

## RESEARCHING EMBEZZLEMENTS IN PUBLIC SECTOR: LIMITS AND POSSIBILITIES

### Introduction

There are a lot of investigations where companies or citizens have paid a bribe when dealing with public officials, whose decisions have an impact on their activities or life. That's why there is a common recognition that corruption is a transaction between two actors: the public servant from the state side and the citizen or company from the other side. Harch (1993) states, that in some regions, corruption is associated with broader range of criminal charges, including theft, fraud, false accounting, the embezzlement of funds, or appropriation of state property. This statement confirms the fact that corruption differs from one society to another and that no definition of corruption would be equally accepted in every nation.

The aim of this paper is to first provide insights into the theory of bureaucratic embezzlement. Embezzlement in the private sector is perhaps the most common type of employee theft (Holinger and Clark, 1982; Pupura, 1983; Gabor, 1994; Tylczak and Sheets, 1994; Giacalone and Greenberg, 1997; Shaw and Bologna, 2000; Christopher, 2003; Vardi and Weitz, 2003). A review of some recent literature on corruption issues provided the following observations for a view and understanding of it. What is crucial is that embezzlement isn't always considered as corruption from a strictly legal point of view<sup>114</sup> in many domestic and international definitions of corruption (Laugseth, 2006). When all things are considered, embezzlement is commonly included in a broader definition of corruption (Andvig, Fjelstand, 2000). But in the context of corruption, few conditions must exist: the taking or conversion of public money, property and etc. by a person who is not entitled to them, but has access to them.

In the previous statement, researches about political and administrative embezzlement placed it in a shadow, but the outcomes of embezzlement can potentially cost a system more than other forms of corruption. Worldwide events have confirmed that political and administrative embezzlement could destabilize the political system of a country<sup>115</sup>, have impact on the welfare of a local community<sup>116</sup>, or

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<sup>114</sup> For example, the decision of International Olympic Committee (IOC), Ethics Commission concerning the case of Mr. Un Youn Kim former IOC Vice-President confirmed that embezzlement acts may not be criminally punishable depending on the law in different countries but for sure remain ethically reprehensible

<sup>115</sup> Parliament opposition initiated an interpellation for the speaker of Seimas (Parliament of the Republic of Lithuania) and removed it. One of the reasons for the interpellation was embezzlements observed in Parliament office.

may suspend the transfer of development aid to poor countries. Even Catholic Church dioceses were the subject of various embezzlements (West, Charles, 2000). These particularly apply to the theft of public funds, which have been studied less and poorly documented. Although public agencies record information on the extent of embezzlement and errors for their internal control activities, they rarely share it publicly. At the same time, embezzlement seriously tarnishes the reputation of the institution where the official is employed. Indeed, officials are abusing the public trust too.

### **The definition of corruption vs embezzlement**

Embezzlement is mainly defined as the theft of resources by persons entrusted with authority and control over these valuable resources. It occurs when disloyal employees steal from their employers (Andvig, Fjelstand, 2000). Other authors like Crayton confirmed that embezzlement is the illegal use of, or theft of property that belongs to someone else (in our case a public institution or the state) that has been entrusted to their care (Crayton, 2003). Generally, property is defined as including money, goods, chattels, or anything of value. Intangible personal property or commercial paper such as checks, promissory notes, bonds, stocks, and written documents such as deeds or contracts, may also be the subject of embezzlement (The Gale Group, Inc. 1998).

Valuable remarks about what corruption is and what can be defined as corruption were provided by Lamsdorff (2004), who's noted that when the size of funds involved in the deal is small, the official is simply lazy and the term of corruption seems inappropriate. However, in cases involving large-scale deals and embezzlement the term of corruption may be considered as appropriate. Although Lamsdorff doesn't finish his statement because he recognized that this may only be appropriate for some observers, there aren't common consequences in this sphere due to the differences in our political philosophy, attitudes and values.

Accordingly, with Crayton's definition, embezzlement can be explained as illegal and dishonest behaviour where the public interest is crucially affected. Thus, embezzlement can derive from the impression that "everyone is doing it" (Graziano Breuning, 2004). In political terms this is called graft, which is when a political office holder unlawfully uses public funds for personal purposes. Although Ross (2002) noted, that there aren't common consequences regarding how to define political crime because different scientists normally provide their own definitions of political offenders.

Different forms of the embezzlement are found in current literature. Researchers and experts aren't in agreement about a common description of embezzlement and some of them (Turner, 2002) introduce each form as different type of crime, or simply theft (United Nations Office on Drugs and Crime, 2004):

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<sup>116</sup> The case of Roslyn school in USA. Between 1996 and 2004, the period covered by the audit, the group of high-ranking school officials – the superintendent, the finance director, and 30 others who benefited to lesser degree by way of unauthorized salary hikes, unauthorized school contracts, unauthorized money delivered in a variety of creative ways

1. *Tax embezzlement*
2. *Illegal transfer of public funds to an embezzler's own account*
3. *Foreign aid transfer to a political party account*
4. *Illegal receipt of government property*
5. *Bureau personnel use for private benefit*
6. *Salary payments for non-existent persons*
7. *Speculation in raw materials and finished products through a dual-price system*
8. *Increased government spending as a desire to increase bureau power or on frivolous projects*
9. *Illegal allocation or transferring of public funds between national and sub-national entities*
10. *Speculation in the stock and real estate markets with public funds*
11. *Falsification of scientific research data enabling misappropriation of funds received for research purposes from private and government research funds*

Such differentiation in the forms of embezzlement provides knowledge and a perception of how political power is actually wielded from country to country. At the same time, those forms provide us with a deeper insight into how the "ownership" of public goods will survive in different public administration systems.

The notion of lawless behaviour is equal to the illegal moneymaking term provided by Banerjee in this endeavour to explain why the government makes it illegal to make money. Normally, the government deals with public money, public property and the use them for the delivery of public functions. However, different governments, depending on the level of democratisation in the country, keep this money in secret<sup>117</sup> and quite often put it into activity without informing the citizens about how they spent it (Fennel, 2004). At the same time, a lack of transparency is visible in public enterprises, which possess a power<sup>118</sup> more or less like that of the government bureaucracy. The basis of public enterprise power resides in their expert knowledge of public service delivery aspects that the customer finds credible.

Actually, a recent case in Lithuania confirmed how heat suppliers can manipulate society without providing information to the public. The National Control Commission for Prices and Energy (NCC) regulates heat supplier price setting principles and the prices themselves, plus the defence of customer rights. In addition, the local municipality board must approve prices too. In the end of the year 2006, heat suppliers started to appeal to the Commission for an increase in the central heating price for the next year due to the gas price increase. However, not one of the suppliers had provided information about their profits during the last few years (this information is not available on the company web sites also), and only after the citizens and politicians pressured them, did the Commission publish them. This happened because the heat suppliers are not required to publicly

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<sup>117</sup> For example, in Pakistan, secrecy is the part of organizational culture in the governmental institutions, which is largely based on a large number of laws, rules and instructions provided issued by government.

<sup>118</sup> According United Nations Conference on Trade and Development (UNCTAD), World Investment Report 2005, European public services providers (Vodafone, France Telekom, Deutsche Telekom, E.On, Electricite de France, Telefonica, Deutsche Post World Net and etc. are dominating of the UNCTAD's list of the top fifty transnational corporations in the world.

notify market participants on the following matter. But when we are talking about a public monopoly and the citizens' money, should this really be the case?

In theory, transparency and corruption should be inversely related, in that more transparency in public government should mean less scope for corruption, and that dishonest behaviour would become more easily detectable, punished and discouraged in the future. In choosing embezzlement, public servants provide themselves with a possibility to increase their income above what has been estimated by law and more than most people earn in a lifetime. It sounds like an illegal privatisation of the working place by public servants. Instead of fair and efficient work for common aims, such official loss of transparency means that everyone in the organisations becomes blind to producing value and performing well.

### **Embezzlement is a legitimate tool of governance in the post-communist era**

The situation in the former Soviet Union and Eastern and Central European countries after the failure of the communist regimes has created another example of where embezzlement became the legitimate source of governance. The embezzlement came together with a new incarnation of the classical economic liberalism that proclaimed "the market" as the proper guiding tool by which society should transition and organize their economic lives (MacEvan, 1999). In terms provided by Killias (2006), such changes can be defined as "breaches": new opportunities to commit embezzlements that arise in the environment of everyday life due to the technological and/or social development. Many legal acts were issued to enable illegal actions (Sajo, 2002) and the current anticorruption legislation has proved to be more of a hindrance than a help. That's why embezzlement became a substitute for institutional and legal reforms.

A society in transition faces a very different set of changes – economic, socio-cultural, political and technological – than those of Western societies before. In this case, the choice of embezzlement as a legitimate means is explained by rational choice theory. According to this theory, individuals act in pursuit of various goals and interests and choose their actions in order to satisfy their own welfare more efficiently than any collective goals (Banerjee, 1997). Whereas, rational-choice approaches are usually associated with self-interested desires and targets (Knight, 2002). Such an economically rational manner exists throughout decision-making and compliments it by enjoying the power that provides maximum benefits not to the state, but primarily to the politicians and administrators involved in the embezzlement.

Countries in transition have showed that embezzlement is described as a habit where stealing from the government is a norm. The collapse of the Soviet Union has provided opportunities for embezzlers to introduce their illegal behaviour masked as fighting against the communist regime. Such motivation to adopt a political label for the following crime is due to its ideological aspects. This fighting has often taken on the form of stealing government property and selling it on the black market. Across transitional societies it is assumed that people choose efficient means to achieve their ends. Indeed, this assumes that people were motivated by public interest. However, it now requires a change in culture that isn't easy to achieve quickly.

The domination of embezzlement as a form of corruption was observed in the beginning of the privatisation process, where single persons misappropriated and managed state enterprises. Privatisation of the public sector was one of the variables that created *traumas* for citizens as they became unemployed. A process that was not transparent and was usually corrupt influenced the income of the state and the welfare of its citizens (Dvorak, 2006). On one hand, weak legal and democratic structures became a base for illegal state empowerment from the Western point of view. On the other hand, the first post-communist governments own large amounts of land and public property but have very low level of consciousness about the “ownership” of public goods.

Quite often, embezzlement occurs at the highest levels of organizations. Why do so many high level officials exhibit deviant behaviour? One assumption is that only high level officials can be involved in the process of embezzlement due to their access to the funds. It looks strange that only high level officials mainly take part in wrongdoings alone.

In post-communist countries, officials are taking advantage of the absence of a financial infrastructure. Oftentimes, embezzlers have direct access to the assets and records. Apparently, support or aid money is usually transferred to other countries. In such cases, an official has power of attorney to manage the account and misuse it by paying large amounts to other accounts. Fraudulent methods can be used: forged documents (making false reports for refunds), a non-existent company run by friends, and the law of forgery (the material altering of a document with the intent to defraud) comes into play. Forgery may also be the entry of false passwords into a computer to gain access and use the computer to defraud.

## **Initiatives against corruption**

What the public sector can do in prevention of embezzlements:

- *Controls of transparent financing of political parties are necessary.*
- *Implementation of United Nations Convention Against Corruption is necessary.*
- *Proper transposition and implementation of “Commission Directive 2000/52/EC of 26 July 2000 Amending Directive 80/723/EEC on the Transparency of Financial Relations Between Member States and Public Undertakings” by EU member states is necessary.*
- *A proper law concerning conflict of interest is necessary (Pachmann, Dvorak, 2008).*

Public sector when is corrupted cannot be expected to fight corruption effectively. Involvement of private sector and civil society is necessary. It is important that those countries which receive aid or European Union Structural Funds money have a greater say in how the aid money is spent so that the aid can flow in the long-term perspective. Donors should focus more on the *outcomes* of this policy. In almost every case, countries with high levels of corruption must compete to receive aid, but those with good governance have many less obstacles in obtaining funds.

## Conclusions

Embezzlement is the concept that simply defined as one of the forms of corruption. Today, the term embezzlement in public sector is mostly used to indicate stealing of public money or unlawful use of public property for private benefits. During the past research most attention has been given to the corruption impact on the foreign direct investment level, correlation between re-election and political corruption, corruption in public procurement and etc., however researches on political and administrative embezzlements placed it in “shadow”, although embezzlement for political and administrative system can cost more than other forms of corruption. That’s why embezzlement is likely an act of double taxation as quite often it remains invisible but the losses are large and have collective impact.

The implications of embezzlement can lead to citizen’s mistrust of their government. In practise, corruption destroys people’s trust in government institutions and tarnish it reputation. Problems also arise in the delivery and quality of public services as well as infrastructure and have a direct connection with public expenditures. Apparently that embezzlement lowers the quality of public infrastructure because corrupt governments may display predatory behaviour in deciding how to distribute public expenditures, for example road construction and irrigation system.

**Abstract.** Embezzlement can be fundamentally described as an internal form of corruption and examples may be found across a wide range of countries at various levels of development. This form is different from other forms of corruption. Usually, traditional forms of corruption require the involvement of a client in a deal that creates a situation or demand for the deviant behaviour. In short, we can say that an external “bait” must exist either in the form of the client’s offer to pay or in the form of an official desire to deliver a corrupt service. In the case of embezzlement, a public official benefits himself through harming his employer.

KEYWORDS: Corruption, embezzlement, transparency, public sector, officials

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