

In 1977 Congress enacted the Federal Corrupt Practices Act, which prohibits direct or indirect payments of bribes to officials of foreign governments, foreign political parties, and their officials, and candidates for office in foreign countries. Under a crucial provision of the Act:

It [is] unlawful for any domestic concern corruptly to pay, promise to pay, or authorize to pay money, gifts, or anything of value to any official of a foreign government for the purposes of influencing any decisions or acts in his/her official capacities.

Graft and bribery are common throughout the world. Aggressive European and Asian companies use payoffs to gain access to new markets. The United States is virtually alone in forbidding its companies from paying bribes to win international business, regardless of what companies of other nations do.

Is the provision of the Foreign Corrupt Practices Act that forbids the use of bribes morally justifiable. If so, why? If not, why not?

MODERATOR'S ANSWER: The provisions of the FCPA making it illegal for American companies to bribe foreign government officials, political parties, or candidates for public office are morally justifiable. The interests of American companies and their foreign competitors were not the only ones at stake in this connection. By engaging in bribery a company participates in a practice that almost always has a significantly harmful effect upon the economic and social situation in a country. For this reason, it was reasonable for the U.S. Congress to conclude that corrupt practices of American companies in their dealings outside the United States can generate strongly negative attitudes toward the United States that might be injurious to America's foreign relations. The fact that European and Asian companies engage in corrupt practices in their foreign business dealings doesn't make it unfair to have a law in the United States that forbids American companies from doing so.

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