



CORRESPONDENTS



Ben W. Heineman, Jr.

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[Where Are the Global Anti-Corruption Leaders?](#)

The continuing scourge of international bribery--and the continuing lack of senior international anti-corruption leadership--were reflected in last week's settlement of a massive bribery case against a major international company, British Aerospace (BAE).

The story is depressingly familiar.

BAE denies allegations of widespread international bribery indignantly and self-righteously. In 2006, Prime Minister Blair and others effectively pressure an "independent" U.K. anti-fraud office to stop a major investigation into bribes to Saudi Arabia, allegedly to grease a multi-billion dollar sale of BAE fighter plans to the Kingdom. The ostensible reason: a threat by the Saudis to stop sharing information on terrorists with the U.K.. An underlying reason: the investigation's threat to U.K. trade and jobs. The U.S. Justice Department starts its own investigation.

Then (surprise, surprise), after years of stonewalling and denials, BAE agreed last week to settle international corruption cases, with a \$400 million payment to the U.S. and a \$50 million payment to the U.K. The actual offenses were somewhat technical: an intentional accounting misstatement in the U.K. involving Tanzania (not Saudi Arabia), and a "false statement" in the U.S. (BAE claimed in submissions to the U.S. government that it had a serious anti-bribery compliance program which, in fact, was only a Potemkin Village.)

But it is clear that widespread improper payments were at the core of the case. BAE would not pay \$450 million for technical offenses. And the court papers filed by the Justice Department lay out, in some detail, BAE's use of shadowy consultants in Eastern Europe and Saudi Arabia (who were given hundreds of millions of dollars to pay to officials in purchasing governments) and its failure to properly account for these transactions. By settling on these technical offenses, BAE avoids the threat of being debarred from government contracts in both the U.S. and the U.K., as both governments announce the case is over for the company (the U.S., but not the U.K., is still investigating individuals). Critics in the U.K. blasted the technical settlement, claiming that the full extent of BAE's questionable past practices will not come to light, including the potentially huge sums relating to the Saudi fighter sale and the possible role of the U.K. defense ministry in encouraging payments.

The "resolution" of the BAE case comes a little more than a year after settlement of a massive bribery case involving Siemens, the German industrial company. In December

2008, Siemens paid \$1.3 billion to German and U.S. authorities for accounting and conspiracy offenses arising from allegations that the Munich-based company paid more than \$1.4 billion to secure orders around the world. This was accompanied by payment of more than \$300 million in other penalties; restatements of more than \$500 million for expenses disallowed as improper payments; and outlays of more than \$850 million for lawyers and forensic accountants used in the company's internal inquiry. U.S. authorities said Siemens improper payments were "unprecedented in scale and geographic reach" as well as "systematic" and "standard operating procedure."

Top leadership at both BAE and Siemens resigned. Both companies have had serious assessments by outside experts of steps necessary to change the culture and the behavior. After the companies' near death experiences, new management is committed to effecting real change and implementing a meaningful anti-corruption program. The DOJ commended Siemens' new leaders for its "extraordinary" efforts in this regard.

The BAE and Siemens cases are symbols of pervasive corruption across the globe and lack of senior leadership making anti-corruption an international imperative. Bribery and extortion in public sector activities--especially in the developing world--distorts competition, erodes legitimacy and rule of law, impedes economic growth, thwarts building of institutional infrastructure, injures the poor and supports criminals and terrorists who pose a threat to world order. Corruption thus directly and seriously implicates foreign policy, national security, economic, developmental and humanitarian concerns.

The pernicious effects of corruption--and its relationship to other core global issues--has now secured its place on the global agenda. Officials in some nations, at the Organization for Economic Cooperation and Development (OECD), at the UN, at the G-8, at the G-20, in the Council of Europe, at the group for Asia-Pacific Economic Cooperation (APEC), in the multi-lateral development banks (like the World Bank)--all pay lip service to anti-corruption efforts, all put the issue somewhere in the various communiqués which issue after various meetings, and all engage in some operational efforts to address the problems.

Developed countries must stop foreign bribery by their national champions; developing nations must make anti-corruption central to economic development; developed and developing nations must cooperate to make a new UN convention against bribery a reality; the multilateral development banks and national development agencies must help create rule of law and anti-corruption capacity in emerging nations and must have strong internal disciplines to ensure that the billions of dollars in aid given each year are used for their intended purposes and not diverted for corrupt uses.

But, these various anti-corruption initiatives are still often a technocratic effort, not a political crusade against abuse of power. There are not major global officials--or major private sector leaders--who have made corruption their issue and who attract world attention. (Angel Gurría, Secretary-General of the OECD, speaks out forcefully on the subject but does not make front page news or have decisive influence on OECD member states.) And the problems of countering corruption are so difficult that such potential leaders are needed to create a movement that holds other leaders, in both the public and private sectors, responsible and accountable and that energizes disparate citizens, who feel the crushing impact of corruption, to make their voices heard. Such leadership is a necessary, but not sufficient condition, if any meaningful progress is to be made on the anti-corruption agenda.

The BAE and Siemens settlements are cases in point. If these iconic developed world companies had such widespread issues, it is reasonable to think that they are hardly alone. Although both Germany and the U.K. have had laws prohibiting foreign bribery by their multinational corporations since at least 1999, there had been little national enforcement

prior to these cases. In both BAE and Siemens, the U.S. (which has a history of strong enforcing laws against foreign bribery) was deeply involved and helped push the companies to a major resolution because of their dependence on the U.S. market.

Germany's enforcement efforts have picked up, but are driven by state, not national authorities (and there is still ambivalence in Germany about the subject among some officials and exporters). Despite the recent (weak) resolution of the BEA matter, the U.K.'s law and enforcement efforts have been virtually non-existent for years. U.K. critics, including a law reform commission, have called for strengthening U.K. law to make it much easier to bring cases and to hold companies responsible, but that law is still awaiting parliamentary action.

More importantly, a 2009 report by Transparency International, evaluated the enforcement activities of 36 nations which had signed the 1997 OECD Convention on Combating Bribery of Foreign Public Officials and enacted national laws giving it effect. (Disclosure: I am on the board of Transparency International-USA.) That report concluded that only 4 out of 36 countries evaluated are actively enforcing the OECD Anti-Bribery Convention, with moderate enforcement in 11 other countries and little to no enforcement in 21 or more than half. Among the obstacles noted by the report were: antiquated bribery laws, outright political obstruction of investigations, lack of adequate funding for prosecutors or curtailing the powers of investigative magistrates.

This problem is in the developed world (!), not in the developing world, where anti-corruption efforts are infinitely more complex given the varying histories and cultures of individual nations. Although some developed world corporations will affirmatively implement anti-corruption programs because of affirmative benefits inside the company, in the marketplace and in broader global society, many others will only do so if there is a real threat of negative impact--of national prosecutions causing catastrophic problems like those which beset Siemens and BEA. Advantages of strong enforcement regimes are that they cause companies truly to change their cultures and become advocates (as Siemens has done) of "leveling the field up" around the world in order to reduce unfair competition from bribing companies.

But, even on this issue of bribery by companies in the developed world, there is not global leadership. Despite the United State's lead position, and despite the need for the U.S. to put pressure on other G-20 and G-8 nations to enforce anti-bribery laws in a meaningful way, this has not become an issue identified with the Attorney General or the Secretary of State--nor an issue of any other political leader in the developed world.

When the scope of anti-corruption efforts becomes wider to encompass development assistance and efforts in individual developing nations, one can scan the horizon without finding a leader of a major institution like the World Bank or of an emerging market who has become the voice for the anti-corruption movement. Concerned technocrats and active NGOs are not enough.

Obviously, the world's second oldest profession--bribing or extorting for money and power--is deeply entrenched and will require different strategies appropriate to different contexts. But, without a global public leader, the U.S. Secretary of State, or the head of the World Bank, to give the issue dramatic voice and make it a broader movement, the all too familiar stories of BEA and Siemens, and of bribery and extortion by local interests in the developing world, will, continue to repeat themselves as they have in years past, despite anti-corruption rhetoric and earnest communiqués.

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