



Corruption in words: a study of Spanish and English criminal terminology in Europe

María Ángeles Orts^a, Ángela Almela^b

^aDepartment of Translation and Interpreting
University of Murcia
Murcia, Spain
mageorts@um.es

^bCatholic University of Murcia
Murcia, Spain
aalmela@ucam.edu

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Abstract:

Political corruption – conceived here, in accordance with Transparency International’s definition, as “the abuse of entrusted power for private gains” – is perceived as a dire problem in Europe, where there is a deep sense of frustration that institutions and political actors are not living up to ethical standards. The present work endeavours both a qualitative and a quantitative study of criminal terminology regarding corruption in Spanish and its version in English. Precisely, the goal of this paper is, first, to give an account of the way in which corruption terminology is applied in the legal discourse of both languages, and then, whether such usage occurs in a similar way in the press of either language. In general terms, terminological irregularities regarding the normativization of corruption crimes within the EU should arise as might be expected because it is a supranational rule of law that mainly contains two systems springing from two different legal traditions: the English-speaking Common law and the Continental, or Civil law.

1 The background for our study: corruption in Europe, corruption in Spain. The law and the press

Political corruption – conceived here, in accordance with Transparency International’s definition, as “the abuse of entrusted power for private gains”ⁱ – is perceived as a dire problem in Europe, where there is a deep sense of frustration that institutions and political actors are not living up to ethical standards. Indeed, according to the 2012 Eurobarometer on corruption, three quarters of Europeans continue to see corruption as a major problem and think that it exists in all areas of public service, its level having risen in the last three years.ⁱⁱ Likewise, the *Fighting Corruption* Communication of the European Commission states that approximately

ⁱ Transparency International:
http://www.transparency.org/cpi2011/in_detail

ⁱⁱ European press release on the 2012 Eurobarometer:
http://europa.eu/rapid/press-release_IP-12-135_en.htm



120 billion Euros per year, or one percent of the EU GDP, is lost to corruption: it is a widespread sickness which harms the finances, the political systems and, ultimately, the subsistence of the European Union as a wholeⁱⁱⁱ. The Commission has been given power to eradicate anti-corruption practices through the Stockholm Programme^{iv}, mainly through the enforcement of the rules set forth by a freshly-created monitoring body: GRECO, the Council of Europe Group of States against Corruption. Indeed, the initial efforts to fight corruption in the Continent were originally embodied in the accession of Europe to the United Nations Convention against Corruption (UNCAC) in 2008 and in the creation of GRECO itself. The latter has, in harmony with UNCAC premises, repeatedly called on EU countries to reinforce its legislation on bribery, to regulate political financing, to improve transparency in political party funding and to sanction corruption vigorously. Also worth mentioning is the work of Transparency International (TI), a global civil society organization based in Germany leading the fight against corruption worldwide. Its Corruption Perceptions Index scores countries on a scale from 0 (highly corrupt) to 100 (very clean). According to TI, while no country has a perfect score, two-thirds of countries score below 50, indicating a serious corruption problem.

Spain scored 65 in the 2012 Corruption Perceptions index, ranking –as it has traditionally been doing over the last decades– below advanced capitalist democracies and closer to the levels of corruption of developing nations with authoritarian regimes (Lapuente, 2009). The interval since the advent of democracy in 1976 and the integration into the European Union saw a booming economy where power was decentralized and town halls were ostensibly run like personal fiefdoms by major civil servants and senior officials, who reclassified rural land for urbanization and construction purposes (Jiménez, 2009; Villoria and Jiménez, 2012). In these years, buyers would make lots of money developing and selling the now urban land, then paying officials for their services with properties in the development. As a consequence – and as a number of studies show (Heywood, 2007; Jimenez, 2009; Lapuente, 2012) – a culture of distrust has steadily developed between society on the one hand, and its politicians and the jobs-for-life civil service lobby, on the other. The situation has been further deteriorated by an impoverishing monetary crisis that in Spain has everything to do with bricks and mortar (Villoria and Jiménez, 2012), since slack laws have governed the real estate sector for a number of years and corruption has made its prey out of the situation. The enforcement of a Land Law is increasingly encouraging transparency and control over urban development, but it will be years for a healthy, regular house market to be re-established.

However, the work by TI and GRECO to fight dishonest conduct in the implementation of the Convention's premises has had an important impact in the Spanish legal anticorruption framework (Heywood, 2007; Jiménez, 2009; Juanes Peces et al., 2012), since a new, amended version of the Spanish Penal Code dealing with corrupt practices has been in effect since June 2010. The new code has been inspired by the attempt to implement the Criminal Law Convention on Corruption (ETS 173) of 10 May 2005, together with the Framework Directive 2003/568/JAI, which fight white-collar and real estate crimes, among others (Freshfields Bruckhaus Deringer LLP, 2010). Other changes in the legal scope have apparently been brought about by electorate punishments on the corruption cases that have come to light,

ⁱⁱⁱEU Communication Fighting Corruption: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/index_en.htm

^{iv}The Stockholm Programme
http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_union/jl0034_en.htm



materializing into legal measures like the creation of an Anticorruption fiscal and the criminalization of bribery of foreign public officials. Still, with the latest scandals involving several members of the Cabinet and the royalty, the perception of the Spanish public opinion is that corruption occurs on a large scale in the country, and that tolerance of corruption in Spain is aided by several factors, one of them having to do with the press. Indeed, a recent report by Charron, Lapuente and Rothstein (2010) highlights the fact that the absence of corruption and the existence of a strong, unbiased press reporting on its scandals are key factors in what they describe as countries with a Quality of Government.

The role of the Spanish media has been paradoxical in this process. According to Freedom House –an independent watchdog organization dedicated to the expansion of freedom around the world– Spain is a free country as far as its press laws are concerned, but ranks number 43, below the average data for Western countries^v. In Lapuente’s opinion, this is because the press is not felt by citizens as free from political or social influences (2012). Such lack of freedom is partly due to the fact that many papers receive large government subsidies (thus encouraging self-censorship). Furthermore, it also takes place because Spanish newspapers lack internal plurality, which amounts to say that, even if there exists a range of most influential periodicals offering a wide scope of political opinion –which Lapuente (2012: 10) refers to as external plurality–, the truth is that each periodical taken separately offers one-sided, biased, ideological accounts of reality. This, according to the same author, is just the opposite phenomenon to that occurring in the Anglo-Saxon press, where there are few newspapers, but these are capable of rendering a more honest, unbiased, rendering of political phenomena.

In a previous study (Orts and Almela, 2011) we stated that the Spanish press has always exerted a huge influence on the public opinion, as it has repeatedly pounced on potential scandals sprung up by the alleged sleazy acts by politicians and public officials. Our results then showed how the press introduces highly specific terminology on corruption in the realm of everyday popular culture. Indeed, we showed that the lingo used by the Code to organize misconduct, as well as other international and European instruments typifying corruption in the public and private sector, is deployed by the news-items of these periodicals, and its diffusion is made possible through them. From the point of view of our analysis, corruption crimes and their technical wording would be otherwise unknown but for the resonance that they have in the press and the tremendous sensitivity with which such press reacts towards public officials committing misdemeanours.

Our task in the present study will constitute a development and expansion of our previous work, as we endeavour to analyse the extent in which specialised terminology on corrupt criminal conduct echoes both in the law and the press in Spanish and English, in the context of the European Union.

2 The purposes and hypotheses of our study

The present work is based upon our previous studies on the language of corruption (Orts and Almela, 2011; 2012) but intends to go further beyond such earlier work, endeavouring both a qualitative and a quantitative study of criminal terminology regarding corruption in Spanish and its version in English. Precisely, the goal of this paper is, first, to give an account of the

^v Freedom House:

<http://www.freedomhouse.org/report/freedom-press/2011/spain>

way in which corruption terminology is applied in the legal discourse of both languages, and then, whether such usage occurs in a similar way in the press of either language. In general terms, terminological irregularities regarding the normativization of corruption crimes within the EU should arise as might be expected because it is a supranational rule of law that mainly contains –like the Western civilization at large– two systems springing from two different legal traditions: the English-speaking Common law (based mainly upon case law, with some degree of legislation) and the Continental, or Civil law (based mainly upon codification). Nevertheless, it is worthwhile pointing out that the possibility of legal communication across Europe has to allow for what Vogt has called the ‘Anglo-internationalisation of law’, with major impact over the last two decades, which is ‘unlikely to change in the near future’ (Vogt, 2004:13). This phenomenon explains why EU legal drafting is, hence, conducted mainly in English, even if Spanish and French are also working languages of the EU. Additionally, English pre-eminence as a legal and political form of communication may affect the substantive content of legal texts in the EU (Vogt, 2004) through the translations made from English into other languages. Therefore, even if our primary objective will always be the Spanish terminology for the criminalization of corruption, we will be using English corpora for comparison because of the supremacy of the language in the EU context.

According to Chromá (2008:304), legal terminology mainly consists of abstract terms profoundly entrenched in local culture and intellectual tradition. It follows that among the prerequisites for the successful translation of legal texts are, not only a familiarity with the relevant terminology, but also a basic knowledge of the respective legal systems and of the stylistic, textual traits of the target language. That is not to say that legal texts in English and Spanish are so very different, in terms of complexity and intricacy. Danet’s “conspiracy theory” (Danet, 1984) argues that the language of the Common Law systems is archaic, obsolete and purposefully opaque and pedantic because its communicative aim is to separate the ruler from the citizen and the legal message from its user in order to perpetuate the social superiority and detachment of the legal class. In a parallel way, the most distinguished legal language specialist in Spain, Enrique Alcaraz, has described legal discourse in Spanish as full of beautiful metaphorical pages, but also as an opaque, obscure and awkward kind of discourse, being as it is full of formulaic sentences and stylistically devoid of elegance (Alcaraz, 2003:15-22). In fact, all the features that scholars like Mellinkoff (1963) and Tiersma (1999) have pointed out regarding the idiosyncrasy of the English legal lexicon, we argue, are also present in the terminology used in Spanish legal discourse.

Regarding the legal terminology of corruption, the study of which we undertake in the present work, and in the light of our previous studies on the matter, our primary hypotheses are twofold. Firstly, in harmony with the data at hand –in the sense that a wide array of terms criminalizing corruption is being deployed by national and international instruments and bodies and it is being done irregularly (Orts and Almela, 2012)–, we tentatively predict that, even if theoretically there exists a one-to-one equivalence between crimes in English and their equivalents Spanish, the use of terms in the law to describe corrupted conduct is going to be lower in frequency in the former than in the latter. This has to do, partly, with the fact that the English legal system is one in which codes are non-existent and written law (Parliamentary law) is less prominent, the only legislation being in force in England and Wales about corruption is the above-mentioned Bribery Act 2010 (dealing solely with bribery as a crime). In contrast, in Spain the existence of a Penal Code has specifically codified criminal conduct in a much more elaborated way, as compared to the English legislation. Secondly, the



technical and hard-and-fast typification of corrupted behaviour by legislation must be reflected in the way in which the official press treats corruption phenomena, so as to give them the visibility they deserve. Our previous study showed that this is, indeed, the case in Spain (Orts and Almela, 2011): the influence of the press on the wide-spreading of specialised criminal terminology in Spain is undeniable, according to our research. We predict that this will still be true, but that such a *status quo* will be less significant in English, since we suspect that the terminological variety is narrower and the borders between technicality and colloquialism must be weaker regarding the naming of criminal conducts.

The present paper has analysed several corpora, namely:

- a) An ad-hoc 1m-word corpus in Spanish (henceforth SPL) gathered from judicial decisions published in Spain in the last ten years, mainly from the Supreme Court, Criminal Division, but also from the Provincial Courts and the Constitutional Court.
- b) An ad-hoc 1m-word corpus in Spanish (henceforth SPP) gathered from news-items in the digital version of several prestigious, accountable periodicals –such as *El Mundo*, *El País*, *El Periódico*, *La Vanguardia*, *ABC* and *La Razón*– representing different editorial groups of every political colour in Spain.
- c) An ad-hoc 1m-word corpus in English (henceforth EL) gathered from judicial decisions in the last ten years, mainly from the High Court, Queen’s Bench Division (related to criminal matters), but also from the High Court Division of Chancery, the Court of Appeal, Criminal Division and the Supreme Court of England and Wales.
- d) An ad-hoc 1m-word corpus in English (henceforth EP) gathered from news-items in the digital version of several prestigious, accountable periodicals representing different editorial groups in the Great Britain (The Guardian, The Times, The Financial Times, BBC News, The Economist, The Telegraph and The Scotsman).

It is important pointing out that – despite its sizeability – our corpus has its limitations. The biggest fault of our corpora is that it is unfortunately unable to capture each and every case of corruption in both target countries. The sheer volume of natural language prevents any corpus to be an accurate reflection of the linguistic behaviour of all its elements. Despite this fact, we have chosen to conduct a corpus-driven analysis because, as stated by Fillmore (1992:35), “every corpus I have had the chance to examine, however small, has taught me facts I couldn't imagine finding out any other way“. Furthermore, we have ensured that there is roughly the same proportion of political corruption cases in the different corpora. The main purpose of our present study revolves around criminal terms in Spanish and in English (as the most important working language of the EU), such study having as the ultimate goal the revelation of both uniformities and asymmetries in the usage of such terminology to label corruption crimes in the law and the press. Being true that, as far as the scope of traductology is concerned, the attempts by the European Union to develop common legal systems have driven translation forward in this area, a study consistently harmonizing and organizing terms and their consistent versions in both languages is needed, and our study constitutes an early attempt to do so.

3 Our method of study: Corruption in words.

In order to handle our corpus, the first thing we needed was a taxonomy of words, as a framework to work upon. We proceeded, thus, to the selection of the most relevant terms



concerning corruption and its incrimination at different levels: international, transnational and national, in the attempt to find a common ground of terms that could be used to measure term usage in our different corpora.

The terms to be extracted in the first place were those of the United Nations Convention against Corruption. Being a general set of norms to be applied internationally (in the scope of 140 countries), the wording of the text is fairly general, having as the scope of application “the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention”. Throughout the text, the concern is mainly the public sector, or the behaviour of public officials, with a minor dedication to criminalize conducts in the private enterprise. The beginning of the document contains a very brief glossary of key terms, none of them having to do with offence terminology, namely “public official”, “property”, “proceeds”, “freezing or seizure”, “confiscation”, “predicate offence” and “controlled delivery”. However, the words specifically regarding criminalization of corrupt conduct that we have detected in the text are the following:

| UNCAC TERM | SPANISH VERSION |
|--|--|
| 1. Money laundering | 1. <i>Blanqueo de dinero</i> |
| 2. Bribery (of national and foreign public officials, and officials of public international organizations) | 2. <i>Soborno (de funcionarios públicos nacionales extranjeros y de funcionarios de organizaciones internacionales públicas)</i> |
| 3. Embezzlement (misappropriation or other diversion of property by a public officials) | 3. <i>Malversación (o peculado, apropiación indebida u otras formas de desviación de bienes por un funcionario público)</i> |
| 4. Trading in influence | 4. <i>Tráfico de influencias</i> |
| 5. Abuse of functions | 5. <i>Abuso de funciones</i> |
| 6. Illicit enrichment | 6. <i>Enriquecimiento ilícito</i> |
| 7. Bribery in the private sector | 7. <i>Soborno en el sector privado</i> |
| 8. Embezzlement of property in the private sector | 8. <i>Malversación o peculado de bienes en el sector privado</i> |

Table 1. UNCAC terminology on corruption crimes

Also in the context of international law, Transparency International has elaborated a new anti-corruption glossary to harmonize all the terms that have been used in the realm of corrupt conduct, so as to achieve common understanding and language. This compendium of words should serve as a channel to ensure for dishonest conduct in public and private enterprises to be prevented in the future. It is in this spirit that the plain language guide by TI has been developed: to capture the key terms and their meanings, and to provide the anti-corruption movement with a resource to work more effectively with government, the private sector and

the members of the civil society, through the offering of a set of standardized, easy-to-understand, definitions.

Our choice of terms that appear in the said glossary is the following, again (as we did in the previous text under analysis) including only the offences typified in the document and their Spanish translation:

| TRANSPARENCY INTERNATIONAL TERM | SPANISH VERSION |
|--|--|
| 1. Bribery | <i>1. Soborno</i> |
| 2. Clientelism | <i>2. Clientelismo</i> |
| 3. Collusion | <i>3. Colusión</i> |
| 4. Corruption | <i>4. Corrupción</i> |
| 5. Embezzlement | <i>5. Malversación</i> |
| 6. Extortion | <i>6. Extorsión</i> |
| 7. Fraud | <i>7. Fraude</i> |
| 8. Grand Corruption | <i>8. Corrupción a gran escala</i> |
| 9. Lobbying | <i>9. Ejercer presión</i> |
| 10. Money Laundering | <i>10. Lavado de dinero</i> |
| 11. Nepotism (Cronyism) | <i>11. Nepotismo</i> |
| 12. Political Corruption | <i>12. Corrupción política</i> |
| 13. Revolving Door | <i>13. Traspaso entre el sector público y el privado</i> |
| 14. Solicitation | <i>14. Incitación</i> |

Table 2A. TI terminology on corruption crimes

As we can see, the scope is wider than the Convention's, including interesting novel terms not accounted for by the UNCAC, such as "lobbying", "revolving door" and "clientelism", which are not typified as crimes in the Spanish Penal Code. The translations into Spanish are quite literal and, in some cases, simplistic and debatable, as we demonstrated in our first study on the matter (Orts and Almela, 2012).

The United Kingdom has been listed among the 20 least corrupt countries on Transparency International's yearly corruption perception index (CPI) since 1995, the year it was first published. In line with Transparency International CPI, the levels of rule of law and control of corruption have been ranked at the higher ends of the World Bank governance indicators for almost a decade. TI UK, a chapter of TI in the United Kingdom, carried out a thorough study of corruption in the country, detecting the following as problem areas:

| TI UK TERMS IN ENGLISH | |
|-------------------------------|--|
| TI terms | 1. Bribery |
| | 2. Collusion |
| | 3. Conflict of interest |
| | 4. Cronyism or nepotism |
| | 5. Fraud |
| | 6. Gifts & Hospitality |
| | 7. Lobbying |
| | 8. Money laundering |
| | 9. Revolving door |
| No official TI definition | 10. Abuse of authority or trading in influence |
| | 11. Illegal disclosure of information and misuse of IT systems |
| | 12. Vote rigging |

Table 2B. Corruption crimes deployed by TI for the United Kingdom

At EU scope, Spain joined GRECO in 1999. GRECO adopted the First Round Evaluation Report in respect of Spain at its 5th Plenary Meeting (11-15 June 2001) and the Second Round Evaluation Report (2004 7E) at its 23rd Plenary Meeting (17-20 May 2005). The Third Round Evaluation was launched in 2007 and was applied in Spain in 2009, containing the advice and recommendations of the Commission for the incrimination of corruption in the country. The data collected by the GRECO evaluation teams are, first of all, a unique source of information on what is a fairly recent body of regulations in the history of European democracies. These evaluations look at all aspects of corrupt practices, including all kinds of irregular behaviour of public officials, how the regulations are enforced and what penalties may be imposed.

The selection of terms we have carried out of the reports is the basis for us to check the ways in which the Convention and GRECO define corruption crimes, as described in Table 3:

| GRECO TERM IN ENGLISH | GRECO TERM IN SPANISH |
|------------------------------|--|
| 1. Abuse of official duties | <i>1. Abuso del ejercicio de sus funciones oficiales</i> |
| 2. Participatory acts | <i>2. Actos de participación</i> |
| 3. Bribery (Active/Passive) | <i>3. Cohecho (Activo/Pasivo)</i> |
| 4. Corruption | <i>4. Corrupción</i> |

| | |
|----------------------------|----------------------------------|
| 5. Account offences | 5. <i>Delitos contables</i> |
| 6. Breach of official duty | 6. <i>Prevaricación</i> |
| 7. Trading in influence | 7. <i>Tráfico de influencias</i> |

Table 3. Corruption crimes deployed by GRECO for Spain

The United Kingdom joined GRECO in 1999. Since its accession, the country has been subject to evaluation within the framework of GRECO's First (in September 2001), Second (in September 2004) and Third (in February 2008) Evaluation Rounds. GRECO's current Fourth Evaluation Round, was launched on 1 January 2012 and is linked to the previous ones in its priority issues, mainly ethical principles, and rules of conduct and conflicts of interest of politicians, judges and prosecutors. Nevertheless, when facing the report we observed a lack of a formal categorization of crimes in the UK.

Finally, we reach the national scope: as far as Spain is concerned, the new Spanish Penal Code (henceforth SPC) includes a number of important reforms in the anti-corruption arena very much in harmony with the GRECO postulates, providing for, *inter alia*, the criminalization of bribery in the private sector, a simplified classification of bribery in the public sector (lawful acts, unlawful acts and situations in which the bribe is accepted on the basis of the public official's position), explicit criminalization of capital laundering, corporate liability, increased levels of sanctions, etc. In the Code, corruption of public officials is regulated by Titles VIII (On Falsehood), XIII (On Property and the Socioeconomic order), XVI (Regarding Urban Planning and Heritage) and, mainly, XIX, specifically controlling jobbery matters (On Public Administration). For reasons of economy, we supply just the compilation of the terms from the Code, notwithstanding the chapter they are in.

| ENGLISH VERSION | SPANISH ORIGINAL |
|--|---|
| 1. Crime against land and urban planning | 1. <i>Crimen contra la ordenación del territorio y el urbanismo</i> |
| 2. Crime against natural resources and the environment | 2. <i>Crimen contra los recursos naturales y el medio ambiente</i> |
| 3. Crime against the Public Heritage | 3. <i>Crimen contra el patrimonio</i> |
| 4. Bribery, Corruption (Active, Passive) | 4. <i>Cohecho (activo, pasivo)</i> |
| 5. Corruption in international commercial transactions | 5. <i>Corrupción en transacciones comerciales internacionales</i> |
| 6. Documentary falsehood | 6. <i>Falsedad documental</i> |
| 7. Embezzlement and | 7. <i>Malversación</i> |

| | |
|--|--|
| misappropriation (of funds, of public funds) | <i>(de fondos, de caudales públicos)</i> |
| 8. False billing | 8. <i>Cobro de facturas falsas</i> |
| 9. Fraud and extortion | 9. <i>Fraude y exacciones ilegales</i> |
| 10. Illegal partaking of public officials in business activities or contracts | 10. <i>Negociaciones y actividades prohibidas a los funcionarios</i> |
| 11. Judicial/administrative breach of trust, jobbery | 11. <i>Prevaricación administrativa/judicial</i> |
| 12. Money laundering | 12. <i>Blanqueo de capitales</i> |
| 13. Trading in influence | 13. <i>Tráfico de influencias</i> |

Table 4. Corruption crimes as depicted by the Spanish Penal Code. Our translation into English.

Again at the national level we undertook a scrutiny of the law in force on corruption in UK, the Bribery Act 2010, and we found no reference to corruption crimes, other than bribery itself.

For the sake of the limitations of our study, we could not detain ourselves in the analysis of all of the terms in each of the instruments at the different levels. Therefore, the deployed criteria of selection were twofold:

- a) To have the criminalizing terms in the Penal Code as the main source of selection in Spanish, contrasting those with the different English equivalents as provided by the international and EU documents. Having no array of terms from GRECO or Parliamentary law from UK, we decided to consider the list of TI UK as the main source of selection for English terms.
- b) To exclude very long nominal groups from our lexical analysis (as it is the case of urban crimes in the Spanish Code and some of the UNCAC crimes), since they were prone to be processed without conclusive results.

Therefore, taking these two premises into account, our final selection of terms was the following:

| SELECTED TERM | SPANISH VERSION/S |
|----------------------|--------------------------|
| 1. Breach of duty | 1. <i>Prevaricación</i> |
| 2. Bribery | 2. <i>Cohecho</i> |
| 3. Collusion | 3. <i>Colusión</i> |

| | |
|--------------------------|-----------------------------------|
| 4. Corruption | 4. <i>Corrupción</i> |
| 5. Embezzlement | 5. <i>Malversación</i> |
| 6. Extortion | 6. <i>Exacción ilegal</i> |
| 7. Fraud | 7. <i>Fraude</i> |
| 8. Money laundering | 8. <i>Blanqueo de capitales</i> |
| 9. Nepotism | 9. <i>Nepotismo</i> |
| 10. Trading in influence | 10. <i>Tráfico de influencias</i> |

Table 5. Selected terms for analysis and their Spanish version

Notably, the two first terms are the most important ones. “Corruption” constitutes the very name of the lexical field whose study we are endeavoring. “Bribery”, on the other hand, is less general in character but appears in all the instruments under analysis, and in an exhaustive way. “Embezzlement” shows also a ubiquitous presence, except in the GRECO reports, and the same is true of “Money laundering” and “Trading in influence”. “Breach of official duty” is a kind of abuse of authority that makes its appearance in GRECO and the SPC. “Extortion” and “Fraud”, finally, appear solely in the SPC and in the TI glossary, but were interesting as examples of cognate adaptations. Last but not least, “Collusion” and “Nepotism” are not typified as crimes in the Spanish Code, but TI regards them as serious problem areas in the UK, and they were selected for that reason.

As far as data analysis is concerned, a quantification of the selected terms was necessary. By means of Wordsmith Tools 5.0, we have firstly measured the absolute frequency of the terms of art in the four corpora, since this basic corpus-based statistic will enable the direct comparison among terms. Furthermore, a significance test has been performed in order to thoroughly evaluate our working hypotheses: Wilcoxon signed-rank test. It is a non-parametric statistical hypothesis test used when comparing two related samples or repeated measurements on a single sample to assess whether their population means differ; in other words, it is a paired difference test –it has been performed with the statistical package SPSS 15.0. The differences between the pair of variables are counted, the absolute differences are ranked, the positive and negative ranks are summed, and the test statistic Z is computed from the positive and negative rank sums. Under the null hypothesis for large sample sizes, Z is approximately normally distributed with a mean of 0 and a variance of 1.

4 Data results and discussion

The terms of art found in the four corpora are presented in this section in the form of absolute frequencies (see Table 6 and Table 7). As can be seen, the global count of the selected terms in the news corpora is considerably superior to their legal equivalents, specifically eight times larger in the English version and three times in the Spanish one. In the light of the density of the set of legal terms under study to other words in the English corpora, it is worth noting that they account for 0.73% in EP corpus, whereas a low percentage (0.08%) in EL. Nevertheless, these data cannot be properly interpreted without considering the differences between both corpora regarding corpus density. As mentioned above, the total number of tokens in both corpora is similar, but the number of texts included in both EP and SPP is higher, precisely due to the nature of journalistic texts; conciseness and straightforwardness are distinctive features of this genre, hence the modest extension of news texts as compared to those texts in jurisprudence. This is especially true when comparing the English corpora. Furthermore, the type/token ratio in EL is also indicative of a lower lexical density, having a ratio of 1.88, whereas EP achieves 3.38. Accordingly, it seems natural that the search terms occur much more frequently in a denser corpus.

| | EL | EP |
|-----------------------------------|--------------------|----------------------|
| Bribery | 103 | 1,391 |
| Corruption | 318 | 2,649 |
| Embezzlement, misappropriation | 11 | 327 |
| Money laundering | 59 | 322 |
| Fraud | 338 | 1,835 |
| Extortion | 4 | 509 |
| Collusion | 7 | 197 |
| Abuse of authority | 0 | 2 |
| Nepotism | 3 | 161 |
| Breach of duty | 24 | 0 |
| Total | 867 (0.08%) | 7,391 (0.73%) |

Table 6. Frequency of occurrence of the selected English terms

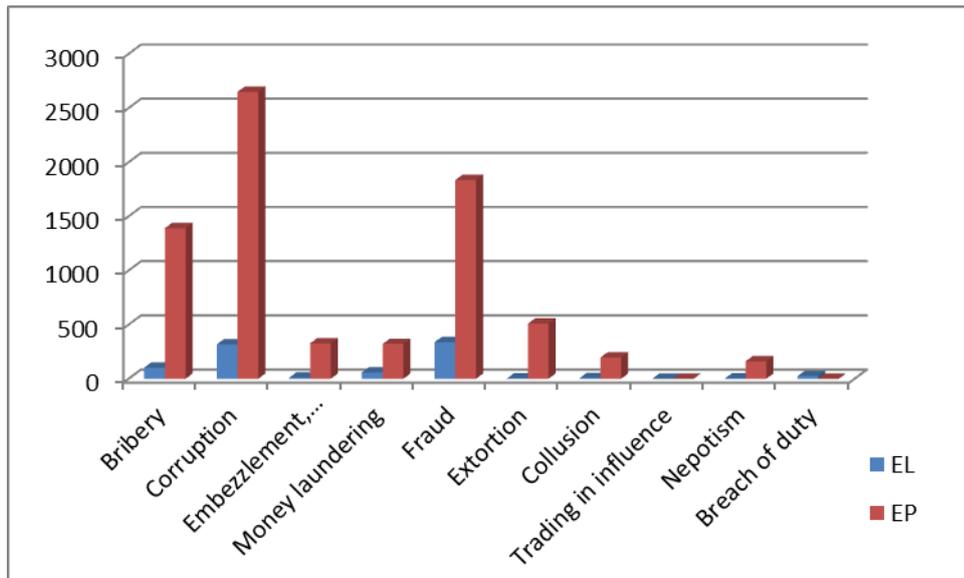


Figure 1. Frequency of occurrence of the selected English terms

Regarding the Spanish corpora, differences in corpus density parallel the situation in the English corpora, also showing a similar distribution of type/token ratios –2.34 in SPL corpus versus 3.45 in SPP. Nevertheless, as seen in Table 8 and Figure 2, both the global and the individual frequencies show a more balanced distribution. As we remarked upon above, the global count of the selected terms in the latter is three times higher than the number registered in the former, and there is a difference of just 0.38% in the density of the terms of art to other words in the corpora.

| Term | SPL | SPP |
|------------------------|----------------------|----------------------|
| Cohecho | 619 | 665 |
| Corrupción | 67 | 2,661 |
| Malversación | 133 | 371 |
| Blanqueo | 138 | 281 |
| Fraude | 181 | 369 |
| Exacción ilegal | 60 | 34 |
| Colusión | 4 | 0 |
| Tráfico de influencias | 57 | 300 |
| Nepotismo | 0 | 11 |
| Prevaricación | 284 | 682 |
| Total | 1,543 (0.15%) | 5,374 (0.53%) |

Table 7. Frequency of occurrence of the selected Spanish terms

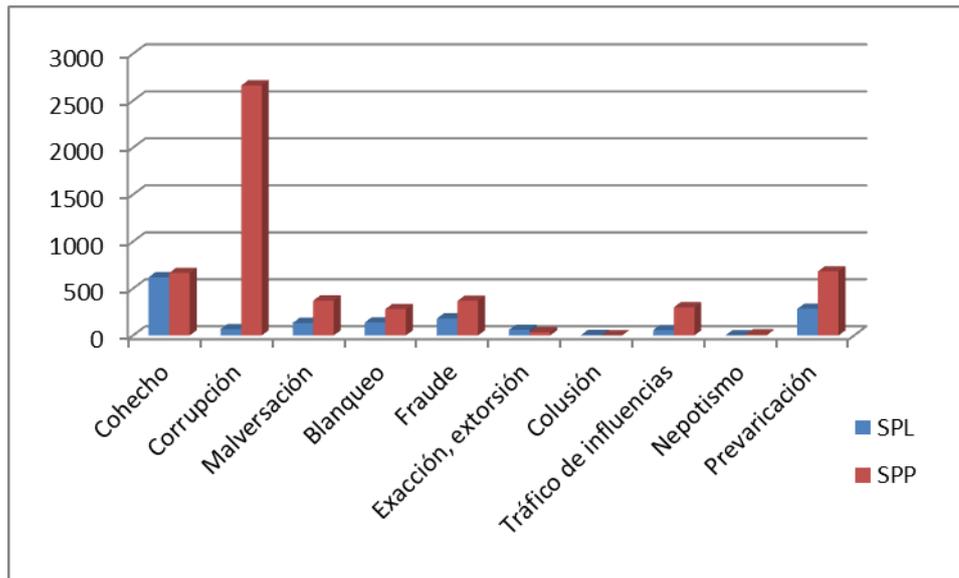


Figure 2. Frequency of occurrence of the selected Spanish terms

As regards our first hypothesis, even if there is no statistical evidence to reject the null hypothesis (p value = .333; Z = -.968), frequencies of occurrence clearly show the greater use of the selected terms in Spanish law as compared to its English counterpart (see Tables 7 and 8). Overall, there are 867 occurrences of the search terms in EL, whereas in Spanish such occurrences take place 1,543 times. Thus, the hypothesis concerning the strong presence of terms describing corrupted conduct in SL is confirmed by sheer weight of numbers. The particularities of the unequal distribution of terms across corpora are thoroughly discussed below.

Regarding our second hypothesis, the frequencies in absolute terms reveal that there is a stronger preference of the English press for the deployment of corrupt conducts and crimes, especially as compared to the abovementioned use of terms in the law. As commented on above, our previous study showed that the Spanish press gives these terms enough visibility in accordance with the technical typification of corrupted behaviour (Orts and Almela, 2011), and precisely on these grounds we had initially suggested our second hypothesis. Nonetheless, EP corpus shows the most momentous results in this respect. In significance terms, there is statistical evidence to reject the null hypothesis in both languages, but an intra-language analysis in English (p value = .011; Z = -2,547) reveals a more uneven distribution than in Spanish (p value = .017; Z = -2,395).

In addition to this general assessment, an individual examination is provided below in order to shed light on the particularities of each term.

Breach of duty/Prevaricación

According to the Oxford Law dictionary, “breach of duty” is ‘an unjustifiable refusal or failure to implement a duty incumbent by agreement or by law, but particularly the latter’. In the English system it is not a crime, but a failure to implement one’s legal duty, which explains its relative scarcity in EL (24 counts), in contrast to *prevaricación*, which occurs 284 times in SPL since it is a classical corruption crime, specifically in the realm of offences

against the public administration; indeed, it collocates 223 times with the term *delito/s* in this corpus. Our EP corpus does not include it at all, whereas its status in the Spanish public opinion is clear, with 680 occurrences which make it rank second after corruption. This term's frequencies confirm our first hypothesis but outdo the second. Of interest, there are some other crimes co-occurring in the lexical constellation of the Spanish version of this term, namely *cohecho* (23 in SPL and 195 in SPP) and *malversación* (7 in SPL and 155 in SPP).

Bribery/Cohecho

Transparency International defines “bribery” as the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages (taxes, services, donations, etc.) The Spanish term is much more specific than its English equivalent. In other words, “bribery” is a fairly general term, applied in English to any kind of inducement, while in Spanish the choice of words would be dual, “bribery” being translated as either *soborno* –much more general and implying a gift (money, good, privilege, etc.) bestowed to influence the conduct of someone in a position of power– or *cohecho*, where the person invested with power specifically refers to public officials and Government personnel. “Bribery” is a criminal offence under the UNCAC.

The term “bribery” occurs 103 times in EL (as “offence/wrong of bribery”) and roughly ten times more often in EP (1,391 counts, mostly nominal groups like “bribery affair”, “bribery allegation” or “foreign bribery”), the latter exceeding by far the overall results of the other corpora. In contrast, and notwithstanding considerations on corpus density, the term *cohecho* appears 619 in SPL (mostly as a *delito de cohecho*) and 665 in SPP (as *imputado/acusado/sospechoso de cohecho*), which indicates the popularity of the term in both areas, and supports our presumptions that the press in Spain deploys the term as much as the law does. Several conclusions may also be drawn from these data, namely that –as we predicted– the frequency in the usage of this particular term is lower in English judicial decisions than in Spanish ones, even if “bribery” is much more popular in the English press than in any other corpus.

Collusion/Colusión

TI describes “collusion” as a secret agreement between parties, in the public and/or private sector, to conspire to commit actions aimed to deceive or commit fraud with the objective of illicit financial gain. In Spain, *colusión* is not a crime, but a conduct contrary to the Law Merchant (Act 15/2007, July 3rd, on the Defense of Competition). This factor explains its relative scarcity in SPL (4 counts, referred to mercantile transactions) and its total absence in SPP, as an indication of its rare association with the area of corruption. Its presence in the English corpora, again, is low in EL (7 counts, all referred to white collar crime), but higher in the EP corpus than in any other, with 197 occurrences, which points at its relative popularity in the English media. Curiously enough, corpus evidence confirms that this term does not co-occur with any other crime.

The results thwart our first hypothesis that the use of terms to describe corrupted conduct in the law is lower in the English sample than in the Spanish one, as well as our second hypothesis that the English press would be as scarce in its expression of corruption crimes as the law is. In fact, it is the opposite: the English corpus exceeding all the others, and the Spanish one, as we remarked above, showing no results. This is also the case –to a much greater extent– with the term “conspiracy” and its equivalent in Spanish, *conspiración*. Albeit more general in meaning, this term is intimately related to the concept of “collusion” in some

of its senses, as revealed by a concordance search across corpora. Under section 5(1) and (2) of the 1977 Act, “conspiracy” is an agreement between two or more persons to commit a crime at some time in the future (Herring, 2008), the crime being not necessarily related to corruption. In English law, it falls under the category of inchoate offences, which roughly correspond to *actos preparatorios punibles* stated under sections 17 and 18 of the SPC. In the 74 occurrences of the term observed in EL, the nominal groups “corrupt conspiracy” and “conspiracy to corrupt”, and –most significantly– “conspiracy to defraud” have been found. Of interest, in EP this term co-occurs 6 times with “fraud”, 10 times with the crime “money laundering”, and 16 with “bribery”. On the contrary, the equivalent term *conspiración* is wholly absent from SPL, and does only occur twice in SPP.

Corruption/Corrupción

There is no single definition of *corrupción* in the Spanish legal system. Rather, a number of corruption offences are envisaged *stricto sensu* in the Spanish Penal Code of 1995 under various headings. As far as the TI glossary is concerned, the term refers to the abuse of entrusted power for private gain and can be classified as grand, petty or political, depending on the amounts of money at stake, and the sector where it occurs.

Indeed, it is true that the word has a markedly general character, labeling the entire lexical field under study. However, it is consequential because of its presence in each and every of our corpora, since it frames most of the criminal conducts in the area.

“Corruption” is, by far, the most common word in our press corpora, with 2,661 in SPP and 2,649 in EP. Interestingly enough, the high indices of occurrence registered in the press enable the formation of clearly identifiable clusters in the corpus involving other crimes, namely “bribery and corruption” (41 occurrences), “fraud and corruption” (19 occurrences), and “corruption and money laundering” (10 occurrences). A key finding from SPP portrays most adequately reality in Spain: the overwhelming co-occurrence of this term with the adjective *urbanística* (144 times). As could be expected, this combination does not find a parallel in EP.

This term is also rather frequent in English judicial decisions, featuring 318 occurrences in EL. The term is least usual in the Spanish jurisprudence, with only 67 counts. Again, our first and second hypotheses were thwarted by real data.

Embezzlement/Malversación

According to TI, “embezzlement” occurs when a person holding office in an institution, organization or company dishonestly and illegally appropriates uses or traffics the funds and goods they have been entrusted with for personal enrichment or other activities. The Spanish equivalent is *malversación*, which has *desfalco* and not *peculio* (as it is suggested by the TI Glossary), as its synonym. Embezzlement is a crime according to the Spanish Penal Code, –which explains its frequency in SPL, with 133 occurrences– but was abolished as a crime in England as far as 1968 and now comes under the category of theft, differing from this one in that it is not an unlawful possession, but a lawful one, which is later subject to misappropriation. Even if the UNCAC recognizes it as a criminal offence, this void in the English law would also explain the reason why it is used in a lesser way in EL (7 counts). The term is very popular in the news, according to the results for EP (304 counts) and SPP (371 counts). These results confirm the first of our hypotheses and trump the second.

Extortion/ Exacción ilegal

“Extortion” is defined by TI as ‘the act of utilizing, either directly or indirectly, one’s access to a position of power or knowledge to demand unmerited cooperation or compensation as a result of coercive threats.’ There is an equivalent given by TI in Spanish, *extorsión* has *exacción ilegal* as an adept equivalent. In fact, even if there is a crime named *extorsión* in Spanish, this is typified as a crime under section 243 of the Spanish Penal Code, and bears no necessary connection to corruption, in contrast with *exacción ilegal* (illegal levying), which is a crime against the public administration and a standardized corrupt conduct. Nevertheless, the usage of *extorsión* in SPL links the term with all the other crimes against the public administration (*cohecho*, *prevaricación* and *tráfico de influencias*), with which *extorsión* normally collocates. On the other hand, the Oxford Law Dictionary describes “extortion” as a criminal offence which appears to be seldom connected to the realm of corruption, making 4 appearances in EL, in contrast to the 60 occurrences registered in SPL, which would confirm our first hypothesis. Our second hypothesis is trumped again with the results for the press corpora, where 509 occurrences were obtained in EP, in contrast with only 34 appearances of the term in SPP. Again, the news in Spanish normally links the term with *cohecho*, *fraude* and *prevaricación*, as proverbial corrupt conducts. In contrast, the English press connects extortion with a wider array of crimes such as “bribery”, but also “conspiracy”, “racketeering” and “tax evasion”, among others.

Fraud/Fraude

“Fraud” is a widely used word, commonly deployed to describe many forms of trickery and unethical behaviour, used to give a wide berth to judicial construction to punish certain dishonest conducts. Under Common Law, fraud may be a crime or a civil wrong, and three elements are required to prove it: a material false statement made with intent to deceive, a victim’s reliance on the statement, and damages.^{vi} The translation into Spanish, as given by Transparency International, is *fraude*. Such translation is inexact, since “fraud” may be civil or criminal in English, while it is only criminal in Spanish. As it happens with “corruption”, there is no single definition of *corrupción* in the Spanish legal system for *fraude*, which is also called *defraudación* or *estafa*^{vii}. *Fraude*, when applied to public officials, is described in article 436 of the SPC, and involves one person (or group of persons) deceiving another person in order to gain some financial or other advantage.

In our corpus fraud appears as a prominent word, especially in the press with 1,835 counts in EP, 369 in SPP, but also in judicial decisions, with 338 in EL and 181 in SPL. Again, our expectations of finding fewer results in the English corpora have been thwarted by real data, since both English corpora show more co-occurrences of the word, combined either in pairs (“fraud and corruption”, “fraud and bribery”, “fraud and perjury”, etc) in EL or modified by qualifiers in EP (“credit card fraud”, “stockbroking fraud”, “dole fraud”, etc). The Spanish corpora are also abundant in this term, coupling it with other crimes in the press (*cohecho*, *prevaricación* y *fraude*) or modifying it as *delito de fraude*.

^{vi} Law Lessons from D’Agostino v. Maldonado, Chan. Div., BER-C-84-09, Koblitz, P.J. Ch., June 30, 2010

^{vii} <http://despachoabogados.fullblog.com.ar/indice-codigo-penal-espanol-2011-actualizado.html>



Money laundering/Blanqueo de capitales

“Money laundering” is defined as ‘concealing the source of illegally gotten money’ and as ‘the process of concealing the origin, ownership or destination of illegally or dishonestly obtained money by hiding it within legitimate economic activities’ by TI. It is translated as *lavado de capitales* by the TI glossary, but its usual translation in European Spanish is *blanqueo*, not *lavado*. The SPC categorizes *blanqueo de capitales* as a crime against property and the socioeconomic order, the UNCAC recognizes it as a criminal offence and the English law typifies it under Proceeds of Crime Act 2002.

“Money laundering” appears most frequently in EP, with 322 counts, close to the 281 results in SPP. In the legal area, however, it is the Spanish jurisprudence which mentions it the most as the SPL 138 results show, compared to the 59 in EL. Our first hypothesis is, then, confirmed, while the second is, once more, outplayed with the frequency with which the term is used in the English press.

Nepotism/Nepotismo

TI defines “nepotism” as a form of favouritism based on acquaintances and familiar relationships whereby someone in an official position exploits his or her power and authority to provide a job or favour to a family member or friend, even though he or she may not be qualified or deserving. The fact that “nepotism”, or *nepotismo*, *per se* has not been categorized as a crime is shown in the fact that it appears nowhere in SPL, very scarcely in EL (3 occurrences), and again relatively abundantly in EP (161 occurrences). This fact, and the co-occurrences that it has in the corpus, point at “nepotism” being a corrupt conduct that is not typified by the Spanish law and that is regarded in the English legal corpus as a conduct or attitude, on a par with favouritism. Its absence in SPL, its scarcity in SPP (6 counts) and its popularity in the English press thwart our first and second hypotheses.

Trading in influence/Tráfico de influencias

Trading in influence has no official TI definition, but it has been spotted by this organization as being one of the potential corruption areas in the UK. It refers to a person selling their influence over the decision-making process to benefit a third party (person or institution) and, according to article 18 of UNCAC, it constitutes a criminal offence when committed intentionally, the difference with “bribery” being that this is a tri-lateral relation. In Spain it is a crime against the public administration and directly connected to corrupt conducts.

Despite the importance that TI confers to the issue in the UK, our study showed no results in any of the English corpora as such, which prompted us to search for an equivalent term, “influence peddling”, of which we found two occurrences in EL and 14 in EP. In contrast, the Spanish one offered 57 in SPL and 300 in SPP, confirming our two hypotheses.

5 Conclusions

Corruption is a worrying problem in Europe, and the results of our probing into a representative sample of two of its languages, in the legal and in the media areas, seems to confirm this statement. Still, the law is slower to catch up with social phenomena at large, and corrupt conducts are not an exception. Indeed, it is the press which constitutes the conscience of society, in its awareness and deployment of corruption crimes and conducts. This is especially so in two general umbrella terms very common in the area, such as “corruption” and “fraud”, and their Spanish equivalents *corrupción* and *fraude*. These pairs encompass all



the other terms in the lexical field analyzed here, and are especially habitual in the press corpora, in accordance to our assertion above.

As far as our hypotheses are concerned, the first one seems to be confirmed, since the use of terms in the law to describe corrupt conduct is higher in frequency in the Spanish legal corpus than in the English one. This is especially true of the classical corruption crimes typified by the Penal Code, *cohecho*, *malversación*, *blanqueo*, *tráfico de influencias* and *prevaricación*, all of which show many more occurrences than their equivalents in the English corpus, namely “bribery”, “embezzlement”, “money laundering”, “trading in influence” and “breach of duty”. Nonetheless, some of these English versions (mainly “bribery”, “embezzlement” and “money laundering”) make a more consequential appearance in the corpus of the press, partly confirming our second hypothesis (that the press echoes the way in which the law names corrupt conducts) and partly defeating it, since we assumed that this would be the case in the Spanish corpus. In fact, it is the opposite: the English press seems much more aware than the law is of the state of affairs concerning corruption, and mainly so in the case of that behaviour which finds no typification in either the English law or the Spanish one, namely “collusion”, “extortion” and “nepotism”. These are, nonetheless, treated by the English media as standard corruption activities. Since they have not been typified, and in tune with the Spanish love for hard-and-fast, branded rules, the equivalents in the corpora for these terms in Spanish, *colusión*, *extorsión* and *nepotismo*, find no noticeable appearances in either the legal sample or the press one.

Certainly, when compared to the results for the Spanish legal discourse, English law seems to have limited coverage of criminal terminology regarding corruption. As suggested above, the reason for the relative absence of corruption names in the latter may lie on the empirical nature of Common Law, as compared to the Continental, indeed Spanish, anxiety for codification and nominalization of conduct. Contrarily, some of these terms, absent in the English case law, make an important appearance in the English media. This could be mainly due to the higher textual density of news-items, as compared to that of judicial decisions. Nevertheless, it has been surprising to see how the English press seems to raise its voice against corruption much more than the Spanish one, suggesting the idea that a very codified society is not necessarily a less corrupt one, but a less corrupt society is a well-informed one.

To our knowledge, no studies but ours have been endeavoured to analyse the vocabulary of corruption in English and Spanish. All things considered, we hope that this research, far from having the last word on these issues, will serve as the inception of –much needed– future studies on the intricacies of corruption crimes and their related terminology.

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