

## The Bribing Game

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In a clever paper posted on the Finance Ministry's website, Kaushik Basu (Chief Economic Adviser, Government of India) has argued that the act of bribing should be made legal. Strictly speaking, the argument applies only to what Basu calls "harassment bribes", that is, bribes that people give in order to get something they are entitled to, like a passport or ration card. How the legal system is supposed to distinguish between harassment bribes and other bribes is not discussed. But let us leave that aside and focus on harassment bribes.

The argument is simple enough: if bribe-giving (though not bribe-taking) is made legal, bribe-givers will have an incentive to "blow the whistle" after paying a bribe. Knowing this, bribe-takers will hesitate to take bribes. Note that the paper is boldly prescriptive: "The central message of this paper is that we *should* declare the act of giving a bribe *in all such cases* [of harassment bribes] as legitimate activity... this *will cause a sharp decline* in the incidence of bribery" (emphasis added).

The moral acceptability of this proposal has already been questioned by other commentators. Not only does it condone bribe-giving, it also relies on bribe-givers being doubly corrupt: by giving a bribe, and by stabbing the bribe-takers in the back as they blow the whistle after the event. Be that as it may, there is another problem with Basu's paper: the central argument – that legalization of bribe-giving "will cause a sharp decline in the incidence of bribery" - is incorrect.

To see this, note that a bribe-giver has three options (not two, such as "bribe" and "don't bribe"): don't pay a bribe; pay a bribe and blow the whistle; and pay a bribe but don't blow the whistle. As Basu correctly points out, the "legalization" proposal enhances the attractiveness of the second option vis-à-vis the first. However, it also makes the *third* option more attractive, in two ways: the bribe-giver is not penalized if caught, and her conscience is also clearer since bribe-giving is not illegal. It is easy to construct examples where the effect of the proposal would be a switch from the first to the third option, leading to an *increase* – not decrease – in the incidence of bribery.

To illustrate, consider someone who is tempted to pay a bribe to get a telephone line. Suppose that the consequences of blowing the whistle are huge litigation costs, possible harassment, and little chance of getting justice – not a far-fetched assumption. In this situation, "paying a bribe and blowing the whistle" is not much of an option, even if bribe-giving is legal. The real choice is between not paying a bribe, and paying a bribe without blowing the whistle. It is perfectly possible that many people would choose the former if bribing is illegal and punishable, but the latter (paying a bribe) if bribe-giving is legalized. The argument applies

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\*Originally published (with minor corrections) in *The Indian Express* on 23<sup>rd</sup> April 2011.

even after factoring in the bribe-taker's behaviour, as one must naturally do in the game-theoretic approach adopted by Kaushik Basu.

None of this detracts from the *possibility* that legalizing bribe-giving might lead, in some circumstances, to a decline in the incidence of bribing. But Basu's general claim that the proposal guarantees "a sharp decline in the incidence of bribery" does not stand scrutiny.

Basu's argument is all the more puzzling as the paper ends with a plea for acknowledging the role of values and ethics in eradicating corruption: "if we want to really get at corruption, what we need to build up are values of honesty and integrity in society". Well said. But how is the legalization of bribe-giving supposed to help in building up such values?

In fact, once moral considerations are introduced, the initial argument breaks down once again. Is the legalization of bribe-giving supposed to make it less immoral? If so, that would tend to encourage, not discourage, bribing. If not, why would anyone blow the whistle after paying a bribe? That would be like drawing attention to one's own immorality. Possibly to deal with this, Kaushik Basu suggests that bribes might be "reimbursed" to bribe-givers if they blow the whistle. That would indeed give them an incentive to blow the whistle – but this suggestion takes us further and further away from anything like the real world.

It may be argued that paying a harassment bribe is not morally reprehensible in the first place, because the bribe-giver is a victim and the bribe is an act of self-defence. I am not persuaded. When you pay a harassment bribe, you abdicate your duty to use other means to resist the harassment, not only for yourself but also on behalf of others who might face the same situation. You also secure an advantage for yourself, vis-à-vis others who may not be able or willing to bribe. This does not sound particularly ethical.

If you find all this heavy-going, just think about it from a common-sense point of view: does it make sense to fight corruption by making it easier for people to blow the whistle on their own acts of bribe-giving, so that bribe-takers are deterred from asking for a bribe in the first place? Ethical issues aside, this is quite a fanciful idea, even if it is certainly possible to think of situations where it might work.

Creative and thought-provoking as it may be, Kaushik Basu's paper is symptomatic of a common disease in the economics profession: the tendency to make sweeping policy recommendations based on analytical models that have a very limited domain of validity. In this case, the problem is compounded by analytical flaws as well as tensions between economic arguments and ethical concerns. Basu's proposal is excellent fodder for intellectual debate, but rather dangerous as far as real-world policy-making is concerned.