A Granular Approach to Combating Corruption and Illicit Power Structures

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In postconflict and fragile states, corruption is always a core challenge to stability. The impact of corruption on efforts to establish rule of law and to create or restore stable economic markets is clear and well documented. Simply stated, corruption is the abuse of public authority for private gain. While the definition may be clear, the appropriate international responses to prevent and counter corruption are anything but. Meanwhile, illicit power structures continue to employ corruption and benefit from the lack of coherent measures to combat it.

This chapter recommends some principles and practices that support a “granular” approach to countering corruption. It is through the capture, preservation, and organization of a government’s information about its own transactions that the “grains” to form a factual foundation for government operations may be established. Discrepancies between these facts, or grains, and the representations of government personnel—as well as those of illicit power structures—can then serve as a basis for investigation and corrective action. With the appropriate legal and administrative measures in place, remedial actions can include recovery of misappropriated assets and, ultimately, prosecution of culpable parties.

The “granular” approach proposed here is not a comprehensive strategy for combating corruption and illicit power structures. But the approach does marshal foundational elements that form a necessary and proper pillar of any effective countercorruption strategy. In postconflict and fragile states, the patient state is in triage, and its very existence is imperiled. Policymakers and practitioners must be able to categorize and sequence the appropriate remedies and respond in a way that stabilizes the patient state. Interventions that protect core functions can enable the patient state to live another day. The granular approach emphasizes securing these basic building blocks first before expecting the damaged state to show a full recovery.

Why Top-Down Anticorruption Programming May Not Be the Best Strategy

Historically, many anticorruption efforts have aimed at high-level changes in governing strategies and structures, such as constitutional reforms that establish an ombudsman, anticorruption commission, or similar office. And while these top-down structural changes can be useful in and of themselves, they do not necessarily result in meaningful change that benefits the larger population. Experience shows that international attention and expectations commonly focus on establishing such institutions to prosecute high-level abuses, but the underlying policies, procedures, and capabilities to empower the institutions for such politically charged tasks are frequently lacking.

Illicit power structures recognize such weaknesses and, as “rational” economic actors, respond accordingly. Ironically, the very institutions and individuals that the in-

The international community has publicly designated as a primary threat to the success of criminal networks then become the focal point for the networks’ corruption efforts.

By contrast, anticorruption efforts targeting grassroots change are dispersed, have a lower profile, and are less likely to provoke elaborate criminal engagement. Illicit power structures tend to staff their lower-level corruption efforts with unsophisticated “bagmen.” While targeting a select group of high-level institutions and individuals is logistically manageable, few criminal organizations have demonstrated an ability to train and equip their bagmen to function in a complex, coordinated manner. And yet, the international community continues to emphasize high-level reforms while often neglecting the opportunities available at the grassroots level.

The reasons for failure of high-level reform efforts are complicated, but common themes emerge:

• First, in most postconflict and fragile states, patronage and nepotism are endemic. National identity is commonly weak because of the internal customs and pressures to identify oneself with subgroups. Cessation of hostilities offers warring parties from different ethnic, tribal, religious, political, and linguistic subgroups an opportunity to regroup and secure their economic and social interests. Given the varying degrees of distrust for those outside one’s subgroup, it is generally difficult to staff a high-level, central anticorruption institution with individuals who can withstand the pressure to favor “their” people.

• Second, top-down government anticorruption activities are very often viewed as political payback from those now in power. Of course, a government official may be corrupt even when his or her exposure or prosecution is primarily political payback, but this is generally not what matters most to the common citizen. Elites trading charges of “grand” corruption can easily be viewed as a continuation of business as usual, where different groups, including illicit networks, argue over the spoils associated with being in power. Petty corruption, on the other hand, involves tertiary, or low-level, government functions that interact directly with the citizenry at large. Not surprisingly, the average person is frequently more concerned about these tertiary skims and scams than with those perpetrated on a grand scale. The personal palace built with embezzled donor funds may prompt headlines and general indignation, but the illicit tax of corruption on basic subsistence issues is of much more immediate concern—indeed, sometimes a matter of life and death—for the average citizen in a postconflict or fragile state.

• Third, even in the best cases, the analysis, conclusions, and charges that these high-level anticorruption institutions produce rarely show a high degree of professionalism. To be fair to the professionals tasked with making these cases, the administrative capacity and recordkeeping in postconflict or fragile states is

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2 Transparency International made the distinction between “grand” and “petty” corruption. Grand corruption focuses on large-scale bribes and corrupt practices, whereas petty corruption focuses on smaller payments, or “favors,” that average citizens and businesses may pay to a civil servant for a government service.
generally weak to nonexistent. Thus, investigations of grand corruption may be unable to gather sufficient objective evidence, and to the extent that legal analysis even exists, linkage of evidence with specific elements of a criminal, corrupt practice will likely be correspondingly weak. Embassies, citizens, and international organizations may express concern with poor performance, but they often struggle to identify solutions to the problem.

The bottom line is this: if the appropriate data management structures are missing, the necessary government data needed to properly challenge corrupt practices will not be captured, stored, and made available to interested parties. Of course, the manual assembly and maintenance of these data files is laborious and time consuming. Nevertheless, the need for proper records is an organizing principle of proper public administration. Illicit power structures all over the world have demonstrated a capacity to thrive in the absence of good government recordkeeping. Moreover, they have done so with impunity.

Proper Public Recordkeeping: A Necessary Step in Combating Petty Corruption

The leaders of criminal organizations commonly show off their power and influence with ostentatious displays of wealth. The difference between legitimate business profits and the houses and riches that corrupt elites flaunt are obvious to all involved. In fact, the relative social status of an illicit power structure may profit from the state’s inability to counter such impunity, because citizens can only conclude that illicit power will not be penalized. Even worse, citizens may begin to view the illicit power structures as de facto authorities and valid employers, in control of the very keys to their survival.

But history reveals that with good government data management, even the most powerful and notorious gangsters and their criminal networks may be brought to justice. Well before the advent of computer technology, countries conducted sophisticated manual data analysis, identified discrepancies, and investigated and prosecuted the perpetrators of illegal activity. In the United States, the halls of the Internal Revenue Service (IRS) have been adorned with posters reminding employees of their role in fighting illicit power structures during the Great Depression. In the 1930s, the IRS was on the forefront of fighting organized crime, placing the notorious gangster Al Capone behind bars where others had failed. And today, experts focus increasingly on documenting the details of government internal operations. The advent of affordable, robust computer information systems has made it possible to track vast amounts of data, using small units of trained staff. Developed and developing countries alike are embracing this new capacity to root out fraud and corruption. As an example, the U.S. IRS identified fraud in which 655 bogus refund requests were traced to a single address in Lithuania.3

Therefore, an emerging intervention strategy is to start with measures countering petty corruption through the systematic capture, organization, and disclosure of government data, while also enabling ordinary citizens’ complaints about government

mismanagement. When information is systematically stored and disclosed, the citizens themselves are empowered to serve as a watchdog for abuses within the government bureaucracy. A civil servant who improperly alters a citizen’s data will leave electronic fingerprints that are virtually impossible to cover and easy for the citizen to identify and document.

Why emphasize petty corruption?

Illicit power structures that enjoy high-level government complicity are unlikely to focus on such “small beer,” at least at the early stages. And while elimination of all petty corruption may not be readily feasible, a significant reduction in its prevalence in government services can produce dramatic changes for the average citizen and businessperson. These changes foster greater confidence in government. Also, they are an investment in the success of government institutions, motivating citizens to oppose corrupt practices actively.

The capacity for mobilizing grassroots campaigns is large. As one method of public shaming, and demonstrating the grassroots appetite to engage, the Indian-based 5th Pillar movement is handing out fake rupees to corrupt officials asking for bribes. More than 2.5 million have been handed out thus far. An increasingly wired global citizenry is actively seeking out new tools to combat illicit conduct by government officials and their patrons.

Identifying and addressing these “grains” that consist of venal public-private transactions—even though they occur in a society devastated by graft—permits corruption to be countered in manageable units amenable to programmatic solutions. This granular approach is being employed in a number of efforts to promote accountability and transparency.

An example of the increasing popularity of this type of approach is the Open Government Partnership, a multilateral initiative that calls on members to make a shared commitment to publicizing government data (the Open Government Declaration), create national action plans in collaboration with citizens, and monitor and evaluate implementation. Founded in 2011 in eight countries, it has more than quintupled in size. Moreover, it has demonstrated its utility in the poorest of postconflict states. In Sierra Leone, for example, OGP efforts linked government and civil society organizations in a feedback loop that developed a National Action Plan in record time, demonstrating the citizenry’s appetite to engage in the fight against corruption when the government engages them.

Successfully executed, this approach undermines the ability of illicit power structures to capture government, because it empowers citizens to own and use their data for government’s effective management. The more citizens who step up, the harder it becomes for criminal organizations to find space for their corrupt transactions.

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Moreover, this granular approach is grounded in international law. The United Nations Convention against Corruption (UNCAC), which came into force in 2005, suggests exactly such a focus on civil servants and the public. The UNCAC now has 168 signatory nations and constitutes one of the most widely accepted statements of binding legal principles employed to fight corruption.

The international law of the UN Convention has been embraced and applied in practice. Also, in 2005, the United States Agency for International Development (USAID) proposed useful working definitions of “transparency” and “accountability,” with the publication of their TAPEE (transparency, accountability, prevention, enforcement, and education) Framework. Regrettably, this practical approach, based on years of Europe and Eurasia experience, has not received the global attention it deserves. Nonetheless, the TAPEE Framework guidance helps unpack the UNCAC principles and demonstrates their practical application. It is a lesson that should be learned from the region, not lost to the rest of the world.

### Making Government Information Publicly Available and Meaningful

The TAPEE Framework emphasizes that without access to adequate information, the relevant stakeholders cannot evaluate whether public-sector decision making is in compliance with law and does not constitute an abuse of authority for private gain. Where such “information asymmetries” are present (i.e., where transparency is lacking), institutional mechanisms to combat corruption may well be underutilized or ineffective. To counter information asymmetries, TAPEE recommends programmatic interventions that will promote this essential access to relevant information.

In today’s world, access to information is based on information technology, but its ultimate form is flexible. The key requirement is that it be systematic, consistent, and verifiable. As described below, the advent of e-government technology is a quiet revolution that is meeting this need and sweeping the globe. What once was a massive investment is now imminently affordable. Moreover, there is an emerging cadre of international professionals capable of bringing customized solutions to even the remotest locations.

### Establishing the Rules: Transparency by Law

Even though transparency and accountability may be anchored in international law, effective mechanisms typically need a domestic legal framework that emphasizes transparency of government information. Recent studies stress that “sunshine is the best disinfectant.” So legal structures and mechanisms that make public access to information available and meaningful are essential.

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8 Ibid., 18.
the default, not the exception, should be the rule. The Millennium Challenge Corporation, for example, a relatively new U.S. government aid provider, has made fighting corruption a core principle guiding its efforts to promote sustainable development.⁹

Ideally, this framework should be based in constitutional provisions that guarantee a citizen’s access to information, and it should be supplemented with implementing legislation, regulations, and policies.¹⁰ These types of foundational legal reforms are commonly part and parcel of the aforementioned programming designed to attack grand corruption, but they are equally important to granular approaches that focus on the contact points between public employees, and citizens and businesses. The essential thing to a granular approach is to make sure that these reforms actually guarantee citizens’ access to information.

The importance of focusing on the adequacy of a legal system at the ground level is not new. In 1989, Hernando de Soto’s research concluded, “Informals suffer not only from their illegality but also from the absence of a legal system that guarantees and promotes their economic efficiency—in other words, of good law.”¹¹ Shifting people from informal status—in which they live outside the formal economy and legal system—to becoming full-fledged members of the formal economy, governed by law, is first and foremost a matter of making the law and its systems available in practice. Where successful, this transition creates stakeholders in good government, increases individual control of economic decisions, and reinforces rule of law.

Applying the Rules: Transparency Fundamentals in Practice

Transparency implies that information is readily available. Publication and distribution of government policies, procedures, fees, regulations, and other information are at the foundation of what the TAPEE Framework refers to as “substantive transparency.”¹² If relevant stakeholders are not aware of the basic substance of public administration, not only will they be unable to evaluate whether corruption is present, but they will also be poorly positioned even to pose the right questions. Even with legal access to government data, the issue remains of how this information relates to the actual process of administration.

If relevant stakeholders are not involved in the process of public administration, public-sector management may well be an opaque machine, which is inherently more subject to improper influence. To counter this tendency, TAPEE suggests that anticorruption programs incorporate measures to increase “procedural transparency.”¹³ Such measures involve interactions between stakeholders—such as public hearings on new legislation, question-and-answer sessions with lead public-sector officials, and creation

¹⁰ See UNCAC, Article 10, which obligates states to make transparency in public administration a reality in law, regulatory framework, and practice.
¹² USAID, TAPEE, 18-19, fn. 12.
¹³ Ibid., 19-20.
of independent administrative bodies that receive and review alleged violations of law—
incorporating protections from political influence. In each of these scenarios, access to
basic information about government operations is a prerequisite.

Both types of transparency depend on a system of government recordkeeping that
is robust, secure, and verifiable, as well as accessible to appropriate parties. This type
of recordkeeping should capture the financial transactions of government offices and
objectively document the affirmations, representations, and involvement of all parties
to a particular transaction. To establish such a system requires attention to detail in the
design, maintenance, integration, and auditing of public information. But once estab-
lished, this information provides a bulwark against improper influences. Multiple levels
of internal verification frustrate standard attempts to manipulate data from external or
internal sources, by automating data exchange and creating an audit trail of inappro-
priate tampering with files.

In 2006, the MCC Threshold Program in Albania supported an integrated e-govern-
ment platform, linking business registration, tax, and public procurement. The theory of
change was that each of these government functions had historically been abused by rent-
seeking civil servants and that corruption could be visibly curtailed if the discretion of
the civil servant was constrained using e-government technology. The legal framework
was established, and the e-government systems were developed and deployed. The sys-
tems were established with automated data cross-checks and audit trails, dramatically
limiting civil servant discretion. The results were dramatic. For instance, within two
years of the project’s launch, the time it took to register a business went from 47 days to
one, and the percentage of persons who reported having paid a bribe went from about
one in five to zero.14 Less than 10 years earlier, the Republic of Albania had erupted in
civil war, requiring international intervention. The progress is a vivid illustration of the
positive change that can arise from the ashes of conflict.

Capitalizing on Transparency to Secure Accountability

Illicit power structures depend on the government’s inability to keep track of its own
business and prevent manipulation of records. Without secure and systematic records,
the lowest-level civil servant enjoys the “discretion” to strike whatever deal she or he
can with bagmen as well as with the citizenry at large. Particularly in a postconflict or
fragile state, a civil servant with a low wage may well conclude that the private benefits
of a bribe or other corrupt practice outweigh the risks of any official sanctions associ-
ated with corruption. For instance, in many such jurisdictions, new customs agents will
enter the job with the understanding that they will be “caught” and fired, but if they
first accumulate enough bribes to buy a house, the benefits outweigh the risks. But if
a government system captures information that cannot be readily tampered with, ade-
quate records supporting prosecution become a credible threat. This changes the cost
end of the equation from merely having to find a new job to potential fines and impris-
onment. This dynamic is present regardless of the ministry or government department
(e.g., tax, customs, procurement), highlighting the core necessity for organized, secure

14 MCC and USAID, “Strengthening Governance in Albania: Support to Albania’s Millennium Chal-
pdacman504.pdf.
recordkeeping. The availability of information technology makes accurate, affordable
data capture, retrieval, remote secure storage, and verification accessible through e-gov-
ernment solutions.

Unfortunately, international donors who are steeped in old technology may be slow
to suggest, develop, and fund modern e-government solutions. Western e-government
legacy systems frequently rely on distributed information technology solutions that
require multiple expensive hardware components and licenses to maintain. In today’s
world, Web-based systems can be developed, deployed, and maintained at a fraction
of the time and cost required even a decade ago. For example, the East African Court
of Justice, based in Arusha, Tanzania, recently designed and installed a state-of-the-art
case management and video recording system, which links to courts in all members of
the East African Community. The project took less than a year and cost less than one
million dollars. The past decade is replete with examples of donors paying millions of
dollars for court case management systems that took years of development simply to
reach a pilot stage.

Transparency: Putting Horizontal and Vertical Accountability into Practice

While there are instances of paper-based systems that supported transparency and ac-
countability, their vulnerability to manipulation and destruction—particularly in a post-
conflict or fragile state—are manifest. Consequently, the effective use of e-government
technology to capture information is an important first step to countering these concerns.
But the storage, management, and verification for such records is equally important.
There must also be an e-government solution for accessing the information in the re-
cords to compare it against the performance of government institutions, the employees
who staff them, and the inputs of the general public.

For example, suppose that a citizen can self-assess and file tax payments online. And
suppose that a proper e-government system provides confirmation of receipt and as-
sociates the payment with a particular tax liability at a particular time. If a tax assessor
challenges the payment of the tax, the citizen has a system that operates outside the dis-
cretion of the assessor verifying the citizen’s payment. No longer is the payment of tax
a face-to-face transaction wherein the civil servant can seek a side payment to register a
tax as paid, or subject the citizen to a shakedown for it later. The tax assessor is blocked
from tampering with the record, and while legitimate disputes may still arise, the resolu-
tion is anchored in established fact. No longer is the citizen powerless against the whims
of a civil servant’s unfettered discretion. This correspondence between e-government
data and actions is the essence of accountability. The TAPEE Framework describes two
types of accountability: horizontal and vertical. The former involves checks and balances
between government units, and the latter addresses oversight that citizens and societal
actors exercise over government units. Both are crucial to the equation of verifying ac-
curate government recordkeeping and using it to control government operations.

Taken together, these two types of accountability define an environment where safe-
guards are in place to measure civil servants’ compliance with their defined roles and re-

15 Ibid., 22.
sponsibilities and to ensure that they perform their duties in a way that benefits citizens and businesses. For example, due to the Albania project described above, a procurement officer can now exchange e-government data with a fellow civil servant in the business registry to verify that a business registration is in good standing (horizontal). Likewise, Albanian citizens can now confirm that their tax submissions to a civil servant have been credited to the appropriate accounts (vertical). Should any of these e-government verifications reveal a discrepancy, those involved are informed, an audit trail of the interactions is preserved, and corrective action is not merely possible but probable. These granular improvements of the public record provide an increasingly firm factual foundation for all subsequent government actions.

The Challenges, Limitations, and Promise of the Granular Approach

Through the use of e-government information technology, granular transparency and accountability are both feasible and affordable in today’s world. Countries with legacy computer infrastructure may resist, and legacy companies will complain when their revenues are lost, but institutional change is by definition difficult. When it involves reduction in a civil servant’s scope of work, resistance should be expected. But where infrastructure is most feeble, creating an e-government network of transparency and accountability may, ironically, be easier given the recent advances in affordable information technology and the lack of high-level sophistication in subverting it.\textsuperscript{16}

With e-government, horizontal and vertical accountability can be achieved and maintained. What gets reported is verified within the government and without. In that way, government units have integrated workflows that force collaboration toward common goals. Likewise, interaction between civil servants and the public is reduced, further limiting opportunities for corruption. Examples of one-stop shops for business, procurement, and tax registration are increasingly common, eliminating discretion and limiting rent-seeking behavior across multiple government offices. Integrated e-government systems allow public procurement agencies to verify whether bidders are properly registered businesses and current in meeting their tax obligations, while simultaneously ensuring that citizens get credit for compliance. Moreover, implementing such integration through an e-government platform allows the entire process to be controlled, overseen, and exported to existing central oversight bodies and to the general public with secure, verified data. These types of e-government systems deprive illicit power structures of their freedom to operate, and promote rule of law at the same time.

Of course, illicit power structures are not static. They evolve to respond to changes in circumstances and seek new pathways for corruption. Moreover, the granular approach cannot immediately bring a halt to grand corruption. When the Kabul Bank scandal exploded in Afghanistan, President Karzai dug in and refused to address the pervasive high-level corruption, and the Western donor community blinked, backing down for

geopolitical reasons. Granular programming might have provided better documentation of the crimes perpetrated, and average investors might have had more warning to protect themselves, but it seems unlikely that granular interventions could have stopped this defrauding of the international community and the Afghan people by this illicit power structure. Perhaps nothing could have.

But it is crucially important to ask what might have been accomplished in Afghanistan if the anticorruption programming dollars focused on grand corruption had been directed to granular engagements. At the very least, a number of government systems and services could have been established that brought Afghans into the formal, licit economy. In turn, their investment in the formal and legal economy would have constrained the space for illicit activities, created licit norms and benefits, and, ultimately, modeled examples of tangible rule of law. Over time, these core elements build and solidify capacity and political will to tackle grand corruption. In fact, there may not be any rapid fixes to grand corruption.

**Conclusion**

In postconflict and fragile states, it is admittedly difficult not to focus on programs that target grand corruption, because all too frequently, lingering conflict and fragility are linked to an irresponsible set of elites who have literally robbed their citizenry. At the same time, the grim reality is that these elites typically still control substantial assets, political power, and international influence. History shows that they may well be those most likely to avoid responsibility for their actions in the early years of transition. If they do not lead an illicit power structure, someone in their subgroup will likely emerge to do so. Attempts to prosecute these corrupt influences without good data and political will only contribute to circular public discourse based on hearsay, promote cynicism, and consume resources. Moreover, the international community has dramatically demonstrated that in the face of grand corruption, geopolitical considerations trump justice and the rule of law.

Rather than set target objectives that even the most sophisticated state may struggle to achieve, a more modest approach is to emphasize combating petty corruption that erodes the ability to engage in normal life and build a functioning state. Restoring state legitimacy and legal protections for the average citizen charts a course away from conflict and fragility, which in turn fosters political will for attacking corruption. Today, e-government systems are serving citizens around the world and providing the infrastructure to properly manage their affairs with protection from corrupt interference. Indeed, the process is a gradual one, but every time a citizen is empowered to participate fully in the formal economy, the constituency for rule of law grows. When that investment in a legal state is rewarded with objective data that can protect citizens from abuses and punish the perpetrators, the citizen becomes an agent of change. Eventually, these individual citizens and the grains of formality they represent can form a beachhead against a corrupt government, removing the informality and instability that illicit power depends on.