letter to his colleague, the judge Claudius Severus, that typified how things worked in Rome. He begins by disingenuously insisting that he has no wish ‘to undermine the fairness of the judge or to lead him aside from giving true judgment’ but then proceeds to offer a potted history of the ‘long established’ custom of ‘bringing forward’ character witnesses in legal cases, hence his warm recommendation of ‘a most intimate friend’ of his who is ‘shortly to plead his case before you’. Somewhat defensively, Fronto then asks rhetorically: ‘[w]herefore this [historical] preface?’ on the time-honoured custom he is obviously so uneasy about invoking himself. His answer: ‘That you may not think that I have had but scant regard for your dignity and authority’. Despite his obvious sense of embarrassment in asking Severus to put his hand in the scales for his client, Fronto nevertheless ‘earnestly’ asks Severus ‘to give this very dear friend of mine a favourable hearing’. As further justification for his attempted interference Fronto adds that the friendship between himself and Cornelianus ‘has conduced to our pleasure and our profit’, though of course this only underlines the dubiousness of the request.<sup>64</sup> These passages are salutary in highlighting the conflicts around patronage, particularly the tension between the law and high moral rhetoric, on the one hand, and customary practice, on the other. It underlines that even famously upright figures like Fronto were prepared to pervert the course of justice on the belief that it was sanctified by custom. But we are also struck by the degree of moral uncertainty that plagues Fronto’s request. As a Stoic man of learning, he would have been well aware of where his moral duty lay. Perhaps he also understood that such interference had a

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<sup>63</sup> Cicero, *De Officiis*, I. xxv. 85.

<sup>64</sup> Fronto, ‘Letter to Claudius Severus’, in *The Correspondence of Marcus Cornelius Fronto*, Edited and Translated by C. Haines, in 2 Volumes: London, Willian Heinmann, New York: G.P Putnam’s Sons, 1919, 1-3.

disproportionately bad affect on the legal standing of the poor. As Ammianus Marcellinus would later write: ‘unprincipled men inflict injuries because the laws are not valid against all classes. A transgressor who belongs to the wealthy class is not punished for his injustice, while a poor man, who doesn’t understand business, pays the legal penalty—that is, if he doesn’t die before the hearing’.<sup>65</sup>

Meanwhile, Ammianus indicates that Probus got away with his system of extortion in the provinces for so long by exploiting the widespread system of patronage that existed in the late Empire. Probus was ‘generous and ready to advance his friends, but sometimes a cruel schemer, working harm by his deadly jealousies’.<sup>66</sup> He enjoyed ‘great power so long as he lived’ not only because of ‘his constant resumption’ of public offices, and the vast amounts of money he gave away,<sup>67</sup> but because he was also willing to turn a blind eye to the indiscretions of his friends (often because they were committed for his benefit).<sup>68</sup>

Yet, we have an alternative perspective on Probus’ penchant for helping out his friends that might explain his persistent success and which, once again, underscores the degree of moral uncertainty around such activities. Claudian, in his poem celebrating the joint consulship of Probus’ sons in 395, reflects, not on Probus’ corruption, but on his generosity and unselfishness, even as he acknowledges that Probus lived in the lap of luxury while receiving a steady stream of clients into his home: ‘The thick cloud of his generosity was ever big with gifts, full and overflowing with clients was his mansion, and thereinto there poured a stream of paupers to issue forth again rich men’.<sup>69</sup> The long and successful career of Probus is proof that corruption paid. The fact that he still had a ‘fine reputation’ in Rome at the time of his death, indicates that corruption was systemic and normalised, more of political necessity than an impediment.<sup>70</sup>

Things were no different in Greece: in a conversation cooked up by the historian Xenophon (c. 430 – 354 BC) between Socrates and Glaucon, Socrates tells Glaucon that there is ‘no more honourable ambition in the world’ than politics, but then

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<sup>65</sup> From a fragment by Ammianus cited in De Ste. Croix, G.E.M. ‘Suffragium: From Vote to Patronage’, *The British Journal of Sociology*, 5 (1), 1954, pp. 33-48, p. 44.

<sup>66</sup> Ammianus, *Ammianus Marcellinus*, XXVII.11.3., 75.

<sup>67</sup> Ammianus, *Ammianus Marcellinus* bid., XXII.11.2, 75.

<sup>68</sup> Ammianus, *Ammianus Marcellinus*, XXVII, xi.4, 75.

<sup>69</sup> Claudian, “Panegyric on the Consulship of Probinus and Olybrius by Claudian,” in *Claudian*, vol. 1, trans. M. Platnauer (London/New York: Loeb, 1922), Prob. 42-47.

<sup>70</sup> McCoy, “Corruption in the Western Empire,” 105–6.

immediately proceeds to inform his young friend that the best thing about holding public office, apart from bringing glory on himself and his state, is that it will enable him 'get whatever [he] want[s]'. Further he will now 'have the means of helping [his] friends'.<sup>71</sup>

### **Extortion and Embezzlement.**

Reports of extortion in classical literature were very common. In 54 Aemilius Scaurus was indicted for extortions he had committed while governor of Sardinia and Corsica.<sup>72</sup> In a speech dating from AD 391-2, Libianus ask the Emperor Theodosius to enforce the laws against army officers who have extorted money from inhabitants of the colonies who, in turn, used the military protection to oppress their neighbours.<sup>73</sup> In Luke 3, John the Baptist admonishes Roman tax-collectors to '[c]ollect no more than is appointed you' and instructs a group of Roman soldiers: 'be content with your wages' and refrain from extorting money from the population 'by violence or false accusation'.<sup>74</sup>

Although he tended to focus on the problem of corruption more broadly, specific acts of embezzlement and bribery were also a concern for Aristotle, who stipulated that 'above all every state should be so administered and so regulated by law that its magistrates cannot possibly make money'. So, in order to prevent 'peculation of the public money' he calls for a more financially-transparent system whereby 'the transfer of... revenue' made in public at 'a general assembly of the citizens, and duplicates of the accounts deposited with the different brotherhoods, companies, and tribes'.<sup>75</sup> Cicero (106 BC–43 BC) also complained of corruption among Greek magistrates who 'were responsible for an astonishing number of peculations' among and against their own communities.<sup>76</sup> He chides the Greek Senator Lysanias, who was 'rather too much devoted to the riches of the republic' and among other things, had

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<sup>71</sup> Xenophon, "Memorabilia," 3.6.2.

<sup>72</sup> J. Linderski, "Buying the Vote: Electoral Corruption in the Late Republic," *The Ancient World* 11:1 (1985), 87–94, 90.

<sup>73</sup> Averil Cameron, *The Later Roman Empire, AD 284-430*, Cambridge MA: Harvard University Press, 1993, p. 107.

<sup>74</sup> Luke, 3.12-14. The Holy Bible, Containing the Old and New Testament, Authorised King James Version, London: Collins Cleartype Press, 1952.

<sup>75</sup> Aristotle, *Politics*, V. viii; In *Politics* VI.v. Aristotle also refers to the 'corrupt practices of the courts, things which have before now overthrown many democracies'.

<sup>76</sup> M. Tullius Cicero, *Letters to Atticus*, vol. 1, ed. and trans. D.R. Shackleton Bailey, (Cambridge, MA: Harvard University Press, 1999), Letter 116, 6.2.5, p. 137.

falsified his expenses, claiming to travel with nine slaves when in reality he only had one.<sup>77</sup>

According to Anthony Marshall ‘Greek magistrates were capable of embezzlement on an astonishing scale’: judicial corruption and mistrust of the city courts led to the widespread practice in Greece of bringing in judicial commissions from other cities to manage day-to-day civil business. Nevertheless, the practice continued under Roman rule because the underlying need for it persisted.<sup>78</sup>

But ‘peculation’ was also a problem for Rome, and it was exacerbated by distance and the scale of its empire. An edict issued by Vergilius Capito in Roman Egypt in December AD 48 was intended to curb the problem of the making of ‘false entries’ or the listing of fictitious expenses in accounting that of soldiers and functionaries travelling through Rome’s dominions. Anyone caught claiming travel money against the public account for unauthorized or fictitious spending was liable to a tenfold penalty.<sup>79</sup>

### **Bribery.**

Bribery was considered to be the worst and most ubiquitous form of corruption at both Athens and Rome. What is noteworthy is that in both settings, the remedies were often institutional, rule-oriented and legalistic, designed with the knave principle in mind rather than with a naïve desire to restore virtue.

Evidence from law court speeches as well as comic drama sources inform us that accusations of bribery were common in Athens. According to Claire Taylor: ‘Every level of Athenian politics was riddled with corruption, from the most important orators to the smallest deme election’.<sup>80</sup> Thucydides notes that, among the Odrysian Thracians, ‘it was quite impossible to get anything done unless one first produced a present’.<sup>81</sup> Politicians could be paid ‘to do anything or nothing’. That one could even bribe the oracles is reflected in four recorded cases where the Delphic oracle was

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<sup>77</sup> M. Tullius Cicero, "M. Tullius Cicero, Against Catiline," in *The Orations of Marcus Tullius Cicero*, trans. C.D. Yonge (London: Henry G. Bohn, 1856).

<sup>78</sup> Anthony J. Marshall, "Verres and Judicial Corruption," *The Classical Quarterly* 17:2 (1967), 408–13, 412.

<sup>79</sup> Lewis, Napthali, 'On Official Corruption on Roman Egypt: The Edict of Vergilius Capito', *Proceedings of the American Philosophical Society* 98 (2), 1954, pp. 153-158, p. 153.

<sup>80</sup> Claire Taylor, "Bribery in Athenian Politics Part I: Accusations, Allegations and Slander," *Greece and Rome (Second Series)*, 48:1 (2001), 53–66, 53.

<sup>81</sup> Thucydides, *History of the Peloponnesian War*, trans. Rex Warner, intro. and notes M.I. Finley (London: Penguin, 1972), 2.97.3–4.

subjected to improper pressure.<sup>82</sup> Bribes could decide ‘matters of war and peace, the movement of armies, the destruction of cities’ and, due to the prevalence of corrupt embassies, the fate of whole nations. Bribes ‘could win an alliance...could cause the retreat or diversion of armies and fleets...raise a siege or procure a surrender’.<sup>83</sup> Although bribery seems to have suffused every aspect of Greek life, it is almost impossible to determine the full extent of political corruption and to separate real corruption from slander and accusations levelled at political opponents for strategic purposes.<sup>84</sup> But, if the literary sources are to be trusted, few Athenian politicians were immune to bribery: according to F.D. Harvey, only five incorruptible figures are mentioned in all the literature: Aristides, Ephialtes, Perikles, Lykourgos and Phokion.<sup>85</sup> To this list we can add the name of Lysander who, according to Plutarch, ‘was never mastered’ or ‘corrupted by money’ or gifts.<sup>86</sup> The fact that so few were deemed incorruptible suggests, at the very least, that bribery was the norm rather than the exception in Athens. In fact, it has been estimated that for the period 430–322 BC, between 6 to 10 per cent of major public officials were brought to trial on accusations of bribery and around half of them were probably convicted.<sup>87</sup>

Bribery was taken seriously in Athens and much was done to avert it, sometimes with success.<sup>88</sup> Penalties were generally stiff when applied and ranged from minor sanctions such as confiscating the bribe through to a large fine, termination of public office and even execution.<sup>89</sup> According to Demosthenes, under Athenian law, the punishment for bribery ‘by any means or device whatsoever’ was disenfranchisement of the guilty as well as his children, and the confiscation of his property’.<sup>90</sup>

In Rome, custom and conditions on the ground provided a hostile environment for proper observance of the letter of the law. Due to the low wages of many and the

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<sup>82</sup> Harvey, “Dona Ferentes,” 89–90.

<sup>83</sup> F.D. Harvey, “Dona Ferentes: Some Aspects of Bribery in Greek Politics,” *History of Political Thought* 6:1–2 (1985), 76–117, 89.

<sup>84</sup> Taylor, “Bribery in Athenian Politics Part I,” 56, 62.

<sup>85</sup> Harvey, “Dona Ferentes,” 98.

<sup>86</sup> Plutarch, 1916, Lys. 2.6, pp. 238–9

<sup>87</sup> Conover, “Thinking Through Political Corruption,” 18. Nevertheless, Harvey urges caution in making conclusions based on the available evidence given the small proportion of verdicts known to us, coupled with the litigiousness of the Athenian people (Harvey, “Dona Ferentes,” 96–7). Finally, guilty verdicts were not necessarily reliable proof of actual guilt.

<sup>88</sup> Taylor, “Bribery in Athenian Politics Part I,” 56; Conover, “Thinking Through Political Corruption,” *passim*.

<sup>89</sup> B.S. Strauss, “The Cultural Significance of Bribery and Embezzlement in Athenian Politics: the Evidence of the Period 403–386 B.C.,” *The Ancient World* 11:3–4 (1985), 67–74, 71; See also Harvey, “Dona Ferentes,” 95.

<sup>90</sup> Demosthenes, ‘Against Meidias’, 21.113.

ubiquity of slaves, tipping was carried on in all respectable Roman homes as well as in public and this doubtless contributed to an atmosphere where the line between tipping and bribery was perpetually blurred.

The richer Rome became, and the more extensive and diffuse her empire, the greater the problem of bribery seemed to become. By the late republic it was institutionalised and the sums required had become enormous. There were even organized associations – many of them based on tribes – set up for extortion and intimidation. The long-term political consequences of bribery had become noticeable by the sixties and fifties BC when the massive borrowing needed for bribes created financial instability and subsequently political instability among the aristocracy and a subsequent loss of faith in the constitution. This in turn, is said to have contributed to the civil war.<sup>91</sup> By the time of the Principate it had become so serious a problem that in the year 55 M. Crassus sponsored the *lex Licinia de sodaliciis* which proscribed organised bribery clubs and provided powers to prosecute and punish individual members.<sup>92</sup> Similarly, the *lex Calpurnia* of 67 stipulated a penalty of expulsion from the Senate and perpetual exclusion from the *honores* (subsequent laws stipulated a penalty of exile from between ten years and life).<sup>93</sup> In 81 BC the dictator Sulla instituted a law that penalised bribery with a maximum penalty of a ten-year exclusion from public office. A further law (the *Lex Cincia de donis*) of 204 proscribed the receipt of gifts from patrons.<sup>94</sup>

### **Bribes or Gifts?**

It pays to bear in mind that it is often the case that a society will be entertaining more than one definition of a corruption simultaneously. John T. Noonan posits the average at around four: that of high morality, that of the written law; that of the law as it is enforced and that of common practice. One needs to be clear what standard is being used when dealing with any particular case of bribery. In both Rome and Athens this was often hard to discern,<sup>95</sup> and the evidence suggests that all four were usually operating at the same time. In Greece, it has been noted that in the majority of cases and circumstances public opinion was more forgiving than formal laws, stiff

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<sup>91</sup> Lintott, "Electoral Bribery," p. 15.

<sup>92</sup> Lintott, 'Electoral Bribery', p. 15.

<sup>93</sup> Linderski, "Buying the Vote," 92.

<sup>94</sup> Andrew Lintott, "Electoral Bribery in the Roman Republic," *The Journal of Roman Studies* 80 (1990), 1–16, 7, 4.

<sup>95</sup> Noonan, *Bribes*, xii.

penalties, and the rhetoric of lawyers and philosophers would imply.<sup>96</sup> As Taylor notes, making profit from political office was to ‘to some extent acceptable...if not entirely approved of’.<sup>97</sup> As Hypereides suggested in his prosecution of Demosthenes, although the courts ‘willingly’ allow *strategoï* and speakers ‘great scope for profit-making’ (perquisites), it is not, in fact ‘the laws that have allowed them to do this; your mildness and generosity have’.<sup>98</sup> In other words, the law says one thing, custom another; but the law generally gives way to custom. For example, Xenophon defends his acceptance of gifts from the Thracian Suetes by referring to ancient norms of hospitality and gratitude: ‘All men, I think, regard it as right to show goodwill to him from whom one has received gifts’.<sup>99</sup> In a similar vein, Cicero, who usually busied himself with lecturing others on their moral failings, invokes time-honoured custom to justify the treating of ‘friends’ and tribal conspecifics. Surely it would be wrong, he opines, to ‘deprive’ the poor the ‘power of showing their dutiful feelings’ to superiors offering small favours like dinners and ‘spectacles’. Whether we choose to call this custom ‘ambition or liberality’, Cicero continues, it is by no means dishonourable.<sup>100</sup>

Despite all the legal strictures and the high-minded moralizing about bribery, the distinction between a gift and a bribe seems to have been very unstable in Greece; certainly linguistically the terms were hard to distinguish in Attic Greek where bribes are generally referred to as ‘gifts’. The word for gifts is *dōra*, which is also the standard word for ‘bribe’<sup>101</sup> and the most commonly used term for receiving bribes is *dorodokein*, which also means ‘to receive a gift’.<sup>102</sup> Although *dorodokia* is not the only word used for bribery<sup>103</sup> it is the most frequent, and the most readily applied to political bribery. Surprisingly, for most authors these terms are neutral and not necessarily euphemistic or laden with the same moral connotations that a modern reader might bring to them.<sup>104</sup> On the other hand, recall that when Demosthenes calls for an end to *dōrodokia*, he does mean it perjoratively.<sup>105</sup> Further, as mentioned above, there is in fact a word distinct from *dōra* that is not value neutral:

<sup>96</sup> Harvey, “Dona Ferentes,” 103.

<sup>97</sup> Taylor, “Bribery in Athenian Politics Part I,” 57.

<sup>98</sup> Hypereides, “Demosthenes,” 24–5.

<sup>99</sup> Xenophon, *Anabasis* 7.7.46

<sup>100</sup> Cicero, ‘Pro Murena’, 71-2.

<sup>101</sup> Harvey, “Dona Ferentes,” p. 105.

<sup>102</sup> e.g. Dem. 25.15-16; Pl Rep. 359B-60D

<sup>103</sup> *Chremata*-‘money’, *mithos* ‘reward’ or ‘pay’ are also used. *Dekazein* –‘tenning’ is commonly used for bribery of juries (See Harvey, 1985)),

<sup>104</sup> Taylor, ‘Bribery in Athenian Politics’, p. 53

<sup>105</sup> Demosthenes, ‘On the Chersonese’, *Demosthenes*, 8.61

*diaphtheirein*. *Diaphtheirein* has been described as a decidedly perjorative and ‘surprisingly powerful word’ that literally means ‘to destroy’. Although Strauss says that it is unclear how bribery and destruction are conflated here<sup>106</sup> what we are undoubtedly looking at is a perfect example of a convergence of the legal (corruption 2, rule-focused) and moral (corruption 1, virtue-focused) conceptions of corruption that seemed to have existed side-by-side in the classical world. As Demosthenes tells us, he who takes bribes has surrendered his free will, and ‘has sold himself once for all’.<sup>107</sup> Just as the unreconstructed Athenian describes a woman who has allowed herself to be seduced as ‘*diaphtheiresthai*’ so too are men who have been seduced by bribes. Both have compromised their independent judgement and both, as a consequence, have been ‘befouled’ or made impure.

### **Gifting and Custom.**

But if *dora* are both gifts and bribes, it makes sense to see bribery as an aspect or overhang of the institutionalized social practice of gift-exchange with its more benign connotations of mutual obligation, solidarity and interdependence. Gifts in Athens were part of the social fabric, ‘a fundamental link in the chain of civilised behaviour’.<sup>108</sup> The influence of Homer in constructing this fabric through gift-giving here has been surmised by more than one scholar. Strauss, for example, notes that ‘the exchange of gifts is the basic organizing mechanism of economic and social relations’ in Homeric thought.<sup>109</sup> A social ritual that appears with great regularity in Homer (especially in the *Odyssey* where there is a good deal of travelling) is the custom of heaping on guests and hosts alike valuable gifts.<sup>110</sup> These gifts were not given for their own sakes: they were designed to generate solidarity and to create the expectation of reciprocation at some future time.<sup>111</sup> This is, after all, what gift-giving is all about, as Marcel Mauss argued in his seminal work on the subject. For Mauss, there is no such thing as a free gift because gifting is all about reciprocity.<sup>112</sup>

To return to the question of Homer: we should not underestimate Homer’s influence in the same way we would not underestimate the teachings of the Bible, because

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<sup>106</sup> Strauss 86-7

<sup>107</sup> Demosthenes, ‘On False Embassies’, *Demosthenes*, 19. 118

<sup>108</sup> B.S. Strauss, ‘The Cultural Significance of Bribery and Embezzlement in Athenian Politics: the Evidence of the Period 403-386 B.C.’, *The Ancient World* 11:3-4 (1985), 67-74, 72.

<sup>109</sup> Strauss, ‘Cultural Significance’, p. 72.

<sup>110</sup> Finley, M.I. *The World of Odysseus*, New York: Penguin, 1979, p. 66.

<sup>111</sup> Harvey, ‘Dona Ferentes,’ 105.

<sup>112</sup> Mary Douglas, ‘Forward’, in Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies*, trans. W.D. Halls, forward Mary Douglas (London: Routledge, 1990), vii.

Homeric poetry was close to a sacred text for the Athenians.<sup>113</sup> Every well-educated Greek citizen was well acquainted with Homer, including his teaching that one did not go to a royal court without taking a valuable gift.<sup>114</sup> Importantly, one must give, but as Homer also wrote, ‘it is not well to refuse a gift’.<sup>115</sup> One piece of evidence that attests to Homer’s influence lies in the fact that Plato, in order to maintain the integrity of the guardians and keep them from developing a fondness for money and a habit of taking bribes, recommended censorship of material where this kind of thing takes place.<sup>116</sup> The guardians ‘shall not be told that ‘gifts reverend kings persuade,’<sup>117</sup> and they certainly shall not be led to believe, as Homer had taught, that even the Gods can be bribed and turned ‘from their will’ through ‘perfumes...devotions’ and burnt ‘offering[s]’.<sup>118</sup> The idea that everyone had a price, even the gods, was thus a cultural commonplace in Athens; therefore it should come as no surprise that the Greeks also thought it acceptable to offer and receive bribes to those mortals who had it in their power to improve their fortunes.<sup>119</sup>

By the same token, perhaps this is laying too much blame at Homer’s feet; after all, gift giving with the expectation of reciprocation is a more or less cultural universal and is especially well documented among archaic Roman Germanic, and other Indo-European cultures which all evince the basic principle that ‘gift cycles engage persons in permanent commitments’.<sup>120</sup> The Greeks would have doubtless engaged in bribery with or without Homer’s blessing, just as the Romans (and everyone else) obviously did.<sup>121</sup> Therefore, it is just as likely that Homer reflected and reinforced rather than inspired gifting norms.

In any case, the situation with gifts and bribery in the classical period seems very unclear. On the one hand, there seems to be a good deal of certainty about what corruption consists in when we look at the histories, moral philosophy and legal records of the period; but at the same time it was also true that the gift continued to

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<sup>113</sup> Strauss, “The Cultural Significance of Bribery,” 72.

<sup>114</sup> Harvey, “Dona Ferentes,” 105.

<sup>115</sup> Homer, *The Odyssey*, in two vol., trans. A.T. Murray, Ph.D. (Cambridge, MA: Harvard University Press and London: William Heinemann, Ltd, 1919), 18.285.

<sup>116</sup> Plato, *The Republic*, trans. A.D. Lindsay (London: Everyman, 1995), 390d–e.

<sup>117</sup> *Republic.*, 390d–e, 70.

<sup>118</sup> *Republic*, 264 d–e. Homer is mentioned specifically by Plato in this context (*Republic.*, 391a/

<sup>119</sup> Harvey, “Dona Ferentes,” 108.

<sup>120</sup> Douglas, ‘Forward’, Mauss, *The Gift*, ix.

<sup>121</sup> Though admittedly Homer was also an important literary source for ancient Romans. Livius Andronicus translated the *Odyssey* into Latin in the 3rd century BCE (Barbara Graziosi, *The Ancient Reception of Homer* in Lorna Hardwick and Christopher Stray (eds), *A Companion to Classical Reception*, Oxford: Wiley-Blackwell, pp26-36, p. 35).

play a central role in social, political and economic relations. The problem was that custom quite frequently conflicted with the law and was often used as a justification for flouting it.

It is also worth bearing in mind that, even in the literary sources that communicate a high morality about corruption, there are still conflicting viewpoints, not only between authors, but between statements made by the *same* author. Hypereides may be sure that taking a pick home from work to use in one's own garden constitutes an abuse of office yet Xenophon seems just as certain that there is nothing wrong in Glaucon exploiting his newly conferred public office to 'get what [he] wants' and enrich his friends. Cicero endorsed laws to prevent vote-buying yet also defended the lavish treating of political allies as sanctified by custom.

It seems that in Rome and its extensive dominions the line between right and wrong varied according to the circles in which one moved: MacMullen therefore posits the prevalence of 'ethical systems in the plural'.<sup>122</sup> It would be unthinkable that any contemporary judge would hear the following case, adjudicated by Paul in the third century. In it, the litigant wishes to know whether he would be allowed to sue a colleague he has bribed to pervert a court decision should the colleague fail to bring about the desired result.<sup>123</sup> Even though Paul denies the litigant's hypothetical suit, the fact that it was brought in the first place is telling. Similarly, Cicero reports on a curious law instituted in the year 61 whereby 'any person promising money in a tribe shall not be punishable provided he does not pay it; but if he does, he shall be liable for HS 3000 to every tribe for this life'.<sup>124</sup> In other words, those that promise bribes will not be punished so long as they renege on the deal. Both cases underline the co-existence of parallel moralities around corruption: that of law and that of custom. In both these cases they become confusingly enmeshed.

The fact is that ancient Rome 'was a genial, oily, present-giving world' where the line between wanting to please and hoping to influence decisions was hard to draw.<sup>125</sup> Even men of honour could make an honest mistake: take the case of Julius Bassus, a former governor charged by the Senate with having 'naively and unguardedly

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<sup>122</sup> MacMullen, *Corruption*, 136–7.

<sup>123</sup> Justinian, *The Digest of Justinian*, Vol. 1, ed. and trans. Alan Watson (Philadelphia: University of Pennsylvania Press, 1985), 12. 5.3.

<sup>124</sup> M. Tullius Cicero, *Letters to Atticus*, vol. 1, ed. and trans. D.R. Shackleton Bailey, (Cambridge, MA: Harvard University Press, 1999), letter 16.13.

<sup>125</sup> Macmullen *Corruption* p. 126

accepted things from the provincials as a friend of theirs'. His accusers described these tributes as 'thefts and plunder' whereas Bassus himself referred to them as 'gifts'. Tellingly, Bassus had never attempted to conceal his so-called 'crimes' and had even mentioned them to the emperor.<sup>126</sup> Similarly, Verres, did not think it a problem that his clerk took kickbacks to the tune of 4 per cent since it was Verres himself who entered these figures into his official accounts.<sup>127</sup>

In his attempt to find a balance between observance of the law and good manners, Ulpian is quoted in *Justinian's Digest* for the general rule that 'a proconsul need not entirely refrain from 'guest gifts', but only 'set some limit' and to be careful not 'to exceed the limit in grasping fashion'. Ulpian tells us that (Septimus) Severus and the emperor Antoninus (Caracalla) provided helpful guidelines on the receipt of *xenia* (hospitality tribute) when they wrote that their opinion could be summed up with the 'old saying...*oute pante, outa pantote, oute para panton*' (not all, nor always, nor from all)'. After all, 'it is too uncivil to accept from nobody, but contemptible to take from every quarter, and grasping, to accept everything'. Ulpian interprets this to mean that public officials should refrain from accepting or buying 'anything beyond the day's subsistence' however, this does not apply to little 'guest-gifts' which are acceptable but should not 'be carried to the point of a sizeable donation'.<sup>128</sup>

### **Constraints and Complicating Factors.**

Rome may have been one of the most advanced civilisation to date and a pioneer of modern bureaucracy and governance, but it could not lay claim to the kind of unified ethic of public administration that we are familiar with in advanced democracies today, one that emphasises probity, transparency and with a recognised line between public and private interest. Even in its efforts to approach such an ethic (many of which are documented above), it did not have the wherewithal to communicate and enforce it throughout its vast Empire and in the face of numerous sociological impediments. In the later Roman empire many were employed in the administration of the state but few compared to the proportion of citizens in modern developed societies. As Averil Cameron points out 'Much of the apparatus of the modern state was simply non-existent'. There was no organised police force to enforce the law, no organised system of legal representation, despite the existence of unnumberable laws

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<sup>126</sup> Macmullen *Corruption* p. 126

<sup>127</sup> Macmullen *Corruption* p. 128

<sup>128</sup> *Justinian's Digest*, 1.16.63

that could be broken, no banking system and what state education existed was reserved for the benefit of the elite.<sup>129</sup> Furthermore, codification of positive law was still a long way off: after all, Justinian's *Digest*, wasn't compiled until the sixth century AD.<sup>130</sup>

Despite its ambitions, neither Athens nor Rome were ever proper mass societies; localism was still competing with the federalism to which they had such grand pretensions. Tribes and extended families were still a major form of social and political organisation;<sup>131</sup> their demanding and usually inescapable norms of personalism, nepotism, particularism and interdependence directly conflicted with the norms of disinterested impartiality embodied in both the high anti-corruption literature and positive laws designed to curb corruption. And, like Athens, it was a culture based on slavery where tipping was both rife and required. Meanwhile, the norms of clientage, reciprocity and hospitality that regulated archaic societies still persisted even as Athens, and especially Rome, grew in wealth, breadth and stature. Finally, political and legal amateurism was antithetical to large, progressive states with imperialistic ambitions and was therefore a major impediment to the spread of corruption. Public officials were not yet professionalised and this meant that a) codes of conduct were still inchoate and b) proper salaries were not paid, therefore exploitation of public office for financial advantage was a natural temptation for many, a necessity for some, and even an assumed right for others.

### **Concluding Remarks.**

As the preceding discussion demonstrates, it could never be said that, in theory, neither the ancient Greeks or Romans understood the distinction between the private good and the public interest. Some of them clearly had a very fine sense of it. Neither could it be said that most of them were unaware of their duties under law and the dictates of high morality. It's just that public opinion and custom made allowances that were routinely exploited. In other words, most seemed to know what they were supposed to be doing; they were simply either unwilling or unable to do it. Hence,

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<sup>129</sup> Averil Cameron, *The Later Roman Empire, AD 284-430*, Cambridge MA: Harvard University Press, 1993, p. 106.

<sup>130</sup> This *Digest*, also known as the *Pandects*, was a compendium of Roman Law that Justinian I ordered compiled in the period AD 530-533.

<sup>131</sup> See, for example, Gouldner, Alvin. *Enter Plato*, New York: HarperCollins, 1965, p. 12). In fact, the Roman electoral system was built around the tribe. It involved a group voting system in which the voting unit was the *tribus* (tribe or ward). There were thirty-five tribes in the Roman state, four urban and thirty-one rural' (p. 50)

what some have perceived as an absence of a conception of corruption 2 is perhaps best understood as a discrepancy between principle and law on the one hand and custom, opportunity and necessity on the other.

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