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EXTORTION

Antonio Argandoña

IESE Business School – University of Navarra
Av. Pearson, 21 – 08034 Barcelona, Spain. Phone: (+34) 93 253 42 00 Fax: (+34) 93 253 43 43
Camino del Cerro del Águila, 3 (Ctra. de Castilla, km 5,180) – 28023 Madrid, Spain. Phone: (+34) 91 357 08 09 Fax: (+34) 91 357 29 13

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Antonio Argandoña[1]

Abstract

This work is an entry for the second edition of Sage's Encyclopedia of Business Ethics and Society. It explains the nature of the problems of corruption and, more specifically, extortion and their ethical implications. The entry also compares and contrasts extortion and bribery, the two main forms of corruption.

Keywords: Extortion, Corruption, Bribery, Ethics

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EXTORTION

Extortion and bribery are the main forms of corruption. Bribery is the offering, promising, giving or authorizing of any undue pecuniary or other advantage to a public official, a politician, a candidate or a manager or employee of a company in order to obtain or retain a business or other improper advantage – for example, in connection with public or private procurement contract awards, regulatory permits, taxation, customs, and judicial and legislative proceedings. Extortion or solicitation is the demanding of a payment or bribe, whether or not coupled with a threat if the demand is refused. In bribery, the payer is the one who takes the initiative. In extortion, the initiative is taken by the person who receives the money or favor. Often it is difficult to differentiate between the two situations because it is not clear who has taken the initiative.

Extortion and bribery have several features in common:

1) A power or influence that the agent (a public official, politician, manager or employee) has in the exercise of a function, task or responsibility in the service of a public office or company;
2) An element of discretion, deriving from that power or influence;
3) Certain duties, established by law, contract or code of conduct, associated with the agent's function;
4) The incorrect exercise of that power or influence, contrary to these duties;
5) A private benefit for a person or organization (the beneficiary). The benefit may be monetary or not (a cost reduction, a job, a license or permit, or the mere expectation of it) and it may be positive or negative (avoiding reprisals, for example);
6) The delivery, or the promise of delivery, of something of value to the agent or another person, such as a relative or a political party, in exchange for the agent's exercising power or influence in the beneficiary's favor.

Ethical Problems of Extortion

In extortion, several ethical principles may be violated: justice, impartiality, legality, professionalism, loyalty, good faith, solidarity and the avoidance of harm, among others. The moral core of extortion lies in the unfairness and disloyalty of those who execute the acts (the agents) in the exercise of their duties to the company or public agency in which they work, when they use their position to obtain a benefit to which they are not entitled. There may also be injustice to the beneficiaries (for example, when they are forced into an extraordinary expense), to the company or government department (because the agent's duty is not fulfilled or because the extortion encourages others to act in a similar manner), to third parties (for example, competitors, who are excluded from a legitimate opportunity), and to society (when an atmosphere of corruption is created). The moral responsibility of the beneficiaries derives mainly from their cooperation, as abettors or accomplices, in the agent's disloyal action and also if they accept the solicitation to get something unjust.

The ethical rules for responding to extortion and bribery will depend on one's conception of ethics. The following views are shared, to a greater or lesser extent, by a broad range of theories. They are recommendations that seek to avoid a corrupt direct action being carried out but also respond proportionately to the other party's unfair demands:

It is unethical to offer a bribe to gain an unfair advantage.

It is unethical to abuse one's position to obtain an undue advantage (extortion).

It is unethical to give in to extortion in order to obtain something to which one is not entitled.

In certain cases, it is legitimate to give in to extortion in order to obtain something to which one is entitled. In such cases, the person suffering extortion a) should consider all the options carefully, to see whether it is possible to solve the problem without making the payment; b) make sure the extortion is open: it is not correct to present what in fact is bribery as if it were a response to extortion; c) act with the intention of obtaining a right; d) try to avoid harm to third parties; e) make sure that there are sufficient objective reasons for giving in to the extortion, in proportion to the damage caused; f) take steps to minimize the bad example that may be given; g) take steps to prevent any recurrence of such collusion with corruption.

These recommendations will probably not be acceptable arguments in a trial but can give peace of mind to the person who, trying to act honestly, is the subject of extortion.

Other Consequences of Extortion

Extortion has many other harmful effects on the economy, society and political life. For example, with respect to the economy, its effects include the following:

1) Inefficient use of resources: higher costs and prices, lower output and quality, wasted time, lower growth, insufficient capital formation, reduced foreign investment, less efficient public spending and reduced tax revenues;

2) Unjust redistribution of income: illicit enrichment of certain individuals or groups, greater inequalities and growth of the underground economy;

3) Less competition, less transparency, laxity in the implementation of rules, obstacles to free trade, loss of legitimacy of institutions, and distrust of the market system.

In the sociopolitical arena, extortion distorts decision-making processes, restricts the scope of citizens' rights, facilitates concealment, weakens controls and, in the long run, undermines the government's legitimacy.

What ethics adds to the economic and sociopolitical arguments is recognition of the harm done to people: loss of virtue and weakening of the ability to act in a noncorrupt manner, on both a personal and a social level, because corrupt people's behavior is imitated by others. Moreover, extortion tends to become endogenous: it becomes organized and institutionalized.

– Antonio Argandoña

See also Bribery; Campaign finance laws; Competition; Corporate ethics and compliance programs; Corruption; Foreign Corrupt Practices Act of 1977 (FCPA).

Further Reading

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