

Basu Proposal Revisited: If You Let the Briber Go Free, You Can Make Him Worse off (and Corrupt Official Better off)

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Abstract

The idea of legalization of bribe giving for certain types of bribes was expressed by K. Basu in 2011 and got a name 'Basu proposal'. In this paper we contribute to the literature about effects that can be caused by the implementation of this proposal. Our game-theoretic model that allows for retaliation from the corrupt official's side shows one new effect that was not present in previous papers: the ability of a citizen to commit to retaliation makes the citizen worse off in equilibrium compared to the traditional penalties such as fines.

Keywords: corruption, punishment, legislation

1. Introduction

Basu (2011) started the discussion about the effects of asymmetric punishment for different parties involved in corrupt transactions. The idea is that in case of extortion the bribe-giver should be freed from any legal punishment and the bribe should be returned to him. This mechanism creates incentives for him to report the facts of corruption (blow the whistle), and so, by backward induction, reduces official's incentives to take bribes. Basu proposal has many advocates as well as critics, and this paper contributes to criticism.

Drèze (2011) points out that legalization of bribe-giving may make corruption somewhat morally acceptable, and also it can be too hard to prove

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the case of corruption if bribe-giver wants to report, especially under imperfect law enforcement. If the police and the judge are also corrupt, the reporting bribe-giver not only won't get his bribe back, but can also become the target of revenge by a person that he tried to have arrested. Dufwenberg and Spagnolo (2015) created a series of game-theoretic models taking Drèze's arguments into account. They show that Basu proposal is most effective in cases of large bribes and good quality of law enforcement. The issues of applicability of Basu proposal in various cases is also discussed in Engel et al. (2012); Oak (2015); Abbink et al. (2014); Basu et al. (2016).

The idea that implementing Basu proposal may cause an increase in corruption because of the officials' ability to extort larger bribes was, to my knowledge, first expressed in Fedorovykh (2014). In the model, the citizen who have paid the bribe may get its certain share $\alpha \in [0, 1]$ back with certain probability in case she reports to police. The official understands that the citizen is ready to pay a larger bribe since there is a chance to return it. This increases an endogenous bribe in equilibrium compared to the case of traditional punishments. In a simple theoretical setup similar to the one used in Abbink et al. (2014) experiments, Fedorovykh (2014) shows that an increase in α may be beneficial for corrupt officials through an increase in a bribe size, and thus corrupt officials will vote for Basu proposal. Moreover, if α is large enough (e.g. if $\alpha = 1$ as Basu (2011) suggests), an increase in law enforcement quality (the probability with which the corrupt official is prosecuted) may also be beneficial for corrupt officials and increase corruption overall.

Later, it was shown by Popov (2016) that a similar effect exists in a different setup with multiple agents on both sides and more detailed specification of corruption type. As well as Fedorovykh (2014), Popov's paper lacks the analysis of the possibility that the official who managed to avoid prosecution because of imperfect law enforcement can somehow harm the citizen who reported.

2. Model

The setup in this paper is similar to Fedorovykh (2014) but allows retaliation that may discourage whistle-blowing. There are only two parties: the official (denoted as O) and the citizen (denoted as C). O receives some salary w for providing a service that has value v for C. The game has three stages:

1st stage: O decides whether he is going to extort a bribe from the official and chooses the bribe size b .

2nd stage: C decides whether or not to agree to pay the bribe. If she refuses, both parties get nothing. If he agrees, he may also choose to report the case to police or not.

3rd stage: The Nature comes into play. With some probability, the case of corruption becomes known to the court and is investigated. If this happens, O pays a fixed fine F_O while C pays a fixed fine F_C if he did not report on the 2nd stage and receives a reward $R = \alpha b$ otherwise ($\alpha \in [0, 1]$). If C was silent on 2nd stage, the probability of prosecution is p_1 . If she reported, it is p_2 ($p_2 > p_1$ because C has to provide some evidence the bribe was paid).

4th stage: In case O avoided prosecution at the 3rd stage after C reported on the 2nd stage, O may choose to retaliate.

Let's assume that retaliation takes the form of removing some amount of money z from C. Generally it's difficult for an official to remove arbitrary amount from somebody, whereas he can harm a citizen in some specific way: refuse to provide another service, put in jail for some fake accusation, steal her business etc. Let's say different official have different power to retaliate, so for an official O_i the amount he can remove from a citizen equals $z_i \geq 0$. The more powerful the official, the greater z_i . We also assume that retaliation is costless for O, and O can commit to it in the beginning. So, effectively, z is chosen from $\{0, z_i\}$ simultaneously with b and we can reduce the game to two stages of decision-making:

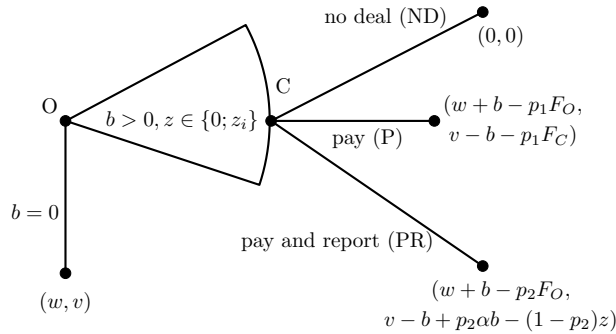


Figure 1: Game Tree

Comparing C's expected payoffs, one can easily determine under what z and b different actions will be chosen:

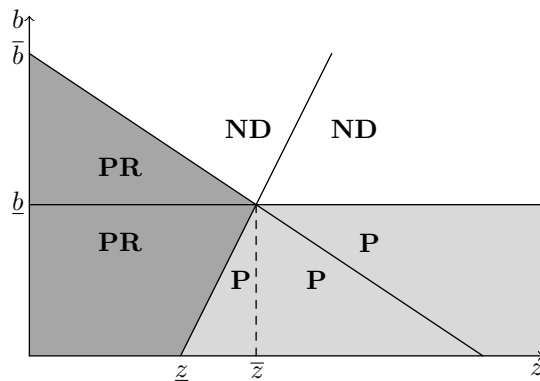


Figure 2: Citizen's Choice

We show that in addition to the effect discovered in Fedorovych (2014) and Popov (2016) (corrupt officials may be better off after Basu Proposal implementation because of increased bribes), there is one adverse effect due to retaliation. A citizen may be worse off with Basu than without it facing retaliation threat.

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