

# ETHICS & SOCIAL RESPONSIBILITY (WEEK 9)

Corruption in Commercial Transactions

# CORRUPTION IN COMMERCIAL TRANSACTIONS

- Bribery and Corruption
- Causes of Corruption
- Ethics of Corruption
- Combating Corruption

# WEEKLY DISCUSSIONS

- Any noteworthy current affairs that raise ethical questions or concerns?

# HOW DOES CORRUPTION COME ABOUT?

- Corruption's hidden players

[https://www.youtube.com/watch?v=Nhx1\\_yXMwCg](https://www.youtube.com/watch?v=Nhx1_yXMwCg)

- The public and politicians

<https://www.youtube.com/watch?v=o7w9K2XR3fo>

# WHAT IS BRIBERY/CORRUPTION?

- Difficult to describe accurately but not difficult to recognise
- World Bank:
  - “The abuse of public power for private benefit”
- Privy Council in AG v Reid:
  - Any “gift accepted by a fiduciary as an inducement to him to betray his trust”
- The notion of corruption connotes a betrayal of trust and a misuse of power, resulting in unfair advantages or illicit enrichment

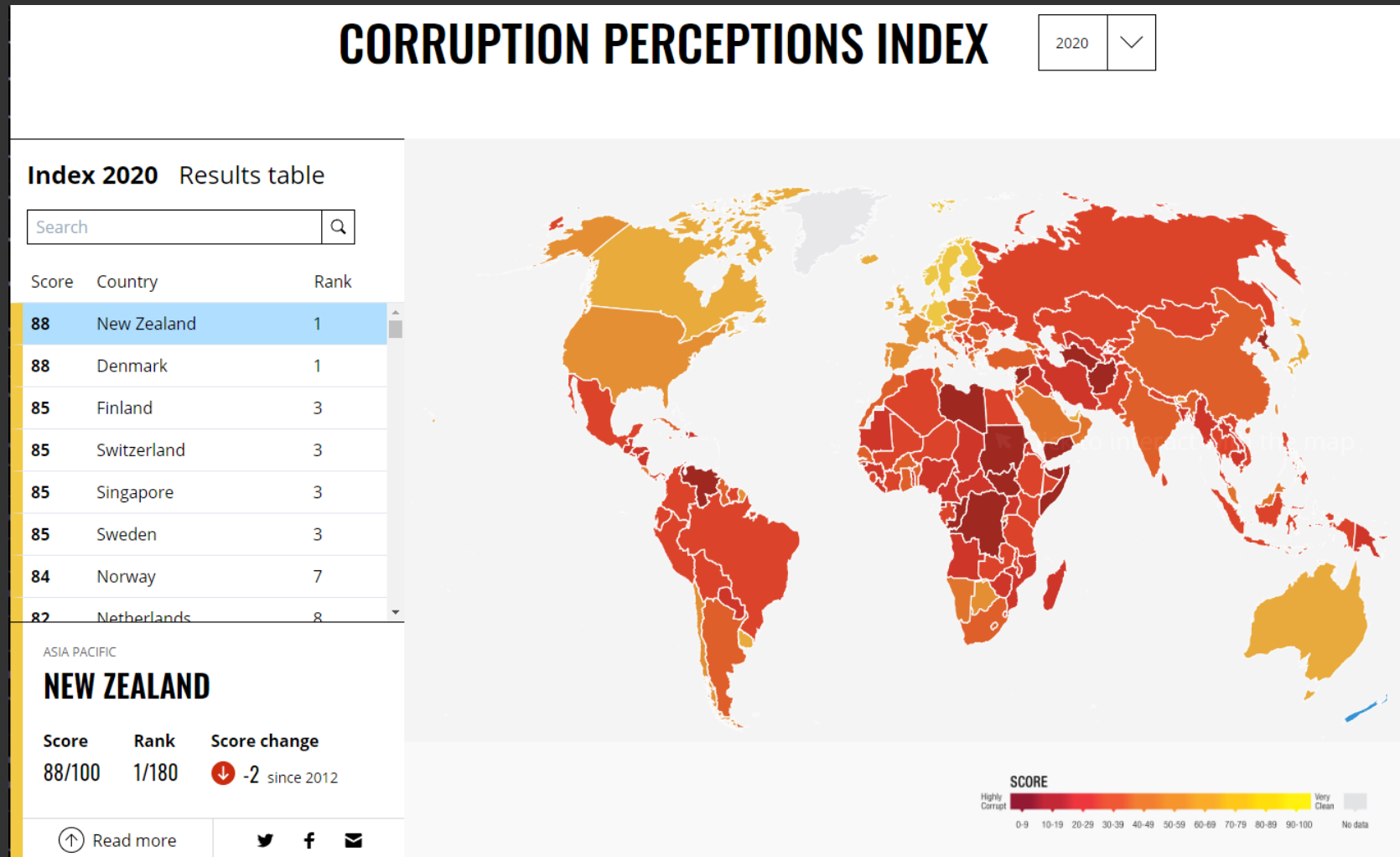
# THE HIGH COSTS OF CORRUPTION

- OECD reports: Cost of corruption is more than 5% of global GDP
- World Bank: High-level corruption is the single biggest threat to development in poor societies
- Corruption Perceptions Index as an index to measure perceptions of corruption:
  - Singapore has typically been ranked highly in the CPI
  - Rest of Asia has unfortunately been performing poorly

# THE HIGH COSTS OF CORRUPTION

- Inefficiency – Lower Profits
- Extra costs to businesses and consumers, which deters investments
- Lack of proper infrastructural development (p 288 textbook)

# CPI RANKINGS





# CAUSES OF CORRUPTION

- Several factors include:
  - Low public-sector salaries
  - Immunity of public officials
  - Secrecy in government
  - Worsening public procurement practices
  - Privatisation process
  - Increase in foreign investment and trade
  - Restrictions on the media
  - Financial liberalisation
  - Multiparty elections

# LEE KUANYEW ON CORRUPTION

- <https://www.cpib.gov.sg/press-room/speeches/address-minister-mentor-lee-kuan-yew-asian-strategy-and-leadership-institutes>

23. An important factor is the salary of Ministers and government officials. They have enormous powers to grant or deny permits that can make or break businesses. When ministers and senior civil servants are paid salaries that are derisory compared to those of their counterparts in the private sector, officials and ministers will be tempted to take gifts. Whether it is policemen, immigration officers, customs officers or officers in charge of dispensing licences, it is dangerous to have them grossly underpaid. Over the last 40 years, Singapore has moved towards paying political and civil service officers 70-80% of what their equivalents are earning in the private sector, the formula is based on an average of 6 professions, their salaried incomes based on the income tax returns. This has enabled ministers and officials to live according to their station in society without extra sources of illicit income.

24. Singapore has to keep fighting corruption wherever it exists and however difficult it may be politically. The system works because everyone knows the Singapore government is prepared to act against the most powerful in the land.

25. In 1995 Prime Minister Goh Chok Tong ordered an investigation into purchases of two properties each made by my wife on my behalf and by my son Lee Hsien Loong, then deputy prime minister. The developer had given them unsolicited 5-7 per cent discounts on these purchases, as he had given to 5-10 per cent of his buyers at a soft launch to test the market. Because my brother was a non-executive director of the company, a rumour went around that my son and I had gained an unfair advantage. The Monetary Authority of Singapore investigated the matter and reported to Prime Minister Goh Chok Tong that there was nothing improper.

26. Nevertheless I asked the prime minister to take the matter to Parliament. In the debate, opposition MPs, including two lawyers, one a leader of the opposition, said that such discounts were standard marketing practice and was not improper. This open debate made it a non-issue in the general elections a year later.

27. Leaders must be prepared for such scrutiny to keep the system clean.

28 We have to keep our own house clean. No one else can do it for us.

# BREAK

- Come back in 10-15 mins

# CRIMINALISING BRIBERY AND CORRUPTION

- Organisation of Economic Cooperation and Development (OECD) Convention on Bribery
- United Nations Convention Against Corruption (UNCAC)

# CRIMINALISING BRIBERY AND CORRUPTION

- Criminalising cross-border corruption (different national legislation)
- US Foreign Corrupt Practices Act (FCPA): Offence for US citizens and companies to pay bribes to foreign officials
  - Grease Payments: Small payments given to petty officials to expedite routine activity
  - Corrupt Payments: Payments to influence the exercise of discretion
- Is such a distinction justified? Only corrupt payments are caught under the FCPA.

# OTHER NATIONAL LEGISLATION

- UK Bribery Act: Criminalises foreign corrupt practices
- SG Prevention of Corruption Act
  - Punishment for corruption: Liable on conviction to a fine not exceeding \$100,000 and/or to imprisonment for a term not exceeding 5 years
  - Section 5: As long as a person “corruptly solicit[s] or receive[s]” or “corruptly give[s], promise[s] or offer[s]” any gratification as an inducement to or reward for any person doing or forbearing to do anything.

# ETHICS OF CORRUPTION

- Consequentialist approach: Corruption results in inefficiencies and drives away business and economic growth.
- Also results in countries prioritising 'large' projects such as large scale property development, rather than essential infrastructure e.g. schools, wells for clean drinking water etc.
- Deontological approach: Bribery brings the administration of justice into disrepute.
  - Lord Reid: "Where bribes are accepted by a trustee, servant, agent or other fiduciary, loss and damage are caused to the beneficiaries, master or principal whose interests have been betrayed"
  - If an agent takes bribes, then he/she would betray his/her principle



# COMBATING CORRUPTION

- PM Lee Hsien Loong: How corruption was fought in the early years

<https://www.youtube.com/watch?v=VsP1lk-FiF4>

# COMBATING CORRUPTION

- The role of the judiciary:
  - Judicial Corruption often emboldens corrupt actors
  - One problem with cross-border commercial deals: the selection of a particular jurisdiction's courts as the forum of litigation
    - E.g. a business partner insisting on litigation in a forum of his/her choosing when signing a contract

# COMBATING CORRUPTION

- Tackling low salaries in the public sector
- Making examples of corrupt companies/individuals in court
- Governments to harmonise anti-bribery laws and improve coordination between national probes
- Anti-bribery laws to be amended to offer companies a 'compliance defence'

# CONCLUSION

- Any questions?

# GROUP PRESENTATION FOR WEEK 11

- Assigned group: 6
- Topic: Environment and Ethics