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**Party Financing in Germany and Japan:
Comparative Perspectives of Political Corruption**

1. Introduction

The aim of the present comparative study is to examine cultural preconditions of political corruption in Germany and Japan on the basis of the legal framework for party financing. By looking at several party financing scandals in both countries' recent history we shall show the extent to which ways of understanding and patterns of perceiving corruption in general and political corruption, in particular, play a role in the violation of legal rules on party financing and thus lead to 'deviant political conduct'. To begin, it should be noted that both Germany and Japan demonstrate marked similarities when it comes to their historical, economic, and political development, in particular after the Second World War, and their standing as democratic nations. Nevertheless, they are two countries with different cultural traditions, which add a special dimension to the comparison. This dimension consists in identifying the relationship between the institutionalised fight against corruption and patterns of perceiving corruption, and the influence of the latter on corruption prevention. Accordingly, the main objective of the following analysis is to complement the structural analysis on the causes and effects of political corruption with the everyday cultural understanding of the corruption of involved actors. This is a crucial analytical prerequisite, in view of the assumption that not only systemic imperatives and socio-political scope conditions, but also mentality-related

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perceptions as well as action- and value-orientations can have a structuring impact when it comes to corrupt conduct.¹

In order to address the questions above, the present study proceeds as follows: In Chapter 2 ‘Corruption and the political culture of Germany’ and Chapter 3 ‘Politics, business, state: networks in Japan’, the problems of political corruption in both countries will be analyzed against the background of their political culture, with a special focus on structures which are especially prone to corruption. Chapter 4 ‘An outline of party donation scandals’ offers a short description of prominent cases of political corruption in both countries during the 1980s and 1990s, while also providing an in-depth discussion on the structural prerequisites which have led to ‘deviant’ conduct. Chapter 5 ‘(Political) corruption – legal framework for party financing’ is closely related to Chapter 4 and shall address important modifications in the institutional anti-corruption framework resulting from severe cases of corruption. Finally, Chapter 6 ‘Comparative considerations on political corruption in Germany and Japan, offers a cultural sociological analysis of the phenomena of political corruption in Germany and Japan. It puts forward the thesis that as long as legislative anti-corruption measures do not take account of the political system as a whole and neglect structural reasons for the origins of corrupt linkages, they are likely to remain ineffective.

¹ Comparing perceptions of corruption and according to the Corruption Perceptions Index (CPI) annually published by Transparency International Japan and Germany ranged over the last three years as follows:

Corruption Perceptions Index 2006

Country Rank	Country	2006 CPI Score	Surveys used	Confidence range
16	Germany	8.0	7	7.8 - 8.4
17	Japan	7.6	9	7.0 - 8.1

Corruption Perceptions Index 2007

16	Germany	7.8	6	7.3 - 8.4
17	Japan	7.5	8	7.1 - 8.0

Corruption Perceptions Index 2008

14	Germany	7.9	6	7.5 - 8.2
18	Japan	7.3	8	7.0 - 7.6

Source: Transparency International, <http://www.transparency.org/>

Generally, the CPI ranks 180 countries by their perceived levels of corruption, as determined by expert assessments and opinion surveys. It is a composite index, a poll of polls, drawing on corruption-related data from expert and business surveys carried out by a variety of independent and reputable institutions. The CPI reflects views from around the world, including those of experts who are living in the countries evaluated. The CPI focuses on corruption in the public sector and defines corruption as the abuse of public office for private gain (see more in: <http://www.transparency.org/>). As we see the levels of corruption in Germany and Japan as indicated by the CPI-tables above have not considerably varied over the last three years. Although levels of perceptions of corruption are quantitatively similar this does not necessarily mean that the qualitative aspects of corruption are equivalent. The CPI is based on data about how extensive corruption is perceived to be. However, how widespread corrupt behaviour is in a society, must be supplemented by knowledge of its *intensive* dimension, i.e. of those dispositions and attitudes that tolerate or encourage corruption.

2. Corruption and the political culture of Germany

2.1 Difference between administrative and political corruption

There seems to be no straightforward definition of what the necessary and sufficient conditions of political corruption consist of. However, where every act of politically corrupt conduct undoubtedly originates is in receiving/granting advantages, which need not necessarily be of monetary nature. The nature of the action of granting advantages can in turn be traced back to the social relations of exchange. Taking this for granted means that exchange relations taking place between the social spheres of economy and politics may prove the grounds of rule-violating conduct. Now, regardless of what form this rule-violation can take, it is certain that corrupt conduct, being a type of exchange relation, cannot be confounded with that segment of rule-violating exchange relations that is explicitly sanctioned by the penal code. For it pertains to exchange practices that, though perceived as illegitimate, do not as such fall under penal jurisdiction. Therefore political corruption includes both the dimensions of what is prosecutable and what is perceived as socially and ethically illegitimate action.

One of the main determinants for the classification of the phenomenon of corruption in the socio-political context of the Federal Republic of Germany lies in the differences in significance inherent in the institutional and political culture with regard to a) cost/utility calculations of corrupt action and b) the public perception of corruption. Although the legitimacy of the political system is based on the widespread expectation among citizens that the state, under the rule of law, must live up to its systemic requirements, there are striking differences between politics and public administration with regard to attitudes towards and the susceptibility to illegal conduct.

Trained according to Weber's work ethic of administrative-technical professionalisation, public officers and civil servants are held in high regard by citizens due to the efficiency standards which they must meet (Weber 1964: 152).² If we add status characteristics such as tenure, bureaucratic accuracy, professional identity to serve common welfare, and non-partisan integrity, it is immediately apparent why civil servants almost never engage in 'deviant conduct', unless the advantages from 'deviant conduct' are of such a magnitude that they outweigh the risks of criminal prosecution (Seibel 1997: 94). Evidently though, the cost/utility calculation places too high obstacles on the willingness of civil servants to breach their duty. On the contrary, the win-loss calculation among politicians does not necessarily have to be so negative, because even though they are subject to investigation by public prosecutors, they are protected by immunity, which shields members of parliament from executive and judicial interventions (Wieselmann 2008). In this manner, this relative 'intangibility' of politicians, which results from the particularly traumatic experiences in the history of German democracy, has the effect – among others – that they feel more committed to the party apparatus than the civilian public. This circumstance also explains why the causes of two of the largest party donation affairs of the past decades, i.e. the Flick Affair (1980s) and the party donation scandal of the Kohl government (1990s) did not lie in the efforts by individual politicians to financially enrich themselves. Rather, the illegal donations were given and taken in the name of matters of national necessity and well-intentioned party welfare.

² Nonetheless, the integrity of the administrative state apparatus does not guarantee that the inter-linkages between politics and business are immune to deviant corrupt conduct: see Girling 1997: 172.

At least with regard to the above two cases of corruption, which have an exemplary significance due to their magnitude and the involvement of a large share of the political class, it is apparent that the absence of motives for self-enrichment³ was the decisive factor why they did not trigger a national crisis and the involved parties and politicians did not suffer any long-term damage. This, in turn, is closely linked with the dominant perceptions of corruption in the German public sphere: trust in the rule of law and the factual absence of petty everyday corruption have reinforced the attitude in broader segments of society that corruption is, more or less, equivalent to an ‘on-the-job accident’. This view, which downplays corruption, is in part fed by the public perception of the state as an institution which provides for citizens and the self-perception of the parties as the carriers of the state, who have not committed themselves to personal enrichment, rather to party and national interests.

2. 2 Germany’s political system in the phase of normalisation

The assumption that the system of political parties in Germany was ‘haunted’ by corruption scandals in the last two decades can be regarded as legitimate to some extent, as it is rooted in the observation that the first two decades after the war imposed system requirements on the political structure, which allowed little room for unlawful conduct. In their efforts to assert themselves as obedient students of democracy in practice and morality, but also under the constraints of the system in competition with the Eastern Block, the leading political and economic circles of the Federal Republic of Germany were most concerned with putting stability, a western orientation, and the democratic fundamentals of the newly created state to the test. In the 1980s and in a phase of increasing *détente* in the East-West confrontation, the economic and political system in its self-perception as a social market economy deemed itself sufficiently consolidated to claim that it had definitively abandoned any special paths (*Sonderwege*) and established itself in the ‘normality’ of the western value-based and institutional community. With the establishment of the Berlin Republic, this normalisation process subsequently also took on a contemporary socio-political and cultural character.

However, in the last decades of the previous century this normalisation went hand and hand with an extensive re-structuring of the party landscape. While the political system was dominated for decades by a ‘two-and-a-half’ party constellation – consisting of the two large people’s parties SPD and CDU, and the Liberals (FDP), who created a coalition with one of the two large parties to form the government – a long-lasting political transformation only took place with the entry of the Greens and later the PDS into the *Bundestag* (Parliament) and the state parliaments. The established parties increasingly viewed themselves as subject to new competitive pressures, which were accordingly reflected in the large sums of money they require for political campaigns to withstand the competition.

These competitive pressures had an additional dimension, though, which proved to be of crucial significance for the party donation affairs of the 1990s: since the established parties drew a considerable share of their financial resources from state subsidies, they were now faced with a situation of conducting cost-intensive electoral campaigns with a comparatively low level of state funding, as the limits for state party financing had remained the same. If we

³ Therefore, the notion of ‘gain politician’ is extremely rare in the German context. See McKay 2003: 55. On the contrary the political system and especially party financing regulations in Japan, as will be discussed in detail below, has forced politicians to resort to deviant methods in order to secure financial means. These refer either to financing electoral campaigns or represent thanksgivings from the economy to politicians for favouring particular economic interests within the policy and decision making framework.

add the enormous expenditure with which electoral campaigns are associated under the continual presence of the mass media, the sense of under-funding which pervaded large segments of both leading parties, and led to an illegal practice of receiving donations, can explain to a large degree the perceptions and dispositions of the leading actors.⁴ Ironically, we must note here that the large party donation scandals of the recent past led, in part, to the ‘normalisation’ of the political system of the Federal Republic of Germany, which is manifested in those very illegal interdependencies and inter-linkages between politics and business that western societies struggle with from time to time.

3. Politics, Business, State: Networks in Japan

The post-war history of Japan is strikingly similar to that of Germany – at least in terms of the process of ‘normalisation’ of the socio-political structure. Like Germany, the second ‘loser’ of the Second World War was forced to partake in ‘democratisation education’, which was to put an end to the traditions of militarism, among other things. In addition, in both countries after the war, economic and social modernisation was to be combined with the model of parliamentary democracy, which was to add solid foundations to the western orientation of the countries and finally rid the institutional structure of authoritarian and totalitarian state dirigisme. Since the – partial – institutional transfer of democratic conflict-resolution and negotiation mechanisms initially had to be more or less imposed on both societies as a consequence of military defeat, the state was perceived by large segments of the population as an institution of welfare state redistribution policy and as a guarantor of the diffusion of democratic orientations and values.

With regard to the relationships between public administration and politics during the processes of restructuring, to which both countries were subject during their post-war histories, there is a striking difference though. In Germany the state bureaucratic apparatus was able to remain relatively independent from the political sphere due to the professional ethos of objective administrative rationality and therefore hardly became a source of corruption. The Japanese state administration, however, was highly interlinked with the state authorities from the beginning of the previous century and thus highly susceptible to corruption. It is immediately evident that this circumstance has very little to do with the degree of de-centralisation of state power, when one considers that local and municipal administrations are responsible for two-thirds of state expenditure in Japan (Bouissou 1997: 135).

Although limited in terms of numbers, the two people’s parties (Christian and Social Democrats) and the Liberals in Germany never attained the monopoly status that the Liberal-Democratic Party held in the Japanese political system from 1955 to 1994. While in Germany the Christian and Social Democrats were able to tie into the pre-war traditions of the conservative parties of the center and the social-democratic workers’ movement and safeguard their mass constituencies in the post-war constellation and adapt to the political and ideological demands of the Cold War, the Japanese parties were bound to particular interests due to their strong regional and organisational fragmentation. Contrary to the German mass-

⁴ In this regard, it is not surprising that during the parliamentary hearings on the donation affair of the Kohl government and the corruption scandal of the SPD in Cologne, both the former Chancellor as well as leading social democrats appealed to the ‘precarious’ party funding situation and the resulting competitive disadvantages. They did so to justify the urgent need for increased income from donations and thus to make the propensity to engage in unfair methods of acquiring donations appear as widely comprehensible, albeit not necessarily justified. See Project Crime and Culture, Overall Scientific Report 2006: 217 et seq.

and people's parties, which – beyond class affiliation and social interest articulation – laid claim to be parties that represent the large majority of, if not the entire population, the political parties in Japan persistently remained in the position of representing particular interests or merely consisted of the followers of prominent individual politicians in their regional strongholds (Pohl 1981: 170).⁵

Another striking and – with regard to the political system's susceptibility to corruption – highly significant difference between the parties in both countries is the different degree of proximity to economic and financial interests. While the large post-war parties in Germany were conceived to maintain a certain distance from the representation of capital-friendly interests regardless of their socio-ideological and political-organisational ties due to the cataclysmal alliance between large-scale industry and the National Socialists, the conservative party in Japan was very close to industry from the beginning. Since the large parties in Japan were also much more dependent on donations from economic groups and powerful farmers' associations than their German counterparts, who could draw on members' contributions from their large base and state party funding, the institutional conditions for a structurally inherent susceptibility to corruption emerged early amid the tight inter-linkages between interest associations and party officials. An additional reason for this dependence on donations was the fact that, due to conventional clientelistic commitments, the regionally operating politicians were subject to permanent financial difficulties in satisfying the diverse desires of their political clientele.⁶

However, the deeper causes for the institutionalisation of corruption lie in the notorious 'iron triangle', consisting of the ministerial bureaucracy, business and conservative policies. The 'iron-like' steadfastness of this interweavement of interests – beyond the institutional framework – is fed to a large extent by the independence of politicians in their function as heads of factions, which are not subject to any party political control mechanisms. Their party-internal position of power is based exclusively on the size of the factions supporting them and, moreover, the role of formalised decision-making processes is accordingly marginal if the parties lack an issue- and program-based orientation. In terms of party structure and decision-making processes, one can detect another party difference: even though former Chancellor Kohl violated the rules of inter-party democracy several times during his chairmanship of the Christian Democratic Party and safeguarded his unchallenged position of power by distributing donated funds, this patriarchal party leadership was additionally intertwined with certain mechanisms of party-political will formation (Rothacher 2003: 108 et seq.). By contrast, formalised procedures and decisions in the Japanese party sphere are not of a binding nature: the only way for the party basis to make itself heard by the Tokyo party headquarters and assert certain interests is by means of individually powerful regional politicians.

The consolidation of the 'triangle' as the dominant 'nerve centre' in the network between business, the state and politics is however due not only to financial dependences. Changes in occupation and the typical and highly routinised transition by top civil servants (e.g. from the Ministry of Finance MOF, or the METI (Ministry of Economy, Trade and Industry) to politics or business: After retirement elite civil servants either take on leading roles in political parties

⁵ See also Gary W. Cox, Frances M. Rosenbluth, and Michael F. Thies: Electoral Rules, Career Ambitions and Party Structure: Comparing Factions in Japan's Upper and Lower Houses, in: *American Journal of Political Science*, Vol. 44, No. 1, January 2000, pp. 115-122.

⁶ Regardless of how strong clientelistic patterns may be in politics, it would be false to attribute a hierarchical, static, and group-oriented character to Japanese society as a whole. See Deutsches Institut für Japanstudien 1991 and Ölschleger 1994.

or the government, or they ‘descend’ into business.⁷ Regardless how the factors in the triangle are weighted in detail, it remains a fact that not the individual components as such are worthy of attention, rather it is the relationships prevailing between them that make it possible for different and/or *contradictory rationalities* (market-state, public-private, formal-informal) to be reconciled with one another. The informal relationships, which emerge when a top civil servant makes a career move into politics or business and private or state enterprises (*amakudari*), are viewed as the core of the ‘iron triangle’ and a definitive factor behind the dominant power structure (Prestowitz 1988: 113 et seq.).⁸

The following items can likely be regarded as the main characteristics of the symbiotic relationships in the triangle: a) a general social framework, in which consensus and not legalistic procedures are definitive; b) the outstanding value attached to personal relations; c) the centrality of values such as loyalty and trust; and d) social homogeneity (Okimoto 1989: 157 et seq.). If we integrate these definitive factors into the term *socio-cultural value basis*, we can then probe into both the intermediary level between the economy and state as well as the informal, inter-subjectively founded interactive networks, which constitute a breeding ground for corruption. With regard to the latter, the personnel continuities between ministerial bureaucracy and the party apparatus appear to symbolize the blurring of boundaries between the elected party politicians and career civil servants, and more specifically as a form of hegemony-promoting fusion of bureaucracy with other segments of Japanese society (Masumi 1995: 203). The power elite based on these foundations acts as a network structure. It articulates itself as a negotiating and coordinating entity and provides for coherent homogeneity, which is of crucial significance for consensus beyond national objectives with regard to long-term economic policy planning.

3. 1. Political culture and corruption in Japan

In contrast to the German party system, which has only shown susceptibility on particular occasions to the illegal acquisition of donations, the Japanese party system was burdened by corruption scandals time and time again in the post-war era. Despite the repeated revelations about and convictions of leading politicians from the dominant Liberal-Democratic Party – the fact that the voting behaviour of the population hardly changed over the years has been frequently interpreted as a culturally dependent disposition of Japanese society towards tolerance and acceptance of corruption. Although there are indisputable country-specific features of political culture, which are the necessary condition for the existence of corrupt conduct as an ongoing accompanying phenomenon of political life in Japan, it would be a

⁷ The exaggeration of the influence of the state bureaucracy and that of MITI has additionally been criticised: Colignon/Usui 2001: 866 et seq.

⁸ Nevertheless, *amakudari* politicians cannot be conceived as the sole decision-makers and power center of Japanese business and politics, as it is misleading to attribute to them the role of centralised leadership or hierarchical authority (Van Wolferen 1989: 44 et seq.). Rather, the *amakudari* system should be understood as a power structure without a control and steering center. Nevertheless, this centrality thesis is not unchallenged since it traces its significance, which he regards as relatively marginal, back to the pressure that businesses exert on the state apparatus in order to create ‘friendly’ economic policies for them (Galder 1989: 392 et seq.). The fact that *amakudari* politicians are, as a rule, employed in firms that do not have substantial means of accessing the decision-making centers of national economic policy results in an ‘egalitarianism’ effect. Blechinger on the other hand, takes the focus off the *amakudari* politician and claims that political corruption (e.g. the Recruit and Sagawa scandals) could only flourish when making political donations was the only possibility for new, emerging firms without a *amakudari* basis to be ‘listened to’ and attract attention (Blechinger 1998: 350 et seq.). Schaede rejects the view on the marginal role of the *amakudari* politicians in the broader economic context, but still attributes to them the intended role of procurers of favourable economic policies (Schaede 1995: 293 et seq.).

mistake to view corruption as culturally rooted.⁹ Instead, the economic, political and structural motives for corruption can be detected in the interplay of three factors: a) control over and protection of economic interests by the economic ministries; b) synergetic power-based effects between the state bureaucracy and LDP politicians; and c) financial support of the LDP by 'big business'.¹⁰

The main argument of culturally rooted interpretations of corruption is based on the tradition of *giri*, i.e. the culturally defined obligation to create a precise balance between services received and services rendered by means of a 'closed space of obligatory social interactions' (Bouissou 1997: 138 et seq./Blechinger 1998: 88). Every interest is accompanied by a gift (*meishigawari*), which functions as the anticipation of a service. The web of interactions of service-dependent anticipated services in return, which is sealed together in this manner, creates a socio-cultural biotope in which the boundaries between the exchange of services and corruptibility are difficult to draw. Applied to the context of economic planning in large enterprises, this explains the considerable sums of money which appear as 'useful appropriations' – commonplace in German corporate tax law until recently – but which are essentially bribes.¹¹

Regardless of how important the culture of donations and exchanging services as a framework for the continuous susceptibility to corruption may be, there are also purely economic reasons that may coerce political actors to engage in bribery and corruption. On a general level, one should bear in mind the fact that the traditional ties between the rural population and parties have loosened due to the modernisation and increased mobility of Japanese society. For this reason, the (financial) resources to conduct electoral campaigns which the *kōenkai* (local clubs supporting politicians) must raise to mobilize the electoral clientele have become considerably greater during recent decades. In fact, the required funds have tripled. Another factor contributing to this development is that the increase in the number of virtually 'assigned' mandates to older politicians in the lower house of parliament has led to an increase in competition among newcomers and hence an enormous rise in the costs for the younger generation of politicians to run electoral campaigns. In order to live up to the increasing financial challenges, many politicians engaged in risky financial speculation on the stock market in the 1980s, which occasionally led to considerable asset accumulation, but also to criminal prosecution in cases of tax evasion. The financial 'efforts' imposed on young politicians aspiring for mandates become even larger if we also take into account that young politicians literally must 'purchase' political influence, i.e. must be open towards the concupiscence of economic actors due to the tightly entangled interests of large enterprises and the state bureaucracy.¹²

Although not necessarily rooted beneath culturally defined trade-off based relationships, there are still other reasons that make corruption appear as a structural phenomenon of Japanese political life during the phase of rapid economic growth. First, steady economic growth until

⁹ This is more likely a case of a unique mixture of 'pre-modern' (e.g. social relationships, patronage, clientelism, etc.) and 'modern' (i.e. paying bribes, bending laws, etc.) practices. See Heberer 2001: 7. See also Johnson 2001, Reed 1996 und Curtis 1999.

¹⁰ See Hisao Katoh: Corruption in the Economic World in Japan. Acts of the International Conference Milan, 19-20 November 1999-", in: <http://www.law.keio.ac.jp/~hkatoh/CORRUPTIONINTHEECONOMICWORLDINJAPAN.htm>

¹¹ Richard H. Mitchell offers an interesting overview of the historical development of the practice of bribery and the preventive measures in Japan: Political Bribery in Japan. Honolulu 1996.

¹² See Gary W. Cox and Michael F. Thies: The Cost of Intraparty Competition. The Single, Nontransferable Vote and Money Politics in Japan, in: *Comparative Political Studies*, Vol. 31, No. 3, June 1998, pp. 267-291.

the beginning of the 1990s put the regulatory capacity of economic policy-makers under ever increasing pressure. Hence, the role of the state bureaucracy as a political intermediary has continually increased in terms of significance. This is also reflected in electoral processes: with deficient party funding laws and a relatively confusing donation system, a certain kind of expenditure inflation emerged over time which some politicians attempted to overcome with more and more risky methods of procuring funds. Wherever these procurement methods were successful, they generated ostentatious riches, which in turn alienated politicians from their 'bases' and significantly damaged the effectiveness of the *kōenkai* systems.

However, the severely acute constraints to which political operations are subject still remain insufficiently explained if we do not incorporate the major contributor to structural corruption, which tightly linked Japanese politics – at least up to the political and electoral reform of 1994 – to financial cycles and exposed political staff to an increasing urgency to procure funds: the electoral system. Of great significance is, first of all, the candidate selection procedure: although up to six parliamentary representatives could be elected in every district, the voters only have one vote each. Since it was not possible to allocate the individual votes between the candidates of the same party, the different candidates of one and the same party competed against each other.

All these aspects are directly connected with the unique structures of the ruling LDP which must be seen against the background of the electoral system in Japan. The LDP has been thought of as a union of different kinds of factions. Factions have been referred to as 'parties within a party' (Citation??), and the LDP is in a way a coalition formed by various factions. In the past, changes of prime minister meant that intra-party factions would re-shuffle to form another 'faction coalition'. The secret to the LDP's long rule lies in the practice of feigning to change regime by reshuffling intra-party factions to retain power. From a sociological point of view, some say the Japanese mentality of '*mura-ishiki*' (community mentality) is found at the root of the factions. LDP intra-party factions have evolved through competing with one another for a majority needed to win power on the premise that LDP continues to rule on its own. The larger and stronger a faction becomes, the greater is the chance for the faction's leader to become the president of the LDP, which also raises the possibility to become prime minister. Once a faction gains a majority, it can receive '*Umami* (advantages)' as the party in power.

Particularly since the adoption of the party presidential election in the 1970s, the factional numbers game has intensified within the LDP. The size of factions which used to have a cap of 50 members expanded and changed from a club type of organisation to an organisation similar to that of a political party. The intra-party factions' battle for power has also become fierce. Japan's unique electoral system, known as the multiple-seat constituency system or the single non-transferable vote electoral system, accounted for the fostering of factions. The multiple-seat constituency system was introduced in 1925 as a result of the political compromise at the time and lasted until 1994. Each constituency had 3-5 seats under this constituency system. A major issue with the multiple-seat constituencies was that it created a situation in which multiple candidates from the same party competed fiercely in the same constituency. This made it difficult for candidates to run election campaigns based on the ideologies of political parties which is the standard in the Western world. Instead of depending on their own political party, the party candidates relied on their '*Kōenkai*' or their private election-backing organisations to run campaigns. Each candidate sets up an individual '*Kōenkai*' sometimes referred to as '*Jibunto* (meaning 'one's own party') and absorbs all the running costs. Thus, the cost of political activities incurred by each politician becomes enormous. From research evidence conducted at the end of 1980s, even young Diet members

with experience of being elected once or twice had to bear expenses of over several million dollars per year (Citation??). In other cases, a bureaucrat was reported to have spent approximately 5 million dollars during the course of 3 years from the time of deciding to run as a candidate until being elected (Citation??). Politicians are required to secure these funds on their own, which some cite as the main cause of politicians getting involved in illegal activities.

In an effort to expand their own forces, factions have helped candidates by offering financial support, getting the LDP endorsement to back them up during elections, and distributing posts after being elected. Each politician pledges allegiance to the faction in return of its support and they work together to make the faction leader powerful. In other words, they form a feudalistic relationship observed in the middle ages of Japan. Until the 1960s it was more common for a politician to join a faction after getting elected and in fact many of them did not officially belong to a faction. Non-affiliated politicians were able to leverage their votes to their advantage against party presidential candidates. From the 1970s onwards, as the battle among factions intensified, factions started to recruit newcomers even before they became candidates. Newcomers are recognised by factions first and then endorsed by the party to become the official candidates. In that sense factions have played a role in selecting candidates for each constituency. The reason why there were five major factions of the LDP from the 70s to the 80s had a lot to do with the maximum seat number for each constituency being five under the multiple-seat constituency system. Accordingly, candidates from the same faction hardly competed in the same constituency. It is obvious that factions and multiple-seat constituency systems are very closely connected. When the electoral system switched in 1994 to a combination of single-seat constituencies and proportional representation, the meaning of factions changed dramatically. With no candidates from the same party running in the same constituency under the new system the political party started to take more control in endorsing candidates. Endorsement of incumbents or 'second generation' politicians were given priorities for their electoral advantages. The factions' help especially in gaining the party endorsement became unnecessary.

On the other hand parties have increased their power through the role of distributing funds with the adoption of a party subsidy program. Gradually, parties have started to take more control in reshuffling candidates and adopted an open system for recruiting. As a result, the relationship of politicians and factions based on funding and election backing has weakened. The only remaining power factions have was the distribution of party posts and cabinet appointment but that was also lost when Junichiro Koizumi took office as a prime minister and appointed cabinet members ignoring factions altogether. In other words, the role of factions became smaller in all aspects: financing, backing in elections and distributing posts. However, they still have a role in the party presidential election with its ability to amass large numbers of supporters. That is precisely the reason why the Machimura faction (the former Mori faction, the largest faction in the LDP), a faction which has a record of producing party presidents, still has tremendous power. However, compared to the past, loyalty towards factions has become considerably weaker mainly among young politicians.

Generally, Japan's political reform is slow-paced. Especially when it comes to the issue of money in politics, the LDP and Democratic Party of Japan (DPJ) are both not enthusiastic in revising the control of political funding again, as it could only be detrimental for both parties. They are faced with serious financial situations as corporate donations decline due to the slow economy. However, the issue of money in politics is put under increasing public scrutiny. The demand for tighter control on political funds re-ignited when a political funding scandal was

exposed in 2007 which drove Toshikatsu Matsuoka, Minister of Agriculture, Forestry and Fisheries at the time, to commit suicide. This incident triggered the revision of the law to disclose all political funds but its content is still far from a reform in its true sense.

A tougher control on political funds will be required as long as the issues of money in politics seem to be the main reason for the public's distrust in politics. However, political circles are slow to react to mounting criticism from the public. Each time an issue is raised the flaw in the system is pointed out, but usually ultimately goes unanswered. The LDP and DPJ both share the same problem with regard to the issue of money in politics with both parties running similar election campaigns. The issue of money in politics is not just exclusive to the LDP any more than it used to be. This is evident from the fact that when a problem occurs in the LDP it affects the DPJ much more than before. The fact that the LDP and DPJ share similar issues makes it difficult for the main opposition party to attack the ruling LDP on this point. That is why money scandals are likely to be left unanswered in the end. In that sense, the majority of the people do not expect that the Diet can implement tighter regulation. Since a major reform cannot currently be expected from the Diet one ends up relying on police or prosecutors' investigations. This is not an ideal situation for a country that adopts a parliamentary democracy. In any case, many say the issue lies in the slackening attitude of political parties and politicians as a result of no change in power. What is required in that sense, are increased possibilities to change the governing party.

4. An outline of party donation scandals

4.1 Germany

A. The Flick Affair

Against the background of the entanglement of powerful economic interests in the National-Socialist political system and also due to the already mentioned reasons, the politics of the post-war era were intent on independence and a certain degree of distance from industry despite corporatist networks. With regard to party financing though, the rule still applied that the SPD – which had a large membership – funded itself primarily from member donations, while the CDU and its Bavarian sister party CSU and the Liberals thrived, above all, on business donations. Only when the political system was sufficiently consolidated at the end of the 1970s and proved receptive to the large-scale capital seeping in, did the process of 'cultivating the political landscape' begin systematically.¹³ This influence resulted in the first corruption scandal, which involved the entire spectrum of party politics and went down in the history of corruption in the Federal Republic of Germany as the 'Flick Affair'.

In 1982 the Public Prosecution Office in Bonn reported that it was investigating several politicians from the FDP, CDU and SPD, who had taken donations from the firm Friedrich Flick. Otto Graf Lambsdorff, the Federal Minister of the Economy at that time, and his predecessor Hans Friderichs were particularly suspected of having received donations for the FDP as a service in return for the abuse of authority (order for the tax exemption of the donor): it was assumed that they had exempted the Flick company from paying taxes on 1.5 billion German marks from the sale of Daimler-Benz stocks. The justification for this tax favour was that the mentioned amount from the revenue was reinvested and therefore

¹³ Or 'plutocratic financing'. This fundraising pattern can originally be found in all 'centre-right' parties (Naßmacher 1997: 166f). This is one of the reasons why in such cases of 'precautionary support' the term political corruption takes on a characteristic modern nuance of indefiniteness (Girling 1997: 17).

according to the income tax law is ‘particularly worthy of being promoted from an economic standpoint’. This fact that the donations did not serve to personally enrich their recipients¹⁴, rather were passed on to the party, is also supposed to have a mitigating impact on the bribery offence. The investigation committee established by the German Parliament came to the conclusion that even though the donations were not the causes for the processing of the tax clearance certificate applications, the Flick company did clearly violate applicable taxation laws, because it hoped that its donation practice would result in good will on the part of politicians.

Despite the considerable magnitude of the affairs (leading to the catchword: ‘the purchased Republic’) the punishment turned out to be relatively mild: The Flick manager von Brauchitsch was sentenced to two years in prison for tax evasion, but was released on parole for three years after paying a penalty of 550,000 German Marks. Lambsdorff and Friderichs were also sentenced to penalties of 180,000 Marks and 61,500 Marks, respectively, for tax evasion (Leyendecker 1999). The sentences were based on the comparatively marginal aspects of the indictment relating to Lambsdorff’s activity as the treasurer of the FDP in North-Rhine-Westphalia and Friderichs’ activity as a member of the executive board of the Dresdner Bank. The criminal division did not find sufficient proof with regard to the accusation of bribery or bribability. It argued that considerable suspicion existed that Lambsdorff and Friedrichs had received payments from Flick during their terms as ministers. However, no direct relationship was proven to exist between these payments and Flick’s tax exemption and thus an illegal agreement.

B. The party donation scandal of the Kohl government

Although the Flick affair must be understood as an incident which discredited the political system as a whole and caused severe problems of political legitimacy (‘crisis of confidence’), it was overshadowed by another party financing scandal in the early 1990s – that of the Kohl government. Only subsequently to the revelations on the magnitude of the funds involved in this donation scandal and on the number of involved people did the term ‘national crisis’ appear. Nevertheless, the system of party politics once again proved to be remarkably stable and crisis-proof: with the exception of the resignation of Helmut Kohl and individual sentences – usually in the form of fines – both the CDU, the main actor involved in the party donation scandal, as well as the SPD at the state level (see the segments on the scandal in the Cologne waste incineration plant and the party funding affair in North-Rhine-Westphalia) survived this crisis without any significant losses or long-lasting damage.

The wave of revelations in the party donation scandal of the Kohl government was triggered by the State Prosecutors Office in Augsburg, when it investigated a large weapons deal with Saudi Arabia in 1993 and discovered that several hundred million German Marks of bribes had flown into dubious channels. The bribes were given by a weapons supplier to the then CDU treasurer Walther Leisler Kiep and the Kohl confidant Horst Weyrauch before landing in secret accounts of the CDU. Although tax evasion was initially assumed, the question soon arose whether the then-governing party reciprocated these allocated funds with special services in return, i.e. whether the donations were the concrete form of influence and bribability. In order to rebut the accusation of corruption, the former Chancellor Kohl

¹⁴ However, this does not apply to municipal decisions and procurements and concessions in individual states: Since the party treasuries were not recognisably the beneficiaries of the bribes, one may conclude that it was a case of personal enrichment of public officers (Naßmacher 1997: 168).

admitted in late 1999 that the CDU had received up to two million German Marks in cash from anonymous donors between 1993 and 1998, but that they were not listed in the party accounting records as donations.

Indeed, the non-specified donations had flown into secret accounts, from which Kohl transferred high amounts of money to numerous party officials and local party associations. However, he also asserted that his government never made itself dependent on economic interests. The confession with regard to the secret accounts triggered a series of revelations on so-called 'reptile funds', which served the purpose of disguising illegal financial transactions, laundering money and blurring the potential relationship between the donations made and the economic policy decisions of the Kohl government. The investigations shed light on additional unlawful sources of income from donations, which led to several convictions. However, Kohl himself, who refused to reveal the name of the anonymous donor until the very end, could not be prosecuted by law.

The 'Kohl System' and the acceptance of donations, which violate the party funding law, as well as their internal party use to secure loyalty and control over the party committees goes beyond a mere corruption scandal. Even though it was determined by a parliamentary investigation committee that the legal accusation of bribery against the former Chancellor could not be proven, we can still consider this to be a political corruption scandal insofar as the illegal financial transfers served the *authoritarian-patriarchal party leadership* and damaged *democracy within the party*. The system of secret accounts functioned in the party apparatus as a kind of regulator, which regulated how conflicts of interests were carried out and created a complex network of relationships and dependences which were characteristic of the CDU as a large party. Like no other party, the CDU embodied the political spectrum of the post-war constellation, which was marked by the corporatist moderation and balancing of conflicts of interest and class.

The fall-out in the system of 'Rhine Capitalism' in the formation of internal party groups and the manner in which their contrasts and conflicts of interests are carried out sound 'harmless', if we take the inter-party factions in the Japanese LDP into account. In view of the intensity of the conflicts between the different groups, cliques, and followings (*habatsu*) within the LDP, one frequently tends to speak of *de facto* political parties which struggle – on the basis of clearly outlined interest intermediation strategies – to exert influence on the outcome of decision making processes within the party. Nevertheless, the observation that the factions are of a purely power-political, unprincipled, and ideology-free character may come closer to the 'pluralism' of the *habatsu* network: in fact, the LDP is not 'pluralistically' structured as part of a democratic conflict resolution procedure, rather due to the pure power struggle and competition over the position of Prime Minister and the unlimited access to the resources of the state bureaucracy (Van Wolferen 1989: 139/Okimoto 1988: 183).¹⁵ The professional identity of the LDP politicians was not characterised by their intermediary representation of social classes, strata, and group interests, rather by their clientelistic catering to particular local and sectoral interests. It certainly would be plausible to assume that the cause for the large corruption scandals lies in the fact that the manoeuvrability of the *habatsu* groups has considerably decreased since approx. the mid-1980s and the constellations in their political alliances and their chances of success in the election of the Prime Minister have become increasingly unforeseeable (Van Wolferen 1989: 140).

¹⁵ Blechinger paints a more optimistic picture of the internal party factions (Blechinger 1998: 95 et seq).

4. 2 Japan

A. The Recruit Scandal

In striking contrast to the history of political corruption in Germany, which can essentially be reduced to the Flick and Kohl affairs, the decade-long monopoly status of the LDP in Japanese political life was accompanied by a series of incidents of corruption. First, the incidents of political corruption are comparable insofar as the long-lasting hegemonic and powerful position of both the German Christian Democratic Union as well as the Japanese Liberal Democratic Party revealed several exemplary characteristics of inter-linkages between the politics, the apparatus and economy, which were illicit, damaged the democratic system, and were ultimately criminal. As regards the Japanese tradition of political corruption, we will restrict ourselves to only two cases of corruption, which more or less stand out in the scandal-ridden political history of the country¹⁶: the Recruit Scandal of 1988 and the Sagawa-Kyûbin scandal (1992).

Despite the allocation of stocks of its subsidiary firm Recruit Cosmos to political, economic and administrative elites before its initial public offering, the firm Recruit initially did not come under suspicion of seeking concrete advantages by means of bribery at the beginning of the affair (1984-1986). However during the investigations in 1988 it turned out that the funds of the company demonstrated all features of a systematic policy of bribery. Involved in the affair were not only Nippon Telegraph and Telephone Co. (NTT), which had been privatised in 1985, but also top bureaucrats dealing with labour and education affairs, nearly all leading LPD politicians and important representatives of the opposition, the employer's association, the managers' union as well as former state secretaries. While the payments to leading economic representatives were to secure the influence of the company within the industrial associations, the company pursued concrete business interests within the Education and Labour Ministry. In the NTT case, it turned out that the public company was used by the powerful groups within the LPD as a donation procurement instrument both before and after being privatised. The privatisation itself was motivated by the fact that Prime Minister Nakasone Yasuhiro (1982-1987) needed prestigious projects in order to safeguard his internal party position, for example the administrative reform, the appointment of numerous private sector experts and indeed the privatisation of telecommunications, the railway, and the state tobacco and salt enterprises. At a later point in time, Nakasone admitted before the investigation committee of the Parliament that he had received 110 million Yen from Recruit. With these bribes to Nakasone and the heads of the parliamentary factions, Noboru and Shintarô, the CEO of Recruit, Ezoë, wished to purchase his candidacy as well as his membership in the faction. Such transactions were, in principle, not illegal at that time, but it was discovered that Nakasone was active as an intermediary and active promoter of the business relations between TNN and Recruit. As a consequence of the bribery scandal, the successor of Nakasone, Prime Minister Takeshita, and his potential successors, Kiichi and Shintarô, resigned.

What makes this scandal stand out amid the tradition of corrupt inter-linkages between politics and business is not merely the fact that large sums of money flowed, rather that they

¹⁶ In general, the different corruption scandals can be divided into three classes: a) those which emanated from pure or insatiable greed for money on behalf of politicians; b) bribery scandals, in which mid-level state and administrative officials attempted to emulate the consumption patterns and standard of living of those at the top of the hierarchy; and c) corrupt linkages between LDP politicians, large firms, and organised crime (Rothacher 2003: 111).

were so broadly dispersed. At the end of the investigatory procedures it had become apparent that the company Recruit had given money to almost all leading politicians.

In this regard, we detect several parallels to the German Flick Affair, although in the latter case it could not be determined whether the payments were aimed not only at tax evasion, but also at influencing political decisions. What also characterised the broad-range donation practice of the Japanese company in a certain sense was its aggressive effort to expand its influence on the entire political spectrum and the relevant segments of the state apparatus. Nevertheless, the direct consequences of the penalties imposed did not seriously endanger the monopoly position of the LDP in the Japanese political system. Only the Sagawa-Kyûbin scandal heralded the demise of the party and the restructuring of the party landscape.

B. The Sagawa-Kyûbin scandal

While the Recruit scandal was essentially about a new company's access to the rapidly growing telecommunications branch, Sagawa Kyûbin strived to assert its economic interests in the strictly regulated transportation sector, in order to become involved in trans-regional transportation beyond its regional area of activity. Since at this point in time (1989) the legal provisions did not permit any legal licensing possibilities to carry out its plans, Sagawa turned to the faction of the LDP responsible for transportation as well as influential politicians of other parties to coerce them with donations to renew the licensing system. One person whose influence was particularly conspicuous was the manager of the Tokyo branch of Sagawa Transport, Watanabe Hiroyasu. Between 1988 and 1991 he donated a total of 200 billion Yen to over 200 LDP politicians and the opposition parties, the largest share (500 million Yen) of which went to the chairman of the Takeshita faction, Kanemaru Shin, who functioned as a middleman between the party and state bureaucracy.

What caused a particularly large flurry of excitement among the public was not solely the fact that Kanemaru did not report the donation in the financial accounts to the Ministry of Finances and therefore violated the party funding law, rather the relations that the transport firm Sagawa maintained with the criminal underworld, i.e. with the gangster syndicate of the *yakuza* and the criminal association *Inagawa-kai* (Blechinger 1998: 322 et seq.). By doing so, he apparently had crossed a boundary and broken a taboo: There have always been illegal party funding and liaisons between politicians and organised crime, but this time the public was informed about all details with regard to the entanglement of leading LDP groups in criminal machinations thanks to the clever media coverage. The public outrage of course could only have a destabilizing impact on the hegemonic position of the LDP. Prime Minister Miyazawa Kiichi (5 November 1991 to 12 December 1992) indeed declared his will for political reform, but tactical electoral considerations restrained him from taking decisive steps. The refusal of the LDP to support him and the resignation of his government due to a vote of no-confidence triggered a process through which the LDP lost its hegemonic position. This was probably the price it paid for not wanting to or being able to deal with the elimination of the structural causes of corruption. Under his successor, Prime Minister Hosokawa, who was the first Prime Minister in a non-LDP government, a law for political reform was passed in parliament in 1994.

5. (Political) corruption – Legal framework for party financing

5.1 Germany

While the term political corruption does not describe a crime as defined in codified legal documents, German law (*StGB*) does punish certain forms of corruption, e.g. if a financial payment in advance is made to those who provide a certain service (§334 Bribery and §332 Briability), or if a certain service is reciprocated afterwards (§331 Acceptance of Advantage §333 Granting of Advantage). The bribing of political representatives in a narrower sense is addressed in §108e of the German Penal Code (*StGB*).¹⁷ The *Gesetz zur Bekämpfung der Korruption* (Law on Fighting Corruption) (13 August 1997)¹⁸ and the *Gesetz zu dem Übereinkommen vom 17. Dezember 1997 über die Bekämpfung der Bestechung ausländischer Amtsträger im internationalen Geschäftsverkehr* (Law on the Agreement of 17 December 1997 on Fighting the Bribery of Foreign Public Officers in International Business Transactions) expand the radius of action for fighting corruption in accordance with legal regulations.

After the party donation affair of the Kohl government as well as other corruption scandals the political parties were forced to adjust the legal framework for party funding and make decisive modifications to the Party Law of 1994¹⁹. According to the new Law on Political Parties (*Gesetz über die politischen Parteien / Parteiengesetz*)²⁰ the German parties are authorised to take donations. However, the amount of donations made in cash may not exceed 1,000 €. Moreover, the parties are not authorised (§ 25 Para. 2) to accept donations from public bodies, or political foundations and other non-profit bodies and associations of individuals. Rigid rules also apply with regard to the funds that businesses use to cultivate their influence on the political landscape. According to this legislation, the following types of donations are illegal: a) donations from professional associations, which were given to them with the provision to pass them on to a political party; b) donations from firms that are entirely or partially (over 25 % participation) under public control or are publicly administrated or operated; c) donations from unidentified donors amounting to more than 500 €, or donations which are manifestly donations passed on from an unidentified third-party; finally, donations are also prohibited which d) have obviously been granted to the political party in expectation or as a service in return for a certain economic or political advantage.

The *Law* (§25 Para. 3-4) also contains strict rules with regard to booking received donations, as donations that exceed the amount of 10,000 € must be itemised by name and designated in the accounting report. Moreover, donations which exceed the amount of 50,000 € in individual cases must be reported to the President of the German Parliament (*Bundestag*). A reporting obligation to the *Bundestag* President also exists in the case of unauthorised donations, and the violation of this obligation results in the following sanctions: in cases of violation, the President of the *Bundestag* may lay claim to a) § 25 Para. 2 to three times the illegally received amount and b) §25 Para. 3 twice the publicised amount that does not comply with the provisions of law. Violations of the party law are not only punished with monetary sanctions (§31d): In such cases in which a) the accounts contain false information on income or the assets of the party, or b) the recipient divides donations into partial amounts and books them as such, penalties apply which can amount to a prison sentence of up to three years. However, the streamlining of the legislation on party financing does not mean that it no longer needs to be reformed. As outlined by a series of proposals from Transparency International, there is a need for action with regard to the following items: Setting the upper

¹⁷ To streamline the penal provisions on anti-corruption, Schaubenstein has recommended adapting the crime of bribing elected officials to the provisions with regard to malpractice by public officials (§§ 331 et seq *StGB*), so that all essential spheres of political activity are covered (Schaubenstein 2004: 130 et seq).

¹⁸ *Bundesgesetzblatt* (Federal Legislation Journal) Year (1997 Part 1 No. 58).

¹⁹ Deutscher Bundestag (German Parliament) (Printed matter 13/140); Naßmacher 1997.

²⁰ As stated in the notification from 31 January 1994, last changed by Art. 2 of the law from 22 December 2004.

limit for donations at a maximum of 50,000 Euros per annum; b) Reporting obligations for all donations above 2,000 Euros per annum; c) Tightening of sanctions: loss of passive electoral rights for elected offers in cases of severe violations against the party law; d) Expansion of monitoring mechanisms by the creation of an independent monitoring committee, which is free to make decisions and have unrestricted access to the financial documents of the parties.²¹ Furthermore, the 'Register Law' (*Registergesetz*), which has yet to be passed, aims to exclude firms convicted of bribery from public tendering for contracts.

5. 2 Japan

Fundamental for the legal provisions on party funding is the Political Funding Control Law – PFCL; Law 194/ 29 July 1948), which stipulates the amounts of money that candidates, political associations, or parties may be given for political objectives. §4 of the PFCL divides their income into members' contributions, donations and itemised, i.e. donations given to the parties/candidates to carry out a certain activity (e.g. electoral campaign). Before the introduction of the Political Party Subsidy Law (PPSL) in 1994 there was no state financial support for the parties from tax revenue. According to the PFCL no organisation or private individual may give donations or political contributions to politicians (Blechinger 1998: 222-243). One exception is, however, the right of the parties or their local offices to grant financial support to individuals. Moreover, firms and unions are also excluded from donations to individual politicians and groups, whose objective is the acquisition of donations. However, this rule does not apply to parties or groups of donors. As regards donations to individual politicians or other political organisations, the donations from political parties prove to be the legally stipulated main donation-based income of politicians, regardless whether the donation was made during an electoral campaign or at any other point in time.

The PFCL defines strict rules with regard to the disclosure of income from parties, political associations or individual politicians. Accordingly, the parties and political associations are obligated to present a financial report once a year, although the required information with regard to the received donations differs: while the parties must specify the names of all individuals that have donated more than 10,000 Yen during a year, the upper limit for reporting for certain political associations was one million Yen. In cases of violation of the financing law, penalties apply: for illegal income by way of donations and violations of the obligation to disclose donations in detail, prison sentences (5 years) or fines (1 million Y) are stipulated.

The PPSL (Law on State Funding of Parties) passed in 1994 after the scandal debacle²² of the Liberal-Democratic Party governs the amount of subsidies granted to parties and the total volume, to which political organisations are entitled, as well as reporting obligations.²³ Besides numerous benefits allotted for carrying out electoral campaigns and under the precondition that the parties can cover one-third of their expenses with state support, the parties receive state subsidies amounting to approx. 30 million Yen. Of course, certain conditions apply when public financial assistance is granted. These include the number of mandates received as well as percentages of votes (more than five mandates and at least 2 % of the votes). Nevertheless, no upper limit was set due to strong protest by the parties.

²¹ See Transparency International Deutschland: Vorschläge für die Reform der Parteienfinanzierung, 2007.

²² On the history of the collapse of the party political hegemony of the LDP in 1993 see Kohno 1997: 135 et seq.

²³ The main objective of the 1994 reform consisted in making direct political donations by businesses to elected officials illegal and ensuring that the financial needs of the politicians are met exclusively by the party and its regional offices (Blechinger 2000).

Moreover, after an amendment to the PFCL in 1994 the parties are subject to transparency requirements and the recipients of donations and the supporting associations are required to report donations that exceed 50,000 and 200,000, respectively. In addition to this, the political reform passed in 1994 concerning party funding stipulates that a) all political organisations and political parties must submit a financial report on income and expenditure to the Minister for General Affairs of the Committee of the Elections Administration, and that b) each individual candidate must keep accounts of income/expenses and present them to the committee of his/her electoral district.

These obligations to report donations are supported by limitations concerning the sources of the donations: political parties are not allowed to receive donations from certain persons, employees, organisations or firms. Furthermore, the donation limits are set twice: both with regard to the total volume that a donator may give to (all) political parties in one year (20 million Yen) as well as for the total donations which go to a certain party or their supporting associations (1.5 million Yen). Donations are also subject to the restriction that businesspeople may only make donations to political parties and their regional/local offices by way of supporters' associations who collect donations. The PFCL and PPSL are supplemented by an electoral law (Public Offices Election Law – POEL), which sets limits for income and expenses of the candidates during electoral periods. In this manner, the expenditure of a candidate may not exceed 23-29 million Yen depending on electoral district. Even though the guidelines of the POEL are generally very strict, they can be avoided in practice insofar as the candidates report their expenditure as part of their political, non election-related activities or artificially 'extend' the electoral period as well.

Nevertheless, several shortcomings can be identified in the legal instruments for regulating party financing (Kohno 2001). This criticism applies, above all, to the insufficient legal regulations on monitoring donations from businesses to individual politicians, as direct donations are forbidden, but the parties can still pass on received donations to their local offices and then in turn to individual politicians (Ejima 2006: 149 et seq.). In this manner, the local and regional offices of the parties function as a kind of financial source for their local politicians. Moreover, the fact that the financial transfers among the different regional party organisations, clubs of supporters and donating associations may exceed the legally defined donation levels is equal to money laundering. Even if this does not have to be the case every time, the increase of the number of regional party offices by the LDP is regarded as a tactic to circumvent the ban on donations to clubs of supporters: by these means the regional offices of the parties can operate as direct recipients of donations.

Along these lines, criticism is also expressed with regard to the Law on State Funding of Parties (PPSL). Although the main objective of the law consists in pushing back the role of business donations by distributing subsidies, the described indirect practice of donating to individual politicians leaves open loopholes for businesses to influence politics. The fact that the law does not govern the use of the subsidies is also a cause for concern. There are also shortcomings with regard to transparency, as the law hardly has any stipulations on the disclosure of income by politicians: the only provision is that the recipient and the aim of the donation must be specified in cases in which public subsidies are granted that exceed 50,000 Yen.

The numerous scandals after the introduction of new law in the fight against corruption in 1994 can easily serve as proof that the legal instruments have hardly had the 'healing' impact, which the political system of Japan certainly still requires after having been shaken by corruption. The reason for this presumably lies in the mentality structure of Japanese

politicians, which cannot be overcome with legal reforms alone. Furthermore, the politicians appreciate state regulated funding, but of course do not abstain from circumventing the obstacles it imposes in terms of monitoring, sanctioning and transparency mechanisms. Transparency deficits also arise because the public can hardly retrace which group of donors belonged to which political party and it is to an even lesser extent able to discern which donations are given to which politicians. In addition, the disclosure of party and candidate finances is not linked with a monitoring authority, which effectively examines the truthfulness of the provided information and can potentially punish involved persons for false information.²⁴

Regarding the influence of the new electoral system (1994) on party financing the following should be stated: The electoral reform is said to have cut the cost of campaigning by half. Although the new system is more political party-driven, the Communist party and the New Komeito party are the only parties that bear all the campaign costs of their members. Other parties including LDP have a weak financial base which makes them unable to cover all the cost of campaigns and daily operations of each member. Only about 30-40% of their political funds are covered by the party they belong to. The rest of the funding is left up to each politician to secure on his/her own. Also, political parties have a weak power base in constituencies which is the reason why their members still rely on their '*Koenkai*' for their campaigns. Nothing much has changed from the time of multiple-seat constituency. They still need funding to manage and maintain their '*Koenkai*'. The need for political funds, though weaker than before, still remains strong. However, corporate donations which are known to be reliable financial sources have dwindled with the campaign fund reform and the economic recession. Politicians hold fund-raising parties while they struggle to seek ways to secure political funds by getting around the system.

Reforms of the controls on campaign contribution have placed tougher restrictions on corporate contributions and have increased the transparency in the flow of money. But Japan does not have a culture in which an individual contributes money to the supporting party or politician. Mostly corporations are the ones that buy tickets of fund-raising parties. Politicians are said to be looking for various 'loopholes' in the system to collect the necessary campaign funds. As long as politicians run campaigns based on their '*Koenkai*', the need for campaign funding will continue. Temptations for politicians to become involved in corrupt practices remain strong. Especially under Japan's centralised and bureaucratic government, corporations find it necessary to peddle influence through politicians. That is why opportunities for politicians and corporations to collude in legal or illegal funding practices remain high. In other words, the situation that triggers corrupt practices has not changed.

However, there is a limit to what legal restrictions can do. The Diet has been asked to intensify its effort to impose control, but the LDP is reluctant about this move. That is why there is hope in Japan that police and prosecutors will clean up these practices in politics. Under the Koizumi administration with no LDP intervention in the judicial system, police and prosecutors were able to proactively conduct investigations against mostly LDP members on corruption and illegal funding, and have delivered harsh verdicts one after another. This had a considerable impact on the political world.

²⁴ Thus, sometimes the misrepresentations are coincidentally discovered. This took place, for example, during the Kanemaru Scandal when the donation, which he had illegally received from the Firm Sagawa, was only discovered as a result of the revelations during the Sagawa Scandal.

It has been nearly 10 years since the political reform has been realised. The new system presents a new set of issues and another reform is required. The first issue is related to the management of political funds. In Japan, political funds can be given in cash whereas in Europe and the United States funds can only be transferred through banks. Japan should surely ban political funding in cash, which instead should be managed through a specified bank account. The second point is related to political fund report system. In Japan there are two types of political fund reporting. One is managed by the central government and the other is managed by each prefectural and city government. Some argue that it is difficult to see the flow of the funds as the reports are done separately. On top of that, Japan restricts the disclosure of reports. Accordingly, there is a need to integrate and manage political fund reports and disclose the balance of payments via internet, which has been answered by amending Political Funds Control Law in 2007. The overhaul of the report check system and information disclosure via internet has already begun.

There is also the issue of local chapters. In Japan a local chapter can be set up by an individual politician without the authorisation of the political party. LDP politicians have their own local chapters. There are more than 4000 chapters just within the LDP. Almost all politicians who belong to the LDP from Diet members to town and village assembly members have their own local chapters. A local party chapter acts more like a body to receive donations than a base for political activities. Under the law local party chapters are entitled to the same rights as the political party which gives the local chapters a right to receive corporate donations. Politicians are using their own chapters as a 'loophole' to receive corporate donations which are banned for individual politicians. The head of the local chapter is the politician who sets it up. This makes the chapter more like personal property than the political party's local chapter. The reality is that political donations come from the local chapter become funds for the individual politician. If this issue remains unaddressed, the ban of corporate donations to individual politicians will become less important. Accordingly, rectifying the relationship between local chapters and politicians is highly needed. However, opposition parties are also reluctant to tighten control on this particular point. There is still no sign of improvement at this stage.

Another issue is that corporations offer politicians not necessarily political funds, rather services such as dispatching secretaries and drivers, providing cars and offices. Corporations exploiting the ambiguity of the law and offering indirect donations in a form other than political funding is becoming a problem. In any case, individual politicians are the ones who get in trouble, hardly the political parties, when corruption scandals or incidents involving money in politics are exposed. One issue that surfaced was the 'diverted donations' in which money from a corporation is diverted to a politician through a political party. This has been recognised as a problem but legal restrictions have not been imposed yet. Political parties are practically overlooking these illegal practices. In LDP's case individual members have more power than the party itself, resulting in strong rejection to putting restrictions on receiving donations. Political parties unable to take sufficient care of the members' campaign funds and political activities are allowing such practices to take place. The challenge is to improve both the financial strength and the influential power of political parties over individual politicians.

6. Comparative perspectives of political corruption in Germany and Japan

If we look at the party financing scandals in Germany and Japan from the angle of the criteria for political corruption²⁵, the only remaining doubt is likely whether we equally can speak of structurally induced corruption in both cases. A typology of corruption from a political science standpoint certainly offers critical indications on how to develop an analytical and theoretical framework which lays out a relatively context-independent structure of criteria based on the variability of cultural, social and political contexts. Nevertheless, one can assume that a structure-oriented analysis of corruption will miss its target if it does not take into account the ‘conventional everyday theories on corruption’, i.e. regionally and culturally specific perceptions of corruption among political and administrative decision-makers, in practices in various institutions and public authorities, and above all among citizens and the media. After all, not only systemic imperatives and socio-political regularities can have a structuralising impact, but also mentality-based perceptions, habitualised attitudes as well as behavioural and value-based orientations.

Therefore a political science structural analysis must be juxtaposed to a cultural sociology approach, which focuses on the everyday practical understanding of corruption among actors. This approach goes beyond culture-based explanatory patterns insofar as it downplays the cultural factor with the argument that actors can be attributed a certain reflective distance to their cultural milieu in such a way that they can exploit socio-cultural patterns for their own objectives. With regard to corrupt conduct, this is of particular significance, because it is frequently the case that illegal behaviour is legitimated in the eyes of the actors by way of prevailing cultural conditions/practices or that illegal behaviour is in conformity with them. In this context, it is therefore not so much a matter of completely ‘explaining’ the phenomenon of corruption ‘as such’, i.e. from a political science and culture-based perspective, etc., rather addressing those mentality-based attitudes of actors, which are indispensably a part of the rationale of corrupt conduct. However, since this can be done by also addressing the structural aspects of political corruption, we will explain just a few, often overlapping aspects.

I.

If we trace these considerations back to the context of the party funding scandals, there are several motivations for viewing political corruption in the context of the perceptions and attitudes that guide actors’ behaviour. Turning first to the donation scandal of the Kohl government, it is immediately apparent that both in the parliamentary debates as well as in the statements given before the investigation committee of the German parliament, the argument concerning certain constraints imposed on the parties by political competition plays an important role in the self-conception of the main actors (Maras 2007: 11). For example, ex-Chancellor Kohl did confess that the practice of receiving donations in his party was not always in conformity with the law. Yet, in view of the financial competition with the Social Democratic Party, he allegedly acted under the constraints of safeguarding equal opportunities among the parties by way of increased income from donations. Furthermore, the purpose of the money violating the party law was not personal enrichment, rather the restoration of the balance of power to a certain extent.

We cannot speak of such a balance of power in the Japanese case because the political dominance of the LPD between 1955 and the early 1990s was too large for any other party to

²⁵ i.e. a) the use of public office and mandate as political resources to assert “private” interests; b) the “trade-off” character of political and economic resources; and c) conflicts between private and public interests (Alemann/Kleinfeld 1997: 263).

pose a serious threat to it and thus cause any damage to its finances. However, it did continually suffer financial disadvantages during the very fierce battles between factions of the party. Carried out by clientelistic power-seeking groups (Beyme 1984: 287) within the party, these battles are not based on any issue-related differences, rather on directly securing electoral resources. In this regard, the non-ideology-driven party competition among the factions within the LDP stands in stark contrast with the self-perception of the CDU under Kohl. The illegal income that Kohl received from donations indeed served to ‘pacify’ the factions within the party, which incidentally differed in terms of their – if not severely – at least strikingly different views. Yet the ‘adjustment’ of the internal party balance by way of the received funds and the orientation towards the authoritarian leadership style of the party chairman was according to Kohl and his fellow combatants subordinate to the aim of safeguarding the political and ideological dominance of the conservative party in the ‘systemic competition’ with the social democrats. The difference in terms of goal setting, at least as concerns the self-perception of the actors, underlines the typological difference between patronage-based and ideology-based parties.

II.

A point for comparison can be outlined with regard to the inter-linkages between the state apparatus and the private sector and in terms of the transfer of personnel from the ministerial bureaucracy to upper management and supervisory committees of large, private or public firms. Of course, it is not possible to directly draw a robust comparison between the Japanese *amakudari* system and occupational change among German politicians. This is primarily substantiated by the fact that the question whether such procedures are legitimate and do not violate certain informal rules of conduct primarily depends on their social acceptance, i.e. whether they are perceived as permissible or potentially corrupt. The latter indeed has been the case in Germany for some time now, as public sensitivity has increased towards the fact that the boundaries between politics and business have blurred as a consequence of the large corruption scandals of the 1990s.

What has particularly caught the attention of the critical public can be defined as illegitimate conduct, the reasons for which are rooted in the fact that experience-based administrative expertise is used to serve private interests and therefore abused for private career ambitions.²⁶ Although we do not claim that occupation change takes place according to the pattern of the *amakudari* system, there are indeed striking parallels as there is a transfer of administrative and administration-related technical know-how a) from the public to the private sector and b) from the state apparatus to public enterprises.

In a certain manner though, a comparison with the *amakudari* system would be applicable, but in the other direction: not from the ministerial bureaucracy to the private sector, rather vice-versa. For some time now, a potentially corrupt trend can be observed in the Federal Republic of Germany as companies from the industrial, energy, insurance and banking sectors have been able to ‘position’ more than 100 of their representatives in federal ministries. This has enabled them to actively participate in writing legislative bills, amending laws or developing measures (Adamek/Otto 2008). Although the Federal Court of Auditors has carried out numerous inspections, it is more than justified to ask to what extent these paid company representatives undercut the independent decision-making authority of the state. After all, no matter how genuine the government’s efforts are to downplay suspicions that the

²⁶ See Project Crime and Culture, Research Report Germany 2007:7 at: <http://www.uni-konstanz.de/crimeandculture/reports.htm>

incorporation of these external experts into administrative activities has enabled them to influence decisions of top federal agencies, there are reasons for doubt: two external employees were even given positions as heads of divisions. In view of the fact that at least 100 lobbyists are (were) active in the ministries in the interest of private enterprises, it may be assumed that this was one of the reasons for the emergence of political corruption according to the classical pattern of blurring boundaries between the common welfare and private interests.

III.

Critical attention has also been drawn to an increasingly frequent phenomenon: the multiple employment of political representatives. In this regard, differences in the funding methods of political activities (among other things) are particularly evident: Unlike their Japanese counterparts, who are forced to come up with approx. 75 % of the required resources themselves because the expenses associated with the political mandate are covered neither by the party nor by the state, German members of parliament and politicians have to worry little about funding their political and electoral activities. If we also take into the account that they are not subject to the same constraints as their Japanese counterparts, who must fight their way through as ‘lone warriors’ and must fend off not so much the competition from other parties, rather competition from candidates from the same party, the reasons are immediately clear why German politicians are not overburdened by their parliamentary functions and are attracted to other, different areas of activity and sources of income. Another phenomenon also clearly emerges on the ‘negative’ side of the conditions under which the election to parliament or the assignment of posts in the party and government in Japan takes place: the nearly complete absence of bribery of political representatives in German political life. Since the electoral changes of the political hopefuls are dependent on political issues, programs, and ideological orientation as well as their spot on the ticket of their party, this type of ‘influencing’ hardly comes into consideration. The situation is, however, much different in Japan. While issue-based guidelines, ideological principles and political philosophy do not play a noteworthy role, the scope and quality of the personal relationships that the candidate has established in the party and faction and consolidated through patronage and clientelism are of eminent importance. The quantity and quality of this relationship-based capital of course also includes the amount of donations that the candidate can bring to bear. And in view of the chronic financial distress of the electoral campaign the bribes disguised as donations are more than probable.

IV.

If one of the main pillars of political corruption lies in the mutual entanglement of political and economic interests, the long-term dominance of the LDP and the CDU/CSU in the party landscape is a sufficient comparative basis for gaining more in-depth insights on the increasing significance of influential relationships. The point of departure is again the *amakudari*-component of the ‘iron triangle’, which reveals the pattern of interdependencies between state economic policy and the business strategies of private sector enterprises in a virtually pure form. The vulnerable spots for corruption in this structure of interests can be located in an objective of private enterprises which could be defined as creating ‘osmotic networks’. The primary purpose of such networks consists in coercing the central economic

and financial policy ‘switchboards’ of the state apparatus to mobilize resources (Colignon/Usui 2001: 870)²⁷.

Along these lines the ‘osmotic’ relationship between the public and private sector can be regarded as a form of coordination of activities which private firms require in order to reduce transaction costs, to eliminate various uncertainties with regard to the awarding of public contracts, and to secure licences etc. Such nurtured osmotic relationships bear a systematic-functional aspect insofar as they result in the cooperation among elites which is indispensable for coordinating economic policy, stability, and planned dynamics of development (Pempel 1998: 74 et seq.).²⁸ Beyond the functionalistic approach²⁹ there is of course no doubt that structural cooperative dynamics emanate from the ‘nurtured’ web of relationships.

Returning to the purely political dimension of the relationship, one could justifiably claim that the significance granted to the LDP in the outlined ‘fusion of elites’ in Japan’s post-war history, is comparable to the significance which must be attributed to the centre-right block in Germany (CDU/CSU and Liberals). As a people’s party, the Christian Democratic Union was the carrier of the ‘Rhine capitalism’ with its corporatist structure, which demonstrates similar structural features to the Japanese post-war economic model in terms of the fusion of elites and coordinating action according to economic policy fundamentals, defusing class and interest-based antagonisms, ‘nurtured relationships’, etc. As concerns the corruption-relevant aspects of the political hegemony of the CDU/CSU in the party landscape in the 1980’s and 1990’s in particular, the following general patterns have been identified: a) the centre-right parties were the main beneficiaries of ‘cultivating the landscape’ of renowned companies and firms and b) the tax-deductible ‘useful appropriations (*nützliche Anwendungen*)’ of the firms constitute a state-legitimated form of political corruption.

Yet the investigations of the party donation scandal of the Kohl governments (1982-1998) did not reveal any clear results with regard to whether there was a concrete and causal relationship between the payments made to the CDU and certain political decisions of the government and hence whether the accusation of bribery was justifiable. Except for potential manipulations of the file archives to make investigations impossible and ‘thanksgiving’ bribes as in the army tank deal with Saudi Arabia, only general assumptions can be made with regard to this case of illegal party funding (Parteispenden 2002: 781). In view of the facts, we

²⁷ Political scientists and economists have sometimes argued that some forms of political corruption may increase the effectiveness and efficiency of politics and the economy especially in highly centralised political systems. This is indeed true of the dirigist functioning of the centralised economies of the former socialist countries. Corruption was a structural feature of economic rationality. Some of the aspects of this structural corruption can be seen (among others) in the following facts: a) the high rents achieved by the companies due to little or no competition were a permanent source of bribes and kickbacks for the regulators of the state economic apparatus; b) the other side of the coin was of course that the managerial state bureaucracy – as the sole and uncontrolled decision-making authority – also used its power of allocating resources among the state enterprises by means of extracting bribes and other private payments; and c) this kind of resource allocation through all sorts of extra payments become deeply entrenched and in a certain way indispensable in keeping the economy going. In this sense one could speak of ‘legitimate’ corruption to the extent that it functioned as a steering mechanism of resource allocation. But this holds by no means true of such liberal democracies as Germany and Japan. For important insights regarding potentially positive effects of corruption on state controlled markets see Bardhan 1997, Mauro 1995, Hirano 2006, Nyblade/Reed 2008 and Shiratori 1995.

²⁸ The mechanisms of this ‘fusion of elites’ are of course subject to changes.

²⁹ Accordingly, one can argue that not only the established intersections between bureaucracy and business provide for the coordination between capital-interests and the state, which are indispensably needed for economic planning. However, functional significance can also be attributed to political donations insofar as they open access to the most important decision-makers for certain segments of the private sector, which do not yet have any set relationships with the state bureaucracy.

can first conclude that the largest party donation scandal in the history of the Federal Republic of Germany was a case of political (party) corruption – in two different ways: a) Through donations by large firms and donors, the Christian Democratic Union manoeuvred itself into relationships of dependence and b) the flow of the illegal donations into the financial cycle of the party apparatus had a corrupting effect on the internal party democracy. But since both aspects taken together do not constitute sufficient foundations for criminal prosecution in accordance with the German penal code (§ 331, acceptance of advantage), we can only speak of a hard-to-define grey area between criminal corruption and the general exercise of influence.³⁰

As for this ‘elusiveness’, which also must be regarded as one of the features of political corruption, the party donation scandal bears a characteristic similarity to the Sagawa scandal. Even though the Sagawa scandal was described as the largest bribery scandal of the post-war period due to its financial and personal dimensions, a direct causal relationship between payments and certain economic policy decisions could not be drawn. After all, hardly any of the recipients of the bribe money, not even the ‘grey eminence’ of the LDP, Kanemaru, dealt with issues related to the ‘friendly’ treatment of the transport firm. In both cases it can be observed how the scope of the term ‘political corruption’ goes far beyond what is reflected in the anti-corruption clauses in penal law. In its universality (‘cultivation of the party landscape’, ‘allocations to cater to overall public mood’) ‘political corruption’ is afflicted with the difficulty of identifying donations or other allocations from firms or business associations as bribes and determining that concrete official acts and decisions are causal effects of the accepted advantages. Therefore, the fight against corruption by way of legislation is likely to remain ineffective, as long as it does not view the political system as a whole and focuses on the structural origins that motivate corrupt inter-linkages.

³⁰ See Project Crime and Culture, ebd., 2006: 12.

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