Journal of Policy Research, 10(3), 70-76
https://jprpk.com
https://doi.org/10.61506/02.00319

Comparative Analysis of Bribery as, Criminal Wrongdoing

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Abstract
There is a consensus that bribery, which is explicitly outlawed in the Magna Carta, should be considered a criminal act. Elucidate the criminalisation of bribery may be unexpectedly for those who see harmful actions as the primary criterion for determining what should be made a criminal offence. The predicament faced by these intellectuals is as follows. Bribing sometimes encompasses innocuous misconduct, but the rationale for criminalising it does not stem from any undue damage inherent in bribing itself. The rationale is on the potential damage that may occur if bribery is not penalised, considering the limited efficiency of civil law in reducing its prevalence. According to some theorists, the basis for criminalising activity based on the concept of "remote harm" is considered a secondary and possibly problematic kind of criminalisation. This paper presents a challenge for these theories in elucidating not only the reasons behind bribery but also the reasons behind other significant offences, such as rape, which are often seen as fundamental instances of criminal misconduct. Indeed, criminal law has the lawful authority to include a broad array of harm-related justifications for including action within its boundaries and central principles. One cause for the activity involving inflicting unnecessary injury is the reality itself.
Key Words: Corruption, Bribery, Criminalization, Wrongdoing, Public Nuisance

1. Introduction

Bribery is a form of corruption. it's an act implying money or gift giving that alters the behavior of the recipient. Bribery constitutes a crime and is defined as; the offering, giving, receiving, or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. Corporate Bribery; "It takes the form of prior payment intended to purchasing decision of government officials or buyers or private businesses, as well as government's political decisions; it may also take the form of rebates to agents of a transaction after a sale has been made". Commercial Bribery; "Frequently violates specific laws prohibiting such acts, as in the case of internal revenue service regulation or alcoholic beverage control laws". And many others are like bribery of public official, witness, foreign official, bank bribery etc. Employees, managers, or salespeople of a business may offer money or gifts to a potential client in exchange for business (Naumovska, I. 2023).

In some cases where the system of law is not well-implemented, bribes may be a way for companies to continue their businesses. In the case, for example, custom officials may harass a certain firm or production plant, officially stating they are checking for irregularities, halting production or stalling other normal activities of a firm. The disruption may cause losses to the firms that exceed the amount of money to pay off the official. Bribing the officials is a common way to deal with this issue in Pakistan and others countries, where there exists no firm system of reporting these semi-illegal activities. A third party, known as a White Glove, may be involved to act as a clean middle man. Contracts based on or involving the payment or transfer of bribes "corruption money", "secret commissions", "pots-de-vin", "kickbacks" are void (Arafa, M. 2023).

2. Bribery and Remote Harm

John Stuart Mill established the "harm principle" as the only valid reason for using coercion. However, this concept is sometimes misunderstood. Mill intended to legitimise the use of force in order to avoid injury to others rather than only to punish harm that has already happened. Mill's iconic remark does not imply that the law should only or primarily focus on damage that has already occurred when it comes to coercive measures, including criminal law. Mill articulated a fundamental concept that was intended to have complete authority over the use of coercion. According to this theory, the only legitimate reason for using power over an individual in a civilised society, without their will, is to avoid damage to others (Gerson, P. 2023).

The absence of a requirement for injury before the legitimacy of compulsion, such as arrest, prosecution, trial, and punishment, is a notable aspect in this context. However, its current importance lies in the fact that it allows us to focus on a 'harm-prevention' rationale for establishing criminal offences in general, and specifically the charge of bribery. This approach keeps us engaged and interested in the topic at hand (Adar, Y., & Perry, R. 2022).

3. Bribery: Wrongdoing Without Harm Necessarily Done

The emphasis is on the wrongdoing committed rather than the damage caused. Understanding that the fraudster's misconduct must include a purpose to gain a financial benefit or cause financial damage is crucial. This understanding links the crime to a rationale based on preventing harm. It is important to note that a key argument supporting the existence of the contemporary crime of fraud is that if the possibility of criminal penalties does not deter fraud, it could lead to a widespread and organised pattern of dishonest behaviour that could cause significant harm to various aspects, such as market confidence, as well as the overall security of assets and transactions. The distant damage rationale is a key element in justifying the offence of bribery (Klimczak, K. M., et al., 2022).

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(1) Bribery undermines political and economic integrity by creating opportunities for improper considerations in decision-making. The actions mentioned above result in political instability, market distortions, diminished legitimacy, hindered growth, resource wastage, decreased trust in decision-making institutions, and contribute to injustice, unfairness, and inefficiency.
(2) Corruption, like temptation, is omnipresent, but its lethal impact is more pronounced in impoverished nations. Funds intended for purchasing medication for an ill kid or constructing a medical facility might be diverted to offshore bank accounts or used to construct an extravagant residence.
(3) Corrupt practices have a direct impact on the proliferation of organised crime and terrorism, erode public confidence in government, and disrupt economies. According to many UN treaty organisations and UN special processes, when corruption is prevalent, nations are unable to fulfil their human rights responsibilities.
(5) "A company accustomed to acquiring business through bribery is now undertaking a significantly distinct approach." It does not engage in the sale of products and services but rather facilitates the sale of automobiles for bribing. The senior government official who receives the bribe is primarily motivated by obtaining the money rather than being genuinely interested in the project. Consequently, many white elephant projects, often financed by foreign development banks and assistance organisations, exist worldwide, same in Pakistan. The extensive array of potential negative consequences that might result from bribery, if not prevented, justifies the need for a criminal ban on individual acts of bribery, regardless of whether they directly inflict damage or pose a danger. I will provide more evidence and arguments to support this assertion in the concluding section (Hock, B., & Dávid-Barrett, E. 2022).

4. Civil Remedies and the Protection of Public Goods

Considering that certain acts of bribery may constitute minor offences, should the deterrent of such crimes be exclusively addressed via civil law remedies? The Prevention of Corruption Act, 1947, The Anti-Money Laundering Act, 2010, The Companies Act, 2017 and The National Accountability Ordinance, 1999 are responsible for ensuring integrity in the supply of financial services. It has the authority to impose potentially limitless penalties for certain types of financial wrongdoing, including corrupt malfeasance. These "civil fines" are non-criminal administrative sanctions that do not need legal procedures in a court of law. While they may be helpful in supporting criminal charges of bribery, it is important to note that they are not intended to replace such charges. These civil penalties primarily target the development of unjustified risks, such as weak accounting practices, which may lead to serious misconduct like fraud or bribery. operations responsibly and efficiently, with sufficient risk management measures in place. This idea applies to risk management in relation to the potential for workers or agents to engage in corrupt behaviour (Igbokwe, E. O. 2023).
Establishing or permitting an insecure financial system in one's company operations (such as Aon's case, a system vulnerable to corruption) may be compared to establishing or permitting dangerous working practices that constitute an unjustifiable risk of inflicting bodily injury. Both forms of behaviour include the unjustifiable perpetuation of a potentially disastrous situation in the workplace or commercial operations. In English law, the deliberate creation of risks of bodily damage in a working environment is considered a criminal crime. However, a crime based on risk is not considered to render other relevant substantive criminal charges unnecessary (Krügel, S., & Uhl, M. 2023).
Furthermore, what about the availability of private solutions for corrupt activities? The accessibility of such treatments is inconsistent and insufficient. According to the Law on bribery reform, limitations on the capacity to recover purely economic losses may provide challenges in pursuing negligence claims for damages caused by third parties as a result of bribery. The user's text remains unchanged. Although there may be some potential for recovery, a party that has experienced loss will still have significant challenges in providing evidence to support their claim since instances of bribery often lack substantial documentation. This complexity and the potential for significant challenges in the legal process may discourage parties from pursuing a private legal recourse. Although there may be incentives available, it is essential to address a critical question. Will these incentives effectively deter bribery in all cases, similar to how the option of a private action for breach of contract is considered a sufficient deterrent for contract breaches without requiring additional criminal penalties? It seemed improbable (Silver, K., & Garofalo, P. 2024).
The glimmer of a parallel may be seen between the most effective methods of preventing bribery and deterring "public" nuisances, which supports this conclusion. In cases of public nuisance, it has been widely recognised that criminal proceedings are only justified when the nuisance affects the general public rather than just one or a few individuals. Furthermore, a private individual cannot bring a lawsuit unless they have suffered specific harm. If those who argue that the direction is incorrect were to succeed, the public would have significant challenges in obtaining compensation (Laitinen, A., & Särkelä, A. 2023).
Public nuisance considered a criminal offence, encompasses a range of activities, including obstructing the highway, engaging in blasting and quarrying near populated areas, allowing land to be used as a dump in a way that creates a harmful environment, hosting excessively noisy parties, and committing bomb hoaxes or making false calls to emergency services. Evidently, these misdeeds have little resemblance to bribery. Nevertheless, both

public nuisances and bribes may be regarded as criminal crimes due to a shared rationale (Cappellaro, G., et al., 2023). Both public annoyance and bribery have a role in safeguarding "public goods" in a manner that cannot be achieved by relying only on private activities under civil law. This shared rationale underscores the interconnectedness of different legal concepts and the need for a comprehensive approach to law enforcement. Professor Raz provides a concise definition of "public goods" as products that benefit the broad interests of everybody in a society without causing conflicts, being exclusive, or being able to be excluded (Hoffmann, L. K., & Patel, R. N. 2023).

Raz's description of public goods elucidates why they cannot readily generate individual rights that may be enforced via the courts using conventional private law actions since they lack exclusivity, excludability, and conflict. Forty-eight. His research further elucidates the reasons for the existence of public nuisance as a criminal crime despite its shortcomings. This charge serves to safeguard some commodities, especially those with negative implications. A similar analysis may be used to examine bribes. The practice of bribery leads to the erosion of several public goods, including the cultivation of a "public service" ethos among government workers, impartiality in the administration of justice, and integrity and honesty in business dealings. Numerous public goods exist and are maintained without any person possessing a private entitlement to them. The upkeep and improvement of public assets is a shared obligation. Partially, those who stand to gain from the benefits should take responsibility while engaging in social activities, such as commercial transactions or the provision of public services, if these benefits are present. Nevertheless, the state may need to assume a supplementary function in facilitating the upkeep and advancement of the aforementioned public good by enforcing restrictions on behaviour that poses a threat or weakens its integrity. The state assumes this role when it forbids public nuisances or bribes (Søreide, T., & Vagle, K. 2022).

5. Bribery: Two Kinds of Wrong?

Manly bribery is of two kinds: one pertaining to the public sector and the other related to the private sector. But in statutes there is a lack of differentiation between various types of instances as a legal issue, which is a significant exodus in legislation. The main concern is whether misused their position by failing to meet the expected standards of their role in relation to a benefit they received, promised, or accepted. The strategy remains consistent regardless of whether the function of the issue is inside the public or private sector. Some scholars disagree with this method. According to them, bribery encompasses two distinct offences that should be addressed independently via legal means (Sharma, E., & Bagozzi, R. P. 2022).

6. Public Sector Bribery

Firstly, individuals who hold a public position or exercise public authority commit clear wrongdoing when they, in general terms, willingly take any illegal benefit in order to carry out an action related to their position or authority. According to his statement, they refer to it as Individuals who hold positions as judges, jurors, prosecutors, tax inspectors, immigration officials, voters, and similar roles should not accept any compensation from sources other than their employment. If they do get such compensation, it may be considered corrupt without any more justification. The common law approach to bribery considered it an offence when an "undue reward is offered to or received by anyone in a public office" with the intention of influencing their actions in a way that goes against the established principles of honesty and integrity (Cappellaro, G., et al., 2023). The Prevention of Corruption Act 1947 was primarily focused on addressing corruption within local government and was based on this perspective. Essentially, this Act criminalised the act of offering or accepting incentives in order to influence the actions of individuals who were part of a public. The Prevention of Corruption Act 1947. According to Alldridge, those employed in or associated with the public sector are obligated to refrain from accepting any benefits other than those that are legally owed or genuinely anticipated by their employer. If they do take such benefits, it would be considered bribery. According to him, public officials who take such benefits are essentially engaging in the trade of goods that should never be exchanged. It is suggesting that when a judge accepts money from one of the parties involved in a dispute, it compromises the integrity of justice since justice should not be seen as a commodity that can be bought and sold (Mance, A. A., & Mistree, D. 2022).

7. Private Sector Bribery

Corruption is present not just within the public sector but also in other situations, as in private sector. However, person's behaviour does not include the transaction of an item that is purportedly prohibited from being sold; quite the contrary. According to Alldridge, the problem with such behaviour is that it disrupts the functioning of a lawful market. He clarifies that the criminalisation of private-sector bribery may be accurately categorised as a component of law. When a buyer accepts a bribe to award a contract to a certain supplier, even if the employer agrees, it will harm the rivals and distort the market (Cappellaro, G., et al., 2023).

The existence or lack of wrongdoing in every given case becomes unclear when considering a private-sector bribery violation since it distorts the functioning of a lawful market. The distinction is in the degree rather than the kind, as opposed to the act of selling something that should never be sold. Often, the offering of benefits in relation to acquiring or maintaining business may not significantly impact or only have a negligible impact on

open and equitable competition, an impact that is overshadowed by other benefits. Therefore, it is possible (but not necessary) that there is a morally and legally valid opportunity to receive or provide benefits in the private sector that would not be properly accessible in the public sector. Prominent instances include what is often referred to as "facilitation" payments and corporate hospitality, especially when these activities take place inside the private sector (Søreide, T., & Vagle, K. 2022).

The former often refers to payments of a modest, sometimes traditional kind. They are created only to incentivise regular behaviour or to prevent it from being done reluctantly. **The practice of tipping,** which involves giving gratuities to waiters or taxi drivers, is a common phenomenon seen globally. This practice is not considered unlawful bribery as long as the gratuities are minimal and primarily given as a gesture of appreciation rather than as an effort to get better treatment than other customers (Sharma, E., & Bagozzi, R. P. 2022). Corporate hospitality is a well-recognised practice globally. For instance, a corporation may have a yearly Christmas celebration and extend invitations to its loyal clientele. The firm may engage in this activity partially to amuse its staff and customers and partly with the expectation that consumers would value the gesture and thus hold the company in higher regard. The degree to which the advantages for the clients are insignificant determines the extent to which such behaviour may be considered far from unlawful bribery. The magnitude and opulence of such gifts (or other benefits) directly correlate with the likelihood of seeing them as illegal bribery, capable of distorting the market or competition and undermining the principles of free and fair participation. Here is a recent case that has caused disagreement or debate (Azis, A. N., et al., 2022).

Nevertheless, it is preferable to identify the fundamental reason for prohibiting bribery in the private sector as the manipulation of lawful markets. There is absolutely no uncertainty that bribery has the capability and really does result in the distortion of markets. Nevertheless, if the avoidance of distortion is made the primary reason for banning private sector bribery, it exposes the vulnerability of bribery prohibitions in that sector to the argument that rules controlling anti-competitive activity already sufficiently safeguard free competition. The Law Commission said in its Consultation Paper that it rejected the "market distortion" justification for applying bribery crimes to the private sector as a primary factor. Seventy According to the Law Commission, the existing crimes in English and European law that target anti-competitive activity are already sufficiently broad to include the most significant forms of such behaviour. However, it is important to note that not all instances of bribery in the private sector necessarily result in market distortion. As stated earlier, market distortion caused by bribery should be seen as one of the potential damages that justify the ban on bribery in the private sector (Arafa, M. 2023).

The "mirror" argument, which suggests that accepting any benefits (apart from those provided by an employer) by public sector employees is considered bribery since it establishes a market for commodities that should never be sold? There are two problems at hand. Is there a characteristic of operating in a public sector role that inherently involves handling things that should never be sold? It is proposed that there is an absence. If some things absolutely should not be sold, such as a kid, a corpse, or an internal human organ, then the restriction on their sale should apply to everyone and not just limited to public sector personnel who may be tempted to benefit from it (Klimczak, K. M., et al., 2022).

On the other hand, individuals employed in the public sector may lawfully provide their skills for a fee. Depending on the specific circumstances, it may not necessarily be unethical to allow judges to provide their services as impartial arbitrators to parties that are ready to pay them. Adjudicative justice, which involves methodically making judgements based on established norms and principles, may be exchanged for monetary compensation, as confirmed by any independent arbitrator. The act of making specific judgements and providing justifications for them, including the determination of justice, should not be subject to monetary exchange. This principle applies equally to decision-making in both the private and governmental sectors. What about the allocation choices regarding other limited resources, particularly those made in the public sector, such as those on eligibility for social housing or social security benefits? Undoubtedly, these decisions should not be swayed by the possibility of personal benefits that have been promised or obtained. However, this situation presents a certain level of complication. Certain allocation choices, such as the awarding of a contract by a Government Department to drill for oil, might be seen as "sold" if the purchase price does not just benefit an individual personally. For instance, this choice is likely impacted by whether the bidder is willing to provide higher public interest advantages, such as funding for the construction of hospitals and schools in the region, compared to their competitors (Gerson, P. 2023).

Furthermore, it is worth considering whether it is necessary to establish a specific criminal offence for those who engage in bribery as public sector employees. This would highlight the unique nature of the wrongdoing they conduct while behaving corruptly in their official role. Supporting this perspective, one may highlight other legal systems that have a distinct crime of similar character.

Nevertheless, the Law Commission expressed scepticism regarding the credibility of the supporting argument due to the increasing difficulty of differentiating between public sector workers and private contractors engaged in public sector work in today's society. Additionally, it has become challenging to distinguish both of these groups from individuals working in the grey area between the public and private sectors. An example may be individuals who serve as trustees for funds that are specifically dedicated to philanthropic purposes (Søreide, T., & Vagle, K.

2022). There is little benefit in transforming these enquiries into legal matters. The primary concern is on whether an individual, regardless of their affiliation with the public or private sector, holds a position that might be ethically compromised by being influenced by the prospect or anticipation of a certain kind of benefit. Such a position includes serving as a trustee in the private sector when the choices made in that role involve the discretionary distribution of resources among beneficiaries. The newly established general crimes outlined in the Bribery Act of 2010 accurately represent this comprehension. As observed, they prioritise the benefits that lead to the inappropriate execution of a role, regardless of whether that role is performed in a public or private sector capacity. The impropriety is assessed based on the reasonable expectations of someone carrying out the role (Fernando, Z. J., et al., 2022).

8. Bribery, Remote Harm, and the Justification for Making Conduct Criminal

Now, revisit the concept that was introduced at the beginning. Is bribery considered a primary or secondary instance of criminal misconduct? An argument may be made that seeing it as problematic or peripheral is virtually certain to arise from viewing the actual infliction of (severe) injury as the primary example of really illegal misconduct. Professor Ashworth, in his analysis of the grounds of just criminalisation, starts by reading Mill's theory, as mentioned earlier, to be inherently centred on the notion of damage inflicted. He argues that the State has the right to make some behaviours illegal if they cause damage to others or pose an unacceptable danger of harm to others (Nguyen, T. V., et al., 2022).

Undoubtedly, the rationale of "unacceptable risk" is the most significant factor in explaining the occurrence of bribery in the criminal calendar. Nevertheless, Ashworth argues that the justification of "harm done" should be given moral and political priority, as it aligns best with his concept of "minimalism" in the construction of criminal laws. In the fifth edition of his Principles of Criminal Law, Ashworth stated that minimalism readily accepts the criminalisation of direct, victimising offences that cause harm to individuals. However, as one deviates from these straightforward cases, minimalism requires more compelling justifications for criminalising such acts, as opposed to utilising civil or administrative approaches (Sharma, E., & Bagozzi, R. P. 2022).

Therefore, when comprehended in this manner, minimalism is a completely logical approach to limiting the scope of the criminal code, but it is also a subject of disagreement. Minimalism focuses on the inclusion of just the most severe and obvious offences, such as murder or criminal damage, in the criminal code. It demands more compelling reasons for criminalising other types of behaviour, such as those that pose a danger of damage. As can be seen, bribery does not include any direct injury that victimises a person. Wrongdoing often refers to engaging in conduct that has an unreasonable risk of causing various distant damages, some of which may be significant. From a minimalist perspective, bribery does not meet the criteria for criminalisation and so should not be a fundamental aspect of criminal law. Indeed, according to a minimalist perspective, there is likely no fundamental difficulty in rationalising the classification of bribery as a criminal offence, primarily due to its involvement in illicit behaviour that poses a significant threat of damage. The number is 81. Nevertheless, it is crucial to note that a "stronger justification" will be required, according to a minimalist theory, in order to achieve this goal, compared to the rationale needed if bribery included a direct injury to the victim (Søreide, T., & Vagle, K. 2022).

In contrast, Mill's concept, which is a preventive principle, would inherently prioritise the inclusion of criminal acts that have a significant danger of causing considerable damage in any criminal code. even though it may seem unlikely that a single act of wrongdoing such as bribery would cause injury, there is still a compelling argument for making it a criminal offence, just like many other cases where harm has been done. The case will be based on the premise that if the behaviour in issue is not made illegal, it will produce an intolerable likelihood of damage happening in a broader sense. According to John Gardner and Stephen Shute, the fact that a harmless conduct or an activity with no potential to do damage is criminalised does not pose an obstacle under the harm principle. The damage principle is satisfied if the conduct would cause harm if it were not considered a crime. Non-instrumental wrongs, even if they are completely innocuous, may satisfy the test if their criminalisation reduces their frequency and if a higher frequency of these wrongs would negatively impact people's opportunities, such as by lowering a public benefit (Naumovska, I. 2023).

Gardner and Shute explain Mill's concept to clarify the underlying justification for criminalising rape. According to their perspective, the "pure" incidence of rape may be compared to a little trespass on property. It may go totally unreported, be brief in length, leave no visible evidence, and inflict no damage. An instance may be shown where D, without being seen, encounters an unconscious V and, using a condom, briefly introduces his penis into V's vagina or anus to the minimum amount necessary to establish an "entry", leaving V utterly oblivious to the incident upon waking (Sharma, E., & Bagozzi, R. P. 2022). Gardner and Shute refer to this as a pure instance of rape since it involves just the act of violating and using another person. Although Gardner and Shute argue that rape may not always include damage or threat, it is nonetheless considered a severe violation and appropriately criminalised. Rapes often include the abhorrent occurrence of non-consensual bodily penetration, sometimes accompanied by the use of force. In addition, if rape were not classified as a criminal offence, as Gardner and Shute correctly argue, it would result in a more frequent violation of people's rights to sexual autonomy. This would not only

harm the individuals directly affected by rape (if they were aware of it) but also have a broader negative impact on a larger group of people in our society, particularly women. Their lives would be further marred by violations of their right to sexual autonomy, and they would also experience a pervasive and justified fear of such violations (Igbokwe, E. O. 2023).

If this contentious depiction of rape, and its connection to injury, is accurate, then, similar to bribery, rape cannot inherently be included in the fundamental principles of criminal law as seen by minimalists. The reason for this is because the fundamental nature of rape does not inherently include a direct, harmful act that victimises persons. Therefore, according to a minimalistic perspective, it does not provide an obvious justification for criminalisation. The core nature of rape entails an act of violation that may seem little. However, in reality, it not only often causes injury but also has a significant danger of causing more widespread harm if it goes unpunished. According to Ashworth's minimalist perspective, rape, similar to bribery, falls into the category of cases that require stronger justification for criminalisation as they deviate from clear-cut cases. However, a minimalist theory ultimately provides a strong argument for criminalising rape. Eighty-six According to Ashworth, the seriousness of the danger caused by innocuous misbehaviour, as measured by the L.Q.R. 52, is not sufficient to consider such wrongdoing as a clear or important matter under criminal law. That seems to be incorrect (Nguyen, T. V., et al., 2022).

Furthermore, the issues regarding variants of minimalism focused on damage inflicted do not conclude with the peculiar manner in which bribery and rape are included (as peripheral instances) within the domain of criminal law. Here are two such problematic examples. Battery, which is the slightest unlawful physical contact with another individual, is simply a kind of innocuous misconduct. The number is 87. Engaging in battery is unequivocally considered a criminal crime. If it were not considered a violation, there would be a significantly increased likelihood of more regular occurrence of bodily damage. Blackstone, in a well-known passage, elucidated and comprehended the genuine rationale behind criminalising "respiratory" batteries, a sophistication that has largely gone unnoticed. He stated, "The law is unable to distinguish between varying levels of violence, and thus it forbids the initial and least severe form of it. Every individual's physical being is considered sacred, and no one else possesses the authority to interfere with it, even in the slightest manner."

Blackstone argues that if the law attempts to distinguish between permissible and objectionable "degrees of violence," it would undermine the clear message that violence is not allowed. To ensure that people understand the importance of the law and to prevent a rise in (little) acts of violence, it is advisable to make even minor trespasses against individuals illegal, even if they simply constitute innocuous misbehaviour.

Likewise, the growing prevalence of dishonesty-related offences in English law may be attributed to the same underlying factors. These offences may be considered as offences even without the need to prove any damage or fraudulent acts committed via dishonesty. Eighty-nine Engaging in dishonest behaviour may not always result in any damage, even if it entails morally incorrect actions. Nevertheless, in several situations (although not all), if left without consequences, such behaviour could result in widespread damage, perhaps in a systematic manner. This is why deceptive or deceitful behaviour may be classified as a criminal act in some situations, such as when someone provides crucial information or advice to the general public or government authorities.90 Gardner and Shute argue that according to Mill's real principle, which focuses on preventing damage, violence and dishonest behaviour such as rape or bribery should be seen as significant examples of wrongdoing that should be subject to criminalisation. This perspective is correct, not because there is necessarily inherent damage in such situations (there may be none), but because of the potential harm that may occur if they were not made illegal.

To summarise, assuming that Gardner and Shute's interpretation of Mill's concept is accurate, it may be applied to crimes such as bribery, dishonest behaviour (in some situations), violence, and rape. Minimalism, which focuses on the real damage caused by incorrect actions, has a challenging obstacle in explaining why old and well-established crimes are not considered obvious grounds for criminalisation. It is not surprising that Ashworth attempts, incorrectly, to portray Gardner and Shute as having presented an unrealistic argument that damage is unnecessary as a justification for criminalising a clearly terrible conduct like rape. This fails to represent Gardner and Shute's argument adequately. Their reasoning explicitly links the rationale for making rape a criminal offence (as well as violence, bribery, and many types of dishonest behaviour) to the direct correlation between these wrongdoings and the resulting damage caused. Nevertheless, the link is established by adhering to Mill's genuine concept of preventing injury rather than a minimalistic connection that just considers harm resulting from wrongdoing in order for it to be considered a "clear case" for criminalization (Naumovska, I. 2023).

9. Conclusion

Bribery is appropriately classified as a criminal offence because of its unethical nature. If left unpunished, it would significantly increase the likelihood of many serious damages becoming more prevalent worldwide, which is unacceptable. Therefore, the fact that an act of bribery is just a minor offence cannot serve as a valid basis against the criminalisation of bribery. An analogous assertion may be put out in support of criminalising acts such as violence, certain sorts of deceitful behaviour, and rape. A "minimalist" approach to criminalisation unnecessarily adds complexity when discussing such offences. Minimalism aims to use a "central case" approach to identify a

certain group of crimes that are fundamental to criminal law. These crimes include conduct that either takes the form of or inevitably leads to direct injury to a victim.

Furthermore, it proposes that if other forms of misconduct, such as misconduct that poses a danger of damage, are to be added to the criminal schedule alongside the main cases, further or more compelling reasons will be required (although they may be easily accessible, as in instances of bribery). Performing a "central case" study is always accompanied by potential theoretical risks. The danger lies in the possibility that neglecting some events in the peripheral may misrepresent them, therefore weakening the argument for considering purportedly core examples as really central. Minimalism's approach to criminalising innocent but dangerous activity might lead to oversimplification of the nature of such crime due to its tendency to over-complicate the matter. There is a possibility that this might result in pressure to redefine acts such as violence, bribery, or rape as direct, victimising, and hurtful in order to establish a widely accepted position for these acts inside the criminal law system. That is unnecessary. The following simple concept is sufficient to establish a foundation. A primary rationale for the existence of criminal law is its ability to prevent behaviour that either directly causes damage, poses a danger of harm, or would result in such a risk if it goes unpunished. Undoubtedly, this serves as a mere initial stage, as numerous harmful actions that directly victimise others do not justify being made illegal; many potential harms are too distant to be worth invoking criminal law as a deterrent. Even some noticeable risks of harm are justifiably accepted in everyday life. Nevertheless, beginning from this premise, bribery is one of the types of wrongdoing that may be most easily justified as having a prominent position in criminal law. Any plausibly minimalist explanation of criminal law will face early theoretical challenges if it raises any uncertainty about this.

References

Adar, Y., & Perry, R. (2022). Negligence without harm. Geo. LJ, 111, 187.

Arafa, M. (2023). False spring: Deep corruption and protecting the regime. Cornell Int'l LJ, 56, 1.

Azis, A. N., Safiudin, K., Ramdhani, R. A., & Hadad, Q. R. (2022). Restorative justice for perpetrators of corruption. LEGAL BRIEF, 11(5), 3498-3504.

Cappellaro, G., Compagni, A., & Vaara, E. (2023). Social control agents and the evolving definition of wrongdoing: The case of the gray area around the mafia. In Organizational Wrongdoing as the "Foundational" Grand Challenge: Definitions and Antecedents (Vol. 84, pp. 13-30). Emerald Publishing Limited.

Fernando, Z. J., Pujiyono, P., Susetyo, H., Candra, S., & Putra, P. S. (2022). Preventing bribery in the private sector through legal reform based on Pancasila. Cogent Social Sciences, 8(1), 2138906.

Gerson, P. (2023). Less is More?: Accountability for White-Collar Offenses Through an Abolitionist Framework. Stetson Bus. L. Rev., 2, 144.

Hock, B., & Dávid-Barrett, E. (2022). The compliance game: Legal endogeneity in anti-bribery settlement negotiations. International Journal of Law, Crime and Justice, 71, 100560.

Hoffmann, L. K., & Patel, R. N. (2023). Petty bribery, pluralistic ignorance, and the collective action problem. Data & Policy, 5, e24.

Igbokwe, E. O. (2023). Dealing with Bribery and Corruption in International Commercial Arbitration: To Probe or Not to Probe.

Klimczak, K. M., Sison, A. J. G., Prats, M., & Torres, M. B. (2022). How to deter financial misconduct if crime pays?. *Journal of Business Ethics*, *179*(1), 205-222.

Krügel, S., & Uhl, M. (2023). Internal whistleblowing systems without proper sanctions may backfire. Journal of Business Economics, 93(8), 1355-1383.

Laitinen, A., & Särkelä, A. (2023). Social wrongs. Critical Review of International Social and Political Philosophy, 26(7), 1048-1072.

Mance, A. A., & Mistree, D. (2022). The bribery double standard: Leveraging the foreign-domestic divide. Stan. L. Rev., 74, 163.

Naumovska, I. (2023). Doing Well by Doing Bad: Toward an Organizational and Strategic Perspective on the Rational Choice Model of Corporate Misconduct. In Organization Theory Meets Strategy (pp. 211-234). Emerald Publishing Limited.

Nguyen, T. V., Doan, M. H., & Tran, N. H. (2022). Obligation-based bribes in Vietnam: A view from the norm of reciprocity. Crime, Law and Social Change, 78(2), 125-144.

Sharma, E., & Bagozzi, R. P. (2022). Moral reactions to bribery are fundamentally different for managers witnessing and managers committing such acts: Tests of cognitive-emotional explanations of bribery. Journal of Business Ethics, 177(1), 95-124.

Silver, K., & Garofalo, P. (2024). Excusing Corporate Wrongdoing and the State of Nature. Academy of Management Review, (ja), amr-2020.

Søreide, T., & Vagle, K. (2022). Settlements in corporate bribery cases: an illusion of choice?. European Journal of Law and Economics, 53(2), 261-287.