Post-conflict Corruption: A Rule of Law Agenda?

(Madalene O’Donnell)

The rule of law bakes no bread, it is unable to distribute loaves or fishes (it has none), and it cannot protect itself against external assault, but it remains the most civilized and least burdensome conception of a state yet to be devised.

-- Michael Oakeshott

People could make it against flood and pestilence, but not against the laws; they went under.

-- Jorge Amado

Overview

Former World Bank President James Wolfensohn has repeatedly called corruption “the single greatest obstacle” to long-term development. More recently, corruption has emerged as a first-order concern in many post-conflict transitions as well. Whether corruption is indeed a priority will always be a case-by-case determination. But, in several cases, the determination has been that worrying about corruption “later” is a luxury that countries emerging from conflict cannot afford.

Corruption is a broad term that covers a range of behaviors, including “petty” or “administrative” corruption such as bribery or asset-stripping as well as “grand” corruption such as illicit influence over legislation or policy. When it becomes endemic, corruption can derail political and economic transitions, undermine state capacity and legitimacy, exacerbate poverty and inflame grievances linked to conflict. Because the proximate causes and patterns of corruption can vary widely across and within countries, explicit efforts to analyze and “unpack” corruption are critical and innovative methods exist to do so.

Tactics to address corruption have focused, at various points, on law enforcement and investigation techniques to prosecute corruption, administrative reforms to help “prevent” corruption, and external advocacy and watchdog activities to spur reform and raise awareness. More recent efforts have focused not only on lower-level administrative corruption but also on less visible forms of grand corruption, involving political and

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economic elites and transnational actors. These various approaches constitute a menu of options to address corruption that must be tailored to differing needs and opportunities on the ground. There is no “silver bullet” to address corruption, the popularity of freestanding anti-corruption commissions notwithstanding. Efforts to address corruption must be coordinated with efforts to address other closely related problems, such as weak rule of law, physical and economic insecurity and weak political accountability.

Corruption is not just a long-term “drag” or “tax” on development, but has real and immediate political salience often poorly understood by outsiders. For this reason, it has quickly become a first-order priority in some post-conflict transitions despite the fact that national capacities are often stretched thin by urgent demands on the ground and the avalanche of international aid and conditionality. Interesting and varied approaches are emerging in Afghanistan, Liberia, the Democratic Republic of Congo and elsewhere to respond to growing problems of corruption, as discussed below.

This chapter will summarize the literature on corruption, emphasizing the close links between corruption, the rule of law, statebuilding and peacebuilding. It will then review the evolution of international anti-corruption policy and practice. Finally, it will examine the applicability of general practice to post-conflict settings.

**Corruption, Rule of Law and Statebuilding**

Within the international community, there is a renewed acknowledgement of the importance of building or rebuilding states – not only to improve the well-being of citizens living under them, but also to reduce the negative spillover effects of state failure for global stability and security. States that can govern well, it is now argued, are the key to long-term development, to combating terrorism, and to preventing conflict and the resurgence of conflict in post-conflict transitions. Renewed emphasis on efforts to strengthen the rule of law is in large part propelled by this new consensus on the importance of statebuilding and governance.

But the degree of corruption within the state can fundamentally alter whether laws lift people up or, as Amado describes, pull them under. Although Montesquieu argued that “law should be like death, which spares no one,” corruption is the system by which those who pay are spared, enriching public officials in the bargain. Therefore, efforts to control corruption are critical to ensuring access to justice and equal treatment before the law. Efforts to strengthen the rule of law, by challenging an environment of impunity, are also critical to controlling corruption.

While there is a new consensus on the importance of statebuilding, there is no consensus yet on how to incorporate corruption into it. This is in part because many international actors have framed the problem as one of state fragility (i.e., lack of power) rather than state predation (i.e., abuse of power). To outsiders, many states do appear weak, fragile, overstretched, and under-resourced. To citizens living under them, however, they appear often far more powerful than any other actor in society. The UK’s Department for International Development (DfID) tries to encompass both dimensions in its study of
“difficult environments” in which the state is either unwilling or unable to perform. While these two realities often co-exist, they are distinct problems that have distinct policy implications.

In countries at critical junctures, such as post-conflict transitions, perceptions of corruption can help to shape whether, in the eyes of much of society, the state is the solution or the problem. Corruption undermines both state effectiveness (the ability to govern) and state legitimacy (the recognition of the right to govern). While effectiveness may matter over time, legitimacy is essential for sustaining fragile states that are not yet effective. While corruption hampers development in the long run, it also has real and immediate political salience as well. As one Brazilian activist put it, “People have no idea how directly proportional the existence of corruption is to the misery of our people.” International actors and national leaders ignore it at their peril.

In the international policy arena, after decades of efforts to support development and achieve security despite corruption, a growing number of actors are trying to understand and address corruption itself. The single greatest challenge they face is intense opposition from political and economic elites who benefit tremendously from corruption. As Peter Evans points out, “[f]or predatory states ‘low level equilibrium traps’ are not something to be escaped; they are something to be cherished.” The problem of corrupt elites is analogous to references in peace implementation literature to the “spoilers problem.” If the rule of law and statebuilding are going to move to the center of post-conflict peacebuilding, as Lakhdar Brahimi and others have argued, then “governance spoilers” must be identified and strategies developed to confront them. An obvious question is whether the peace spoilers and governance spoilers are one and the same. If so, can they be brought into the peace process without being brought into the state? In practical terms, what can be done to address corruption by reformers within society or within the state, and what is the role of international actors?

The obstacles are tremendous, particularly in post-conflict environments where institutional tools may be weak and the objectives of short-term stabilization and long-

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3 Magüi Moreno Torres and Michael Anderson, “Fragile States: Defining Difficult Environments for Poverty Reduction” PRDE Working Paper 1, Poverty Reduction in Difficult Environments Team. (London: DFID, August 2004). The DFID paper argues that one source of state failure is “clientelist politics” in which “the political logic of the system diverts state authority from the stated policy goals to the pursuit of private wealth and power.”
4 Jean Cartier-Bresson, “From the State of the Question to the Question of the State” (Copenhagen: Copenhagen Consensus Opponent Notes on Poor Governance and Corruption, April 2004).
5 Luis Roberto Mesquita, Brazilian businessman awarded an Integrity Award by Transparency International in 2002 for leading efforts that led to removal of the local mayor and council members. See Deepa Naranyan with Raj Patel, Kai Schafft, Anne Rademacher, and Sarah Koch-Shulte, Voices of the Poor: Can Anyone Hear Us? (New York: Published for the World Bank, Oxford University Press, 2000). See Chapter 3 for experiences and views of the poor regarding state institutions and corruption in some 50 developing countries.
term governance may be at odds. However, the objective should not be viewed in terms of eliminating corruption but, rather, in terms of ensuring that the state is seen to be making a **credible effort** to address it. Research and practice in the anti-corruption field have evolved significantly over the past 10-15 years, but relatively little of this learning has filtered into adjacent but specialized fields of the rule of law and post-conflict reconstruction. The next sections will summarize the anti-corruption literature, identify key trends in international practice, and highlight new approaches in post-conflict reconstruction settings.

**Corruption: Defining the Problem.**

Corruption, in contrast to the rule of law, distributes “loaves and fishes” valued at around $1 trillion per year or approximately 3% of world income today. It exists in all countries at all times, although this chapter will focus on how corruption affects developing countries, including international and national factors that drive it. It exists across all sectors – public, private, civil society -- but public sector corruption remains the more serious problem given the state’s role in regulating the private sector and civil society.

The most common definition of corruption is *the abuse of public office for private gain*. It covers a range of actions including bribery, extortion, asset-stripping, and illicit influence. This definition suggests that gains may accrue to individuals or to groups, and that what is considered “abuse” may vary according to situations and settings regardless of whether it is legal or illegal. Several issues which are closely linked to corruption but distinct from it are clientelism and patrimonialism, rent-seeking, and organized crime.

“Corruption” is a loaded term. For governments and outsiders, it implies a degree of judgment or even crusading zeal they find inflammatory or unhelpful. But anti-corruption advocates are “loathe to separate the element of moral disapproval from the word itself.”

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9 This simpler version is increasingly used in place of Joseph Nye’s 1967 definition of corruption as “behaviour which deviates from the formal duties of a public role because of private regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence.” See Joseph Nye, "Corruption and Political Development: A Cost-Benefit Analysis," *American Political Science Review* 61 (June 1967).


11 For a discussion of the distinction between rent-seeking and corruption see Paolo Mauro, “Why Worry About Corruption?” *IMF Economic Issues* no. 6 (February 1997).

poor governance, may make people more comfortable but cast a technical glaze over issues that, within their respective societies, do have a normative dimension.

An important drawback of the term corruption is that it encompasses many behaviors with distinct causes and solutions. It is essential to unpack corruption and, in particular, to distinguish between administrative corruption (i.e., corruption among low- and mid-level bureaucrats) and grand corruption (i.e., corruption among political and economic elites). Administrative corruption may be addressed through institutional reforms designed to improve accountability and transparency, in conjunction with state and societal actors. Grand corruption, however, requires a focus on the incentives of political elites and key economic interests seeking to influence them or “capture” the state.13

Under very broad definitions, corruption and the rule of law may be considered two sides of the same coin; the rule of law is a set of formal rules partially regulating behavior while corruption is a set of informal rules and practices partially regulating behavior. The rule of law is founded on impersonal trust in laws and institutions; corruption has been associated with higher levels of “particularized trust” between individuals. For that reason, rotating public officials among offices can reduce some forms of corruption.14 The rule of law is typically the goal; corruption is sometimes the prevailing practice.

In broad terms, therefore, corruption and the rule of law are closely linked and there is good reason to believe that efforts to reduce corruption and strengthen the rule of law are mutually reinforcing. Corruption and rule of law measures are highly correlated15 and are often described as two dimensions within a broader concept of governance.16 Both are dependent upon reformers at the highest level and shaped by broader societal and market dynamics.

Approaches to addressing corruption and building the rule of law, however, do not overlap so neatly. Anti-corruption efforts typically focus on corruption across all agencies and branches of government while rule of law programs usually focus on a more narrow set of public actors in the justice and security sectors,17 though both deal with a

14 “Generalized trust” is associated with lower levels of corruption and “particularized trust” between individuals with higher levels of corruption. See Vartuhi Tonoyan, “The Bright and Dark Sides of Trust: Corruption and Entrepreneurship.” In H. Hoehmann, ed. Trust and Entrepreneurship: A West-East Perspective (Cheltenham: Edward Elgar, 2003).
17 For example, a recent report of the UN Secretary-General defines rule of law to include broader “supremacy of law” and “fairness in the application of law” by all public authorities but its recommendations focus primarily on a subset of institutions and processes. Corruption is not mentioned in
number of societal actors outside the state. Looking at various areas of law, rule of law specialists typically focus on constitutional and criminal law in post-conflict countries (and civil and commercial law in developing countries), while anti-corruption specialists might be more likely to focus on administrative law (or public law). Administrative law governs all agencies typically operating under the executive and charged with “the day–to–day minutiae of governing”.

Regulating the transparency and accountability of these agencies is critical not only for corruption, but also for building a rule of law culture in the Executive, the “public face” of the state most visible to citizens.

**Economic, Political and Social Consequences of Corruption**

Corruption may have paradoxical effects. For example, one study on Morocco found that corruption in land reform was functional for the survival of the regime and dysfunctional for the economy. But over time, the onus of scholarship has shifted decisively away from arguments in the 1950-60s about the utility of corruption, to mounting evidence in the 1980-90s of the costs of corruption. Contributing factors included the spread of democratic regimes (in which the costs of corruption were quite significant) as well as new tools to measure corruption and quantify some of its impact.

As Cartier-Bresson recently argued,

> Theoretical and empirical analyses of the causes and consequences of, as well as the means of fighting against, corruption have reached a certain level of maturity. The functionalist currents, which viewed corruption as a system that lubricates the cogs of the bureaucratic machine, have disappeared. Economists have reached a consensus on the very negative effects of the phenomenon…Unfortunately, this maturity has still not paved the way for a meaningful advance in the improvement of

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23 The most important include the World Bank *Control of Corruption* measure and the Transparency International *Corruption Perceptions Index*. Both are aggregate indices drawn from similar sources and are highly correlated. They indirectly measure corruption through perceptions and have significant margins of error. The TI index covers more years while the World Bank index covers more countries.
governance, for the political barriers erected by the losers of such reforms are formidable.  

Corruption slows economic growth primarily by reducing investment but also by reducing the quantity and effectiveness of international aid and the quality of infrastructure, and is associated with weak rule of law, insecure property rights and declining government effectiveness, which are also detrimental to investment and growth.

The political consequences of corruption are more difficult to quantify. It is generally accepted that growing perceptions of corruption diminish trust in public institutions. Only recently, however, have scholars identified perceptions of corruption as one of the key determinants of legitimacy and regime support in multi-country analyses. State corruption has buttressed support for military governments in Pakistan, Uganda, Nigeria and elsewhere, undermining demilitarization. In many cases, citizens are willing to tolerate some loss of freedoms in exchange for less corruption. In Afghanistan, this was a large part of the Taliban’s initial appeal. Democracy appears, therefore, to undermine corruption and corruption appears to undermine aspects of democracy. Bratton argues that “Africa’s prospects for democracy depend critically on whether state elites can establish a reputation for probity and honesty in the eyes of ordinary people.”

Until recently, the social costs of corruption received little attention in policy discussions. Studies now show that corruption is associated with lower health and education outcomes and with lower levels of education spending. Corruption exacerbates

24Jean Cartier-Bresson, “From the State of the Question to the Question of the State.”
25Mauro, “Why Worry about Corruption?”
31Mauro, “Why Worry about Corruption?”. As one education specialist argues, the intangible impacts on attitudes and ethics should not be overlooked: “[t]he most direct, and in some ways the most inconsequential, cost of corruption is the waste of the financial resources…The more serious costs are incurred when…a generation of children come to believe that personal effort and merit do not count.” See David Chapman, “Corruption and the Education Sector,” in Bertram Spector, Fighting Corruption in Developing Countries: Strategies and Analysis.
inequalities; women, the poor, and rural areas are disproportionately affected. Studies of public expenditures at the local level indicated that better-off communities experienced less “leakage” in education funding, resulting in de facto social spending that was even more regressive than de jure allocations.

**Corruption and Conflict**

Sorting through the links between corruption and conflict is very complex, with causality flowing in both directions. The Report of the Secretary-General’s High Level Panel on Threats, Challenges and Change notes that “corruption, illicit trade and money-laundering contribute to State weakness, impede economic growth and undermine democracy. These activities thus create a permissive environment for civil conflict.”

Clearly, corruption undermines the state and its capacity to manage and prevent conflict. It exacerbates grievances and inequalities. Massive corruption at times of national emergency, described by Johnston as “crisis corruption”, can be particularly explosive.

For example, after decades of repression under the Somoza regime in Nicaragua, it was massive corruption in his handling of emergency relief for earthquake victims that finally began to seriously erode his national and international support, eventually leading to the collapse of the regime.

But the conflict field, given its emphasis on stability, is one of the few areas where some of the functionalist arguments for corruption retain a foothold. When corruption networks exacerbate existing societal or ethnic fault lines, it can be explosive. If corruption networks bridge these divisions among elites, however, it might have some mitigating effects. Shared economic interests of elites, it is argued, may lead them to temporarily set aside differences to get rich together – albeit at the expense of others.

Some argued that this was the case, for a certain time, in both Rwanda and Macedonia. LeBillon also argues that anti-corruption reforms can be destabilizing. International anti-corruption efforts and pressure to comply with international standards in public finance and good governance may, he argues, serve as an external shock, leading either to new openings for reform or new possibilities of instability and conflict.

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38 LeBillon, “Buying Peace or Fueling War.”
Conflict feeds corruption as well. Even the risk of conflict and perceptions of growing insecurity can undermine accountability and create a permissive environment for state impunity – both for human rights abuses and corruption. There is a large literature on war-time economies and their association with rising corruption. This allows the state to act as a protection racket, demanding increasingly greater bribes in return for security provision.

Finally, only recently has there been growing emphasis not only on the costs of corruption for developing countries themselves, but also for international security. The head of Interpol, four weeks after 9/11, noted that the most sophisticated security systems could be side-stepped by a simple bribe. The current US National Security Strategy identifies corruption as creating an enabling environment for terrorism, organized crime, and trafficking in persons. The international security lens tends to focus particularly on corruption in police and border agencies.

**Unintended Consequences of Anti-Corruption**

Pressure on the part of donors and the public to address corruption can have unintended effects on the rule of law and other objectives. Military officers may feel emboldened to step in and “clean up” government. The executive itself may respond with a “crack-down” on corruption involving draconian law-and-order approaches and violations of due process. International and popular pressure may prompt cabinet reshufflings which may provide a cover for eliminating rivals. Trumped up charges may be lodged against anti-corruption reformers themselves. International agencies and public opinion are usually not in a position to distinguish scapegoating from well-intentioned efforts, undercutting their ability to protest.

Exposing corruption can be economically destabilizing, as evidenced by the explosion of unregulated pyramid schemes and their subsequent collapse in Albania in 1997 and recent bank failures in the Dominican Republic linked to revelations of corruption. It can also be politically destabilizing, fed by excessive expectations on the part of both voters and international actors. In some cases, anti-corruption campaign promises can become the “third rail” of politics – limiting patronage, antagonizing key “clients” but failing to provide a political pay-off at the polls. International actors often seek strong, up-front commitments from political leaders to address corruption and pursue comprehensive reforms. Meanwhile, anti-corruption assistance programs ramp up slowly, well into the

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41 Ronald Noble, Presentation to the 10th International Anti-corruption Conference, Prague, October 8, 2001.
43 In Aceh, the Indonesian government charged the head of national anti-corruption NGO with stealing tsunami emergency aid; the arrest took place one week after publication of the NGO’s report on government corruption and manipulation of aid figures.
middle of the leader’s term in office, undermining efforts to deliver results before the next elections. Attention must be paid to how international actors can work with committed governments in a timely way to help them show results. A “throw the bums out” mentality may be just what some countries need but it often leads to a high rate of turn-over. As one voter said after the Hamas landslide in the 2005 Gaza municipal elections: "I voted for [Hamas] because we haven't tried them out before. We've tried all the others, and they only brought us corruption."44

Determinants of Corruption

There is no clear answer to the “causes” of corruption. Corruption and various dimensions of governance, such as the rule of law, voice, accountability, stability, and regulatory effectiveness, are so closely intertwined that separating cause from effect is very difficult.45 Economic factors linked to lower corruption included more developed economies, higher imports, and more variable inflation. Political factors linked to lower corruption include higher degree of female participation in public life,46 larger electoral districts,47 and non-federal systems.48 Democracy appears to influence corruption only over the long-term. Social factors associated with lower corruption include countries with Protestant traditions, histories of British rule, and higher levels of trust.49 Johnston combines many of these factors, arguing that the relative pace of political and economic opening overlaid onto an institutional and social context generates four discrete “corruption syndromes.”50 It is very likely that all of these factors play a role, resulting in patterns of corruption that vary both in degree and kind across countries.

Measuring Corruption Across and Within Countries

International surveys of firms as summarized by Kaufmann51 suggest that, at the global level, aggregate levels of corruption have not changed significantly in recent years. But this masks important regional differences, including deterioration in South Asia, Latin America, Africa, and the Former Soviet Union while other regions have shown

improvement or no measurable change. Patterns vary within regions as well. Within Africa, a survey of businesses detected improvements in Mauritius and Botswana in sharp contrast to Zimbabwe and Nigeria. Other countries perceived to have growing patterns of corruption include Venezuela, Guatemala, Paraguay, Ukraine, Romania, Indonesia, Bangladesh, and Germany.

Among post-conflict countries, levels of corruption are high (meaning “control of corruption” is low) although the variation across countries is significant. As shown in Figure 1, most countries (9 out of 15) have notably higher levels of corruption than countries with comparable income levels (although margins of error, shown graphically below, are large).

Figure 1: Perceptions of Corruption in Selected Post-Conflict Countries

While levels of corruption may be a rough but useful initial indicator of the relative importance of corruption across countries, they are of little assistance in developing specific policy responses. Corruption may be organized and driven from the top, as in Palestine, or more anarchic and chaotic, as in Liberia. Institutional tools to address corruption will therefore vary tremendously. Although Haiti and Iraq have comparable

52 "Arafat doesn't allow the building of strong institutions," says Khalil Shikaki, head of the Palestinian Center for Policy and Survey Research in Ramallah. "Instead, he has people who are loyal to him, and the institutions are irrelevant." See Khaled Abu Toameh and Larry Derfner, “A State of Corruption: Palestinians desire nationhood, but is this the kind of nation they want?” US News and World Report (July 2002).
levels of corruption, Haiti is a very weak state while Iraq, until recently, was a “fully institutionalized autocratic system” with low legitimacy but considerable strength. The approaches will have to vary considerably, reflecting historical, social, institutional, political and economic factors on the ground.

Within countries, anti-corruption assessments and surveys can be helpful in determining the importance of corruption relative to other problems (Figure 2) or aggregating perceptions of corruption across institutions (Figure 3).

**Figure 2: Citizens’ Views of the Most Serious Problems in Cambodia, 2000**

[Bar chart showing citizens' views of the most serious problems in Cambodia, 2000.]

*Source: World Bank, Cambodia Governance and Corruption Diagnostic, May 2000*

**Figure 3: Perceptions of Corruption in Public Institutions in Kosovo, 2003**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Percent of respondents who believe corruption is high or very high</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecutors</td>
<td>25.2</td>
</tr>
<tr>
<td>UNMIK Police</td>
<td>24.5</td>
</tr>
<tr>
<td>Universities/Schools</td>
<td>23.0</td>
</tr>
<tr>
<td>Municipal administration</td>
<td>22.6</td>
</tr>
<tr>
<td>KBEK (Power Corporation)</td>
<td>18.5</td>
</tr>
<tr>
<td>Businesspeople</td>
<td>18.4</td>
</tr>
<tr>
<td>Telecommunication Company (PTK)</td>
<td>15.6</td>
</tr>
<tr>
<td>Customs</td>
<td>15.5</td>
</tr>
<tr>
<td>Hospitals</td>
<td>15.5</td>
</tr>
<tr>
<td>Lawyers</td>
<td>15.5</td>
</tr>
<tr>
<td>Political party leaders</td>
<td>15.5</td>
</tr>
<tr>
<td>Tax offices</td>
<td>15.5</td>
</tr>
<tr>
<td>UNMIK Administration</td>
<td>15.5</td>
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<tr>
<td>Municipal government</td>
<td>15.5</td>
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<tr>
<td>Judiciary</td>
<td>15.5</td>
</tr>
</tbody>
</table>


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53 Jack A. Goldstone et al., *State Failure Task Force Report*. 
International Strategies and Approaches: Three Phases

As mentioned, the anti-corruption field is new but rapidly evolving. Serious efforts to address corruption through international diplomacy and technical assistance began only in the 1980s. Since that time, international knowledge and practice can be characterized as passing through three broad stages: law enforcement, prevention, and a more recent focus on elite and international corruption. These three approaches are not mutually exclusive and all have been employed at different times. But it is fair to say that an initial emphasis on law enforcement has gradually been supplemented by an emphasis on administrative reforms to prevent corruption. Even more recent is the emphasis on grand corruption and prescriptions to address it.

1. Law Enforcement

Many of the pioneers of international anti-corruption efforts were law enforcement officials and, beginning in 1983, they began to organize international conferences to raise awareness and exchange experiences across countries.  

At the regional level, work began on a series of international and regional conventions that continued through to the present. The emphasis on criminalization of corruption in earlier conventions gradually gave way to emphasis on prevention in latter ones:

- The European Union adopted multiple legal instruments from 1995 to the present, aiming to protect the European Community’s financial interests by criminalizing fraudulent conduct.  
- The Inter-American Convention against Corruption of the Organization for American States, which entered into force in 1997, was the first regional convention.  

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54 The idea for the first international anti-corruption conference came from a number of anti-corruption law enforcement agencies, including Hong Kong’s Independent Commission Against Corruption, the Inspector General for the District of Columbia (Washington D.C.) and the New York City Department of Investigation.  
• The United Nations Convention against Transnational Organized Crime included measures to criminalize corruption and was adopted in 2000 and entered into force in 2003.\(^59\)
• The African Union approved a regional anti-corruption convention in 2003.\(^60\)
• Most recently, in 2003, the UN Convention against Corruption\(^61\) was adopted and will enter force on 14 December 2005.\(^62\)

Within developing countries, many governments faced growing domestic pressure to address corruption. Expanding press freedoms and civil society activism exposed an increasing number of corruption scandals. Some governments turned to international agencies for assistance in prosecutions and investigation. International actors worked to improve legal frameworks, including through the development of “model” anti-corruption laws, conflict of interest provisions, asset declaration requirements for public officials, clauses criminalizing various forms of corruption, etc.\(^63\) The UN’s Global Programme against Corruption,\(^64\) as well as justice and finance ministry officials from donor countries, trained police and prosecutors in the new laws and investigation techniques.

As it became clear, however, that many of the investigating police, prosecutors and judges were themselves corrupt, efforts were made to establish specialized anti-corruption units. Anti-corruption commissions became de rigueur among donors and governments alike. Many were inspired by the highly successful Hong Kong commission established in 1974 but few ever replicated its success.\(^65\) Conventional wisdom held that it was essential to “fry a few big fish” but governments were often careful not to vest commissions with sufficient resources or authority to do so. More worrisome, local and international pressure for prosecutions in these weak rule of law

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\(^63\) Internationally tried to strike a balance between facilitating prosecution and adhering to standards of due process. One measure they frowned upon was illicit enrichment provisions developed in Mexico and elsewhere that shifted the burden of proof onto asset holders to prove that they were acquired legally. Lack of center registries in developing countries makes it very difficult for states to meet this burden of proof.
\(^64\) The United Nations Centre for International Crime Prevention, Office for Drug Control and Crime Prevention (CICP/ODCCP) and the United Nations Interregional Crime and Justice Research Institute (UNICRI) collaborate in the Global Programme against Corruption.
\(^65\) The Hong Kong Commission benefited from incorporation of police officers from the UK, dedicated and very well paid staff, a strong legal framework, and a mandate that included not only investigation of cases but also efforts to prevent corruption through public education and recommendations for administrative reforms. For a discussion of experiences with anti-corruption commissions, see “Independent Anti-Corruption Agencies” in Jeremy Pope, Confronting Corruption: The Elements of a National Integrity System. Transparency International Source Book. Berlin: Transparency International, 2000.
environments had led in some cases to scapegoating and politically-targeted investigations.

A World Bank report on Pakistan expresses some of the typical frustrations associated with an emphasis on law enforcement and anti-corruption agencies:

Corruption is a pervasive, deep-seated problem in Pakistan, affecting the civil service as well as most other institutions. There are twelve laws to deal with corruption, apart from the disabling provisions in the Constitution. The number of agencies to deal with corruption cases has expanded in recent years as politicians have made public commitments to stem it and bring corrupt employees to justice. Yet the record is bleak. Very few corrupt officials are convicted. With little or no power to investigate and prosecute, new institutions such as the Ehtesab (accountability) Commission established to fight corruption have in effect added other non-functioning layers to the bureaucracy... Anti-corruption commissions, by themselves can accomplish little in the absence of other fundamental accompanying actions (e.g. regulatory procedures, strengthening judicial institutions) and broader efforts to improve civil servants' accountability to the public.  

2. Administrative Reforms to Prevent Corruption

Comprehensive efforts to prevent rather than prosecute corruption gained momentum for several reasons. In 1996, then World Bank President James Wolfensohn argued that corruption was not a political issue but a development one, and many donors and foundations, including the World Bank, UNDP, USAID, DfID, Open Society Institute (OSI) and others became increasingly active in this area. The emphasis on institutional reform, rather than police investigations, played to their strengths, and many hoped that a preventive approach would be not only more effective but also less divisive and threatening to high-level government officials.

Prevention, in essence, consisted of working with civil society, media and the private sector to mobilize demand for reform and working with governments to increase its supply. Getting the public to care about corruption was often fairly straightforward. But channeling this displeasure toward constructive change and holding governments accountable is like trying to grab a slippery bar of soap.

At the national and local level, public education efforts did appear to have some impact on attitudes, generating more public pressure and reducing tolerance for corruption

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67 At the 1996 World Bank/IMF Annual Meeting, Wolfensohn said, "Let's not mince words - we need to deal with the cancer of corruption."
68 The US, UK, Dutch, and Norwegian aid agencies were particularly active. The Utstein Group, including UK, Netherlands, Norway and Germany, collaborates on anti-corruption issues and maintains an extensive on-line resource: U4 Anti-Corruption Resource Centre, available at www.u4.no.
through radio segments and publicity campaigns. Training programs in investigative journalism may have helped to expand coverage of corruption issues. Despite assassinations, disappearances and imprisonment, journalists around the world continue to report on government corruption.

Civil society groups began to shift from general education to watchdog activities targeting specific forms of corruption. For example, several chapters of Transparency International (TI), a major NGO dedicated to fighting corruption, focused on procurement-related corruption. TI introduced the concept of “integrity pacts” – a process whereby bidders and government officials pledge neither to offer nor accept kickbacks while the national TI chapter in that country monitors the bidding process closely. TI’s Argentina chapter monitored the award of a tender for garbage collection for the city of Morón, resulting in an award costing the city $13 million less than the previous contract. Monitoring in Nepal led to a new practice of posting information at construction sites listing the cost of the project, its financing and where to report irregularities on site.

Many research institutes in developing countries began focusing on transparency in the budget process, providing independent analysis of national budgets and helping, such as in the case of Fundar in Mexico, to identify and expose presidential “slush funds.” The Public Affairs Centre in Bangalore, India pioneered the use of citizen report cards which track satisfaction with municipal services and problems of bribes for services. The last report card issued in 2003 showed a perceptible decline in corruption levels since 1999 and improvements in services across all agencies.

In general, progress on the “demand side” has been striking. At the global level, TI, which began as a small Berlin-based NGO in 1993, has affiliated chapters in almost 100 countries today, defining its mission as “prevention and reforming systems.” In 1995, Moises Naim called attention to the “corruption eruption” asking: “From India to Italy, from Japan to Brazil -- why have societies which have traditionally tolerated corruption at the highest levels in government and the private sector suddenly lost their patience, their citizens willing to take to the streets to topple high officials accused of wrongdoing?” Corruption became a galvanizing issue for broad-based democracy movements in Mexico, Georgia and Ukraine; it sparked efforts to uphold constitutional term limits for Daniel Arap Moi in Kenya and Frederick Chiluba in Zambia. David

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69 Although some efforts might have been more effective if linked to specific actions and reforms (USAID 2003) and some efforts to support broad NGO coalitions were seen as donor-driven. See Martin Tisné and Daniel Smilov, “From the Ground Up. Assessing the Record of Anticorruption Assistance in Southeastern Europe,” CPS Policy Studies Series, July 2004.

70 Reporting on government corruption is one of the most frequent reasons cited for the murder or imprisonment of journalists. See the Committee to Protect Journalists, Attacks on the Press in 2004. Available at http://www.cpj.org/


72 International Budget Project, A Taste of Success, October 2000.


Ignatius observed in early 2001 that “The most interesting political movement in the world today doesn't have a name, and it doesn't even have a clear ideology. It is the global rebellion against corruption.”

Despite the growing demand to address corruption, working with states to increase the “supply” of such reforms has been more difficult. One initial high-profile approach was to appoint a commission to develop a national anti-corruption strategy or action plan, an approach supported by the World Bank, USAID and other donors in Eastern Europe, Central Asia, and Latin America. These “omnibus” programs were often announced with great fanfare at national public workshops following months of preparation. Most strategies were comprehensive to a fault, containing over a hundred measures to reform the civil service, public financial management, tax and customs, public procurement, audit, court administration, business regulation, whistleblower protection, hotlines, etc. Where governments were committed to advancing some reforms, as in the Slovak Republic and Latvia, these processes were useful. But they were also supported in environments of little or no political will and, after an initial spurt of press, these efforts quickly stalled. Anti-corruption strategies are very important but need to be done well. In order to be useful, they must be adequately resourced, locally-owned rather than donor-driven, and must identify clear priorities for both near-term gains (to establish credibility) and long-term strategic objectives (to ensure durable impact).

In addition to omnibus programs, international donors worked with governments to advance “good governance reforms.” These were public management reforms that combined (or replaced) the traditional objectives of downsizing and capacity-building with a focus on accountability. Which administrative reforms matter most to preventing corruption? The short answer is that “it depends”—on where corruption is most pervasive, where leadership exists to address it, whether priority should be given to types of corruption that more directly impact security, economic or political objectives at hand, etc. These will always be context-specific decisions. Often, in monetary terms, the biggest fraud lies in the area of public procurement. For the investment climate, corruption in the courts and legal system, undermining contract enforcement and property rights, is of particular concern. From the perspective of political legitimacy, the reputation and trustworthiness of the head of state matters as well as corruption in the agency most visible to the public—the police (especially traffic police). Corruption in border agencies (border police, customs, immigration) is often of concern to international security and trade specialists but it also undercuts public revenues. Citizens may not pay much attention to whether corruption is predictable or arbitrary, but this is tremendously important to firms. For example, Suharto’s Indonesia was a highly corrupt but fairly predictable and stable environment. As the system then began to break down, there was

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78 Less successful efforts were launched under Kuchma in Ukraine, Hun Sen in Cambodia, Shevardnadze in Georgia, Portillo in Guatemala, etc.
not necessarily more corruption but it became more chaotic, rapacious, less stable and far more damaging for investment and growth.

What should administrative reforms look like? The initial instinct is almost always to turn to public salaries and working conditions. Providing a basic dignified wage to public employees is essential but there is little evidence that, once corruption is pervasive, simply providing raises to everyone will solve the problem. World Bank studies find that creating a climate of “meritocracy” appears to have a larger effect on corruption than wage levels. Di Tella and Schargrodsky have looked at experiences in Argentina to support the “Becker-Stigler” hypothesis that adequate wages combined with regular auditing and monitoring is far more effective than either one on its own (citing Perón’s observation that “People are good. But if you monitor them, they are better”).

Therefore, administrative reforms ideally combine a carrot and stick approach – improving basic conditions but also monitoring performance closely. Improved financial management and treasury systems, clear and enforceable procurement rules, internal audit capacity, and external audit bodies were all important. Tax and customs administrations were usually an early target for reform since, if effective, these reforms yielded additional revenues to fund government operations.

Several approaches have been used to detect and prevent corruption. Public expenditure tracking surveys in Uganda determined that in 1995 only 88% of non-wage funds for schools were “leaking” and only 22% reached schools. Due to improved oversight by the central government, local newspapers and parents, up to 78% of these funds were reaching schools in 2001. A recent DfID-funded public employment study in Kenya identified 1,000 potential “ghost workers” that, once removed, would allow the Ministry of Health to hire more doctors and nurses. The World Bank helped the Kenyan government to establish a procurement appeals board that dismissed over $10 million in tenders over eight months. In Bosnia, automated government treasury systems at the national and subnational levels reject payment orders inconsistent with parliamentary-approved budgets and, in one jurisdiction alone, $17 million in payment orders were rejected as “unauthorized” over an eight-month period.

Many of these efforts focused on strengthening not only the executive but also the judiciary, parliament and independent audit agencies – applying many of the same techniques described above. For example, comprehensive, incentive-based reforms were incorporated into several rule of law assistance programs. Court and case management reforms were emphasized. This included introducing clearer laws and sentencing guidelines, publication of reasoned decisions and random assignment of cases, guaranteed minimal appropriations from the executive, separate courtroom entrances for judges, tamper-proof software for entering evidence in courts and prosecutors’ offices,

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and improved processes for investigating complaints against judges, including the use of judicial inspection panels. All of these measures were useful for improving the administration of justice generally and for reducing opportunities for corruption.

In general, efforts to improve judiciaries need to be far less tentative. As some have argued, reforms should be “focused on competition and incentives for disrupting current legal practices…because existing legal institutions remain artifacts of the very system that is the object of reform.”\(^{82}\) It is extremely difficult to politely dislodge an ingrained culture of corruption at the highest levels of the judiciary. Early efforts that emphasized elite training seminars for judges, better working conditions and better pay have now been combined with tentative efforts to press not only for more independence but also for greater accountability and performance. Judges (particularly chief justices) resisted reforms such as changes in appointment, promotion and dismissal procedures which they correctly saw as undercutting their authority and discretion. The executive often joined the public and media in condemning corruption in the judiciary, feeding calls to “clean house.”

In these environments, international advisors were uncertain how to press for change in the judiciary without undermining judicial independence. In Georgia and Albania, however, one-time competency tests of all sitting judges resulted in substantial turnover without politicizing the courts. Some Latin American countries have turned to judicial councils, composed of a mix of judges, justice ministry officials and civil society representatives, to improve judicial accountability within the bounds of judicial independence. One study concluded that judicial councils in Latin America had not made a clear contribution to judicial governance, often falling prey to corruption and cronynism themselves.\(^{83}\) But combining judicial councils with vigorous civil society oversight did seem to improve the appointment process for judges in Argentina. The TI chapter, \textit{Poder Ciudadano}, closely monitored the council’s work, analyzing and publishing the qualifications of all proposed nominees. This effort has been replicated in Peru and Bolivia.

Parliaments would appear to be the last refuge of scoundrels. They are a potentially important source of oversight but perceived in many country surveys as among the most corrupt institutions. More than elections are needed to hold them accountable; financial and legal accountability is also critical but rarely examined. Recorded votes and open hearings are valuable but also more attention should be focused on the sweeping immunities that parlaments grant themselves, including, in some cases, immunity for crimes committed before taking office.\(^{84}\) Transparency in operating budgets for parliaments is almost never discussed. A recent exception is the Ad Hoc Committee set


\(^{84}\) It became clear that the Russian Duma had become a magnet for organized crime figures precisely because of the immunity it offered for prior crimes. Several Honduran mayors facing corruption charges acquired immunity once their parties placed them on “safe” party slates in the next legislative elections.
up to investigate administrative and financial malpractices within the Liberian parliament which, in 2005, led to the suspension of its speaker on corruption grounds.

There is now a rich array of innovative tools to prevent corruption. But the single greatest obstacle has been the lack of political will to allow these efforts to take root. Efforts to address corruption have tremendous distributional impacts. What makes them valuable makes them extremely difficult to enact. In Kenya, for example, President Mwai Kibaki launched one of the most high-profile corruption crusades. Expectations were high and donors responded with many of the programs cited above. But in February 2005 these efforts appeared to hit a wall. The highly respected anti-corruption advisor, John Githongo, resigned due to obstruction to his work at the highest levels. The US suspended its anti-corruption assistance. The British announced a new policy of refusing visas for Kenyan officials or businessmen suspected of corruption. Administrative reforms were now being coupled with diplomatic instruments targeting elites. Efforts to prevent corruption initially focused on reshaping and reforming institutional environments that were “corrupting” individuals but, as in Kenya, attention has finally begun to shift to how powerful individuals were “corrupting” institutions.

3. Targeting Grand Corruption

Administrative corruption and grand corruption are overlapping problems, but require very different solutions. In 2000, the World Bank issued a report distinguishing between “administrative corruption” and “state capture,” rated all transition countries as high, medium and low in each category, and recommended differentiated approaches for addressing each one. This helped to open discussions on low-level vs. high-level corruption. Political and corporate governance scandals in the US and Europe also revived interest in high-level political corruption and corporate fraud in developed countries.

Efforts to curb grand corruption are still relatively recent and not yet well defined. They require a focus on the incentives driving political and economic elites, including international and transnational elites operating in the country. Initially, it was argued that political and economic liberalization would expose politicians and firms to competition, squeezing out corruption and creating incentives to improve the performance of each. However, many economies and regimes that have liberalized have not become less corrupt, for a few reasons. First, many of the reforms were hijacked by elites and became instruments of corruption, as was the case of “crony privatizations.” Second, entrenched but uncompetitive firms have more incentive than ever to purchase state influence. Third, politicians that have to face elections have more incentive than ever to collect rents to finance their campaigns and distribute resources to supporters. Grand

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85 Some long-term strategies to address state capture may include economic diversification, competition and anti-trust, political finance reforms. See World Bank, *Anti-corruption in Transition*. Short-term measures might include internationally-monitored procurements and privatizations, disclosure of contract terms, and management contracts for utilities.

corruption, rather than being squeezed out, has adapted well. Regulating economic competition is particularly difficult when the rule of law is weak and many firms are international. Some studies indicate that foreign firms are not any less likely than local firms to bribe public officials and provide by far the largest payments.  

Efforts to address grand corruption take several different forms:

Aid conditionality -- Influential research by Burnside and Dollar in the late 1990s argued that aid was less effective in environments of high corruption (as well as bad policies and weak institutions). This left policymakers struggling with the dilemma of how to design aid programs to address corruption if corruption itself undermined the effectiveness of aid. The result was a heavy emphasis on conditionality and “selectivity” that would create incentives for states to reduce corruption and improve governance. The Monterrey Consensus was a “grand bargain” in which donors promised more aid in exchange for better governance. The US Millennium Challenge Corporation will soon offer supplemental aid for “good performers,” and it is not a coincidence that the program singles out corruption as the initial performance indicator. The World Bank has beefed up governance criteria in its country allocation formulas. The primary objective is to make their own aid more effective, but the hope is that these financial “carrots” will also make good governance a more attractive and financially viable option for leaders. In post-conflict environments, however, conditionality is very problematic. Where international actors often have large forces deployed on the ground, “walking away” is not an option and could destabilize the transition.

Sanctions -- As is well known by the human rights community, smart sanctions can send an important signal to high-level officials that are not held accountable by their own courts. In 2002, the US State Department announced a new policy of denying visas to Latin American public officials involved in corruption or money laundering “just as we deny entry to war criminals or narcotics traffickers.” The first denial was to a Nicaraguan official that had been implicated but never charged in any corruption case.

Abuse of Immunities -- Limited immunities for parliamentarians, heads of state and judges and magistrates are appropriate to prevent harassment and intimidation. But many enjoy sweeping immunities. In Italy, legislation passed in 2003 granted immunity to the prime minister and other high-level officials even for those crimes committed before their terms of office began. Legislation passed in Guatemala in 2002 gave Congress unlimited time to decide whether to lift the immunities of political officials but set a two-month deadline for judges.

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Electoral Reforms and Party Finance – Political party finance “has arrived,” as evidenced by the publication of several handbooks and toolkits by international donors and NGOs in 2004. The next step is to test out new approaches on the ground, taking care to tailor approaches carefully. Other dimensions of electoral reform, such as open vs. closed list systems, also have implications for transparency and political corruption. At the local level, the ability to field independent candidates against nationally-registered parties may improve the quality of candidates and governance overall.

Tracking Stolen Assets – The 2002 UN Global Convention against Corruption was considered weaker than some earlier regional conventions with one exception: the inclusion of provisions to assist in tracking and recovery of stolen assets moved overseas. Some progress has been made in identification and reporting on bank accounts held by “politically-exposed persons” as well as officials but more emphasis on preventing initial transfers overseas is important.

Industry-specific Approaches -- Some of the most interesting initiatives, propelled by joint international human rights, environmental and anti-corruption advocacy groups, have taken an industry-by-industry approach. Industry-wide approaches help to address private sector concerns regarding a level playing field. The last few years have seen an explosion of vigorous advocacy, research and eventually diplomacy on extractive industry management and revenues and their implications for corruption, conflict, growth, poverty, and the environment. Transparency in revenues is essential in order to track downstream expenditures. Focusing just on bribes generated by various sectors (rather than total revenues diverted), Transparency International’s Bribe Payer Index identifies the arms and construction industries as generating more bribes in developing countries than oil, gas and mining yet relatively few industry-wide initiatives have emerged within the construction and arms industries.

OECD Anti-Bribery Convention – International conventions matter little if the rule of law is extremely weak. It is often presumed that they matter quite a lot in OECD countries, but effective enforcement is still not automatic by any means. If enforced, such conventions can be vital to addressing the international “supply-side” of grand corruption. One of the most remarkable examples of leadership in international anti-corruption efforts was the passage and approval of the 1977 Foreign Corrupt Practices Act (FCPA). This law prohibited bribery to “foreign officials”, including government, political party officials and candidates by US firms, and arguably placed US firms at a disadvantage in highly-corrupt environments. Even with the United States government

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92 Examples include the Kimberly Process in diamonds and the Wolfsberg Principles on money laundering.

and business community lobbying strongly, it took 20 years for the other OECD countries to follow suit. The OECD Anti-Bribery Convention took effect in 1999 and included a well-defined peer monitoring process. Unfortunately, monitoring of the convention is perennially under-funded.94

Evaluating International Anti-corruption Assistance

These three categories of approaches described above – law enforcement, prevention, and efforts to address grand corruption – all have a role to play in curbing corruption. Many good resources now exist that summarize some of the lessons that have been learned over the past 10-15 years.95 There is a tendency to favor new ideas over old ones but, in reality, the lack of systematic, long-term evaluation makes it difficult to prioritize investments to address corruption. Surveys of development practitioners conducted by OECD-DAC, DfID and the Utstein Group, USAID, OSI and the World Bank help to analyze trends, practice and emerging lessons.96

Targeted and short-term studies, several of which have been referenced above, suggest that anti-corruption commissions, omnibus programs and international conventions have not demonstrated their effectiveness and that, within institutional reform, a focus on creating a meritocracy, rather than building capacity, may have more impact on fighting corruption. Furthermore, combining decent pay with regular monitoring may be far more effective than either measure on its own. European Bank for Reconstruction and Development (EBRD) researchers analyzed three types of anti-corruption activities – omnibus anti-corruption programs, legal reforms, and adherence to international anti-corruption conventions -- in 24 transition countries implemented in 1999-2002. They found no discernible effect of omnibus programs or membership in international conventions on corruption but it did find that new or amended laws were associated with lower levels of petty or administrative corruption97 -- a reminder that administrative and grand corruption are closely related but distinct problems requiring different solutions.

94 Evaluating the impact of these measures on the behavior of OECD firms is very difficult. Prosecutions under the FCPA, long dormant, have recently been stepped up. The first cases of prosecutions under the OECD Anti-Bribery Convention are just now reaching the courts in Europe and elsewhere. Some argue that the FCPA significantly changed the behavior of US firms overseas but others claim US firms simply shifted to widespread use of “brokers” to arrange and pay bribes on their behalf. A Bribe Payers Index last issued in 2002 by Transparency International ranked US firms with a higher “propensity to bribe” than Belgium, Spain or France. US experts strongly dispute the index, claiming it did not correct for the frequency of contact with more numerous US firms.


Perhaps the most persistent weakness in international efforts to address corruption is that international actors are particularly ill-suited to identify politically feasible strategies and, as Ivan Krastev has argued, rarely even try.\(^9\) The difficulty for any government is that efforts to address grand corruption will quickly alienate powerful elites and efforts to address administrative corruption will take time. Anti-corruption commissions are popular with reluctant governments because they send an immediate signal that someone is “on the job,” but they rarely have the financial or institutional independence to escape their political masters.

**Corruption in Post-Conflict Transitions**

Measures designed to address corruption have rarely, if ever, been incorporated into peace agreements. Yet abuse and corruption by the state is often a root cause of conflict. Failure to build in controls against corruption can also undermine implementation of political, economic and security objectives, such as restoring state authority and delivering services to such key beneficiary groups as demobilized combatants, returning refugees, and war-ravaged communities.

But how applicable are broader anti-corruption approaches reviewed above to post-conflict settings? Countries emerging from conflict frequently have very high or endemic corruption, low state legitimacy,\(^9\) low state capacity,\(^10\) weak rule of law, and high levels of physical insecurity and residual violence. Economic legacies of civil wars involve concentrations of wealth flowing from illegal or unregulated trade and unofficial “taxes” collected by soldiers, rebel factions, etc.\(^11\) Where post-conflict countries vary considerably is in the quality of emerging leadership. In other words, some post-conflict countries are unable to control corruption while others are unwilling to do so. Afghanistan and East Timor are examples of countries where credible leadership does exist. In other countries such as Iraq, Liberia and Sudan, leaders may be associated with corrupt patterns of governance, and fear of opposing factions often prevents followers from throwing off “strong” leaders in search of more accountable and transparent ones.

It is typically more difficult, therefore, to address corruption in post-conflict settings than in other developing countries. Poor legal conditions mean that prosecutions in local courts are rarely advisable. Security conditions rarely exist to enforce compliance with laws. The tremendous uncertainty in these environments may lead to hand-over-fist corruption as soldiers and rebels\(^12\) grasp for rents before they are disarmed and economic elites search for friends in emerging power structures. Second-tier controls,

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\(^9\) One exception is states emerging from independence or liberation movements like East Timor and Eritrea which often enjoy high legitimacy.

\(^10\) Iraq is a notable exception; it was considered to be an illegitimate but relatively strong state until being forcibly overthrown.


\(^12\) In Sierra Leone and Liberia, the phenomenon of “sobels” emerged; soldiers during the day worked with rebels at night to extort and steal – a classic example of the ability of corruption to encourage some groups to work “cooperatively” but to the clear detriment of the rest of society.
such as free-standing anti-corruption commissions, may be premature before first-tier legal, administrative and financial controls are designed, established and staffed.

But in other ways, these environments provide unusual opportunities to address corruption. Because political and economic environments are largely fluid, shifting alliances may create opportunities to sideline elites that would be highly entrenched in more stable countries. International actors tend to have a larger influence in these settings due to high troop deployments or massive infusions of aid. Finally, in their own large assistance programs, aid agencies have the opportunity to set an example of transparent and accountable practices. Unfortunately, these agencies answer first and foremost to their bosses back home; as a result, in-country transparency and accountability is often quite weak.

Is it realistic to address corruption in post-conflict countries? After all, many of these states cannot even provide minimal public order, so how can they be expected to control corruption? An important critique of international post-conflict efforts is that international actors are already trying to do too many things at once, overwhelming absorptive capacity and failing to set priorities with national counterparts. Is corruption one of those second-order priorities that can wait? Shouldn’t the basic institutions be created before they are cleaned up? Shouldn’t the emphasis be on disbursing state and international funds quickly rather than carefully?

The challenge in post-conflict environments is to target the types of corruption which, if not addressed, can derail the entire transition, but to do so in ways that do not create large additional demands on already overwhelmed reformers within and outside fragile state structures. Some recent examples from post-conflict situations today might help to illustrate how practitioners are trying to thread this needle.

Liberia

As of this writing, Liberia has the largest concentration of UN peacekeepers in the world. The security situation has improved over the past year, leading one news report to conclude, “corruption has now replaced the AK-47 rifle as the preferred method of illicit enrichment.”

Massive corruption was undermining state legitimacy and citizens’ hopes for the future. It was also undermining the effectiveness of large aid flows into Liberia. Massive looting continued unabated under the nose of international forces in the freeport of Monrovia. Per the initial peace terms, the port was still under the control of rebel factions in 2004, denying the new government a key source of revenue and choking economic recovery.

\[103\] Marina Ottaway describes how the post-conflict reconstruction model has expanded significantly to encompass new goals, activities and international partners, overwhelming the capacity of local counterparts to absorb or monitor -- let alone direct -- assistance. See Marina Ottaway, ‘The Post-War “Democratic Reconstruction Model”: Why It Can’t Work.” Paper presented at United States Institute of Peace, 2002.

In 2005, national reformers and international actors took several steps. An Ad Hoc Committee in parliament opened an investigation of corruption by its speaker and former rebel leader, George Dweh. In March 2005, UN forces stepped up security at the parliament and called for calm among Dweh’s supporters as parliamentarians called a Special Session and suspended him. In April 2005, UN forces seized control of the port while the World Bank began preparations to award a contract for external management of the port. In May 2005, corruption topped the list of international priorities emphasized at an international donor conference with Liberian government officials. The Security Council may consider taking more direct measures in the areas of revenue collection and management of public resources in the coming months in order to try to rein in corruption, but at the cost of limiting Liberian sovereignty.

These measures may or may not have a critical impact on Liberia’s transition. Some have argued that nothing short of sustained international engagement for 15-25 years will create the conditions for new, less corrupt political forces to develop. But they do indicate an acknowledgement that something more than procurement and financial management reformers were called for, and some action was taken to marginalize potential “spoilers” in parliament and the port even at the risk of antagonizing LURD supporters and other factions. Liberia’s experience illustrates the links between security and anti-corruption in post-conflict settings. Without a strong security presence, there would have been very little space to move against flagrant corruption within the capital city itself.

Afghanistan

Afghanistan is an example of how initial efforts to bring potential spoilers into the peace processes and into the state may have long-term costs for the country. In the case of Afghanistan, the three closely linked problems of warlords, drug trafficking and corruption threaten to overwhelm nationally-led and internationally-supported statebuilding and development efforts. International troop deployments were never sufficient to secure the entire country and, as a result, warlords controlling local militias were invited into the transitional government in a power-sharing arrangement. Continuing US military cooperation with warlords on efforts to root out Al-Qaeda and Taliban fighters further strengthened their hand. Finally, when opium production exploded in the post-Taliban period, warlords quickly moved to control lucrative drug trafficking networks, reasserting control at the local level. For many Afghans, these steps signaled that their hopes for a clean and honest public administration would again not be met. As one Afghan put it, “We were so anxious to escape the warlords that many even supported the harsh measures of the Taliban and now, after hiding up in the hills, these warlords are invited back to Kabul and put in charge of ministries.”

Gradually, however, a recognition began to emerge that things were moving in the wrong direction. The US Ambassador admitted that, "[r]ather than getting better, it's gotten

106 Interview with Afghan doctor and aid worker, Kabul, June 2004.
worse. There is a potential for drugs overwhelming the institutions – a sort of a narco-
state.” Observers noted that corruption had actually increased since the end of the
conflict and appeared to be driven from the top. President Karzai’s last-minute change of
running mate for the 2004 presidential elections and the cabinet he complied afterwards
suggest important steps in this direction. It remains unclear, however, given the uncertain
security environment and the slow pace of disarmament, how much space there is for
maneuver. Massive rents from drug trafficking now ensure that warlords have an
independent financial power base which they can use to buy state influence even after
they no longer directly control state ministries. The drug trade represents more than half
of Afghanistan’s formal GDP, constituting a tremendous risk of state capture unless
additional steps are taken quickly.108

Democratic Republic of Congo

The Democratic Republic of Congo is a massive country with endemic levels of grand
and administrative corruption. The DRC’S transition from war toward the 2005 elections
began in 2003. But fighting continues in the east and signatories to the Sun City
agreement continue their scramble for resources at the center, exerting weak control over
their respective political and military forces at the periphery. An independent analysis in
March 2005 concluded that neither:

[the UN Mission in the DRC] nor the wider international community has shown the
ability or the will to address the Congo's crises. While donors finance over half the
country’s budget, they have been unable or unwilling to take serious action against the
spoilers in the transitional government, who work against unification of the army and
administration. Some members of the government have been suspended for corruption
but none has faced criminal charges.109

In the midst of this environment, one interesting initiative focused on local-level efforts
to mobilize against corruption along the Congo River.110 An international NGO,
Innovative Resources Management (IRM), began a program financed by USAID to
address the tracassaries or illegal taxation of river traders in Western Congo, where 80%
of commercial produce travels by water. The massive illegal taxation by unsalaried civil
servants stationed at ports throughout the interior had effectively dried up river-based
commerce, devastating the rural economy which had served as a bread basket for the

Cooperation in cooperation with the Center for American Progress, October, 2004.
108 By comparison, the drug trade is less than 5% of formal GDP in Colombia and Bolivia. Rubin
recommends several measures including targeted sanctions against warlords/traffickers, greater security
and reconstruction aid, international cooperation in Afghan counter narcotics efforts, support for improved
rule of law, less emphasis on crop eradication,
30 March 2005.
110 Michael Brown et al., "Combating Low-level Corruption on Waterways in the Democratic Republic of
Congo: Approaches from Bandundu and Equateur Provinces" GWU Law School Public Law Research
Paper no. 116 (October 1, 2004).
capital, contributing to food scarcities in Kinshasa.\textsuperscript{111} The project began with a recognition that these bribery points were an “epi-phenomenon” of patterns of corruption and natural resource exploitation dating back to the 1970s and 1980s and driven from Kinshasa. It produced a report that, for the first time, measured and documented the problem along the Congo. They found that 92% of traders’ operating costs are accounted for by illegal taxes and fees imposed by unauthorized civil servants for trumped-up or fictional services (‘loading rights’, ‘docking permission’, etc.). Only 8% of fees are authorized; even less actually accrued to the state. During one trip to Kinshasa, a river transporter had to pay off an average of 24 government services at 9 different ports of call for a total of 216 payments and a delay of 24 hours at each port.\textsuperscript{112}

IRM obtained copies of legislation specifying that only four agencies are authorized to collect fees in ports and determined that the 90% of the unofficial payments were by agents linked to the Ministry of Interior.\textsuperscript{113} They had a series of meetings with officials in Kinshasa and secured the backing of the Interior Minister to bring these payments in line with the law, arguing that fewer payments would increase river traffic and legal government revenues. Associations of transporters and communities were formed along the river to share information on tracassaries and high-frequency radios were distributed to communities allowing them to report illegal payment points directly to the Interior Ministry. After several months, a “critical mass” of community oversight and state monitoring began to change practices in the first province and efforts also began to build momentum in two additional provinces as well. IRM argues that opening dialogue with territorial administrators was central. An organized “convoy” containing representatives of the provincial and national government, private sector and donors “offered a forum to civil society…for the first time to publicly, in a transparent manner, express itself concerning abuses and corrupt government agency practices.” The effort built new patterns of cooperation among communities, transporters and the state and helped to begin, however slowly, to revive commerce along the Western Congo. These types of approaches are sometimes called “islands of integrity” and, while they cannot substitute for political will at the highest levels of government, they can achieve real gains in discrete areas, such as revival of regional commerce and livelihoods – an example of “quick wins” so vigorously sought in post-conflict transitions.

Post-Conflict Lessons

There are many examples of bad ideas that the international community should not support in many post-conflict environments. The Afghan constitution, for example, calls for the creation of an anti-corruption commission to investigate acts of corruption. Last year the presidency requested international assistance to train and equip this office. Meanwhile, several line ministries did not even have Chief Financial Officers in place. Primary systems should be in place before secondary bodies, like anti-corruption commissions, look to see whether those systems are working.

\textsuperscript{112} Michael Brown et al., 2004.
\textsuperscript{113} Michael Brown et al., 2004.
The continued pattern of early elections leads political parties to scramble for supporters, offering whatever inducements they can, accumulating whatever resources they can. In order to reduce pressures on parties to turn to these tactics, donors in Mozambique took the unusual step of creating a trust fund for political parties. Today Mozambique remains one of the few countries that permits international financing of political parties through this special trust fund.

Another temptation is for international actors to step in and take over. Steps toward “shared sovereignty” are receiving increased attention. Sometimes this may be necessary, as many feel is the case in Liberia today. Unfortunately, failures would appear to outnumber successes in this area. One frequent example is international administration of customs agencies. In Pakistan, a Swiss firm, Société Générale de Surveillance (and its subsidiary Cotecna Inspection SA) were hired by the government to conduct pre-inspection customs clearances but admitted that in December 1997 they themselves had paid a "substantial commission" in 1992 to obtain the original contract. Mozambique, in contrast, appears to offer a relative success; Crown Agents took over customs operations in 1997, financed by DfID, and transferred responsibility to the government in 2003 but continued to provide technical assistance and to work closely with state officials throughout. Lessons are that increasing revenues was far easier than reducing corruption and reforms required substantial purges of the entire customs workforce and selective rehiring.

One of the best approaches may be for international actors to finance vigorous and professional monitoring efforts. An emphasis on monitoring does not sideline the state but instead provides an incentive for it to improve its performance while diagnosing key problems. Publication of all monitoring efforts can increase democratic accountability. These same monitoring efforts could also be directed toward international aid agencies as well, increasing accountability of both national and international actors. Ideally, these concurrent and random audits would be undertaken by National Audit Offices of donor countries on a rotating basis. But it is precisely because executives of donor countries do not control their own audit bodies that they may resist efforts to bring them in.

The incentives operating on donor agencies are clearly to be far more concerned about insulating their own programs from corruption rather than focusing on how corruption in the use of public resources undermines nascent state structures. The tendency, in highly corrupt environments, is to go around the state in order to deliver services, build highways and construct schools rather than building state capacity to do so. That leads to a focus on avoiding, rather than reducing, public sector corruption. An emphasis on closely monitoring state performance rather than substituting for it would help to better align these objectives. Afghanistan’s Trust Fund operated by the World Bank channels international resources toward government-identified priorities. This also addresses

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international fiduciary concerns without undercutting states that are making credible efforts to improve their effectiveness over time.

In post-conflict settings, it is even more important than usual for international agencies to make extraordinary efforts to operate in a transparent manner with high public accountability, constantly providing information on their programs, procurements, and impacts. Donors are quick to call a press conference to announce massive “pledges” and citizens are slow to see the direct impact on their well-being, opening them up to believe all accusations of corruption and mismanagement that they read and hear about.

Conclusion

A survey of the anti-corruption literature and practice yields some general lessons. The academic literature has evolved from viewing corruption as functional to benign to one of the greatest obstacles to development. It has shed light on the links between corruption and the rule of law, conflict, inequality, democratization and economic development. International anti-corruption practice has, at various times, emphasized law enforcement and administrative reforms, and a more recent focus on grand corruption; all three have a role to play. Experience and research both emphasize the importance of distinguishing between administrative and grand corruption. As discussed above, a variety of tools exist to monitor and address specific forms of corruption (procurement fraud, budget leakages, bribes, etc.) in specific types of organizations (judiciary, police, health, education, customs, etc.). Experience suggests that there are risks to addressing corruption, such as scapegoating and character assassination that must be managed carefully. In addition, international actors need to work with national reformers to identify strategies that are politically feasible for leaders operating in democratic or partially democratic environments.

All of these lessons need to be carefully tailored to post-conflict environments where security may not exist, political authority may be contested, and institutional capacity may be constrained. Aid bonanzas in these environments create opportunities to assist in development of legal, financial and political accountability structures that are essential to controlling corruption, but they also create risks of corruption bonanzas as well.

“Most wars,” Wesley Clark argued, “are much more about money than they are about ideology…We should have been looking at bank accounts instead of military targets before we went into some of these countries.”117 International actors need better information and analysis to understand the links between corruption, conflict, and the viability of new states. In broader efforts to address corruption in developing countries as a whole, international actors are simultaneously criticized both for overemphasizing and underemphasizing corruption. In fact, international efforts too often combine strong public rhetoric with very limited resources, diplomatic leverage or staying power and ask the equivalent of political suicide for leaders and parties standing for internationally-mandated elections. Efforts to address corruption need to draw from law enforcement approaches as well as efforts to address both administrative and grand corruption –

depending on prevailing patterns in the country. Up against serious and entrenched corruption, half-hearted efforts to “do something” are rarely commensurate with the size of the problem itself, make it more difficult for governments to take international rhetoric seriously, and may therefore be worse than no efforts at all.

Increasingly, however, international actors are recognizing that addressing corruption requires not only rhetoric but a willingness to walk away, to apply muscle, and to understand local dynamics. It requires a comprehensive focus not only on narrow financial accountability but also legal and political accountability as well. Recent lessons from Liberia, Afghanistan and the DRC suggest that, even in post-conflict settings, addressing corruption is emerging as a fundamental and early priority that is strongly supported by local populations. Despite tremendous challenges, openings may exist in these settings given political and economic fluidity. The window to address corruption in some transitions may be short-lived and, where feasible, action is necessary to prevent a slide toward entrenched, “low-level equilibrium traps” where the state is everyday more the problem and less the solution.


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